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CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-01004 & VC-01004

Application	General Data
Project Name: Tantallon on the Potomac Lot 73, Block A Location: 501 Troon Circle Applicant/Address: Flaim Brothers, Inc. 12533 Monterey Circle Fort Washington, MD 20744	Date Accepted: 05/11/01
	Planning Board Action Limit: N/A
	Plan Acreage: 0.48
	Zone: R-R/L-D-O
	Dwelling Units: 1
	Proposed Dwelling Square Footage: 3,370
	Planning Area: 80
	Council District: 8
	Municipality: N/A
	200-Scale Base Map: 216SW01

Purpose of Application	Notice Dates
This Chesapeake Bay Critical Area (CBCA) conservation plan requires Planning Board approval prior to the issuance of a building permit. This application is for the construction of a single-family detached residential structure in the CBCA. Variances are required for reduced net tract area, for disturbance to steep slopes, and for disturbance to the CBCA buffer.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 03/11/05
	Variance(s): Adjoining Property Owners: N/A

Staff Recommendation		Staff Reviewer: Jim Stasz	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Chesapeake Bay Critical Area
Conservation Plan and Conservation Agreement CP-01004 and VC01004
Tantallon on the Potomac, Lot 73, Block A

Council District: 8 Planning Area: 80 Municipality: none

OVERVIEW:

The proposal is for the construction of a single-family detached dwelling on a lot within the Chesapeake Bay Critical Area (CBCA). A CBCA conservation plan is required prior to the issuance of any permit by the Prince George's County Department of Environmental Resources. The Planning Board is the final approving authority for CBCA conservation plans.

Three variances are requested with this application. The Planning Board is the final approving authority for conservation plans, and as such is the approval authority for the requested variances. The following are descriptions of the variances requested:

- A. A variance is requested from the Zoning Ordinance and the "Chesapeake Bay Critical Area Conservation Manual" to allow disturbance to the expanded CBCA buffer for the installation of a sanitary sewer connection.
- B. A variance is requested from the Zoning Ordinance and the "Chesapeake Bay Critical Area Conservation Manual" to allow the disturbance of slopes greater than 15 percent for the construction of the residential structure.
- C. A variance is requested from the Zoning Ordinance because the net lot area is less than permitted in the R-R Zone.

Section 27-230 of the Zoning Ordinance provides the criteria by which the Planning Board may grant variances. Section 27-230(a) sets forth the general criteria and includes a provision in paragraph (a)(2) that requires the applicant to demonstrate that the "strict application of [the Zoning Ordinance] will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property...." Maryland doctrine has interpreted this language to mean that for an area variance, an applicant must show that denial of the variance would result in practical difficulties, a burden less onerous than that of undue hardship.

Section 27-230(b), however, provides for supplemental criteria for granting variances from either the Zoning Ordinance or the "Chesapeake Bay Critical Area Conservation Manual" in instances where the property at issue is situated within the CBCA. Paragraph (b)(1) of this section statutorily mandates that an applicant establish that denial of the variance would result in an "unwarranted hardship," not merely a practical difficulty.

As the subject residential structure would be located within the CBCA, and as designed requires a variance from the “Chesapeake Bay Critical Area Conservation Manual,” both the general criteria of Section 27-230(a) and the supplemental criteria of Section 27-230(b) apply. Thus, the applicant must ultimately demonstrate that denial of the requested variance would cause both practical difficulties and an unwarranted hardship.

Site Description

The 0.48-acre property in the R-R Zone and CBCA Limited Development Overlay (L-D-O) Zone is located at the northeast side of Troon Circle, with water frontage on Swan Creek Channel. A review of the available information indicates that no streams or wetlands are found on the property. A 100-year floodplain affects 0.136 acre along the northern boundary line of the site. Steep and severe slopes are found to occur on a substantial portion of the property. Current air photos indicate that the site is mostly wooded. No historic or scenic roads are affected by this proposal. There are no significant nearby noise sources and the proposed use is not expected to be a noise generator. No species listed by the State of Maryland as rare, threatened or endangered are known to occur in the general region. A stormwater design plan has been approved by DER. The “Prince George’s County Soils Survey” indicates that the principal soils on the site are in the Sassafras series. The site is in the Developing Tier according to the General Plan.

