

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-04002 and VC-04002A
Holiday Company's Addition to Highland (Brentwood) MD. Lot 11 & p/o Lot 12,
Block H.

Council District: 2 Planning Area: 68 Municipality: North Brentwood

OVERVIEW: The proposal is for the demolition of an existing house, and the construction of a new single-family residential structure on a property 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. The subject property is zoned R-55 and is within the Intense-Development-Overlay Zone (I-D-O).

There are no variances needed to the Chesapeake Bay Critical Area provisions of the Zoning Ordinance. Variances from other requirements of the Zoning Ordinance are requested as stated below. The Planning Board is the final approving authority for Conservation Plans, and is also the approval authority for the requested variances.

Variances from the Zoning Ordinance are required to: (1) to permit the construction of a single-family detached structure with a lot coverage that exceeds the maximum requirements, and (2) to permit a front yard setback that is less than the maximum amount required.

A letter was received from the Town of Brentwood dated April 21, 2004, which contained four recommended revisions to the plan. The plan as submitted is in compliance with the recommended revisions from the Town.

SITE DESCRIPTION:

The subject property is located on the northside of Allison Street approximately 400 feet of its intersection with 40th Street, within the Chesapeake Bay Critical Area associated with the Anacostia River. There are no streams or wetlands on the property. There is no floodplain on the property. Current air photos indicate that the site contains an existing structure and is not 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. A Stormwater Management Concept or Technical Plan is under review by DER. The *Prince George's County Soils*

Survey indicates that the principal soil on the site is in the Codorus series which generally exhibits moderate limitations to development due to impeded drainage, high water table and flood hazard. The site is in the Developed Tier according to the *General Plan*.

FINDINGS: The lots were recorded on March 1, 1904 and are shown on Record Plat A-9 in the Prince George's County Land Records. The existing residential structure was built in 1920 and appears on M-NCPPC air photos taken in March of 1965. 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 the property is 100 percent of the gross tract (10,072 square feet). The existing impervious surface is 547 square feet and the proposed impervious area is 3,255 square feet. The maximum amount of net lot coverage permitted by the Zoning Ordinance for the property is 30 percent of the net tract area which is 3,021.72 square feet. The existing net lot coverage is 433.11 square feet or 4.3% and the proposed net lot coverage is 3,199 square feet or 31.8%. All other provisions of the Chesapeake Bay Critical Area regulations have been met on-site.

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 lots are grandfathered because they were recorded prior to December 1, 1985.

Variance Requests

There are two variances requested:

- (1) A variance is requested to permit the construction of a new single-family detached structure with a Lot Coverage more than the maximum limit of 30%. The existing Lot Coverage is 4.3%. The existing structure is proposed to be razed. The new structure is proposed to be 3,199 square feet which is 31.8% Lot Coverage. The variance requested is for 1.8% Lot Coverage above the maximum of 30%.
- (2) A variance is requested to permit the construction of a new single-family detached structure closer to the front lot line than the maximum required setback of 25 feet. The existing structure is 16.9 feet from the front lot line; this structure will be removed. The new structure is proposed to be built 12 feet from the front property line in keeping with the general character of the surrounding neighborhood.

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 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). The following is an analysis of the application's conformance with the Zoning Ordinance requirements. Because both of the variances requested are similar in nature, the variances are evaluated together below. See Staff Exhibit A for an illustration of the locations of each of the variances requested.

(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: Neither of the variances being sought are from provisions related to the Chesapeake Bay Critical Area regulations. This lot is peculiar in that it was platted in 1904, long before the Chesapeake Bay Critical Area regulations were envisioned. .

(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 are similarly developed.

(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 does not establish a special privilege because the house proposed is in keeping with the character of the existing neighborhood.

(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 requests are 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 applicant will be required to meet the requirements of the

Stormwater Management Ordinance which will address issues of water quality for the site.

(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 Chesapeake Bay Critical Area Plan incorporates dry wells to manage stormwater.

(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-55 and I-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 conditions or other extraordinary situations or conditions;*

Comment: The extraordinary conditions of this lot is that it was platted 100 years ago, long before the Zoning Ordinance was adopted and the Chesapeake Bay Critical Area requirements were envisioned. The house proposed is in keeping with the character of the surrounding neighborhood.

(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 plan as submitted reflects a reasonable use of the property and is in keeping with the character of the existing neighborhood. To provide a reasonably sized residence, the Lot coverage variance is needed and in order to be in keeping with the front set backs of the other residences in the neighborhood, the front set back variance is required.

(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 II Master Plan*.

Summary

On January 30, 2004, the Subdivision Review Committee determined that the Conservation Plan was in general conformance with the requirements of the R-R Zone, the I-D-O Zone and the *Conservation Manual*; however, the plan required numerous technical revisions. Revised plans were accepted for processing on April 2, 2004. The applicant, in consultation with the Town of Brentwood, has submitted a revised plan that contains all of the information required for a Chesapeake Bay Critical Area Conservation Plan.

The granting of these variances 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-04002A.

RECOMMENDATION:

APPROVAL of CP-04002 and VC-04002A.