

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board is charged with the approval of Comprehensive Design Plans pursuant to Part 8, Division 4 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on January 12, 2017, regarding Comprehensive Design Plan CDP-9503-H1 for Bealle Hill Forest, Block B, Lot 19 (Coates Gazebo) the Planning Board finds:

PUBLIC HEARING

In accordance with the comprehensive design plan provisions of Section 27-522 of the Prince George's County Zoning Ordinance, a public hearing is scheduled before the Prince George's County Planning Board at 10:00 a.m. on January 12, 2017. The purpose of this hearing is to review and approve Homeowner's Minor Amendment to a Comprehensive Design Plan CDP-9503-H1 for Bealle Hill Forest, Block B, Lot 19 (Coates Gazebo).

1. **Request:** The subject homeowner's minor amendment to a comprehensive design plan (CDP) is a request to construct a 16-foot octagonal gazebo in the rear yard of an existing single-family detached dwelling within the rear-yard setback.
2. **Development Data Summary:**

EXISTING

Zone	R-L
Use	Residential
Lot size	21,859 square feet
Lot	1
Number of Dwelling Unit	1

REQUIRED**PROVIDED**

Total parking spaces	2	6
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3. **Location:** The subject property is located on the southeast corner of the intersection of Bealle Hill Forest Lane and Bellevue Ridge Road, within the Bealle Hill Forest Subdivision. The property is also located in Planning Area 84 and Council District 9.

4. **Surrounding Uses:** The subject property is bounded to the east and south by single-family detached units, to the west by the public right-of-way of Bealle Hill Forest Lane with single-family detached units beyond, and to the north by the public right-of-way of Bellevue Ridge Road, with single-family detached units beyond, in the Residential Low Development (R-L) Zone.
5. **Previous Approvals:** On September 14, 1993, the District Council approved the *Subregion V Master Plan and Sectional Map Amendment (SMA)*, which included the Comprehensive Design Zone Application A-9874 for the subject property. This action rezoned the property from the R-A Zone to the R-L Zone, as stated in Council Resolution CR-60-1993 with 13 conditions and four considerations. Subsequent to the rezoning of the property to the R-L Zone, the southern 53.5 acres of the site were sold to the Maryland State Highway Administration (SHA) in association with the construction of Berry Road (MD 228). On February 26, 1998, the Planning Board approved Comprehensive Design Plan CDP-9503 (PGCPB Resolution No. 98-51).
6. **Design Features:** The subject application includes a proposal for a 16-foot dark bronze metal octagonal gazebo, with a concrete base, in the rear yard of an existing single-family detached dwelling, which was constructed in 2012. The subject property, known as Lot 19, Block B of Bealle Hill Forest, is an interior lot with an existing dwelling, which fronts on Bealle Hill Forest Lane to the west. The proposed gazebo, which was constructed without permits in approximately 2015, is free-standing and is located approximately 13 feet from the rear property line, which encroaches approximately seven feet into the rear-yard setback.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The project is in compliance with Section 27-515 of the Zoning Ordinance regarding uses permitted in the R-L Zone. A single-family detached dwelling is a permitted use in the R-L Zone. The project is also in compliance with the requirements of Section 27-514.10, which includes regulations applicable to the R-L Zone. The project also conforms to the requirements of Section 27-521 regarding required findings for comprehensive design plan (CDP) applications and Section 27-524 regarding amendments to approved CDP applications. See Findings 12 and 13 below for a more detailed discussion of this conformance.
8. **Zoning Map Amendment (Basic Plan) A-9874-C:** The project is in compliance with the requirements of Basic Plan A-9874-C, as incorporated into District Council Resolution CR-60-1993. The proposed gazebo in the rear-yard setback does not alter the previously made findings of approval of the basic plan that were made at the time of approval of the CDP.
9. **Comprehensive Design Plans CDP-9503:** The project is in compliance with the requirements of Comprehensive Design Plan CDP-9503, except regarding the required rear-yard setback. Whereas, the CDP stipulates a 20-foot minimum rear-yard setback, the proposed gazebo would sit approximately 13 feet from the rear property line.

10. **Prince George's County Woodland Conservation and Tree Preservation Ordinance:** The subject lot does not contain any woodland conservation; the addition of the proposed gazebo would not alter the previous findings of conformance with the Woodland Conservation and Tree Preservation Ordinance that were made at the time of approval of the CDP.
11. **Further Planning Board Findings and Comments from Other Entities:** The application was referred to the concerned agencies and divisions. Referral comments are summarized as follows:
 - a. **Bealle Hill Forest Homeowners' Association, Inc.**—In a letter dated June 20, 2016, Bealle Hill Forest Homeowners' Association, Inc. indicated that the request for a gazebo associated with this application had been approved.
 - b. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated November 4, 2016, DPIE provided the following comments:
 - (1) The applicant proposes to build a backyard gazebo within a recorded County stormdrain easement (L. 30402, F. 289). The ground elevation is surveyed at 302.4 feet and the existing stormdrain top of pipe elevation is determined at 296.4 feet. The proposed bottom of the gazebo footings is set at elevation 299.4 feet.
 - (2) DPIE has no objection to a proposed gazebo in the backyard, provided it is not located within the recorded County stormdrain easement.

The submitted application is necessary to allow the constructed gazebo to be within the required rear-yard setback established by the original CDP approval. DPIE is correct that the already constructed gazebo lies within a recorded stormdrain easement, above an existing pipe. The 35-foot-wide easement, which covers the majority of the rear yard along the entire rear property line, is not shown on the record plat and was not known to the homeowner when the lot was purchased and subsequently when the gazebo was built. The homeowner indicated that the homeowners association will not allow a gazebo within the front or side yards of the home, therefore, leaving no possibility to relocate the gazebo outside of the rear yard. They also proffered that at such time as the stormdrain pipe requires maintenance, they are willing to remove the gazebo at their expense.

