

R E S O L U T I O N

WHEREAS, James Ibe is the owner of a 1.63-acre parcel of land in the 2nd Election District of Prince George's County, Maryland, and being zoned Development District Overlay (D-D-O), Mixed Use-Transportation Oriented (M-X-T), and Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) ; and

WHEREAS, on June 13, 2014, James Ibe filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of renovating and expanding an existing 18,905-square-foot building to include a multi-venue eating and drinking establishment and office use of 24,400 square feet, with a dinner theater in one section of the building; and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-13006 for Beyond Restaurant, 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 1, 2015, 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 1, 2015, 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-13006, Beyond Restaurant, for the renovation and expansion of an existing 18,905-square-foot building to include a multi-venue eating and drinking establishment and office use of 24,400 square feet, with a dinner theater in one section of the building, with the following conditions:

1. Prior to certification of the conservation plan, the applicant shall execute and record a Chesapeake Bay Conservation and Planting Agreement. The applicant shall provide a copy of the recorded agreement to the Maryland-National Capital Park and Planning Commission (M-NCPPC) and include the liber and folio information on the approval block.
2. General Note 23 shall be corrected to switch the Free Hope Baptist Church (Historic Site 69-005-06) with the George Washington House (Historic Site 69-005-02) as having an impeded view from the site.
3. Prior to certification of the conservation plan, the applicant shall add the square footage of the off-site parking lot to the plan and plan calculations.

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

1. **Request:** The subject conservation plan (CP) proposes a renovation and expansion of an existing 18,905-square-foot building to include a multi-venue eating and drinking establishment and office use of 24,400 square feet. In one section of the building the applicant proposes a dinner theater.
2. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	M-X-T/D-D-O/I-D-O	M-X-T/D-D-O/I-D-O
Use(s)	Vacant (previous Eating and Drinking Establishment and Nightclub)	Eating and Drinking Establishment/ Dinner Theater and Office
Gross Acreage	1.63	1.63
Total Gross Floor Area	18,905 sq. ft.	24,400 sq. ft.
Eating and Drinking	18,905 sq. ft.	23,600 sq. ft.
Ground Floor	18,905 sq. ft.	19,400 sq. ft.
Mezzanine	0 sq. ft.	4,200 sq. ft.
Roof Top Seating (Seasonal)	0 sq. ft.	3,000 sq. ft.
Office (Ground Floor)	0 sq. ft.	800 sq. ft.

Floor Area Ratio (FAR) in the M-X-T Zone:

Base Density	0.4 FAR
Total FAR Permitted	0.4 FAR
Total FAR Proposed:	0.36 FAR (based upon 1.54 net acres)

Parking Data:

Parking Required per Part 11

Dinner theatre and eating and drinking establishment, permitting music of any kind and patron dancing, with hours of operation that extend beyond 12:00 A.M. excluding adult entertainment.	Spaces Required
984 seats @ 1 space per 3 seats	328
Office – 800 sq. ft. @ 1 space / 250 square feet	<u>+4</u>
Total Parking Required per Part 11	332
Exclusion of Parking Spaces for Legally Existing Uses	-110 spaces*

* Section 27-584 of the Prince George's County Zoning Ordinance excludes parking for legally existing uses that comply with the previous requirements for parking and loading areas (in effect at the time the use began). Because a portion of the building on the subject property has been used as an eating and drinking establishment prior to the establishment of requirements for parking in 1949, a portion of the required parking for the subject use is excluded. This number has been calculated to be 110 parking spaces based on previous permit approvals for the site.

