

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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PGCPB No. 14-118

File No. CP-05015-01

RESOLUTION

WHEREAS, Jay Narain is the owner of a 9.09-acre parcel of land in the 12th Election District of Prince George's County, Maryland, and being zoned Rural Residential/ Chesapeake Bay Critical Area Limited Development Overlay (R-R/L-D-O); and

WHEREAS, on June 19, 2008, Jay Narain filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of constructing of a single-family house; and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-05015-01 for Indian Queen Estates, Lot 7 (Narain), including variances to Section 5B-114(e)(7) for disturbances of slopes 15 percent or greater and Section 5B-121(e) for construction of a driveway in the secondary buffer, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on October 23, 2014, for its review and action in accordance with Zoning Ordinance, Subtitle 27, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on October 23, 2014, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 27-548.11 of Subtitle 27, Prince George's County Code, the Prince George's County Planning Board APPROVED Conservation Plan CP-05015-01, Indian Queen Estates, Lot 7 (Narain), and the associated variances with the following conditions:

1. Prior to certification of the conservation plan, the stormwater management concept plans shall be revised and approved showing the removal of all impacts to sensitive environmental features at the end of Indian Queen Point Road. All associated plans shall be revised accordingly.
2. Prior to certification of the conservation plan (CP), the Chesapeake Bay Critical Area (CBCA) plan set shall be revised as follows:
 - a. Revise all sheets to include the existing approval block, revised to the standard size, and the QR code approval block.
 - b. Revise all CP sheets to include only the required CBCA information per the plan preparation checklist.

- c. Eliminate redundant notes and information within the plan set.
 - d. Add "Buffer Management Plan" to the title block.
 - e. Show the limits of disturbance clearly.
 - f. Revise the sheet numbers as necessary to address other conditions.
 - g. Remove Sheets 3 and 4A from the plan set.
 - h. Revise Critical Area Note 4 to read "9.09 acres," not "6.79 acres."
 - i. Show the entire site within the plan view on all sheets.
 - j. Make the wetland and wetland buffers adjacent to South Parrot Drive visible on all sheets.
 - k. Show all stormwater management design components in accordance with the revised and approved concept plan.
 - l. Remove the off-site impacts to Indian Queen Point Road.
 - m. Remove the Conservation and Planting Agreement from the plan.
 - n. Revise the plant list and mitigation chart as follows:
 - (1) To calculate the mitigation requirement for buffer disturbance at a 3:1 rate (Section 5B-121(h)(2)).
 - (2) To calculate the mitigation requirement for woodland clearing above 20 percent at a 1.5:1 rate (Section 5B-114(e)(4)).
 - (3) To calculate the mitigation provided with on-site planting in accordance with the credit rates outlined in Section 5B-121(g)(2).
 - (4) Replace the non-native redbud with a native species.
3. Prior to certification of the conservation plan (CP), the applicant shall execute and record a Chesapeake Bay Conservation and Planting Agreement. The agreement shall be reviewed by Prince George's County prior to recordation. The applicant shall provide a copy of the recorded agreement to The Maryland-National Capital Park and Planning Commission (M-NCPPC) and the liber/folio shall be shown on the CP approval block.

4. Prior to certification of the conservation plan (CP), a conservation easement for all developed woodland that is approved to remain on-site (as preservation and/or planting) as shown on Chesapeake Bay Critical Area Conservation Plan CP-05015-01 shall be recorded in Prince George's County Land Records. The easement document shall be reviewed by the county prior to recordation. The liber/folio shall be shown on the CP approval block.
5. Prior to approval of permits, a minor final plat shall be approved to incorporate that part of Parcel A and Lot 7 into a single building site as reflected on the approved conservation plan. The plat may include the creation of an outlot for that part of Lot 7 which was conveyed in 1984 (Liber 5893 and Folio 151) to rectify the illegal subdivision of Lot 7.
6. The 35-foot-wide Washington Suburban Sanitary Commission (WSSC) sewer right-of-way and 40-foot-wide stormdrain easement shown on the Parcel A plat are not reflected on the conservation plan. The plan should be revised to include the right-of-way and easement.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

