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## CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-04011 & VC-04011A

Application	General Data
<b>Project Name:</b> Tantallon on the Potomac Section 12, Lot 9  <b>Location:</b> South side of Monterey Circle and west of Settles Court  <b>Applicant/Address:</b> Richard Ametin 3840 Dominion Mill Drive Alexandria, VA 22304	Date Accepted: 6/9/04
	Planning Board Action Limit: N/A
	Plan Acreage: 0.46
	Zone: R-R/L-D-O
	Dwelling Units: 1
	Square Footage: 7,036
	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 to Section 27-442 Table II of the Zoning Ordinance regarding Percentage of Lot Coverage is requested.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 06/28/04
	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-04011 and VC-04011A  
Tantallon on the Potomac, Lot 9

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 requested from the Zoning Ordinance to permit the percentage of lot coverage to exceed 25 percent. 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 0.46-acre property in the R-R/L-D-O Zones is on the south side of Monterey Circle and is located within the Chesapeake Bay Critical Area. The 100-foot-wide critical area primary buffer and expanded buffer do not occur on the property. There are no streams, wetlands, 100-year floodplain or steep slopes on the site. 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 is under review by DER. The Prince George's County Soils Survey indicates that the principal soils on the site are in the Keyport series. The site is in the Developing Tier according to the General Plan.

FINDINGS:

The final plat of subdivision was approved on April 23, 1979, as shown on Record Plat NLP 103-1 in the Prince George's County Land Records. 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 plan correctly indicates that there are no threatened or endangered species, no colonial waterbird nesting sites, no forests with interior dwelling bird species, no Natural Heritage Areas, no waterfowl staging areas, no anadromous fish spawning streams, no wetlands, no tributary streams, and no Critical Area buffers on the site. The gross tract is 20,102 square feet and the net tract is 20,102 square feet. The maximum amount of impervious surface permitted per Section 27-548.17, footnote 4 A(ii) of the Zoning Ordinance is 25 percent of the gross tract area, or 5,025.5 square feet. The proposed impervious surface is 4,572 square feet, or 22.7 percent. The maximum percentage of lot coverage permitted by the Zoning Ordinance for Lot 9, per Section 27-442 Table II of the Zoning Ordinance, is 25 percent of the contiguous net tract area, or 5,025.5 square feet. The proposed percentage of lot coverage is 7,036 square feet, or 35 percent. The

proposed percentage of lot coverage is more than that permitted by the Zoning Ordinance, resulting in the need for a variance in order to be developed as submitted. A variance request was accepted for processing on June 28, 2004. The plan shows that it meets the requirements of Section 4.7, Buffering Incompatible Uses, of the *Landscape Manual* for the area bordering the golf course. The requirements include a 20-foot-wide bufferyard and a 30-foot-wide building setback. The plan proposes the clearing of 15,830 square feet of the existing 17,280 square feet of forest and provides mitigation with 4,360 square feet of on-site planting and a fee-in-lieu of \$13,764. The plan meets the afforestation requirements of 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. 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. If conformance with the grandfathering provisions can be found, the proposal can move forward.

The following is an analysis of Section 27-548.10(c) of the Zoning Ordinance.

*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, as defined by the Chesapeake Bay Critical Area 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 April 23, 1979, as shown on Record Plat NLP 103-1 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.

Recommended Finding: The subject lot meets all of the requirements Section 27-548.10(c) of the Zoning Ordinance to be considered a buildable lot in the R-R Zone.

### *Variance Analysis—Percentage of Lot Coverage*

Section 27-230(b) of the Zoning Ordinance 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).

Section 27-230(b) of the Zoning Ordinance contains the findings required for all variances within the Chesapeake Bay Critical Area. 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 requested variance is not to any provision of the Chesapeake Bay Critical Area program, and as such this required finding does not apply.

- (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: No other similar properties nearby were developed in a fashion that exceeds the permitted percentage of lot coverage, thus denial of the variance would not result in the deprivation of rights to the applicant enjoyed by other properties.

- (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 create a special treatment because no other similar lots within the vicinity have been developed in a fashion that exceeds the maximum percentage of lot coverage permitted by the Zoning Ordinance.

- (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 Chesapeake Bay Critical Area plan recommended for approval 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 that there are no fish, plant or wildlife habitats, as defined by the Chesapeake Bay Critical Area 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 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: The lot is not unusually narrow, not unusually shallow, and is not unusually shaped when compared with other lots within the subdivision. The land is essentially flat and does not have exceptional topographic conditions.

- (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 variance request claims that denial of the variance would be an undue hardship; however, the nature of the hardship is not stated. The strict application of Table II of Section 27-442(c) of the Zoning Ordinance with regard to percentage of lot coverage would result in the development area of the lot being similar to lots with similar net tract areas in the vicinity within the Chesapeake Bay Critical Area.

- (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.

## Summary

On July 2, 2004, the Subdivision Review Committee determined that the conservation plan was in general conformance with the requirements of the L-D-O Zone and the *Conservation Manual*; however, the plan showed that percentage of lot coverage permitted by the Zoning Ordinance for Lot 9, per Section 27-442 Table II of the Zoning Ordinance, was exceeded. The letter of justification accepted on June 28, 2004, suggests that the principal reason for requiring additional lot coverage is the placement of the stormwater management drywell in the front center portion of the property and, therefore, requiring that the driveway be unusually large. At the Subdivision Review Committee meeting, Richard Thompson of the Prince George's County Department of Environmental Resources stated that the drywell did not need to be at that specific location and that the driveway could be redesigned to cover a smaller area. The plan also shows an attached one-car garage and adjacent storage area in addition to an attached two-car garage. The elimination of the additional features could reduce the percentage of lot coverage to an amount that does not require a variance.

The Planning Board has granted variations to percentage of lot coverage for properties within the Tantallon on the Potomac subdivision only when the net lot area was reduced by a recalculation of the area of 100-year floodplain. The subject property contains no 100-year floodplain and the net tract area is unchanged from when it was created by plat in 1979. Of the 49 lots on Section 12 of Tantallon on the Potomac, nine lots have smaller net tract areas than the property that is the subject of this application and none has requested or received a variance to percentage of lot coverage.

The granting of the variance for percentage of lot coverage is not appropriate on this lot. A reasonable development of the site with a single-family residence that is similar in character to those in the neighborhood is possible without the requested variance. The applicant has failed to demonstrate that the strict application of Section 27-442 Table II of the Zoning Ordinance regarding percentage of lot coverage will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. Staff recommends disapproval of VC-04011A.

## RECOMMENDATION:

DISAPPROVAL of VC-04011A and CP-004011.