

PGCPB No. 2025-068

File No. CBP-2024-004

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed Chesapeake Bay Critical Area Conservation Plan Application No. CBP-2024-004, 12339 Hatton Point, requesting demolition of an existing single-family dwelling in the Chesapeake Bay Critical Area (CBCA) and several areas of impervious patios and paths; construction of a new two-story, single-family dwelling; and Variances to Section 5B-121(e) of the Prince George's County Code for development within the secondary buffer and to Section 5B-114(e)(7) for development on steep slopes, in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, a new Zoning Ordinance, Subtitle 27, Prince George's County Code went into effect on April 1, 2022; and

WHEREAS, the subject property is within the Residential, Estate (RE) and Chesapeake Bay Critical Area Overlay (CBCAO) Zones; and

WHEREAS, the staff of the Commission recommended the Planning Board issue a resolution recommending APPROVAL of the application with conditions; and

WHEREAS, after consideration of the evidence presented at the public hearing on July 31, 2025, the Prince George's County Planning Board finds:

- Request:** Demolition of an existing single-family dwelling in the Chesapeake Bay Critical Area (CBCA) and several areas of impervious patios and paths, and construction of a new two-story, single-family dwelling. The Planning Board approved a variance to Section 5B-121(e) of the Prince George's County Code for development within the secondary buffer and a variance to Section 5B-114(e)(7) for development on steep slopes.
- Development Data Summary:** The following information relates to the subject conservation plan (CP) application.

	EXISTING	EVALUATED
Zone(s)/Overlay(s)	RE/LDO	RE/LDO
Use(s)	Residential	Residential
Acreage	1.62	1.62

- Location:** The subject property is located on Tax Map 131 in Grid B3 and consists of one parcel, Parcel 67, totaling 1.62 acres, located within the Residential Estate (RE) Zone and the CBCA, Limited Development Overlay (LDO) Zone. The site is in Planning Area 80 and Council District 8. More specifically, the subject property is located in Fort Washington on the western side of Hatton Point Road, at the terminus of Hatton Point Road and Swan Harbour Road, and overlooks the Potomac River to the west.
- Surrounding Uses:** The subject property is located within the RE Zone and in the LDO Zone within the CBCA, and is surrounded by RE and LDO-zoned and developed, single-family

residential properties to the north and south. The Potomac River abuts the site to the west and Hatton Point Road abuts the site to the east. Developed single-family lots in the Rural Residential (RR) and LDO Zones are located further east of the subject property, beyond Hatton Point Road.

5. **Previous Approvals:** There are no previous zoning application approvals for the subject property. The property is developed with a single-family detached dwelling, which was constructed in 1954, per state tax records.
6. **Design Features:** The subject property was subdivided in 1948. The property fronts on Hatton Point Road and widens to the west, where it slopes down to the waterline of the Potomac River. The property borders two other residential lots to the south into which the topography from the north generally continues unchanged, while a ravine separates the subject property from its neighbor to the north. The existing dwelling is a 2,287-square-foot house built primarily of brick and frame, was constructed in various additions, and does not have a contiguous foundation. The property includes a shed, an in-ground pool, a driveway, and various paved paths and patios. The existing pool, which will remain, is situated atop the bluff at the west side of the property, which slopes down to the river.

The critical area plan submitted with this application met the requirements of the Prince George's County Zoning Ordinance for development in the RE Zone regarding building height and setbacks. The proposed grass and timber step walkway will be located on slopes exceeding 15 percent, which required a variance from Section 5B-114(e)(7) of the Prince George's County Code. The existing house, driveway, concrete patio, and shed will be removed; and the approved house, garden, and driveway are in the critical area secondary buffer. These activities required a variance to Section 5B-121(e) of the Prince George's County Code.

The approved house is two stories, with a concrete foundation and wooden structure and exterior. The design of the house is contemporary modern, with a flat roof and an elongated, low-slung, ranch-like design. The design maximizes fenestration and deck space on the west side of the house facing the waterfront, with some windows and entrances facing the street and a screened in space facing north, east, and west on the northern end of the first floor. The design includes a garage attached to the southern end of the house via an intervening breezeway, roughly perpendicular to the house.

The site currently contains 12,098 square feet of impervious surface, or 17 percent of the site. The site plan provided with this application shows the approved impervious surface area is 10,210 square feet (14.4 percent of the site). The maximum allowable coverage for this property is 15 percent, or 10,607 square feet, and the approved coverage of the property is 6,915 square feet, or 9.8 percent of the property. Impervious surfaces to be removed include the existing house, the patio surrounding the pool, the existing driveway (to be replaced by a smaller one), and the concrete pad and shed.

COMPLIANCE WITH EVALUATION CRITERIA

7. Environmental Review and Conformance with Section 5B

Natural Resources Inventory Plan

The subject site has a Natural Resources Inventory Plan (NRI-079-2024), approved on January 15, 2025, and included with the application package. The NRI shows that there are no developed woodlands on-site, only scattered trees and shrubs. Since the site is waterfront along the Potomac River, features shown are mean high-tide, steep slopes, 100-year floodplain, primary buffer, and secondary buffer. The CP correctly shows the site and buffers.

Chesapeake Bay Critical Area Conservation Plan

The CBCA conservation plan set for 12339 Hatton Point Road includes an Existing Condition Plan, General Notes, CBCA – Demolition Overlay Plan, Landscape and Buffer Establishment Plan, Planting Plan, Hardscape Details, and Planting Details and Notes. The plans contain information such as the approved structures, structures to be razed, plantings, and stormwater management (SWM) structures because these are required as part of the overall review of the CP for this site.

The approved project will remove the structures built in 1954 (house, shed, garage, carport and parking area, pool deck, and driveway), leave the existing in-ground pool, construct a new single-family detached dwelling with garage, relocate the driveway, and install SWM structures. Currently, several portions of the existing house are located within the primary buffer with the remainder within the secondary buffer. The approved project will remove all of the existing structures and impervious surfaces from the primary buffer, except for the in-ground pool and walkway, with all new impervious surface to be within the secondary buffer. The existing lot coverage has been reduced from 17.1 percent to 14.4 percent. The only approved impact within the 100-foot primary buffer is the removal of the existing identified structures. The applicant will also improve the existing path to the beach along the Potomac River with a grass and timber step walkway, which required a variance to Section 5B-114(e)(7) for development on steep slopes. This variance request is evaluated below.

According to Section 5B-121(f)(1)(C) of the Prince George's County Code, since this lot was created before January 1, 2010, and will feature substantial alterations to the existing homesite, the buffer is required to be established with plantings. The buffer is partially vegetated with scattered trees from the Potomac River waterline to the top of the slope. According to the NRI, the application area contains no developed woodlands on-site. The existing home site has a maintained lawn between the house and the top of the riverbank in the rear of the property. The applicant will plant the top of the bank area with various trees and shrub species and maintain the remaining existing lawn area.

The CP shows the required impervious surface tables. The CBCA Table A shows the existing net lot coverage as 11.1 percent and the approved net lot coverage at 9.8 percent. The CBCA Table B/B1 shows the existing lot impervious area at 17.1 percent and the approved lot impervious area at 14.4 percent.

The landscape plan contains information on the location of approved primary buffer planting areas, walkway plantings, invasive species removal, and replanting areas. The landscape plan shows the approved plantings within the secondary buffer. All mitigation plantings must be shown as native trees and shrubs. A table needs to be added to show the mitigation planting in square feet for the buffer permanent impacts and canopy loss due to tree removal. This was stipulated in Condition 2 of this resolution.

Technical revisions to the CP and landscape plan are required prior to certification.

The Mount Vernon Viewshed

Each year over one-million people visit Mount Vernon, possibly the nation's best known national historic landmark. The sweeping panoramic viewshed encompasses portions of Prince George's County and Charles County, Maryland, and a portion of Mason Neck in Fairfax County, Virginia.

The viewshed is primarily forested and contains few visual intrusions visible to the naked eye; however, several well-publicized threats to the viewshed beginning in the 1950's led to the subsequent creation of the Piscataway National Park in a 1962 Act of Congress, and focused attention on the vulnerability of the viewshed, as stated in the park charter:

“... to preserve for the benefit of present and future generations the historic and scenic values of lands which provide the principal overview from the Mount Vernon Estate and Fort Washington.”

The park is unique in the National Park system in that of the 4,251 acres that make up the park, 2,786 are privately-owned residential properties subject to scenic easements held by the National Park Service, to ensure that existing tree cover will be preserved.