- A. **Nature of the Applicant's Request:** This 9.09 acre property is in the Rural Residential/Chesapeake Bay Critical Area Limited Development Overlay (R-R/L-D-O) Zones and is located at the termini of South Parrot Drive (to the east) and Indian Queen Point Road (to the west). It combines portions of both Lot 7 of the George Thorne Estate subdivision and Parcel A of the Indian Queen Marina subdivision. The site is undeveloped forest and contains critical area 100-foot primary and secondary buffer areas. There are 100-year floodplain, streams, wetlands, and woodland on-site. No scenic or historic roads are affected by this proposal. There are no significant nearby noise sources and the proposed use is not expected to be a noise generator. The site is located within a sensitive species protection review area; however, the Maryland Department of Natural Resources, Wildlife and Heritage Service, has stated in a letter dated February 28, 2012 that no state or federal rare, threatened, or endangered species are within the boundary area. The U.S. Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey, indicates that the site is comprised of Aura and Croom gravelly loams, Bibb silt loam, and Tidal marsh soil types.

The proposal is to construct a single-family house with a driveway within the Chesapeake Bay Critical Area (CBCA). This project will result in impacts to steep slopes and secondary buffer to gain access to a home site location. Variances will be necessary to allow for these impacts.

- B. **History:** The following is a list of events that may relate to the review of the conservation plan (CP) application. The following information was either submitted by the applicant at the time of acceptance, or obtained through research of the property and may not include all prior federal, state, or county actions that pertain to the site.

January 12, 1947— Lot 7 was recorded in Plat Book BB 14-92.

- 1967—** Parcel A was recorded in Plat Book WWW 66-81.
- 1984—** A portion of Lot 7 (3,686 square feet) was subdivided by deed (Liber 5893 and Folio 151) and was conveyed to the property owner of Lot 19, Block K, (Plat Book WWW 65-18) to the northeast.
- May 28, 1992—** Conservation Plan CP-92003 was approved by the Prince George's County Planning Board for the adjacent property to the west (part of Parcel A) and was approved showing the current division of Parcel A on the CP.
- December 30, 2005—** CBCA Conservation Plan CP-05015 was accepted for processing on the subject property. The applicant, Westpoint LLC, would later withdraw the application without further action being taken.
- July 9, 2007—** The applicant, Jay Narain, purchased the subject property.
- June 19, 2008—** The subject -01 revision to CP-05015 was formally accepted by the Planning Department.
- July 11, 2008—** The subject application was heard by the Subdivision and Development Review Committee (SDRC). Staff provided comments to the applicant. After this initial review, the case entered a dormant period.
- October 12, 2012—** The subject application was once again heard by the SDRC in order to address changes to the CBCA regulations. Staff provided comments to the applicant.
- May 6, 2014—** A revised CBCA plan and applications for variances to impacts to the steep slopes and disturbances to the secondary buffer were submitted by the applicant.
- June 18, 2014—** A revised CBCA plan was received by the Environmental Planning Section for their review.
- August 18, 2014—** A referral was received from the Critical Area Commission addressing the variances.
- September 23, 2014—** The site was posted for the Planning Board hearing of October 23, 2014.
- C. Critical Area Commission:** The Critical Area Commission (CAC) provided a referral letter dated August 13, 2014 which mentioned the evaluation of variances: to disturb the expanded secondary buffer for steep slopes and to disturb slopes 15 percent or greater. The concerns of the CAC with respect to the variance findings include the following:

1. They want to make sure that the applicant demonstrates to the county that all of the variance standards have been met including “unwarranted hardship.”
2. They request that the applicant, if granted the variance for impacts to the expanded buffer for steep slopes, mitigate at a 3:1 ratio.
3. They require that a buffer management plan showing details of the required plantings and planting information be submitted prior to any permits.

