



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

# CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-03011 & VC-03011A

Application	General Data
<b>Project Name:</b> Tantallon on the Potomac Lot 38  <b>Location:</b> West side of Haxall Court approximately 100 feet north of its intersection with Monterey Circle  <b>Applicant/Address:</b> Carl Allen 11906 Bion Drive Fort Washington, MD 20744	Date Accepted: 09/23/03
	Planning Board Action Limit: N/A
	Plan Acreage: 0.47
	Zone: R-R/L-D-O
	Dwelling Units: 1
	Square Footage: 4,116
	Planning Area: 80
	Council District: 8
	Municipality: N/A
	200-Scale Base Map: 216SW01

Purpose of Application	Notice Dates
This Chesapeake Bay Critical Area Conservation Plan requires Planning Board approval prior to the issuance of a Building Permit. This application is for the construction of a single-family residence in the Chesapeake Bay Critical Area. A variance is required to allow disturbance of steep slopes.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 12/22/03
	Variance(s): Adjoining Property Owners: N/A

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

Agenda Date: 01/08/04

Agenda Item:

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-03011 and VC-03011A  
Tantallon on the Potomac, Lot 38

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. A Chesapeake Bay Critical Area 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 Chesapeake Bay Critical Area Conservation Plans.

A variance is needed from Section 27-548.17 of the Zoning Ordinance and the Conservation Manual because grading will disturb steep slopes. The Planning Board is the final approving authority for Conservation Plans and as such is the approval authority for the requested variance.

SITE DESCRIPTION

The 0.47-acre property is on the west side of Haxall Court approximately 100 feet north of its intersection with Monterey Circle and is located within the Chesapeake Bay Critical Area. There are no streams or wetlands on the property. There is no 100-year floodplain on the property. Current air photos indicate that the site is mostly wooded. Steep slopes occur in the northwestern portion of the site. 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. A stormwater design plan has been approved by the Prince George's County Department of Environmental Resources. The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Keyport soil series. The site is in the Developing Tier according to the General Plan.

FINDINGS

This site is not subject to the provisions of the Woodland Conservation Ordinance because the entire site is within the Chesapeake Bay Critical Area. The maximum amount of impervious surface permitted by Section 27-548.17 of the Zoning Ordinance for Lot 38 is 25 percent of the gross tract (5,116 square feet). The proposed impervious surface is 5,114 square feet. The maximum amount of net lot coverage permitted by the Zoning Ordinance for Lot 38 is 5,116 square feet. The proposed net lot coverage is 5,114 square feet. The plan proposes grading of slopes exceeding 15 percent. Section

27-548.17 of the Zoning Ordinance and Section 6.4 of the *Conservation Manual* prohibit grading of slopes in excess of 15 percent within the Chesapeake Bay Critical Area.

### **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 Chesapeake Bay Critical Area Program to develop the site; however, grandfathering provisions were added to the regulations to allow for previously buildable lots to remain buildable lots. The subject lot is grandfathered because it was recorded prior to December 1, 1985. If conformance with the grandfathering provisions can be found, the proposal can move forward.

The following is an analysis of the text (shown in *italics*) from the Zoning Ordinance. The lot meets all of the requirements of the Zoning Ordinance to be considered a buildable lot in the R-R Zone.

*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 Chesapeake Bay Critical Area plan submitted incorporates stormwater management controls to minimize adverse impacts on water quality.

- (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 Chesapeake Bay Critical Area Plan submitted includes an inventory that indicates there are no fish, plant, or wildlife habitats 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 July 13, 1974. The lots were recorded and are shown on Record Plat 89-28 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 development of this lot requires no use of growth allocation.

### **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 27-230(a). The following is an analysis of the application's conformance with the Zoning Ordinance 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: Lot 38 contains a significant area of slopes in excess of 15 percent in the northwestern portion of the site. A stormwater design plan approved by the Prince George's County Department of Environmental Resources requires the construction of a bioretention area to provide for water quality treatment of runoff that will result from the development of the site with a residential structure. Because of the topography of the site, the only possible location for the bioretention structure is within the northwestern portion of the site where the steep slopes occur.

- (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 after 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 lot contains features not found to this magnitude on other lots.

- (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, 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 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. The variance is required to comply with the Stormwater Management Ordinance.

- (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 that 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.

- (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.

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: Because the extent and location of steep slopes reduce the buildable area, development with any reasonably sized, single-family residential structure would require a variance.

- (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 tract areas. In addition, if the variance is not granted, the applicant will not be able to comply with the Stormwater Management Ordinance.

- (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

On October 10, 2003, the Subdivision Review Committee determined that the conservation plan was in general conformance with the requirements of the R-R Zone, the L-D-O Zone and the Conservation Manual; however, there were several technical errors on the plans. The plan contains a Type II Tree Conservation Plan worksheet and notes, but the site is not subject to the Woodland Conservation Ordinance because it is in the Chesapeake Bay Critical Area. The plan fails to note the height of the proposed house.

The granting of this variance is appropriate to permit reasonable development of the site with a single-family residence that is similar in character to those in the neighborhood. Staff recommends approval of VC-03011A.

RECOMMENDATION:

APPROVAL of VC-03011A and CP-03011 with the following condition:

1. Prior to signature certification of the conservation plan, the plan shall be revised to:
  - a. Remove the tree conservation plan notes, the woodland conservation worksheet, and the tree conservation approval block.
  - b. Note the height of the house.
  - c. Have the revised plan signed and dated by the qualified professional who prepared the plan.