Mount Vernon Viewshed Area of Primary Concern

The Mount Vernon Viewshed area of primary concern is a topographically defined area, which is used to model the visibility of a structure placed within the delineated viewshed from the front porch of George Washington's Mount Vernon home. When evaluating visual impacts, the ground elevation of where the proposed structure will be placed, the height of the proposed structure, and any existing or proposed screening between the Mount Vernon home's front porch and the special conservation area are considered.

The Mount Vernon Viewshed area of primary concern is identified in the Countywide Green Infrastructure Plan (GI Plan) of the 2017 *Approved Prince George's Resource Conservation Plan: A Countywide Functional Master Plan* (May 2017), as the Piscataway Park and Mount Vernon Viewshed special conservation area. During land development, proposals relating to the special conservation area need to be reviewed to ensure the areas are protected. According to the GI Plan, “The Mount Vernon Viewshed, also known more broadly as the Area of Primary Concern (APC), delineates the land in Virginia and Maryland that can be viewed from the porch of George Washington's home in Virginia.” The GI Plan also states:

“The Mount Vernon Viewshed covers approximately 28,000 acres of land in northern Virginia and southern Maryland, of which 15,000 acres (23 square miles) are in southwestern Prince George’s County—approximately 53 percent of the entire viewshed. Much of the development within the area of primary concern has not significantly impacted the view from Mount Vernon, and almost half of the portion of the viewshed within Prince George’s County has been preserved, primarily through acquisition by government entities and through private conservation easements. The remainder of the Mount Vernon Viewshed that is not protected remains vulnerable to visually impactful development. To address potential visual impacts, the Maryland-National Capital Park and Planning Commission (M-NCPPC) staff developed and are using an informational and analytical geographic mapping tool that has been integrated into everyday planning and development review tasks.”

According to the approved NRI, the project is located within the Mount Vernon Viewshed area of primary concern. Site development plans, which show the location of the building and building height, were provided on May 30, 2025, and given to a Maryland-National Capital Park and Planning Commission (M-NCPPC) Geographic Informational Systems (GIS) specialist to perform a 3D (dimensional) viewshed analysis. On May 6, 2025, M-NCPPC staff completed the 3D modeling of the viewshed and determined that the approved project at 12339 Hatton Point Road will not impact the Mount Vernon Viewshed because the trees located on the Virginia side of the Potomac River will shield the viewshed.

Chesapeake Bay Conservation and Planting Agreement

A Chesapeake Bay Conservation and Planting Agreement will be required to be executed and recorded prior to certification approval for development of the site. This was stipulated in Condition 3 of this resolution.

Chesapeake Bay Conservation Easement

A conservation easement will be required for this site, existing developed woodlands, and the mitigation plantings area. A metes and bounds description must accompany the easement. This requirement was stipulated in Condition 4 of this resolution. Review of the easement falls under the purview of the Prince George’s County Department of Permitting, Inspections and Enforcement (DPIE).

Approved Variance

The Planning Board approved variances to the following sections of the CBCA Ordinance, Subtitle 5B of the Prince George’s County Code:

Section 5B-121(e)—New development is permitted in the Buffer associated with a water-dependent activity as noted in the Zoning Ordinance or for shore erosion control measures as described in Section 5B-124. All other uses and structures are prohibited within the Buffer, except where an appropriate variance has been requested and approved by the Planning Board.

The plan entails disturbance to slopes in excess of 15 percent. Disturbance to slopes in excess of 15 percent is prohibited by Section 5B-114(e)(7), without the approval of a variance.

Definitions:

Section 5B-108 (a)(74) Primary Buffer – The area one hundred (100) feet from the mean high-water line of tidal waters, the edge of the bank of tributary streams, and the landward extent of tidal wetlands.

Section 5B-108 (a)(87) Secondary Buffer – Areas contiguous to the primary buffer which are essential for the buffer to perform all of its integral functions, including but not limited to, palustrine non-tidal wetlands, steep and severe slopes in excess of fifteen percent (15%), highly erodible soils, hydrologic soil (Group D), and the one hundred (100) year floodplain. The primary and secondary buffers, combined, constitute the "Buffer" in a Critical Area Overlay Zone.

The Planning Department received a Subtitle 5B Variance Application, an updated statement of justification (SOJ) in support of a variance, and a CP from the applicant with the submission on March 6, 2025, which was revised on May 30, 2025, and June 20, 2025.

The SOJ for the variance request indicates that the project will impact the primary and secondary buffers and steep slopes for the proposed application area.

The approved project will reduce the lot coverage and impervious area within the primary buffer and add impervious area to the secondary buffer. Overall, impervious area in the buffer will decrease. Currently, the existing lot coverage consists of a single-family structure, a shed, a parking pad, an in-ground pool, pool decking, a pool shed, and a driveway. All of these structures were constructed before critical area regulations in 1988. This project will remove all structures within the primary buffer except for the in-ground pool and some pool decking. The rest of the existing impervious area will be razed and a new residence, garage area, driveway, and SWM structures will be built within the secondary buffer. In 1954 SWM was not required as part of single lot development. Now, with the redevelopment of the subject lot, SWM is required to control on-site stormwater runoff. The approved redevelopment will be reviewed by DPIE for SWM, and will be subject to current regulations.

The on-site topography is fairly flat near Hatton Point Road and then the grade of the contours becomes steep halfway along the northern property line and before the existing home site. A dry swale feature then continues down through the primary buffer to the Potomac River. The steep slopes on-site require that there is an expanded secondary buffer from the primary buffer. This secondary buffer expansion almost fills the entire site area outside of the primary buffer.

Approved Variance – Permitted Activities within Buffer: Variance No. 1

In accordance with Section 5B-121(e), permitted activities within a buffer are defined as: "New development is permitted in the Buffer associated with a water-dependent activity as noted in the Zoning Ordinance or for shore erosion control measures as described in Section 5B-124. All other uses and structures are prohibited within the Buffer, except where an appropriate variance has been requested and approved by the Planning Board." The subject property has structures that were built in 1954 and 1985, prior to critical area regulations.

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 the staff's analysis of the applicant's revised variance request, which was approved by the Planning Board on July 31, 2025.

- (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 is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);**

To meet this finding, the applicant must not only show that a property has unique physical attributes, but also that those attributes render it unique among the surrounding properties. If the claimed unique characteristic(s) are shared by many properties, resulting issues are best dealt with through legislation rather than variances.

In a revised SOJ submitted on June 20, 2025, the applicant asserts that the property has unique topographic conditions that result in a secondary buffer covering most of the property. Specifically, the applicant notes that: "Steep slopes extend along the northern property line for approximately 190' from the waterline landward into the Property – well beyond the 100' Primary Buffer. The steep slopes function as a natural swale that discharges stormwater runoff into the Potomac River. Any development must be setback from the buffer by 20' to maintain the ability to tie into natural grades and to allow for movement of any construction equipment, so the existence of these steep slopes east of the Primary Buffer significantly limits development opportunities. Moreover, the width of the record lot is unique compared to similar properties in the neighborhood. The lot width near the intersection of Hatton Point is significantly narrower than the width by the Potomac River. Meaning, the site exhibits greater development potential as you approach the Potomac River, and much less development potential as you approach the street. Taken together, the steep slopes extending landward from the Primary Buffer – creating the Secondary Buffer – and the significantly narrow lot width towards the street side of the Property greatly diminish the ability to develop the site."

In sum, the applicant argues that the property is unique for its steep slopes and shape, which together limit the development by relegating it to a narrow strip in the southeastern corner of the property.

To support the above-quoted assertions, the applicant submitted a chart (Appendix A) comparing the subject lot to adjacent waterfront lots. This chart shows that the subject lot is unique to the adjacent lots. Specifically, the property

has steep slopes along its northern property line that connect to the primary buffer creating a secondary buffer – a condition that is only present on three other properties in the neighborhood. The property also narrows to a greater degree from the water to its road frontage when compared to the other properties. The combination of the property's steep slopes and shape results in a smaller buildable area outside of the buffer than all other comparable properties with a secondary buffer. The analysis also showed that the width of the area outside of the buffer and within the required building setbacks is only 27 feet wide. The Planning Board concurred that the applicant has demonstrated the specific parcel having a physical, unique, and unusual difference in nature from the surrounding property.