The letter mentions only the steep slope variance. For the purposes of clarification, the applicant has requested the Planning Board’s approval of two variances from the following general and specific sections of the Prince George’s County Code, respectively:

- **Section 5B-114(e)(7)** for disturbance of slopes 15 percent or greater; and
- **Section 5B-121(e)** for the placement of structures in the secondary buffer.

- D. **Department of Permitting, Inspections and Enforcement (DPIE):** An initial review was conducted on this site for stormwater compliance by the Department of Public Works and Transportation (the former DPIE agency). Stormwater Management Concept Plan 29839-2007-00 was approved on February 15, 2011, which expired May 4, 2013. The approval letter requires that rooftop disconnections be used and a fee-in-lieu of \$500.00 for providing on-site attenuation/quality control measures.

A new review was conducted on this site for stormwater compliance by DPIE. An approved Stormwater Management Concept Plan (7643-2014) was submitted with the subject application, which was approved April 18, 2014 and expires April 18, 2017. The approval letter requires that rooftop disconnections and level spreaders be used to meet the environmental site design to the maximum extent practicable requirements, and a fee-in-lieu of \$250.00 for providing on-site attenuation/quality control. This letter also required the construction of turnarounds on Indian Queen Point Road and South Parrot Drive.

The concept plan appears to show stormwater to be directed from the house to rooftop disconnect drains and piped to several level spreaders. This site will also use sheet flow into the existing woodlands as part of the stormwater management. The CP must show the required stormwater management design.

The site is located at the end of two roadways (Indian Queen Point Road and South Parrot Drive) and discussions regarding impacts to sensitive environmental features for these roads have been ongoing between the applicant, DPIE, and staff of the Environmental Planning Section of The Maryland-National Capital Park and Planning Commission (M-NCPPC). Due to environmental constraints, access from Indian Queen Point Road to the proposed development is not possible, but DPIE initially wanted to have a turnaround stub roadway for maintenance reasons. The applicant has had conversations with DPIE concerning the off-site Indian Queen Point Road project. DPIE

wanted the applicant to improve the stub road location with a T-turnaround for maintenance purposes. This work is located totally within the CBCA, a secondary buffer (limit of disturbance abutting primary buffer) and wooded. After further review, DPIE verbally indicated to Environmental Planning staff that the Indian Queen Point Road improvements were not necessary and not required as part of the development.

- E. **Environmental Planning:** In a memorandum dated November 29, 2012, the Environmental Planning Section provided the following comments concerning the CP application:

The Environmental Planning Section has reviewed the revised CBCA Conservation Plan, CP-05015-01, stamped as received on June 18, 2014. The Environmental Planning Section recommends approval of CP-05015-01 subject to conditions.

Variances

This application includes a statement of justification for two variance requests from the Section 5B-114(e)(7) for disturbance of slopes 15 percent or greater and Section 5B-121(e) for construction of the driveway in the secondary buffer.

The variance requests are being made in order to improve the property for a single-family dwelling. The statement of justification indicates that the improvements and disturbances for all of the variances are common, and the justification provided applies to both variance requests.

Section 27-230 of the Zoning Ordinance contains required findings [text in bold] to be made before a variance can be granted. The plain text is staff's analysis of the request.

- (a) **A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:**
- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

The property is irregularly shaped and the northern end comes to a point, then in the shape of a pie section that squares off in the south along the water front. This property has two access points of road frontage, which are located along the eastern property line at the end of South Parrot Drive and at the end of Indian Queen Point Road along the western property line. The access point from Indian Queen Point Road has been eliminated from the design process because of too many environmental restrictions required to access a developable area. The topography varies in each section of the site from less than 15 percent along the adjacent Broad Creek, greater than 15 percent for a greater portion of the site, and then two gently sloping areas in the northern and northeastern portions of the site. The house is proposed in the gently sloping area in the northeastern portion of the site, which is up gradient from the South Parrot Road entrance. The proposed driveway has to cross areas of slopes greater than 15 percent to gain access to the proposed home site. In

between the proposed home site and existing South Parrot Drive, the topography ranges from 36 to 60 above mean sea level over a distance of 125 feet.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

The road access point for the subject property is located within the secondary buffer. Any driveway location from this access point to an allowable home site will impact secondary buffer and steep slopes. To not allow these impacts to develop the site would cause hardship for the property owner and the site could not be developed. The applicant has minimized impacts to these two regulated features.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The intent, purpose, or integrity of the *Plan Prince George's 2035 Approved General Plan* or master plan will not be affected by the granting of this variance request.

