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CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-02006/01 and VC-02006

Application	General Data
Project Name:	Date Accepted 12/23/02
TANTALLON ON THE POTOMAC, LOT 34	Planning Board Action Limit N/A
Location:	Tax Map & Grid 131 D-3
East side of Settles Court about 200 feet north of Monterey Circle	Plan Acreage 0.52
Applicant/Address:	Zone R-R/L-D-O
Emerge Homes	Lots 1
1025 Connecticut Avenue NW, Suite 1012	Parcels 0
Washington DC 20036	Planning Area 80
	Council District 9
	Municipality N/A
	200-Scale Base Map 216SW01

Purpose of Application	Notice Dates
Construction of a single-family residence in the Chesapeake Bay Critical Area.	Adjoining Property Owners (CB-15-1998) N/A
	Previous Parties of Record (CB-13-1997) N/A
	Sign(s) Posted on Site 01/13/03
	Variance(s): Adjoining Property Owners 01/13/03
Staff Recommendation	Staff Reviewer: JIM STASZ
APPROVAL	APPROVAL WITH CONDITIONS
	X
DISAPPROVAL	DISCUSSION

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-02006/01 and VC-02006
Tantallon on the Potomac, Lot 34

Council District: 9 Planning Area: 80 Municipality: None

OVERVIEW

The proposal is for the construction of a single-family detached dwelling on a property in the R-R/L-D-O Zones recorded prior to December 1, 1985. A Critical Area Conservation Plan is required prior to the issuance of a permit by the Prince George's County Department of Environmental Resources. The Planning Board is the final approving authority for Chesapeake Bay Critical Area Conservation Plans.

The lot was recorded prior to December 1, 1985, and is shown on Record Plat NLP 103-1 in the Prince George's County Land Records. A Chesapeake Bay Critical Area Conservation Plan, CP-02006, was approved by the Planning Board on December 19, 2002. The revised plan is a major revision because the house location has been changed, resulting in the need for a variance to construct within the eight-foot side yard required by Table II of Section 27-442(c) of the Zoning Ordinance. On January 3, 2003, the Subdivision Review Committee reviewed the revised plan, CP-02006/01, including an application for a variance to the side yard setback.

The lot is encumbered with a 15-foot-wide WSSC easement along the north side of the building envelope. The previously approved plan, CP-02006, was evaluated by the Subdivision Review Committee on October 25, 2002. At that time, WSSC required that the plans be changed to remove the building completely from the existing sewer easement. The sewer easement contains a main line that currently serves 33 lots. To meet that requirement, the applicant revised the plan to trim off the north facade of the house and CP-02006 was approved by the Planning Board on December 19, 2002. The applicant subsequently learned from the architect that this would cause a complete redesign of the structure. In order to retain the custom structure and provide for a more reasonable building envelope, the house needs to be moved closer than eight feet to the southern property boundary. A variance of three feet is needed to construct within the eight-foot side yard set by Table II of Section 27-442(c) of the Zoning Ordinance. The resulting side yard on the south side would be five feet. No variance to any provision of the Chesapeake Bay Critical Area Regulations is needed. The Chesapeake Bay Critical Commission has reviewed the proposal and by letter, dated January 8, 2003, offered no comment.

SITE DESCRIPTION

The 0.52-acre property is on the east side of Settles Court, about 200 feet north of Monterey Circle and is wholly within the Chesapeake Bay Critical Area. There are no streams or wetlands on the property. Part of the site contains 100-year floodplain. Current air photos indicate that most of the site is 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 in the general region. According to the sewer service and water service maps produced by DER, the property is in categories S-3 and W-3. A stormwater design plan has been approved by the Prince George's Department of Environmental Resources. The soils information included in the review package indicates that the principal soils on the site are in the Keyport series. The property is within the Developing Tier according to the adopted General Plan.

FINDINGS AND REASONS FOR STAFF RECOMMENDATIONS

Environmental Review

Staff has reviewed the conservation plan, accepted for processing on December 23, 2002, and recommends approval with the following conditions to address drafting errors and provide a plan that shows all the requirements of the *Conservation Manual*.