(2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property;

This finding calls for the applicant to demonstrate that the unique features of the property cause the applicant practical difficulty in complying with the regulation from which the variance is sought. The applicant states: "The unique conditions of the Subject Property (as explained in Finding 1) create an enlarged Secondary Buffer that disproportionately impacts the Subject Property and results in peculiar and unusual practical difficulties. Steep slopes extending beyond the Primary Buffer generate a Secondary Buffer that encumbers more than 75% of the usable area. Hence, there is no proposed building location that would satisfy zoning regulations, Critical Area requirements and allow reasonable and significant use of the property without granting this Variance request. The proposed improvements to the Subject Property are within previously disturbed areas to minimize impacts within the Secondary Buffer and to remove Primary Buffer impacts. Given the existing conditions and proposed improvements on the Subject Property, full compliance with Primary and Secondary Buffer requirements would disproportionately impact any redevelopment proposal of the entire lot and remove the incentive to implement the Environmental Benefits described previously. For this reason, strict application of the code would deny the applicant reasonable and significant use of the property."

To support the assertion that having to limit new development to areas outside the buffer would constitute a practical difficulty, the applicant provided Appendix B. Appendix B shows that when both the buffer and zoning setbacks are applied, only 17,288 square feet of developable area remain. This area is approximately 27 feet wide. When the area needed for construction staging and work to tie into existing grades is factored in, the area is limited to an even more narrow sliver of land. Accordingly, the Planning Board concurred with the applicant that construction of a reasonable home outside the buffer is simply not feasible on the subject property.

The applicant's SOJ also notes that they considered options for in-kind replacement of the existing house within the buffer, which would be permitted without a variance. However, these options were not considered feasible because the existing foundation does not comply with the current building code, and additional buffer disturbance outside of the existing footprint of the house would be needed to construct a new home within the footprint.

Based on the foregoing, the Planning Board concurred that strict application of the law will create undue hardship for the owner of the property.

(3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions;

The applicant states "The proposed development is the minimum necessary to overcome the exceptional physical conditions of the Subject Property. It is not simply for Applicant's convenience. The minimum necessary factor must be considered in the context of the purpose of the proposed construction, recognizing that appellants are entitled to build some type of reasonable structure. [...] Given the full extent of the Secondary Buffer, there is no feasible location for the proposed improvements that would not severely impact the use and enjoyment of the Subject Property. The proposed location for the home was selected following thorough examination of other, potentially less impactful locations. Initially, Applicant reviewed whether constructing within the existing foundation was possible; however, this proved implausible for various reasons. The existing structure is an aggregation of several components, built over time. Very little of the total existing structure comprises an above-grade structure with a viable foundation. Upon investing in a geotechnical study, the Applicant learned that less than 5% of the existing structure in total has a foundation. Even worse, none of the existing foundation is code compliant. The applicant next considered if it was possible to build within the footprint of the existing buildings/improvements. This too proved implausible because it created additional, unnecessary disturbances within the primary buffer. To use the existing footprint, the Applicant must disturb an additional 20' of area around the existing building's footprint to establish access for workers and machines, tie into the existing grade and provide proper drainage. Hence, the decision was made to move the proposed structures outside the primary buffer entirely to prevent these disturbances.

"Moreover, this variance is the minimum necessary because the size and shape of the Secondary Buffer prevents reasonable use of the entire Subject Property. In other words, because of the unique impact of the Secondary Buffer on the site – coupled with existing conditions and construction concerns – there is no area on the Subject Property better suited for a home. As mentioned previously, the Secondary Buffer extends landward from the tip of the steep slopes in a circle for approximately 112.' The narrowing of the Property along with the expansive Secondary Buffer results in a thin 27' wide x 200' long band of developable area

along the southern border. This developable area is narrowed even further when accounting for the space necessary for construction, not to mention tying into the existing grade. Furthermore, constructing any improvements in this narrow band would require securing a temporary construction easement from adjoining landowners.”

The Planning Board concurred with the applicant that the proposed variance is the minimum necessary. Specifically, irrespective of the location selected for a reasonable new house on the subject property, any new development would unavoidably be located within the buffer because the developable area outside the buffer is too constricted. Accordingly, while the majority of the proposed house and associated improvements are within the secondary buffer, given the narrowness of the area of the property outside of the buffer, an alternative placement is not feasible. For the above reasons, the applicant has addressed the variance findings, and this request is the minimum necessary to overcome the exceptional physical conditions, because no dwelling can be built without some variance.

(4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any area master plan, sector plan, or transit district development plan affecting the subject property; and

The applicant states: “The Subject Property is located within the limits of the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* (‘Master Plan’), and within the Master Plan the recommended land use is ‘Residential, Low-Density.’ The Residential, Low Density land use category is categorized as having a maximum density of 5.7 dwelling units per acre for the former Residential Estate (R-E) Zone (page 107). The proposed project will not increase the density of the property, as it will replace an existing single-family dwelling. Additionally, the Property is denoted within the Potomac River Shoreline Special Conservation Area. Special Conservation Areas, according to page 25 of the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George’s County Resource Conservation Plan* (‘RCP’) are Regulated Areas that contain unique environmental features that should be carefully considered when land development proposals are reviewed in the vicinity to ensure that their ecological functions are protected or restored. The RCP emphasizes the preservation of the natural environment and the river’s scenic character for development within the Potomac River Shoreline. The Property is currently improved with an existing single-family dwelling unit that encroaches upon the Primary Buffer and exceeds the permitted impervious surface maximum.”

This application lot does not have developed woodland on-site, but has scattered trees and shrubs along the waterfront and throughout the site. The applicant will remove invasive species (bamboo), which are located within the primary and

secondary buffers. This invasive vegetation removal will be mitigated on-site with native trees, shrubs, and perennials.

Water quality will be improved and enhanced with this redevelopment with the addition of on-site SWM and removal of the on-site septic system. In addition, the original construction from 1954 did not require SWM and now the stormwater will be treated on-site instead of discharging untreated stormwater directly into the adjacent Potomac River. The approved development will tie into the public sanitary sewer system located within Hatton Point Road. The on-site septic system is approximately 70 years old, and its working status is unknown.

The site is an existing waterfront, single-family lot among other existing waterfront, single-family lots. The developable area of the property is encumbered with a primary buffer, secondary buffer, and steep slopes. As discussed above, construction of a new home would necessarily entail some development in the buffer, given the location and extent of the buffer on the subject property. The applicant's approved plan will reduce impervious surface on the subject property and provide SWM. Accordingly, granting this variance will not impair the intent, purpose, or integrity of applicable general and master plans.

(5) Such variance will not substantially impair the use and enjoyment of adjacent properties.

The applicant states "Approval of this variance will allow the Subject Property to redevelop with a modern single-family detached home that conforms with updated environmental and stormwater regulations in a location on the lot consistent with others along Hatton Point Road..."

This approved application will allow a new house in a similar location to the existing on-site dwelling. The approved placement of the dwelling is in line with those on adjacent properties. Furthermore, no new loss of water visibility from adjacent properties will be enabled by this approval. Accordingly, approval of this development within the buffer will not substantially impair the use and enjoyment of adjacent properties.

(6) Notwithstanding any other provision of this Section, a variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

The applicant states: "The practical difficulty is not self-imposed but was created by the application of the critical area law to the Subject Property. The Secondary Buffer extends into most of the Subject Property severely limiting the redevelopment potential. The present location was selected to minimize further

disturbances into previously undisturbed environmental areas, especially within the Primary Buffer after careful consideration.”

The Planning Board concurred that the practical difficulty claimed is not the result of the property owner’s actions. The basis for this variance is that the secondary buffer, without a variance, would limit development to a narrow sliver along the southern property line. The extent of the secondary buffer is caused by steep slopes, which are a natural condition. In addition, the area outside the buffer, which may be developed without a variance, is further limited by the property’s shape, which narrows towards the right-of-way (ROW) on which the property fronts. The property’s shape is also not the result of the property owner’s (applicant) actions. The property boundary’s metes and bounds were created in 1948, long before the applicant acquired the property.

- (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 interpretation of provisions within the Chesapeake Bay Critical Area would result in unwarranted hardship.**

State law defines unwarranted hardship to mean that “without a variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.” COMAR 27.01.12.01. Thus, literal enforcement of the CBCA ordinance would result in an unwarranted hardship for the applicant.