The Planning Board found that the subject CDP application is required in order to keep the gazebo where it is right now. The gazebo being within an easement is a separate issue, which DPIE has the jurisdiction over through their permitting process. After approval of this application, the homeowner still has to obtain approval of a permit for the gazebo, which may be denied by DPIE and can then be appealed through the appropriate processes relative to permit approval. The Planning Board found that the proposed gazebo meets all of the required findings for approval of a homeowner's minor amendment to a CDP.

12. Prior to approving a CDP, the Planning Board must make the required findings found in Section 27-521(a) of the Zoning Ordinance:

- (1) **The plan is in conformance with the Basic Plan approved by application per Section 27-195; or when the property was placed in a Comprehensive Design Zone through a Sectional Map Amendment per Section 27-223, was approved after October 1, 2006, and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, is in conformance with the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or Sectional Map Amendment Zoning Change;**

The CDP was previously found to be in conformance with the Basic Plan (A-9874-C) as incorporated into District Council Resolution CR-60-1993. The proposed gazebo does not affect that finding.

- (2) **The proposed plan would result in a development with a better environment than could be achieved under other regulations;**
- (3) **Approval is warranted by the way in which the Comprehensive Design Plan includes design elements, facilities, and amenities, and satisfies the needs of the residents, employees, or guests of the project;**
- (4) **The proposed development will be compatible with existing land use, zoning, and facilities in the immediate surroundings;**
- (5) **Land uses and facilities covered by the Comprehensive Design Plan will be compatible with each other in relation to:**
- (A) **Amounts of building coverage and open space;**
 - (B) **Building setbacks from streets and abutting land uses; and**
 - (C) **Circulation access points**
- (6) **Each staged unit of the development (as well as the total development) can exist as a unit capable of sustaining an environment of continuing quality and stability;**
- (7) **The staging of development will not be an unreasonable burden on available public facilities;**

Conformance with these requirements were found at the time of approval of the original CDP and the proposed gazebo does not change those findings.

- (8) **Where a Comprehensive Design Plan proposal includes an adaptive use of a Historic Site, the Planning Board shall find that:**
- (A) **The proposed adaptive use will not adversely affect distinguishing exterior architectural features or important historic landscape features in the established environmental setting;**
 - (B) **Parking lot layout, materials, and landscaping are designed to preserve the integrity and character of the Historic Site;**
 - (C) **The design, materials, height, proportion, and scale of a proposed enlargement or extension of a Historic Site, or of a new structure within the environmental setting, are in keeping with the character of the Historic Site;**

The proposed revision does not propose an adaptive reuse of a historic site.

- (9) **The Plan incorporates the applicable design guidelines set forth in Section 27-274 of Part 3, Division 9, of this Subtitle, and except as provided in Section 27-521(a)(11), where townhouses are proposed in the Plan, with the exception of the V-L and V-M Zones, the requirements set forth in Section 27-433(d);**

Conformance with this requirement was found at the time of approval of the original CDP and the proposed gazebo does not change that finding.

- (10) **The Plan is in conformance with an approved Tree Conservation Plan;**

Conformance with this requirement was found at the time of approval of the original CDP and the proposed gazebo does not change that finding.

- (11) **The Plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).**

There are no regulated environmental features on the subject lot.

- (12) **Notwithstanding Section 27-521(a)(9), property placed in a Comprehensive Design Zone pursuant to Section 27-226(f)(4), shall follow the guidelines set forth in Section 27-480(g)(1) and (2); and**

Conformance with this requirement was found at the time of approval of the original CDP and the proposed gazebo does not change that finding.

- (13) For a Regional Urban Community, the plan conforms to the requirements stated in the definition of the use and satisfies the requirements for the use in Section 27-508(a)(1) and Section 27-508(a)(2) of this Code.**

The subject lot is not part of a regional urban community.

13. Section 27-524(b)(3) of the Zoning Ordinance sets forth the criteria for granting minor amendments to approved CDPs for the purpose of making home improvements requested by a homeowner (or authorized representative) and approved by the Planning Director (or designee) in accordance with specified procedures, as follows:

- (A) The Planning Board shall conduct a public hearing on the requested amendments.**
- (B) Findings. The Planning Board may grant the minor amendment if it finds that the requested modifications will not substantially impair the intent, purpose, or integrity of the approved Comprehensive Design Plan.**
- (C) The Planning Board shall approve, approve with modification, or disapprove the requested amendments, and shall state its reasons for the action.**

The Planning Board's decision (resolution) on the minor amendment shall be sent to all persons of record in the hearing before the Planning Board and to the District Council.

The subject CDP application was reviewed by the Planning Board in conformance with criterion (A) above. The Planning Board made a decision on the CDP application in conformance with criterion (C) above. In regards to criterion (B), the Planning Board found that the requested gazebo will not substantially impair the intent, purpose, or integrity of the approved CDP. The modification of the rear building restriction line to 13 feet for the proposed gazebo will not be detrimental to the community, nor will it negatively impact the visual characteristics of the neighborhood because the gazebo sits over 60 feet from the adjacent homes to the east and south and over 90 feet from the nearest public right-of-way, affording privacy to the occupants of both the subject property and the adjacent homeowners.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED Comprehensive Design Plan CDP-9503-H1 for the above described land.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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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, Doerner, Geraldo, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, January 12, 2017, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 2nd day of February 2017.

Patricia Colihan Barney
Executive Director

By Jessica Jones
Planning Board Administrator

PCB:JJ:JK:rpg