Recommended Condition: Prior to signature, the currently approved Chesapeake Bay Critical Area Conservation Plan, CP-02006, shall be revised to show the changes to the house location and outline.

Variance Analysis

Section 27-230(b) permits that variances may be granted from the provisions of the Zoning Ordinance or the *Conservation Manual* for properties within the Chesapeake Bay Critical Area 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 (a). The following is an analysis of the application's conformance with the Zoning Ordinance requirements. Text in bold is from Section 27-230 of the Zoning Ordinance.

- (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 contains a WSSC easement that is placed in such a way as to make the building envelop unusually small. All of the provisions of the Chesapeake Bay Critical Area regulations are met on the subject application.

- (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: Other properties nearby were similarly developed prior to the enactment of the Chesapeake Bay Critical Area Program.

- (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 these variances neither creates a need for other variances nor establishes a special treatment because the subject property is unusually encumbered by a 15-foot-wide WSSC easement.

- (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 non-conforming, on any neighboring property;**

Comment: The applicant has taken no action on site to date, 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 Chesapeake Bay Critical Area Plan submitted incorporates stormwater management controls to minimize adverse impacts on water resources and does not significantly impact fish, plant, or wildlife habitat.

- (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 approved Chesapeake Bay Critical Area Plan incorporates stormwater management controls to minimize adverse impacts on water quality.

- (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 Chesapeake Bay Critical Area Plan includes an inventory that indicates there are no fish, plant or wildlife habitats 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 a single-family residence is in complete conformance with the R-R and L-D-O Zones and the approval of the variance would not result in any adverse environmental impacts.

- (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.

Additionally, the findings of Section 27-230(a) of the Zoning Ordinance are required for all variances:

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

Comment: This parcel is unusual because of the shape of the parcel, the location of the 15- foot-wide WSSC easement, the location of the floodplain that reduces the buildable area, and the extent of critical area buffer. The lot is irregularly shaped with a panhandle approximately 30 feet wide and 350 feet long extending to Swan Creek from the main lot

area; the main lot area is approximately 230 feet deep and 80 feet wide at its frontage with Settles Court. As shown on the record plat, NLP 103-1, the gross tract area is 30,524 square feet and 7,184 square feet of this lot is within the 100-year floodplain, resulting in a net tract area of 22,710 square feet. During the review of CP-02006, the Prince George's Department of Environmental Resources reevaluated the floodplain easement and required an additional easement, expanding the floodplain to 8,097 square feet, which results in a final net tract area of 22,427 square feet.

Table II of Section 27-442(c) of the Zoning Ordinance provides for a nine-foot side yard on one side and an eight-foot side yard on the other side for residential structures in the R-R Zone, for a total of 17 feet. This lot is unusual because the northern side is encumbered by a 15-foot-wide WSSC easement. WSSC has refused encroachment into the easement; therefore, the structure must have a minimum of a 15-foot-wide side yard from the northern property line. Without a variance, the lot would be encumbered with total side yards of 23 feet. With the proposed encroachment of three feet into the required eight-foot side yard along the south property line, the total of the side yards would be 20 feet. Additionally, the approved Chesapeake Bay Critical Area Conservation Plan for lot 35 to the south shows that the structure on that lot is setback 15 feet from the boundary line it shares with lot 34, so there will be adequate spacing between the structures.

- (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 strict application of Table II of Section 27-442(c) of the Zoning Ordinance would result in the building area of the lot being reduced to an amount significantly less than lots with similar gross and net tract areas.

- (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 General Plan and the Subregion VII Master Plan.

Summary of Variance Analysis

The granting of the variance is appropriate to permit the reasonable development of the existing lot with a single-family residence that is similar to those on the surrounding properties. Staff recommends approval of VC-02006.

RECOMMENDATIONS

APPROVAL of VC-02006.

APPROVAL of CP-02006/01 subject to the following condition:

Prior to signature, the currently approved Chesapeake Bay Critical Area Conservation Plan, CP-02006, shall be revised to show the changes to the house location and outline.