The applicant states: “The ‘special conditions or circumstances’ that exist on the Property are the exceptionally steep slopes contained on the site that are peculiar to the Subject Property for the reasons previously explained. These special conditions or circumstances result in unwarranted hardship and support this Variance request. [...] Most of the subdivided lots in Prince George’s County that border the Potomac River do not contain steep slopes that extend beyond the Primary Buffer. In addition, the Primary and Secondary Buffer cover nearly the entire site, and if this Variance request was denied, the Applicant would be denied reasonable and significant use of the entire parcel or lot because the Applicant would be deprived of the right to construct a home of a reasonable size and configuration on the Property in an area that was logical and reasonable. At 2,364 sq. ft (footprint), the home is comparable in size to others in the area and in a location that allows for reasonable use in light of the existing restrictions, but only if this Variance request is approved. Moreover, as explained previously, the

existing foundations and footprint are unusable without greater disturbances to the Primary Buffer contrary to Critical Area goals.”

The Planning Board concurred that special conditions exist which are peculiar to the land and would result in an unwarranted hardship without a variance. As explained in the Zoning variance findings above, due to the property’s steep slopes and resultant secondary buffer, along with the property’s shape, only a narrow slice of the property along the southern property line is outside the secondary buffer. As discussed above, it is not practicable for the applicant to construct a house within the sliver.

Development of a house and associated improvements is a significant and reasonable use of the subject property. Specifically, a single-family house is allowed by the property’s zoning and is contemplated according to the Residential Single-Family land use designation in the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* (master plan). The approved house is compatible with those on adjacent lots given its size and placement. For these reasons, special conditions or circumstances exist that are peculiar to the subject land or structure, and a literal interpretation of provisions within the CBCA would result in an unwarranted hardship.

(2) A literal interpretation of the Subtitle would deprive the applicant of the rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Area.

The site is an existing waterfront, single-family lot among other existing waterfront, single-family lots. All of the waterfront lots have a buffer and steep slopes. These homeowners would have to go through the same CBCA variance process if they proposed development within the buffer.

The approved project will remove an existing dwelling, garage, patio, and driveway and construct a new dwelling with an attached garage and driveway. This new structure cannot be constructed on the existing foundation because the former foundation is not structurally sound. Due to the extent of the on-site buffer due to steep slopes, the area outside of the buffer cannot support a new dwelling structure.

For this reason, denial of the requested variance would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical area.

(3) The granting of a variance would not confer upon an applicant any special privilege that would be denied by this Subtitle to other lands or structures within the Chesapeake Bay Critical Area.

The approved project will redevelop the property and remove structures inside the primary buffer (except for the in-ground pool) and construct new structures (dwelling with attached garage and driveway) within the expanded secondary buffer. The subject lot has steep slopes which have created a secondary buffer and a narrow front yard. These combined features result in a very narrow area outside the buffer (27 feet at the widest point), which cannot support a new dwelling structure. Without a variance, physical features of the property would otherwise prevent the construction of a reasonable, single-family house. This is not a special privilege that would be denied to other lands or structures within the CBCA.

- (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 conditions relating to land or building use, either permitted or non-conforming, on any neighboring property.**

The variance request is not based upon conditions or circumstances which are the result of the applicant's actions and does not arise from any conditions relating to land or building use, either permitted or nonconforming, on any neighboring property. Rather the sole basis for the variance is the subject property's physical characteristics. The subject lot has steep slopes, which have created a secondary buffer and narrow front yard. These features result in limited building area (27 feet at the widest point) outside the buffer, which cannot support a new dwelling structure. These physical features of the property would otherwise prevent the construction of a reasonable, single-family house.

- (5) The granting of the variance would not adversely affect water quality or adversely impact fish, plant, wildlife habitat within the Chesapeake Bay Critical Area, and that granting of the variance would be in harmony with the general spirit and intent of the applicable laws within the Chesapeake Bay Critical Area.**

The applicant has an approved SWM Concept Plan (SIT-00492-2024) reviewed and approved by DPIE. This stormwater plan has been reviewed to ensure that no on-site sediment or stormwater leaves the site or enters the adjacent Potomac River. Currently, this lot has no SWM control. DPIE has approved one micro-bioretenion basin to improve water quality.

The development will abandon the existing septic system and tie into the public sanitary sewer system located within Hatton Point Road. This on-site septic system is approximately 70 years old, and its working status is unknown. Removing the old septic system and adding SWM facilities will improve water quality.

The Chesapeake Bay Critical Area Commission provided comments in a letter dated June 16, 2025. This letter stated that the applicant should investigate if the

old driveway location can be used instead of the proposed driveway location to minimize the loss of several specimen trees. Since the subject lot has no developed woodland on-site and just scattered large (specimen size) trees and maintained lawn, the Critical Area Commission requested that the applicant minimize the removal of the large trees for the removal of the existing driveway. This loss of tree canopy may adversely affect water quality or adversely impact fish, plant, and wildlife habitat within the CBCA. If these trees were removed, they would need to be replaced with smaller trees with less canopy area than the existing large trees. Also, the Critical Area Commission requested that the gravel material be replaced with a pervious material for the proposed landscape pathway facing Hatton Point Road. On June 25, 2025, the applicant responded to the Critical Area Commission's letter noting that it would be able to retain two of the three trees previously proposed for removal; however, the remaining tree is in poor condition and would be a safety hazard if retained. The applicant also stated that they will remove the gravel pathway material to an accepted pervious material. As part of Condition 1 of this resolution, the applicant is required to show proposed tree replacement plantings and replace the gravel pathway material to meet the general spirit and intent of the applicable CBCA regulations.

In granting the variance, the Planning Board, in approving SWM structures and removal of the existing septic system, will not allow adverse effects on water quality or wildlife and will promote harmony with the general spirit and intent of the applicable laws within the CBCA.

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

The CP incorporates the DPIE approved SWM controls, to address adverse impacts on water quality from pollutants discharged from structures, conveyances, or runoff from surrounding lands. This approved stormwater plan has been reviewed to ensure that no on-site sediment or stormwater leaves the site or enters the adjacent Potomac River. Currently, this lot has no SWM control. DPIE has approved one micro-bioretenention basin to improve water quality.

The approved project will abandon the existing septic system and tie into the public sanitary sewer system located within Hatton Point Road. This on-site septic system is approximately 70 years old, and its working status is unknown. Removing the old septic system and adding SWM facilities will improve water quality.

The Critical Area Commission provided comments in a letter dated June 16, 2025. This letter stated that the applicant should investigate if the old driveway location can be used instead of the proposed driveway location, to minimize the loss of several specimen trees. Since the subject lot does not have

developed woodland on-site and just scattered large (specimen size) trees and maintained lawn, the Critical Area Commission requested that the applicant minimize the removal of the large trees for the removal of the existing driveway. This loss of tree canopy may adversely affect water quality or adversely impact fish, plant, and wildlife habitat within the CBCA. On June 25, 2025, the applicant responded to the Critical Area Commission letter noting that it would be able to retain two of the three trees previously proposed for removal. However, the remaining tree is in poor condition and would be a safety hazard if retained. The tree to be removed must be replaced with smaller trees with less canopy area than the existing large trees. The applicant also stated they will retain the two specimen trees, but to still move forward with the proposed driveway location. This driveway alignment will better protect the existing trees and root zones than the existing driveway alignment. As stipulated in Condition 1d of this resolution, the applicant is required to show proposed tree replacement plantings to meet the general spirit and intent of the applicable CBCA regulations.

The Planning Board, in granting this variance, will minimize adverse impacts on water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands, by approving SWM structures and removal of the existing septic system.

- (7) All fish, wildlife and plant habitats in the designated Critical Area would be protected by the development and implementation of either on-site or off-site programs.**

The applicant states that “All fish, wildlife, and plant habitats in the designated critical areas would be protected by stormwater management facilities, bioretention facilities and additional vegetation, all as shown on the plan.”

The subject property does not contain developed woodland within the primary or secondary buffers. There are scattered trees and shrubs throughout the site. The CP shows the removal of three specimen trees, and minor invasive species clearing within the secondary buffer will be mitigated by planting of native trees, shrubs, and perennials. After reviewing the June 16, 2025 Critical Area Commission letter, the applicant (in their June 25, 2025 response letter) will remove only the specimen tree in poor condition and retain the other two specimen trees previously marked for removal. The applicant will plant the primary buffer with newly planted tree and shrub areas, which will be protected and recorded in a conservation easement in accordance with Condition 4 of this resolution. Forests and developed woodland provide important wildlife and habitat value and contribute to stormwater attenuation and pollutant reduction.

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

The applicant states that “This proposal will replace an existing single-family dwelling detached unit with a more modern, environmentally friendly single-family detached dwelling unit...”

The number of persons, their movements, and activities as specified in the approved development plan are in conformance with existing land use policies and will not create any adverse environmental impact.