TOTAL Spaces Required per Part 11 minus Excluded Spaces 222 spaces

Parking Required per the Port Towns Sector Plan 156 spaces**

****** Per the 2009 *Approved Port Towns Sector Plan and Sectional Map Amendment* (Port Towns Sector Plan and SMA, page 198), the maximum number of parking spaces shall be equal to the minimum required by Section 27-568(a) of Part 11 of the Zoning Ordinance, and the minimum surface parking spaces shall be 80 percent of the maximum required parking spaces. Additionally, the sector plan allows a ten percent reduction in the number of spaces provided when an improved bus shelter is in the vicinity. The applicant is proposing to improve the two nearest bus stops, to the south along Annapolis Road (MD 450) and to the north along Baltimore Avenue (Alt. US 1). These two allowances result in a total reduction of 30 percent, which is 66 spaces (222×0.3). When subtracted from 222, this results in a total parking requirement per the Port Towns Sector Plan of 156 spaces.

Parking Provided

On-Site	86
of which Handicapped	(8)
of which Compact***	(38)
Off-Site Valet Parking (lot along 46th Street)	54
On-Street (along 46th Street)	6
Alley Parking for Limos, Taxi, Uber (along Shepherd Street)	10
Total Provided	156 spaces

*** The Port Towns development district standards state that compact parking spaces are not permitted in surface parking lots. The applicant requests an amendment of this standard.

Parking was a concern for the Planning Board. The proposed eating and drinking establishment use, at 984 seats, would ordinarily require 328 parking spaces, or one space per three seats. Section 27-584 of the Zoning Ordinance excludes 110 spaces because a portion of the building on the site existed prior to the establishment of off-street parking requirements, which brings the ratio to one space per four seats. Furthermore, the Port Towns Sector Plan allows for various reductions (in this case 30 percent) which bring the ratio to one space per six seats. A careful count of the parking shown on the proposed site plan reveals that the applicant is providing approximately

one space per 6.3 seats. As shown, the off-site parking lot would have tandem subcompact spaces served by a substandard drive aisle.

In years past, based on permit applications submitted, the various owners/operators of the venues on the site have claimed parking arrangements with nearby property owners, some written and recorded, others verbal or "handshake" agreements of dubious merit that could be discontinued at any time. The applicant is not relying on such arrangements, since they are able, due to various exclusions and other types of reductions, to provide the amount of parking required by the Prince George's County Code. The Board does not argue that the applicant is permitted to take advantage of these reductions; they are in place for just this type of proposal. The relaxation of parking standards in older areas of the County is a necessary incentive to bring about the compact redevelopment envisioned by the sector plan. Given that the few remaining nearby residences are now gone, it is unlikely that the parking needs of residents will be infringed upon. The Board would also note that the applicant and his corporate entities own additional parcels proximate to the site, and there are other under-utilized properties nearby which might be available should the need arise and if an arrangement can be reached. The applicant is providing the majority of the required parking for the site.

Per the Port Towns Sector Plan (page 200), loading facilities are not required in any Port Towns Urban Design Character Area.

3. **Location:** The subject property is located on the east side of Baltimore Avenue (Alt. US 1), approximately 150 feet north of its intersection with Annapolis Road (MD 450). The site also has frontage on 46th Street to the east and on Shepherd Street, a paper street, to the south.
4. **Surrounding Uses:** The subject property is surrounded by a mix of industrial and commercial uses in the Mixed Use-Transportation Oriented (M-X-T) and Light Industrial (I-1) Zones, and is within the viewshed of historic properties. The site is bounded to the west by Baltimore Avenue (Alt. US 1); to the south by Shepherd Street, beyond which is a pawn shop in the M-X-T Zone; to the east by 46th Street; and to the north by sites with industrial and vehicle-related uses that were rezoned to the M-X-T Zone by the Port Towns Sector Plan and SMA. All of the adjacent and abutting properties are located within the Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) Zone.

The subject property is within approximately 1,500 feet of four of the six County designated historic sites within the Town of Bladensburg: George Washington House/Indian Queen Tavern, 4302 Baltimore Avenue (National Register/69-005-02); St. Paul's Baptist Church, 4107 47th Street (69-005-06); Hilleary-Magruder House, 4703 Annapolis Road, (National Register, 69-005-07) and Peace Cross, Annapolis Road and Alt. US 1 (69-005-16). Due the proximity of the adjacent historic sites, the property was reviewed by the Historic Preservation Section and the Historic Preservation Commission.