- (b) **Variances may only be granted by the Planning Board from the provisions of this Subtitle or Subtitle 5B for property located within the Chesapeake Bay Critical Area Overlay Zones where an appellant demonstrates that provisions have been made to minimize any adverse environmental impact of the variance and where the Prince George's County Planning Board (or its authorized representative) has found, in addition to the findings set forth in Subsection (a), that:**

- (1) **Special conditions or circumstances exist that are peculiar to the subject land or structure and that a literal enforcement of the Critical Area Program would result in unwarranted hardship which is defined as a circumstance where without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested;**

See discussion from Finding (a)(2).

- (2) **A literal interpretation of the provisions of the Critical Area Program and related ordinances would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area;**

A literal interpretation of the provisions of the Critical Area Program and related ordinance would deprive the applicant from impacting the steep slopes and secondary buffer woodland in order to gain access to a useable portion of the site. These variances are supported.

Waterfront property owners throughout the Chesapeake Bay have various buffers from the mean high tide line and other regulated environmental features. This applicant has submitted variance requests to impact steep slopes and the secondary buffer to gain access to the one usable area on the property for a home site.

- (3) **The granting of a variance would not confer upon an applicant any special privilege that would be denied by Critical Area Program to other lands or structures within the Critical Area;**

All property owners proposing impacts to the steep slopes and secondary buffer are required to obtain variances. Each application would be examined based on the parameters that it presents.

Granting of the variances for disturbance of steep slopes and secondary buffer would allow the applicant to access the useable area for a proposed dwelling and to mitigate and restore all impacted slopes and secondary buffer areas. The variance request for these impacts and restoration of the steep slopes and secondary buffer are supported under this variance finding.

- (4) **The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property;**

The existing topography (steep slopes) and distance from tidal waters and regulated environmental features (secondary buffer) are not the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property. Granting of the variances is discussed in detail under other variance findings.

- (5) **The granting of a variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance would be in harmony with the general spirit and intent of the State Critical Area Law and the County Critical Area Program;**

Stormwater management is subject to the requirements of DPIE. Sediment control is subject to the requirements of the Prince George's County Soil Conservation District.

The existing woodlands down gradient of the proposed impacts will remain on-site to reduce the amount of stormwater and sediment entering the adjacent waterway, Broad

Creek, and will serve to enhance water quality, fish, wildlife, and plant habitat beyond the existing site conditions.

- (6) **The development plan would minimize adverse impacts on water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands;**

See discussion for Finding 5 above.

- (7) **All fish, wildlife, and plant habitat in the designated critical areas would be protected by the development and implementation of either on-site or off-site programs;**

See discussion for Finding 5 above.

- (8) **The number of persons, their movements and activities, specified in the development plan, are in conformity to established land use policies and would not create any adverse environmental impact; and**

The general spirit and intent of the State Critical Area Law is to allow reasonable use of properties within the critical area while preserving, enhancing, and/or restoring vegetation within the primary and secondary buffers. The permanent activities proposed within the critical area are for the construction of a driveway to gain access to a proposed dwelling. Mitigation in the form of replanting disturbed areas within the steep slopes and secondary buffer impact areas has been shown on the CP.

- (9) **The growth allocations for Overlay Zones within the County would not be exceeded by the granting of the variance.**

No growth allocation is proposed for this property.

Summary of the Request for Variances in the Critical Area

This application includes a statement of justification for two variance requests from Section 5B-114(e)(7) for disturbance of slopes 15 percent or greater and Section 5B-121(e) for construction in a secondary buffer.