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

No growth allocation was proposed for this property.

Approved Variance – Disturbance to Steep Slopes: Variance No. 2

In accordance with Section 5B-108 (a)(92) of the Prince George’s County Code, steep slopes are defined as “slopes of 15 percent or greater incline.” Also, Section 5B-114 (e)(7) states that “Applicants shall adhere to the following standards for development on steep slopes. Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for LDO Zones set forth above and with the provisions below.”

According to the Maryland real property data search, the subject property contains an existing homesite and adjacent structures which were built in 1954. The County permit records show that the pool area was built in 1985. All existing structures were built before the establishment of the CBCA Ordinance, Subtitle 5B. The applicant will raze the existing house and garage, and remove or replace the sidewalks, deck area, and driveway. The approved impact to the steep slopes is for SWM structures and grading. This area will also be impacted by the removal of invasive bamboo and installation of a timber walkway down to the adjacent Potomac River.

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

Section 27-230. – Criteria for granting appeals involving variances.

- (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 is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);**

To meet this finding, the applicant must not merely show that a property has unique physical attributes, but rather that those attributes render it unique among the surrounding properties. Where the claimed unique characteristic(s) are shared by many properties, that is best dealt with through legislation, rather than variances.

In a revised analysis submitted on June 20, 2025, the applicant asserts that the property has unique topographic conditions that result in a secondary buffer covering most of the property. Specifically, the applicant notes that: “Here, steep slopes extend along the northern property line for approximately 190’ from the waterline landward into the Property – well beyond the 100’ Primary Buffer. The steep slopes function as a natural swale that discharges stormwater runoff into the Potomac River. Any development must be setback from the buffer by 20’ to maintain the ability to tie into natural grades and to allow for movement of any construction equipment, so the existence of these steep slopes east of the Primary Buffer significantly limits development opportunities. Moreover, the width of the record lot is unique compared to similar properties in the neighborhood. The lot width near the intersection of Hatton Point is significantly narrower than the width by the Potomac River. Meaning, the site exhibits greater development potential as you approach the Potomac River, and much less development potential as you approach the street. Taken together, the steep slopes extending landward from the Primary Buffer – creating the Secondary Buffer – and the significantly narrow lot width towards the street side of the Property greatly diminish the ability to develop the site.”

To support the above-quoted assertions, the applicant submitted a chart (Appendix A) comparing the subject property to adjacent waterfront lots. This chart showed that the subject property is unique compared to the adjacent lots.

Specifically, the property has steep slopes along its northern property line that connect to the primary buffer creating a secondary buffer – a condition that is only present on three other properties in the neighborhood. The secondary buffer results in a smaller developable area outside of the buffer than on any other lot. This indicates that the property has exceptionally intrusive steep slopes compared to other waterfront lots in the neighborhood. These steep slopes extend across the property’s entire frontage on the Potomac River, but are most intrusive at the northern property line. The applicant has addressed the finding of the specific parcel being physically unique and unusual in a manner different from the nature of surrounding properties.

- (2) **The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property;**

The on-site steep slopes extend across the property's entire frontage along the Potomac River and are exceptionally intrusive along the northern property line, where there is an existing pathway within the steep slope area from the house to the water. As part of this project, the applicant will improve the pathway to create a stable walkway to the water. The same on-site steep slope area will be impacted to install a SWM outfall structure and riprap. This outfall location was chosen because the approved SWM facility needs to outfall stormwater in a positive directional flow so that water will not pond on-site. Outfall structures are designed and required to be down gradient of the SWM facility. Also, during the removal of the existing structures within the primary buffer, steep slopes will be impacted. Some of the structures are located within or adjacent to steep slopes which will be regraded. These impact areas will be restored with various native planting to prevent erosion.

The applicant states: "...The limit of disturbance (LOD) around the walkway is expanded (10) ten feet to allow for construction access and sediment control measures during construction. The actual walkway will be no more than two (2) feet in width. The topography also impacts on the appropriate locations for stormwater facilities and a temporary impact for the installation of a discharge pipe is required. An underground pipe is proposed to discharge into the steep slopes to allow the water to effectively flow towards the Potomac River. Rip rap will be installed at the point of discharge to control sediment."

The Planning Board agrees that if the applicant was not permitted to disturb the steep slopes, a practical difficulty would result. Neither SWM nor the walkway can be implemented without disturbance to steep slopes. Specifically, the applicant is required to provide SWM. As noted, the outfall must be placed at the base of the slope to allow for proper drainage. This entails disturbance to the steep slopes given the topography of the subject property.

The applicant will place the walkway in the same location as the existing walkway. This placement allows for no new development on steep slopes or within the buffer. The Planning Board agrees that the strict application of the law would result in peculiar and unusual practical difficulties for the owner of the property, in preventing this reinforcement of the walkway.

(3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions;

The on-site steep slopes are located along the northern property line. There is an existing pathway to the water from the house within the steep slope area. The applicant will improve this existing pathway with landscape timber steps and grass landings to make it more stable. Given that the walkway improvements will occur in a previously disturbed area of the steep slopes, these walkway improvements are the minimum reasonably necessary given the site conditions.

Currently, the site has no SWM controls. The house was constructed prior to SWM regulations and now needs to conform to current SWM regulations. The approved SWM concept plan proposes stormwater to be directed to one micro-bioretenment facility to treat the stormwater on-site. This SWM facility needs to properly drain the stormwater without causing on-site erosion. The stormwater will be directed down gradient to outfall in a swale that is within the on-site steep slopes. Grading, SWM outfall structure, and riprap are approved for this outfall location. The project will only locate necessary portions of SWM infrastructure on steep slopes. Accordingly, the variance is the minimum necessary in this respect.

SWM structures and walkway impacts within this area require a variance to impact steep slopes; thus, approval of this variance is the minimum necessary.

- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any area master plan, sector plan, or transit district development plan affecting the subject property; and**

The applicant states: “The Subject Property is located within the limits of the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* (“Master Plan”), and within the Master Plan the recommended land use is ‘Residential, Low-Density.’ The Residential, Low Density land use category is categorized as having a maximum density of 5.7 dwelling units per acre for the former Residential Estate (R-E) Zone (page 107). The proposed project will not increase the density of the property, as it will replace an existing single family dwelling. Additionally, the Property is denoted within the Potomac River Shoreline Special Conservation Area. Special Conservation Areas, according to page 25 of the 2017 *Countywide Green Infrastructure Plan of the Approved Prince George’s County Resource Conservation Plan* (“RCP”) are Regulated Areas that contain unique environmental features that should be carefully considered when land development proposals are reviewed in the vicinity to ensure that their ecological functions are protected or restored. The RCP emphasizes the preservation of the natural environment and the river’s scenic character for development within the Potomac River Shoreline. The Property is currently improved with an existing single-family dwelling unit that encroaches upon the Primary Buffer and exceeds the permitted impervious surface maximum.”

The provision of SWM and a walkway within the steep slopes on the subject property will not substantially impair the master plan or the GI Plan. As noted above, the SWM outfall must be installed on the steep slopes to prevent erosion on other parts of the subject property. The walkway will be installed in the same location as an existing walkway. Accordingly, the placement of these features effectively minimizes impacts to the site’s environmental features in conformance with the master plan and GI Plan.

(5) Such variance will not substantially impair the use and enjoyment of adjacent properties.

The applicant states: “Approval of the variance will not substantially impair the use and enjoyment of adjacent properties. Approval of this variance will allow the Subject Property to redevelop with a modern single-family detached home that conforms with updated environmental and stormwater regulations. Other homes in the neighborhood have been granted variances for similar redevelopment projects that provide a net benefit to the environment. The installation of an underground pipe within the steep slope will allow for effective and efficient stormwater management controls. Stormwater will discharge into the Potomac River rather than pooling or encroaching onto neighboring property.”

Granting this steep slope impact variance will not substantially impair the use and enjoyment of adjacent properties. The approved SWM outfall will safely convey treated stormwater to the Potomac River so that it does not flow to adjacent properties. The approved path will be in the same location as the existing path. This existing path has been at this location since the creation of the existing house, and has been minimally created. The applicant will design a structural and safe walkway without impacting the existing slope stabilization in the process.

(6) Notwithstanding any other provision of this Section, a variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

The applicant states that “The practical difficulty is not self-imposed. The topography impacts the appropriate locations for stormwater facilities. An underground stormwater pipe is proposed to discharge into the steep slopes to allow the water to effectively flow towards the Potomac River.” This outfall location has been approved by DPIE to appropriately convey the stormwater.