Findings

The lots were recorded on December 8, 1971, and are shown on Record Plat 77-79 in the Prince George’s County Land Records. Record Plat 77-79 indicates that the gross tract area was 20,931 square feet, that at the time of platting there was no 100-year floodplain on the property, and that the original net tract was 20,931 square feet. Because the record plat is old, the Prince George’s County Department of Environmental Resources has required a new delineation of the 100-year floodplain. The new 100-year floodplain includes 5,978 square feet and reduces the net lot area to 14,953 square feet. The property is unusual because it is flag-shaped and has five side yards. More than one-quarter of the property contains wooded slopes in excess of 15 percent. The steep slopes are concentrated in the building envelope area that is established by the building restriction lines. The sanitary sewer main that must be used to serve this property is entirely within the expanded CBCA buffer.

This site is not subject to the provisions of the Woodland Conservation Ordinance because the entire site is within the CBCA and as such is subject to the stricter requirements of the CBCA program.

The maximum amount of impervious surfaces permitted by Section 27-548.17 of the Zoning Ordinance for the property is 25 percent of the gross tract (5,232.75 square feet). The area of existing impervious surfaces is zero square feet and the area of proposed impervious surfaces is 3,370 square feet.

The gross tract area is 20,931 square feet and the net tract is 14,953 square feet (the area of 100-year floodplain is subtracted to determine the net tract area). A minimum net lot area of 20,000 square feet is required by Section 27-442 Table II of the Zoning Ordinance.

The maximum amount of net lot coverage permitted by the Zoning Ordinance for the property is 25 percent of the net tract (3,728.25 square feet). The proposed net lot coverage is 3,370 square feet.

The plan proposes the clearing of 10,641 square feet of the existing 18,026 square feet of woodland. The plan proposes to meet the requirements of the “Chesapeake Bay Critical Area Conservation Manual” by providing 4,533 square feet of on-site planting and a fee-in-lieu of \$7,113.60.

A variance request was received on January 21, 2005, to allow disturbance within the CBCA buffer for the installation of a sanitary sewer connection, to allow disturbance of slopes in excess of 15 percent, and to allow construction of a residential structure on a property in the R-R Zone with a net lot area of less than 20,000 square feet.

Buildable Lot Analysis

In general, the development of a parcel should not be permitted if it would require a variance from the requirements of the CBCA program to develop the site; however, grandfathering provisions were added to the regulations to allow for previously buildable lots to remain buildable lots. Because it was recognized that some otherwise buildable existing properties could be adversely impacted with the enactment of the new regulations, Section 27-548.10(c) of the Zoning Ordinance was created to provide grandfathering.

The following is an analysis of Section 27-548.10(c) of the Zoning Ordinance [text in **BOLD**]. If conformance with the grandfathering provisions can be found, the proposal can move forward.

All buildable lots (except outlots) within subdivisions recorded prior to December 1, 1985, shall remain buildable lots, regardless of lot size, provided:

- (1) The proposed development will minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;**

Comment: The proposed CBCA plan submitted meets the stormwater management requirements of the Prince George's County Department of Environmental Resources and minimizes adverse impacts on water quality. The stormwater concept, CSD 3878-2001-00, has been approved by the Prince George's County Department of Environmental Resources. The approval requires the use of an infiltration trench to provide for water quality control.

- (2) The applicant has identified fish, plant, and wildlife habitat which may be adversely affected by the proposed development and has designed the development so as to protect those identified habitats whose loss would substantially diminish the continued ability of affected species to sustain themselves; and**

Comment: The CBCA plan submitted includes an inventory that indicates there are no fish, plant, or wildlife habitats, as defined by the CBCA program, that could be adversely impacted by the proposed development.

- (3) The lot size, frontage, and vehicular access are in accordance with the requirements of the underlying zone. Development of these lots shall not count towards the growth allocation of the applicable Overlay Zone.**

Comment: The final plat of subdivision was approved on December 8, 1971, as shown on Record Plat 77-79 in the Prince George's County Land Records. The lot size, frontage, and vehicular access are in accordance with the requirements of the R-R Zone, and the application submitted requires no use of growth allocation.

Recommended Finding: The subject property, containing Tantallon on the Potomac, Lot 73, Block A, was recorded prior to December 1, 1985, and at that time was a "legally buildable lot" with a gross tract of 20,931 square feet and a net tract area of 20,931 square feet; when it was platted the CBCA regulations were not in effect.

4. **Variance Analysis—Disturbance to the Chesapeake Bay Critical Area Buffer**

A variance is requested from the Zoning Ordinance and the “Chesapeake Bay Critical Area Conservation Manual” to allow disturbance to the expanded CBCA buffer for the installation of a sanitary sewer connection.