The Planning Board finds that the requested variances for disturbance of slopes 15 percent or greater and for construction of a driveway in a secondary buffer, to access the proposed house location should be approved for the reasons stated above.

Environmental Review

1. The set of plans labeled as a "Chesapeake Bay Critical Area Conservation Plan" contains information such as the existing conditions, stormwater management, and landscaping

because these requirements are needed as part of the overall CP for this site. Because there are buffer impacts being requested, there are buffer mitigation requirements. The plan title must be revised to indicate that the plan also serves as a "Buffer Management Plan"; this title must be added to the plan.

There are revisions required throughout the 12 sheets of the plan set. The CP needs only to contain information listed on the required CBCA checklist. The submitted CP contains various details and information (architecture, retaining wall details, etc.) that are not part of the review and approval of a CP and must be removed from the plan. All information that is not required on a CP must be removed.

The total amount of CBCA lot coverage (also known previously as impervious surfaces) allowed in the L-D-O Zone is 15 percent per lot, which is 41,752 square feet for this property. This application proposes 14,365 square feet of impervious area, which is 5.16 percent impervious area and is less than the allowable limit of CBCA lot coverage.

Impacts to the wooded areas are required to be mitigated at a ratio of 1.5:1 for clearing over 20 percent of existing woodlands per Section 5B-114(e)(4), and at 3:1 for areas of steep slopes and secondary buffer impacts per Section 5B-121(h)(2). The mitigation chart needs to be revised to reflect the required mitigation ratios and the required credit rate. The remaining on-site woodland will meet the 15 percent developed woodland requirement of Section 5B-114(e)(6)(D).

Based on the site plan as submitted, staff has calculated a significantly different mitigation requirement than what has been calculated in the mitigation chart. The chart indicates that there are 255,905 square feet of existing woodland on-site. The chart further indicates that a total of 54,707 square feet of woodland is proposed to be cleared; a total of 21.3 percent. Because the applicant is proposing to clear above 20 percent of the on-site woodland, the mitigation ratio for the clearing is 1.5:1. The chart also shows that of the total clearing area, 8,607 square feet, will be cleared on steep slopes and/or in the buffer, which requires a mitigation rate of 3:1; the remaining clearing area of 46,100 square feet requires mitigation at a rate of 1.5:1. Staff calculates the total mitigation requirement to be 94,971 square feet based on the clearing areas shown on the plan in the mitigation chart $[(8,607 \times 3 = 25,821 \text{ square feet}) + (46,100 \times 1.5 = 69,150) = 94,971]$. The chart shows a total mitigation requirement of 71,921 square feet; a shortage of 23,050 square feet of the mitigation requirement.

Based on the site plan as submitted, staff has calculated significantly different mitigation credits being proposed to meet the mitigation requirement. Section 5B-121(g)(2) outlines the credit ratios to be applied for the proposed on-site planting. Based on the assigned credit ratios, staff calculates that the mitigation credits for the planting shown on the plan and in the table should be 4,475 square feet of credits, not 19,348 as shown on the plan. The mitigation chart indicates that the plan has a shortage of 52,573 square feet; however, based on staff's calculations, this shortage is actually 90,496 square feet. The plan as

submitted shows the use of fee-in-lieu for the requirement not met on-site, at the appropriate rate of \$1.50 per square foot; however, the plan shows a fee-in-lieu amount of \$78,859.50. Staff calculates that the fee-in-lieu should be \$135,744.

The plan correctly shows that mitigation is required and that three plant species are proposed to meet this requirement; however, a non-native Chinese red-bud is proposed to be planted, which must be replaced with a native species. The planting is shown to be located along the eastern property line and the new driveway.

Prior to certification, plan revisions are needed. As discussed above, all of the information that is not required on the CP must be removed from the plan set; this will reduce the number of sheets in the plan set. There is redundant information shown on the plan, for example Sheet 3 contains only the standard critical area notes and no other information and Sheet 4 contains the same notes. Sheet 3 must be removed from the plan set.