5. **Previous Approvals:** The subject property is known as Lots 1 and 2 of Frank Mace's Subdivision recorded on September 8, 1937 (Plat BB 6-7) and Parts of Lots 13, 14, 17, and 18 of an unrecorded Plat of Bladensburg; and is described in Liber 34629 at Folio 159 and Liber 35363 at Folio 313 of the Prince George's County Land Records.

The current building was constructed in 1941 after an earlier building on the site (c. 1937), which operated as the Del Rio Restaurant, was severely damaged by fire. After the fire, the building was enlarged and operated for many decades as the Crossroads, which became a prominent local restaurant, big band, country, blues, rock music, and burlesque venue frequented by locally and nationally notable performers. The site also had a separate addition which operated as a sit-down restaurant as well as a crab house until operations ceased in the mid-1990s. At that time, the venue's focus turned to Caribbean food and music. The club operated off and on until operations at the property finally ceased altogether in 2013.

6. **Design Features:** The subject CP application proposes the extensive renovation and expansion of the existing building on the property to include eating and drinking establishment/dinner theatre of approximately 23,600 square feet. Other uses proposed for the property include limited office space (800 square feet). All visible exterior features of the current building will be subsumed within the proposed new construction.

The renovated building will have finished elevations on three sides, west, south and east. The north elevation will not display the finish materials and details of the other three, since it directly abuts existing buildings. The building will be composed of one-, two-, and three-story elements, with one-story elements to the north and a larger main block to the south of two- and three-stories that include a slightly taller elevator tower near the southwest corner. The majority of the building will be two stories; there will be a seasonally occupied roof atop this portion of the building that will be served by two three-story stair towers and the slightly taller elevator tower.

The proposed architectural style of the building represents the architect's effort to establish a contemporary identity for the new construction on the subject property. This approach was encouraged by both the Historic Preservation Section and the Historic Preservation Commission (HPC) based on a review of an initial proposal in September 2014. The application received specific comments from the HPC on the need to create a building that reflects both the time and place in which the project is proposed and the challenges of developing an architectural response that could be considered compatible with the project's context, a network of busy roads, and numerous industrial uses of little architectural interest, along with two designated historic sites of vastly different character.

The proposed design employs modern materials that include panelized metal, glazed brick, large expanses of glass, and projecting metal window and door hoods that serve both as shade screens and in some locations as the base for signage. The application includes a site and landscape plan that provides for limited on-site parking, outdoor seating, ornamental plantings, and signage.

7. **The 2009 Approved Port Towns Sector Plan and Sectional Map Amendment:** The 2009 *Approved Port Towns Sector Plan and Sectional Map Amendment* defines long-range land use and development policies, detailed zoning changes, design standards, and a D-D-O Zone for a new Port Towns destination center focused on the Anacostia waterfront that links the four Port Towns of Bladensburg, Colmar Manor, Cottage City, and Edmonston. The land use concept of the sector plan divides the area into six character areas for the purpose of providing a framework to achieve a vertical mixed-use development that promotes pedestrianism, linking the port towns together to form a recognizable place. The subject site is within the Port Towns Waterfront Character Area. The goal of the Port Towns Waterfront Character Area is to enhance the walkability of the Port Towns waterfront by creating a framework for high-quality, mixed-use, pedestrian-oriented development incorporating human-scale building and an attractive streetscape that emphasizes the Anacostia River.
8. **The Chesapeake Bay Critical Area Ordinance:** The site is located within the Chesapeake Bay Critical Area Intense Development Overlay (I-D-O) Zone; therefore, the site is subject to the CBCA regulations. The purposes of the I-D-O Zone, as outlined in Section 27-548.13 of the Zoning Ordinance are to: accommodate existing residential, commercial, or industrial land uses within the CBCA; to promote new residential, commercial, and industrial land uses in accordance with development intensity limits designated for the I-D-O Zone in this Subtitle; to conserve and enhance fish, wildlife, and plant habitats; and to improve the quality of runoff that enters the tributary streams of the Chesapeake Bay from developed areas. The regulations concerning the impervious surface ratio, density, slopes, and other provisions for new development in the I-D-O Zone are contained in Subtitle 5B of the County Code, as follows:

Section 5B-113, Intense Development Overlay (I-D-O) Zones.