Section 27-230(b) of the Zoning Ordinance permits that variances may be granted from the provisions of the Zoning Ordinance or the “Chesapeake Bay Critical Area Conservation Manual” for properties within the CBCA only where an applicant demonstrates that provisions have been made to minimize any adverse environmental impacts of the variance and where the Prince George's County Planning Board (or its authorized representative) has found conformance with subparagraphs 1 through 9, in addition to the findings set forth in Section 27-230(a).

Section 27-230(a) of the Zoning Ordinance contains the findings required for all variances [text in **BOLD**]. The following is an analysis of the application’s conformance with these requirements.

(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

Comment: The property has an exceptional shape because it is flag-shaped and has five side yards and has exceptional topographic conditions in the form of steep slopes that are concentrated in the building envelope area that is established by the building restriction lines. More than one-quarter of the property contains wooded slopes in excess of 15 percent. The sanitary sewer main that must be used to serve this property is entirely within the expanded CBCA buffer and the connection from any proposed residential structure would create an impact.

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

Comment: A sanitary sewer connection is required by County Code for any single-family residential structure that would be placed on this property. The only available sanitary sewer main to which a connection can be made is wholly within the CBCA buffer. A denial of the variance would result in the denial of any permit for a residential structure on this property.

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

Comment: The use of the site for a single-family residence is in complete conformance with the General Plan and the Subregion VII Master Plan.

Section 27-230(b) of the Zoning Ordinance contains the findings required for all variances within the CBCA. The following is an analysis of the application’s conformance with these requirements.

(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;

Comment: A sanitary sewer connection is required by County Code for any single-family residential structure that would be placed on this property. The only available sanitary sewer main

to which a connection can be made is wholly within the CBCA buffer. A denial of the variance would result in the denial of any permit for a residential structure on this property. This creates an unwarranted hardship to the owner of the property. Some similarly situated properties built before 1989, when the CBCA regulations took effect, exist within the CBCA that have connected to the same sanitary sewer.

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

Comment: A literal interpretation of this Subtitle would prohibit the applicant from constructing any single-family residential structure. There are adjacent properties within the CBCA developed with single-family detached residential structures requiring similar sanitary sewer connections that were built before 1989 when the CBCA regulations took effect.

- (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;**

Comment: The granting of the variance would not create a special treatment because all other lots within the vicinity are developed with single-family detached residential structures.

- (4) The variance requests are 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 non-conforming, on any neighboring property;**

Comment: The applicant has taken no action on this property to date with regard to the requested variance, and the current request is not related to uses on adjacent properties.

- (5) The granting of a variance would not adversely affect water quality or adversely impact fish, plant, or 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;**

Comment: The CBCA plan submitted incorporates stormwater management controls to minimize adverse impacts on water and does not significantly impact fish, plant, or wildlife habitat. The granting of this variance is in harmony with the general spirit and intent of the critical area regulations because it permits orderly development of a platted lot that is impacted by a condition that existed before the CBCA regulations were adopted.

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

Comment: The proposed CBCA plan submitted meets the stormwater management requirements of the Prince George's County Department of Environmental Resources and minimizes adverse impacts on water quality. The stormwater concept, CSD 3878-2001-00, has been approved by the Prince George's County Department of Environmental Resources. The approval requires the use of an infiltration trench to provide for water quality control.

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

Comment: The CBCA plan includes an inventory that indicates that there are no fish, plant or wildlife habitats, as defined by the CBCA program, that could be adversely impacted by the proposed development.

- (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**

Comment: The use of the property as a single-family residence is in complete conformance with land use policies and the requirements of the R-R and L-D-O Zones.

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

Comment: No use of growth allocation is needed to proceed with the proposed development.

Summary: The denial of the variance would result in the denial of any permit for a residential structure on this property. The granting of the variance would not affect neighboring properties.

Recommended Action: Staff recommends approval of a variance for disturbance to the 100-foot CBCA buffer as generally prohibited by the conservation manual for the installation of a sanitary sewer connection.

5. **Variance Analysis—Disturbance to Steep Slopes**

A variance is requested from the Zoning Ordinance and the “Chesapeake Bay Critical Area Conservation Manual” to allow the disturbance of slopes greater than 15 percent for the construction of the residential structure.

Section 27-230(b) of the Zoning Ordinance permits that variances may be granted from the provisions of the Zoning Ordinance or the “Chesapeake Bay Critical Area Conservation Manual” for properties within the CBCA only where an applicant 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 conformance with subparagraphs 1 through 9, in addition to the findings set forth in Section 27-230(a).

Section 27-230(a) of the Zoning Ordinance contains the findings required for all variances. The following is an analysis of the application’s conformance with these requirements.