The standard CP approval block is shown on the plan; however, on several sheets, the approval block is too small to add the required recordation information for the conservation agreement and the conservation easement, or for certification signature. A new QR code approval block has been implemented by the Planning Department and must also be added to the plan.

To meet the mitigation requirements for buffer impacts, the plan must include "Buffer Management Plan" in the title, in addition to the existing language in the title.

2. The subject site has an approved Natural Resources Inventory (NRI-099-05-01) dated October 9, 2013 that was included with the application package. The site contains streams, tidal waters, wetlands, and 100-year floodplain. The subject site contains a total of 6.76 acres of woodland and six specimen trees. The existing conditions of the site are correctly shown on the NRI and are correctly reflected on the plans submitted with this application.

No additional information is required with regard to the existing conditions of the site.

3. A Chesapeake Bay Conservation and Planting Agreement will be required to be executed and recorded prior to certification approval for development of the site.
4. A conservation easement will be required for the natural woodland that is to remain undisturbed on-site per Section 5B-114(e)(6)(E) of the County Code. This conservation easement is just for the subject lot to prevent a loss of on-site woodlands. A metes and bounds description must accompany the easement.

Review of the easement falls under the purview of DPIE prior to the issuance of the first permit.

- F. **Subdivision Review:** In a memorandum dated November 8, 2013, the Subdivision Review Section stated the following concerning the application:

The property is known as part of Lot 7 and part of Parcel A located on Tax Map 122 in Grid D-1, and is 9.09 acres. The site is in the R-R Zone and within the L-D-O Zone of the CBCA. Lot 7 was recorded in Plat Book BB 14-92 on January 12, 1947. Parcel A was recorded in Plat Book WWW 66-81. A portion of Lot 7 was subdivided by deed (Liber 5893 and Folio 151) in 1984 and that part of Lot 7 (3,686 square feet) was conveyed to the property owner of Lot 19, Block K, (Plat Book WWW 65-18) to the northeast.

Conservation Plan CP-92003 was approved by the Planning Board on May 28, 1992 for the adjacent property to the west (part of Parcel A) and was approved showing the current division of Parcel A on the site plan. The CP approval however did not have the authority to subdivide Parcel A and a preliminary plan of subdivision should have been filed in accordance with the CP.

On October 23, 2013, the following information was provided to staff and the applicant in an e-mail (Chellis to Narain):

"Pursuant to the Subdivision Regulations, the property that is included in this application was the subject of two illegal division of land after 1982.

"Your property is known as Part of Lot 7 and Part of Parcel A.

"In 1967 Parcel A was platted which included part of Lot 7. That part of lot 7 was legally subdivided and incorporated in to Parcel A (Plat 66-81). Then in 1993 (Liber 8730 and folio 356) Parcel A was divided by deed. That deed states that it was an intra-family transfer but was in fact a division of land between husband and wife and was therefore not an intra-family which is to a direct linear descendant or antecedent.

"The next illegally division of your property was in 1984 when part of Lot 7 was conveyed to the owner of Lot 19, Block K in Liber 5893 and folio 151. That property was the combination of Lot 19, Block K (15,667 sq.ft.) and part of Lot 7 (3,686 sq.ft.) for a total area of 19,353 square feet. That property was then sold in 1996 and then again in 1998 to the current property owner, Ms. Carlers, in Liber 12689 and folio 143.

"Your site (CP-05015-01) is made up of part of Parcel A and part of Lot 7. To correct the illegal divisions a preliminary plan of subdivision would be required to bring the property whole. In this case however a minor final plat would be sufficient to correct these illegal divisions of land. The plat will incorporate part of Parcel A and part of Lot 7 into one building site as depicted on CP-05015-01. That part of Lot 7 which was sold in 1984 to the property owner of Lot 19 should either be incorporated into Lot 19 or labeled as an outlot. This would then correct that illegal division also. If the current owner of that part of Lot 7 associated with Lot 19 is willing to be included in this minor final plat is would correct the illegal division she is stuck with. If she agrees to be included in the minor final

plat her signature would be required on the record plat. She should be aware that any future permits that would include that part of Lot 7 would be placed on hold for a minor final plat. Further, any good title search should uncover this issue.