The practical difficulty in developing the property arises from its shape, which was determined in its initial subdivision in 1948, before its ownership by the applicant, and from the disproportionate extent of steep slopes into the property. Neither of these factors are the result of actions of the owner of the property.

- (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;**

State law defines unwarranted hardship to mean that “without a variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.” COMAR 27.01.12.01.

The applicant states: “The ‘special conditions or circumstances’ that exist on the Property are the exceptionally steep slopes contained on the site that are peculiar to the Subject Property. Most of the subdivided lots in Prince George’s County that border the Potomac River do not contain steep slopes that extend beyond the Primary Buffer. The Applicant is entitled to install grass and timber steps to allow for efficient and effective access to the Potomac River. Moreover, the site hydrology requires that stormwater discharge into the swale created by the steep slopes.”

Providing a SWM outfall is a reasonable and significant use that cannot be achieved elsewhere on the site. In particular, the subject property contains a single-family dwelling, sheds, a driveway, an in-ground pool, and decking constructed before the CBCA Ordinance in 1988. These structures were constructed prior to SWM regulations. The proposed development must now conform to today’s SWM regulations. The approved SWM concept plan directs stormwater to one micro-bioretenion facility to treat the stormwater on-site. This SWM facility needs to properly drain the stormwater without causing on-site erosion. The stormwater will be directed down gradient to outfall in a swale that is within the on-site steep slopes. Grading, SWM outfall structure, and riprap are approved for this outfall location.

Improving an existing pathway to the water into a designed and safe walkway is a reasonable and significant use that cannot be achieved elsewhere on the site without adding a new impact area. The existing pathway has been located in the same location since the house was constructed over 70 years ago and needs to be improved for 70 more years. This new walkway will be located in the same area as the existing water access pathway. The current pathway was created by the original owner and maintained by various owners in the following years. The new walkway will be designed to be safe and stable, unlike the previous pathway. Waterfront owners are allowed to have access by walkway to the water, and as part of this application this pathway will be improved.

For the above reasons, the literal enforcement of the CBCA Ordinance would result in an unwarranted hardship for the applicant.

(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;

The applicant states that “The Applicant is requesting this Variance to improve the property with a walkway that allows for easy access to water-dependent activities and stormwater management facilities within the steep slopes.”

The on-site steep slopes are located along the northern property line. There is an existing pathway to the water from the house within the steep slope area. The applicant will improve this existing pathway to make a safe and sturdy walkway, with landscape timber steps and grass landings.

All grading and SWM structures have been approved by DPIE. Stormwater is required to be directed to an on-site steep slope dry swale where the water is directed away from the site so as not to cause erosion. These SWM structures and impacts are required as part of the approved SWM Concept Plan SIT-00492-2024.

The property contains the most extensive steep slopes of comparable properties in the vicinity. Most neighboring properties directly fronting the Potomac River have paths leading to their water frontage. Strict application of Section 5B-114(e)(7) would, therefore, deprive the applicant of a right commonly enjoyed by comparable properties in the critical area.

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

The applicant states: “Neither construction of a walkway to the Potomac River nor the installation of an underground stormwater management pipe will confer a special privilege upon the Applicant. Rather it will allow the Applicant to make effective use of the Property, while satisfying modern stormwater management requirements and providing access to the Potomac River.”

Granting this variance allows construction of a grass and timber path along the northern boundary of the property, a right enjoyed by neighboring properties. The Planning Board granted this variance due to unique circumstances and physical characteristics of the property, as required, and it does not confer privileges beyond those enjoyed on properties of similar zoning classification in the CBCA. Impacts to steep slopes are necessary to provide required SWM and to stabilize an existing walkway.

- (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 approved variance for impacts to steep slopes is a result of current regulations that were created after construction of the existing structure in 1954. This site now has to conform to the existing SWM regulations with any proposed development. The on-site pathway to the water has been at this location for over 50 years. As part of the approved project, the pathway will be improved to a safe walkway. The variance was approved due to the shape of the subject property, which was determined before its ownership by the applicant, and due to the disproportionate extent of steep slopes into the property. The approved variance is not in response to conditions or circumstances which are the result of the applicant's actions and does not arise from any conditions relating to land or building use, either permitted or non-conforming, on any neighboring property.

- (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;**

The applicant has an approved SWM Concept Plan SIT-00492-2024 reviewed and approved by DPIE. This SWM plan has been reviewed to ensure that no on-site sediment or stormwater leaves the site or enters the adjacent Potomac River. Currently, this lot has no SWM control. DPIE has approved one micro-bioretenment basin to improve water quality.

The Critical Area Commission provided comments in a letter dated June 16, 2025. This letter stated that the applicant should provide additional plantings for canopy loss for the removal of several large trees. These plantings should be located within the primary area adjacent to the proposed walkway impacts. This loss of tree canopy may adversely affect water quality or adversely impact fish, plant, and wildlife habitat within the CBCA. If these trees were removed, they would need to be replaced with smaller trees with less canopy area than the existing large trees. On June 25, 2025, the applicant responded to the Critical Area Commission letter noting that it would be able to retain two of the three trees previously proposed for removal. However, the remaining tree is in poor condition and would be a safety hazard if retained. As stipulated in Condition 1d of this resolution, the applicant is required to show proposed tree replacement plantings to meet the general spirit and intent of the applicable CBCA regulations.

In granting the variance and enabling SWM structures and the proposed walkway, the Planning Board will not adversely affect water quality or wildlife and will promote harmony with the general spirit and intent of the applicable laws within the CBCA.

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

The applicant states: “The existing site was developed without any mechanisms to store or treat stormwater. The plan is designed to capture all stormwater runoff, treat it and drain it into the soil, thus eliminating the existing polluted runoff from the impervious surface (17% of the site) into the Potomac River. The Conservation Plan incorporates a variety of stormwater management controls to minimize adverse impacts on water quality. Stormwater management will be reviewed in accordance with the provisions of the Residential Infill Permit No.: SIT-00492-2024. The plan, along with the approved Residential Infill permit, will minimize adverse impacts on water resulting from pollutants discharged from structures, conveyances or runoff from surrounding lands.”

This CP incorporates SWM and sediment and erosion controls, as approved by DPIE, to address adverse impacts on water quality from pollutants discharged from structures, conveyances, or runoff from surrounding lands. The project will be subject to the erosion and sediment control requirements of the Prince George’s County Soil Conservation District, and the approval of a SWM concept plan by DPIE.

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

The applicant states that “All fish, wildlife, and plant habitats in the designated critical areas would be protected by stormwater management facilities, bioretention facilities and additional vegetation, all as shown on the plan.”

The subject property does not contain any on-site woodlands, but plantings are approved within the primary buffer. The plantings and existing trees will be preserved and recorded in a conservation easement for protection, in accordance with Condition 4 of this resolution. Afforestation and tree preservation within the primary buffer will provide important wildlife habitat value and contribute to stormwater attenuation and pollutant reduction.

(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 applicant states: “This proposal will replace an existing single-family dwelling detached unit with a more modern, environmentally friendly single-family detached dwelling unit. It will not have any impact on the number of persons and their movement or activities aside from what is currently existing.”

The number of persons, their movements, and activities specified in the approved development plan are in conformance with existing land use policies and will not create any adverse environmental impact. The approved conservation plan is for the redevelopment of an existing single-family residential dwelling in a residentially zoned established community. No increase in occupancy of the property was proposed.

DPPE has approved SWM plans and grading plans for the application area. Improving an existing pathway to the water into a designed and safe walkway will not create an adverse environmental impact. If a new location to access the waterfront was chosen, there could be a more adverse impact to the environment. The new walkway will be designed to be safe and stable, unlike the previous pathway. The approved project will not create an adverse environmental impact if the construction practices are followed in accordance with DPPE requirements.

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

No growth allocation was proposed for this property.

Summary of Variance Request

The applicant provided their analysis of why the two requested variances should be approved by the Prince George’s County Planning Board. The analysis properly addressed the finding of the uniqueness of the property. The subject property has an extensive, expanded buffer from on-site steep slopes, limited developable area outside the buffer, and narrowing of the property boundary from Hatton Point Road forcing the development towards the waterfront, which are unique compared to the surrounding properties.

The Planning Board found that the applicant met the criteria in support of the variance to impact the steep slopes, and the variance to permit development within the buffer as proposed.