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

Comment: The property is has an exceptional shape because it is flag-shaped and has five side yards and has exceptional topographic conditions in the form of steep slopes that are concentrated in the building envelope area that is established by the building restriction lines. More than one-quarter of the property contains wooded slopes in excess of 15 percent.

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

Comment: Because of the location of steep slopes on the property, the strict application of this Subtitle would result in the denial of any reasonable grading permit for the subject property.

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

Comment: The use of the site for a single-family residence is in complete conformance with the General Plan and the Subregion VII Master Plan.

Section 27-230(b) of the Zoning Ordinance contains the findings required for all variances within the CBCA. The following is an analysis of the application's conformance with these requirements.

- (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;**

Comment: The property is has an exceptional shape because it is flag-shaped and has five side yards and has exceptional topographic conditions in the form of steep slopes that are concentrated in the building envelope area that is established by the building restriction lines. More than one-quarter of the property contains wooded slopes in excess of 15 percent. Because of the location of steep slopes on the property, the strict application of this Subtitle would result in the denial of any reasonable grading permit for the subject property.

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

Comment: This lot was created prior to the enactment of the CBCA regulations. Isolated areas of slopes in excess of 15 percent are regulated only within the CBCA. Similar lots within the CBCA have been granted variances to disturb steep slopes because a literal interpretation of this Subtitle would result in the denial of any grading permit.

- (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;**

Comment: The granting of the variance would not create a special treatment because all other lots within the vicinity are developed with single-family detached residential structures and many of them contain steep slopes.

- (4) **The variance requests are 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 non-conforming, on any neighboring property;**

Comment: The applicant has taken no action on this property to date related to this variance request, and the current request is not related to uses on adjacent properties.

- (5) **The granting of a variance would not adversely affect water quality or adversely impact fish, plant, or 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;**

Comment: The CBCA plan submitted incorporates stormwater management controls to minimize adverse impacts on water and does not significantly impact fish, plant, or wildlife habitat. The granting of this variance is in harmony with the general spirit and intent of the critical area regulations because it permits orderly development of a platted lot that is impacted by a condition that existed before the CBCA regulations were adopted.

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

Comment: The proposed CBCA plan submitted meets the stormwater management requirements of the Prince George's County Department of Environmental Resources and minimizes adverse impacts on water quality. The stormwater concept, CSD 3878-2001-00, has been approved by the Prince George's County Department of Environmental Resources. The approval requires the use of an infiltration trench to provide for water quality control.

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

Comment: The CBCA plan includes an inventory that indicates that there are no fish, plant or wildlife habitats, as defined by the CBCA program, which could be adversely impacted by the proposed development.

- (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**

Comment: The use of the property as a single-family residence is in complete conformance with land use policies and the requirements of the R-R and L-D-O Zones.

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

Comment: No use of growth allocation is needed to proceed with the proposed development.

Summary: The denial of the variance would result in the denial of any grading permit for this property.

Recommended Action: Staff recommends approval of the variance to disturb steep slopes as illustrated on the conservation plan.

6. **Variance Analysis—Net Lot Area**

A variance is requested from the Zoning Ordinance because the net lot area is less than that permitted in the R-R Zone. A minimum net lot area of 20,000 square feet is required by Section 27-442, Table II, of the Zoning Ordinance. The proposed net lot area is 14,953 square feet.

Section 27-230(b) of the Zoning Ordinance permits that variances may be granted from the provisions of the Zoning Ordinance or the “Chesapeake Bay Critical Area Conservation Manual” for properties within the CBCA only where an applicant 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 conformance with subparagraphs 1 through 9, in addition to the findings set forth in Section 27-230(a).

Section 27-230(a) of the Zoning Ordinance contains the findings required for all variances. The following is an analysis of the application's conformance with these requirements.

(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

Comment: The property is has an exceptional shape because it is flag-shaped and has five side yards and has exceptional topographic conditions in the form of steep slopes that are concentrated in the building envelope area that is established by the building restriction lines. More than one-quarter of the property contains wooded slopes in excess of 15 percent. The lot was recorded on December 8, 1971, and is shown on Record Plat 77-79 in the Prince George's County Land Records. Record Plat 77-79 indicates that the gross tract area was 20,931 square feet, that at the time of platting there was no 100-year floodplain on the property, and that the original net tract was 20,931 square feet. Because the record plat is old, the Prince George's County Department of Environmental Resources has required a new delineation of the 100-year floodplain. The new 100-year floodplain includes 5,978 square feet and reduces the net lot area to 14,953 square feet. Staff recommends that the Planning Board find that this constitutes an extraordinary situation.

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

Comment: The denial of this variance would result in the denial of a permit for any reasonably sized single-family detached residential structure.