"I would be happy to speak with Ms. Carlers if she has any questions. I would recommend that you send her a letter attaching this explanation. I believe that requesting a response from her regarding her intent to be included in the final plat process within 30 days of receipt of your certified letter would be appropriate. It's a lot to take in so please urge her to contact me, contacting me will not obligate her in any way. I just want to make sure she understands the offer you are making to include her and her current situation."

The applicant has provided evidence of their intent to rectify the illegal division referenced above (see attached) at the request of staff. The applicant has offered Ms. Carlers 30 days to respond to his offer to incorporate that part of Lot 7, which she owns, into the minor final plat to address the issue of the illegal subdivision. If Ms. Carlers does not respond, this applicant should not be held further on the subdivision issue and only be required to incorporate that part of Parcel A and Lot 7 into a single building site in accordance with this CP, if approved. If Ms. Carlers does agree to be a party to the minor final plat and the plat includes that part of Lot 7 currently under her ownership (3,686 square feet), her signature should occur within 30 days of the applicant's request. This applicant should not be held beyond 30 days if Ms. Carlers withholds her signature from the minor final plat. In that case, the minor final plat would be revised to remove that part of Lot 7 under Ms. Carlers' ownership.

The applicant did not receive a reply to his offer.

G. **Historic Preservation:** The site has been the subject of both a Phase I archeological survey and Phase II archeological evaluation. The revised plan shows a proposed conservation easement around the identified archeological site, 18PR990, to ensure its perpetual protection.

H. **Recommended Findings:**

1. The subject property combines portions of both Lot 7 of the George Thorne Estate subdivision and Parcel A of the Indian Queen Marina subdivision. The property is the subject of several record plats and deed divisions that are recorded in Prince George's County Land Records, resulting in a property that is 9.09 acres in area.
2. The minimum net lot area required by Section 27-442, Table I, of the Zoning Ordinance is 20,000 square feet. The gross lot area of the property is 9.09 acres. According to survey information, the 100-year floodplain occupies 2.7 acres of the property, and tidal and nontidal wetlands encumber 0.44 acre of the site. The net tract area of the property is approximately 6.39 acres.
3. The minimum lot width at the front street line permitted by Section 27-442, Table III, Footnote 3, of the Zoning Ordinance is 70 feet. The property has in excess of 400 linear

feet of street frontage along Indian Queen Point Road and 60 feet at the end of South Parrot Drive.

4. The minimum lot width at the front building line permitted by Section 27-442, Table III, of the Zoning Ordinance is 80 feet. The lot width at the front building line exceeds 400 feet.
5. The minimum front yard setback permitted by Section 27-442, Table IV, of the Zoning Ordinance is 25 feet. The proposed front yard setback is approximately 65 feet to the proposed single-family residence.
6. The minimum side yards permitted by Section 27-442, Table IV, of the Zoning Ordinance are a combined total of 17 feet with a minimum of eight feet on any one side. The proposed minimum side yard setback is 256 feet.
7. The minimum rear yard required by Section 27-442, Table IV, of the Zoning Ordinance is 20 feet. The proposed rear yard is approximately 686 feet.
8. The maximum height for main buildings permitted by Section 27-442, Table V, of the Zoning Ordinance (without requiring additional side yard setbacks) is 35 feet. The height of the proposed dwelling is 30.5 feet.

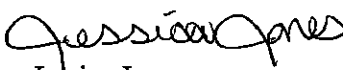
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Bailey, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, October 23, 2014, in Upper Marlboro, Maryland.


Adopted by the Prince George's County Planning Board this 13th day of November 2014.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:TL:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department
Date 11/17/14