Chesapeake Bay Critical Area Commission (CBCA) Review

The Environmental Planning Section received correspondence from the Critical Area Commission dated June 3, 2025, in response to the May 30, 2025 revised plans submitted by the applicant. The comments were emailed to the applicant on June 3, 2025, to respond. Additional comments were sent by the Critical Area Commission on June 16, 2025, but the applicant did not receive these until after the submission of revised plans on June 20, 2025.

The June 16, 2025 letter from the Critical Area Commission identified several issues and provided comments (in **bold**):

It appears that impacts to the Critical Area Buffer, including the removal of several specimen trees, could be minimized through design changes that account for and preserve the environmentally sensitive features on the site. There are several specimen trees labeled in good condition that are proposed to be removed from the site. It does not appear that design considerations were made to maintain the tree canopy in the Buffer. Seemingly, the existing driveway alignment could be maintained to retain the tree canopy, or alternatively, the proposed driveway could be realigned to meander around the critical root zone of the larger trees on the site. Additionally, there are proposed impacts to the Buffer and possibly to existing vegetation for the installation of a paved walkway leading to a manicured garden. This ancillary impact does not meet the standard of unwarranted hardship nor does it show an effort to minimize impacts to the Critical Area Buffer.

Zoning staff concurred with the Critical Area Commission's comment on the proposed removal of specimen trees. In response, the applicant stated that specimen trees proposed to be removed, that were determined to be in good condition, would now be preserved. Condition 1d of this resolution requires preservation of these trees.

The applicant stated, in response to the Critical Area Commission's letter, that the approved driveway alignment would aid in the preservation of the above-mentioned trees. Condition 1b of this resolution requires the applicant to demonstrate this.

The applicant stated, in response to the Critical Area Commission's letter, that the path from the house to the proposed garden would be changed to a grass path. Condition 1c of this resolution requires this.

We note that the site plan shows the existing pool patio to be removed but does not show pool access or any proposed decking surrounding the pool. When lot coverage is removed from the Buffer the area must be stabilized in native vegetation as new lawn is prohibited. Additionally, decking is defined as lot coverage even if it is constructed in a manner that is considered impervious. This office would oppose any future variance request to exceed the lot coverage limits on this site.

Condition 1c of this approval requires that all impervious surfaces that are to be removed be replaced with non-lawn landscaped planting areas, stormwater features, or mown paths.

Should the Planning Board find that this request, or a modified version of this request that reduces impacts to the Critical Area Buffer maybe approved, the following is required:

- 1. Mitigation at a 3:1 ratio for permanent disturbance to the expanded Buffer (i.e., three times the square footage of the proposed improvements), and an additional 1:1 for the square footage of tree canopy removed;**

Condition 1c of this resolution requires provision of non-lawn landscaped or pervious areas to be provided on the property at a 3:1 ratio to impervious surfaces to be added or that remain.

Condition 1d of this resolution requires 1:1 replacement of any tree canopy coverage removed.

2. **Buffer mitigation must be fulfilled through planting native species back within the Buffer. The Buffer Management Plan will need to be amended to remove all non-native species such as *Aesculus x carnea* “Britoll”, *Ginkgo biloba*, and *Illex cornuta* “Rotunda”. Additionally, in areas where lot coverage is being removed from the Buffer, the ground area must be stabilized in native vegetation and new lawn establishment is prohibited. The Buffer Management Plan will need to be amended accordingly; and**

In response to this comment, the applicant stated that all non-native vegetation proposed for the site will be replaced with native vegetation on the landscape plan. Condition 2b of this resolution requires replacement of all proposed non-native vegetation with native vegetation on the landscape plan.

3. **A restriction on the applicant receiving a building permit for the proposed project until the Buffer Management Plan associated with this variance has been approved by Prince George’s County.**

As this will be a requirement for issuance of a building permit, this is not a condition of this resolution.

Stormwater Management Review

Copies of the SWM Concept Plan and letter (SIT-00492-2024), which were approved by DPIE and are valid until January 17, 2028, were submitted with the subject application. The SWM concept plan proposes stormwater to be directed to one micro-bioretenention facility to treat the stormwater on-site. This facility will then drain to an on-site outfall adjacent to the northern property line. As part of the approval, the applicant is required to pay a SWM fee of \$250.00 in lieu of providing on-site attenuation/quality control measures. The CP is consistent with the SWM concept plan.

8. **Prince George’s County Zoning Ordinance:** The approved conservation plan conforms to the requirements of the RE Zone, as set forth in Section 27-4202(b)(2), of the Prince George’s County Zoning Ordinance. The conservation plan also conforms to the requirements of the CBCA Limited Development Overlay (LDO) Zone, as set forth in Section 5B-114 of the Prince George’s County Code. The analysis below demonstrates how the project further meets the Zoning Ordinance requirements:

Section 27-4202(b)(2) Intensity and Dimensional Standards for the RE Zone and Section 5B-114 of the Prince George’s County Code requirements for the CBCA LDO Zone.

(RE) RESIDENTIAL ESTATE ZONE	PERMITTED	PROVIDED
Minimum net lot area	40,000 square feet	70,567 square feet
Maximum Lot Coverage	20%	9.8%
Minimum Lot Width Front Street Line	70 feet	136.5 feet
Minimum Lot Width Front Building Line	150 feet	198.5 feet
Minimum Front Yard Setback	25 feet	155.8 feet
Minimum Rear Yard Setback	25 feet	124.2 feet
Minimum Side Yard Setback	17 feet	56.7 feet/17.5 feet
Maximum Building Height	35 feet	25.22 feet
(LDO) LIMITED DEVELOPMENT OVERLAY (Chesapeake Bay Critical Area Ordinance)		
Maximum Lot Coverage	15%	9.8%

Section 27-6300 Off-Street Parking and Loading: As per Section 27-6305 of the Zoning Ordinance, the property requires a minimum of two parking spaces. The garage and driveway, as approved, will provide parking spaces exceeding this requirement.

Section 27-6700 Exterior Lighting: A photometric plan demonstrating that the proposed project will not exceed illumination and structural dimensional limits, as specified in this section, will be required at the time of certification. Condition 6 of this resolution requires a photometric plan at the time of certification.

Section 27-6800 Environmental Protection and Noise Controls: Environmental Planning staff have assessed the approved project for compliance with the applicable standards of this section elsewhere in this resolution, and have found that it is in compliance with all of these standards except for those referenced in Section 27-6807 of the Zoning Ordinance, which requires the variances discussed above.

Section 27-61200 Agricultural Compatibility Standards: The approved project is not located adjacent to an agricultural use. As per Zoning Ordinance Section 27-61302(a), the standards outlined in this section are, therefore, not applicable to the project.

Section 27-61403 Urban Agriculture Compatibility Standards: The approved project is not located adjacent to an urban agriculture activity. As per Section 27-61403(a)(1) of the Zoning Ordinance, the standards outlined in this section are not applicable to the project.

9. **2018 Prince George's County Landscape Manual:** The approved new single-family detached home is subject to the 2018 *Prince George's County Landscape Manual* (Landscape Manual) because the project will feature new construction. The Landscape Manual applies, as follows:

Section 4.1—Residential Requirements: The requirements of Section 4.1 for lots 40,000 square feet or larger are satisfied by planting a minimum of five major shade trees and four ornamental or evergreen trees. A landscape plan was provided as part of this application, which shows general conformance.

Section 4.9—Sustainable Landscaping Requirements: Section 4.9 requires a percentage of plants within each plant type to be native species, and imposes maximum percentages of plants of one species. A landscape plan was provided as part of this application, which shows deficiencies in regard to percentages of ornamental trees and shrubs of one species. Condition 2a of this resolution requires revisions to lower the percentages of the predominant species in these categories.