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

Comment: The use of the site for a single-family residence is in complete conformance with the General Plan and the Subregion VII Master Plan.

Section 27-230(b) of the Zoning Ordinance contains the findings required for all variances within the CBCA. The following is an analysis of the application's conformance with these requirements.

(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;

Comment: The property is has an exceptional shape because it is flag-shaped and has five side yards and has exceptional topographic conditions in the form of steep slopes that are concentrated in the building envelope area that is established by the building restriction lines. More than one-quarter of the property contains wooded slopes in excess of 15 percent. The lots were recorded on December 8, 1971, and are shown on Record Plat 77-79 in the Prince George's County Land Records. Record Plat 77-79 indicates that the gross tract area was 20,931 square feet, that at the time of platting there was no 100-year floodplain on the property, and that the original net tract was 20,931 square feet. Because the record plat is old, the Prince George's County Department of Environmental Resources has required a new delineation of the 100-year floodplain. The new 100-year floodplain includes 5,978 square feet and reduces the net lot area to 14,953 square feet. Staff recommends that the Planning Board find that this constitutes a special circumstance that is peculiar to the subject property and that the denial of this variance would result in an unwarranted hardship.

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

Comment: The original plat for this portion of Tantallon on the Potomac was approved on February 19, 1963. The Zoning Ordinance permits lots within the R-R Zone to have a minimum net tract area of 10,000 square feet if they were platted prior to July 1, 1966. This lot was replatted in 1971 and increased in size from 14,954 square feet to 20,931 square feet. Lot 37 shares the east boundary line with the subject property, is developed with a single-family detached residential structure, and has a net tract area of 13,786 square feet. Lot 39 shares the south boundary line with the subject property, is developed with a single-family detached residential structure, and has a net tract area of 13,907 square feet. The denial of a variance to the net lot area would result in the denial of any reasonably sized building on the subject property.

- (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;**

Comment: The granting of the variance would not create a special treatment because all other lots within the vicinity are developed with single-family detached residential structures and several of the lots do not meet the current minimum net lot area.

- (4) The variance requests are 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 non-conforming, on any neighboring property;**

Comment: The applicant has taken no action on this property to date related to this variance request, and the current request is not related to uses on adjacent properties.

- (5) The granting of a variance would not adversely affect water quality or adversely impact fish, plant, or 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;**

Comment: The CBCA plan submitted incorporates stormwater management controls to minimize adverse impacts on water and does not significantly impact fish, plant, or wildlife habitat. The granting of this variance is in harmony with the general spirit and intent of the critical area regulations because it permits orderly development of a platted lot that is impacted by a condition that existed before the CBCA regulations were adopted.

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

Comment: The proposed CBCA plan submitted meets the stormwater management requirements of the Prince George's County Department of Environmental Resources and minimizes adverse impacts on water quality. The stormwater concept, CSD 3878-2001-00, has been approved by the Prince George's County Department of Environmental Resources. The approval requires the use of an infiltration trench to provide for water quality control.

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

Comment: The CBCA plan includes an inventory indicating that there are no fish, plant or wildlife habitats, as defined by the CBCA program, that could be adversely impacted by the proposed development.

(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

Comment: The use of the property as a single-family residence is in complete conformance with land use policies and the requirements of the R-R and L-D-O Zones.

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

Comment: No use of growth allocation is needed to proceed with the proposed development.

Summary: The denial of a variance to the net lot area would result in the denial of any reasonably sized single-family detached residential structure on the subject property.

Recommended Action: Staff recommends approval of a variance of 5,047 square feet to the minimum net tract area required in the R-R Zone.

7. Summary

On May 25, 2001 the Subdivision Review Committee determined that, in addition to the variances noted above, the conservation plan required technical changes to be in conformance with the requirements of the R-R Zone, the L-D-O Zone, and the "Chesapeake Bay Critical Area Conservation Manual." Revised plans were received December 23, 2003 and October 11, 2004. A variance application was accepted for processing on January 18, 2005. Because variances to the CBCA program are required, a referral has been sent to the CBCA Commission. At the present time, no response from the CBCA Commission has been received.

RECOMMENDATIONS:

APPROVAL of a variance for disturbance to the 100-foot CBCA buffer as generally prohibited by the conservation manual for the installation of a sanitary sewer connection, as shown on the submitted conservation plan.

APPROVAL of a variance for disturbance to steep slopes as generally prohibited by the conservation manual and Section 27-548.17 of the Zoning Ordinance.

APPROVAL of a variance of 5,047 square feet to the minimum net tract area required in the R-R Zone.

APPROVAL of CP-01004.