- (e) **Development standards. The following development standards must be demonstrated within the I-D-O Zone:**
 - (1) **For redevelopment plans, opportunities to reduce impacts on water quality generated by existing development shall be analyzed;**

The subject proposal reduces impacts on water quality. Currently, the site contains 68,898 square feet of impervious surface and, with this application, the new impervious area will be 60,084 square feet. A reduction of 9,853 square feet, or 14 percent, of the existing impervious surface is proposed.
 - (2) **Urban (BMPs) for stormwater treatment shall be considered and, where appropriate, implemented as part of all plans for development and redevelopment;**

The Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) has not required the use of urban best management practice (BMP) credits. The subject site appears to have exceeded the pollutant removal requirements without the use of BMPs.

- (3) Stormwater shall be addressed in accordance with the following provisions:
- (A) Development or redevelopment projects shall use technologies as required by applicable ordinances in order to minimize adverse impacts to water quality caused by stormwater.
 - (B) In the case of redevelopment, if these technologies do not reduce pollutant loadings measured by use of the keystone pollutant method by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided. Guidance for compliance with this requirement is provided in the *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended.
 - (C) In the case of new development, offsets shall be used if they reduce pollutant loadings by at least 10 percent of the pre-development levels. Guidance for compliance with this requirement is provided in the *Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance – Fall 2003* and as may be subsequently amended.
 - (D) Offsets may be provided either on or off site, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring or other computation of mitigation measures. Guidance regarding offsets is provided in the *Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance – Fall 2003*.

A copy of the approved Stormwater Management Concept Plan and Letter (39257-2013-00) dated March 27, 2014 were submitted with the subject application. This approval demonstrates that the application meets the requirements of the applicable ordinances. The concept plan appears to show stormwater to be directed to nine new on-site bioretention areas/infiltration trenches that is ultimately conveyed to a County stormdrain system. According to the approval letter, no quantity or quality control is required. The conservation plan is consistent with the approved concept plan. A final review of the ten percent CBCA worksheet has been completed by DPIE and was found to be correct in showing the existing

and proposed conditions for pollutant removal at the Baltimore Avenue (Alt. US 1) site.

- (4) **There is no Critical Area lot coverage maximum in the I-D-O, however, where practicable, permeable areas shall be established in vegetation, and whenever possible, redevelopment shall reduce existing levels of pollution.**

There is no lot coverage maximum in the M-X-T Zone. The applicant proposes to reduce the amount of paved area on the site and increase green area.

- (5) **Areas of public access to the shoreline, such as foot paths, scenic drives and other public recreational facilities, should be maintained and, if possible, encouraged to be established within the I-D-O.**

The above development standard does not apply because the site does not have direct access to any shore line.

In conclusion, the Planning Board determines that the proposal meets the development standards for the I-D-O Zone. The Board also notes that a Chesapeake Bay Conservation and Planting Agreement is required to be recorded for development of the site. The plan and plan calculations will need to be revised to include the square footage of the off-site parking lot.

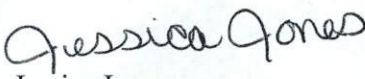
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

* * * * *

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 Bailey, with Commissioners Washington, Bailey, Geraldo, Shoaff, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, October 1, 2015, in Upper Marlboro, Maryland.

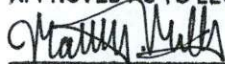
Adopted by the Prince George's County Planning Board this 29th day of October 2015.

Patricia Colihan Barney
Executive Director


By Jessica Jones
Planning Board Administrator

PCB:JJ:TL:rpg

APPROVED AS TO LEGAL SUFFICIENCY.



M-NCPPC Legal Department

Date 10/7/15