10. **Prince George’s County Woodland and Wildlife Habitat Conservation Ordinance:** The project is not subject to the Woodland and Wildlife Habitat Conservation Ordinance because the site is within the CBCA.
11. **Prince George’s County Tree Canopy Coverage Ordinance:** The subject property is located within the CBCA and is exempt from the requirements of the Tree Canopy Coverage Ordinance, in accordance with Section 25-127(b)(1)(E) of the County Code.
12. **Referral comments:** The following referrals were received and are incorporated herein by reference; all of the comments are addressed on the site plan, or as part of this resolution:
 - a. **Environmental Planning**—The Planning Board reviewed and adopted the memorandum dated July 7, 2025 (Schneider to King), which found that the proposed conservation and landscape plans and requested variances meet the requirements for approval, in accordance with the requirements of the CBCA Ordinance, the 2018 Prince George’s County Environmental Technical Manual, the Zoning Ordinance, and the GI Plan. The Environmental Planning Section concurred with Zoning staff and the Critical Area Commission on revisions needed for certification and granting of the requested variances. Conditions 2, 3, and 4 requiring these revisions have been added to this resolution.
 - b. **Chesapeake Bay Critical Area Commission**—The Planning Board reviewed and adopted the memorandum dated June 16, 2025 (Coplin to Summerlin) stating opposition to the requested variance from Section 5B-121(e) of the Prince George’s County Code, due to insufficient impact mitigation in plans submitted on May 30, 2025. Condition 1, addressing the Critical Area Commission’s concerns, has been added to this resolution.
 - c. **Prince George’s County Department of Permitting, Inspections and Enforcement (DPiE)**—The Planning Board reviewed and adopted the memorandum dated July 10, 2025, which offered comments on the subject application related to requirements to be fulfilled at the time of permitting.
 - d. **Historic Preservation**—The Planning Board reviewed and adopted the memorandum dated May 27, 2025 (Stabler, Smith, Chisholm to King), which found that reference materials and proximity of other archaeological sites to the subject property indicated a

high probability of encountering archaeological materials during ground disturbing activities associated with the proposed project. The Historic Preservation Section recommended adding a condition that Historic Preservation staff be notified at least five business days prior to the start of any ground disturbing work on the property, to enable staff to monitor the work, with work to be temporarily halted in the event of uncovering archaeological materials. Condition 5 of this resolution requires this.

Historic Preservation staff cited policies to promote protection of archaeological resources through provisions in the planning process and guidance to developers and homeowners on page 59 of the 2010 *Approved Historic Sites and Districts Plan*, and on page 102 of the 2006 *Approved Henson Creek-South Potomac Master Plan and Sectional Map Amendment* to support this condition.

- e. **Community Planning**—The Planning Board reviewed and adopted the memorandum dated June 24, 2025 (Mekonnen to King), which found that the proposed project would not substantially impair the policies and strategies of the master plan. The Community Planning Division noted that, per Section 24-5 of the Subdivision Regulations, master plan conformance is not required for approval of a CBCA plan.
 - f. **Subdivision**—The Planning Board reviewed and adopted the memorandum dated June 28, 2025 (Gupta to King), which found that the subject property is recorded in the Prince George’s County Land Records in Liber 49253 at folio 140, and is not subject to a prior preliminary plan of subdivision; and, that pursuant to Section 24-140(g)(1) of the Subdivision Regulations, the proposal was exempt from the requirements of filing a preliminary plan of subdivision and final plat of subdivision.
13. **Community feedback:** As of the writing of this resolution, staff have not received any inquiries or feedback from the public regarding the approved project.
14. **Planning Board Hearing:** The Planning Board held a public hearing on July 31, 2025. At the hearing, and in rendering its decision, the Board considered all written and oral testimony, along with all exhibits submitted according to the Planning Board’s procedures. The following additional exhibits were provided after the publication of the staff report, but before the public hearing.

Applicant Exhibit 1—The applicant submitted proposed modifications to Condition 1c and 1d of the conditions of approval, as published in the technical staff report, which consisted of added language to preserve the option of a fee-in-lieu to meet County Code Section 5B-121(h) requirements for mitigation of development in the Critical Area Buffer in Condition 1c and loss of tree canopy coverage in Condition 1d. In Condition 1c the word ‘secondary’ in the condition was removed as the condition applies to all buffers. An explanatory sentence was removed from Condition 1d. The Board approved these changes, and they are incorporated into this resolution.

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 the above-noted application, subject to the following conditions:

- A. APPROVE Chesapeake Bay Critical Area Plan CBP-2024-004, Hatton Point, located at 12339 Hatton Point Road, Fort Washington, Maryland, subject to the following conditions:
1. Prior to certification of the conservation plan, the following information and revisions shall be provided:
 - a. Designate trees deemed to be in good condition to be preserved.
 - b. Provide a chart demonstrating that the proposed driveway configuration will quantitatively reduce impervious surface in the critical root zones of specimen trees designated to be preserved. Revise the plan to show the driveway in its existing configuration (reduced in size if necessary to reduce impervious surface) if a new design cannot be shown to benefit preserved specimen trees.
 - c. Provide and demonstrate a mitigation ratio of 3:1 for permanent disturbance to the Chesapeake Bay Critical Area buffer. Provide a mitigation table demonstrating how the permanent buffer disturbance will be mitigated with on-site plantings. These plantings will need to be added to the landscape plan and planting schedule in addition to the other required plantings. The applicant shall use reasonable efforts to mitigate through the use of on-site plantings; however, if all on-site plantings - for purposes of mitigation - cannot be satisfied through reasonable efforts, the applicant may comply by paying a fee-in-lieu for the on-site mitigation that cannot be provided in accordance with Section 5B-121(i). Impervious surface to be removed must be replaced with non-lawn pervious surfaces, such as planted landscaped areas or stormwater features, except when a mown path is deemed appropriate. Address these specified items in addition to these overall requirements:
 - (1) Remove the proposed lawn area adjacent to the existing in-ground pool. Add native vegetation to the location where the pool deck is being removed. The proposed native pool-side vegetation shall be included on the landscape plan and plant schedule.
 - (2) Revise the plans to replace the gravel material for the walkway to the circular landscape area with a pervious material.
 - (3) Revise all impervious surface tables if design of the gravel walkway, driveway, or any proposed impervious surface currently shown on the conservation plan changes.

- d. Provide a mitigation table demonstrating how tree canopy loss (1:1 ratio) will be mitigated in accordance with Section 5B-114(e)(3)(A) with on-site plantings. The applicant shall use reasonable efforts to mitigate through the use of on-site plantings; however, if all on-site plantings - for purposes of mitigation - cannot be satisfied through reasonable efforts, the applicant may comply by paying a fee-in-lieu for the on-site mitigation that cannot be provided in accordance with Section 5B-121(i).
 - e. Revise the buffer management plan to reflect the above-referenced changes in Conditions 1a through 1d, as applicable.
 2. Prior to certification of the landscape plan, the following information and revisions shall be provided:
 - a. Revise the landscape plan to meet Section 4.9 requirements for percentage of predominant species in the shrub and ornamental tree categories listed in the 2018 *Prince George's County Landscape Manual*.
 - b. Indicate native species to be planted where non-native plants are currently proposed. Ensure that only native species are proposed.
 3. Prior to certification of the conservation plan, the applicant shall execute and record a Chesapeake Bay Conservation and Planting Agreement. The agreement shall be reviewed by Prince George's County Department of Permitting, Inspections and Enforcement (DPIE), prior to recordation. The applicant shall provide a copy of the recorded agreement to DPIE, and the Book/page shall be shown above the site plan approval block in the following note:

“The Chesapeake Bay Conservation and Planting Agreement for this property is found in Book ____ page ____.”
 4. Prior to the certification of the conservation plan, a conservation easement for the proposed mitigation plantings and the existing developed woodland preservation area shall be recorded in the Prince George's County Land Records. The easement document shall be reviewed by the Prince George's County Department of Permitting, Inspections and Enforcement, prior to recordation. The Book/page shall be shown above the site plan approval block in the following note:

“The conservation easement for this property is found in Book ____ page ____.”
 5. The applicant shall contact the Historic Preservation staff of the Prince George's County Planning Department, at least five business days prior to the commencement of any ground disturbance, to arrange for Historic Preservation staff to monitor the work. If any cultural resources are identified during the ground disturbance, work shall be halted, and Historic Preservation staff shall be allowed to record the resources. After the cultural

resources have been sufficiently recorded, the applicant's contractor shall be allowed to continue work.

6. The applicant shall provide a photometric plan demonstrating that exterior lighting on the property will meet and operate according to all requirements of Section 27-6700 of the Prince George's County Zoning Ordinance, and not exceed the standards outlined in Section 27-6706 for hours of illumination, directionality, illumination levels, and structural dimensions.
- B. APPROVE the Variance to Section 5B-121(e) for development within the critical area buffer.
- C. APPROVE the Variance to Section 5B-114(e)(7) for development on slopes of 15 percent or greater.

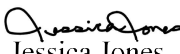
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the Circuit Court for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

* * * * *

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, and Barnes voting in favor of the motion at its regular meeting held on Thursday, July 31, 2025, in Largo, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of September 2025.

Darryl Barnes
Chairman

By 
Jessica Jones
Planning Board Administrator

DB:JJ:EK:rpg

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department

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Date: August 13, 2025