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CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-04015 & VC-04015A

Application	General Data
Project Name: Highland Brentwood Lot 11, Block G Location: The subject property is located on the south side of the intersection of Allison Street and 39 th Place, within the Chesapeake Bay Critical Area associated with the Anacostia River. Applicant/Address: Osma M. Khalid 4701 27 th Street Mount Rainier, MD 20715	Date Accepted: 7/14/04
	Planning Board Action Limit: N/A
	Plan Acreage: 0.1837 ac.
	Zone: R-55/I-D-O
	Dwelling Units: 1
	Proposed D U Square Footage: 1,102 s.f.
	Planning Area: 68
	Council District: 2
	Municipality: N/A
	200-Scale Base Map: 206NE03

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 because the Ordinance states that a 25-foot building setback from all street fronts is required.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 11/16/04
	Variance(s): Adjoining Property Owners: N/A

Staff Recommendation		Staff Reviewer: Robert Metzger	
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-04015 and VC-04015A
Highland Brentwood, Lot 11, Block G

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

OVERVIEW:

The proposal is for the construction of a single-family residential structure on a property in the R-55/I-D-O Zones recorded before December 1, 1985. 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.

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 as such is the approval authority for the requested variances.

A variance from the Zoning Ordinance is required to permit a side yard setback that is less than the minimum amount required.

The revised plan received November 18, 2004, includes the required variance request of 9 feet from the front building restriction line along Allison Street requirements of 25 feet and addresses all previous comments.

SITE DESCRIPTION:

The subject property is located on the south of the intersection of Allison Street and 39th Place, 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 aerial photos indicate that the site is vacant, undeveloped and 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 general region. A Stormwater Management Concept or Technical Plan is under review by the Department of Environmental Resources. The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Codorus soil series. The site is in the Developed Tier according to the General Plan.

FINDINGS:

The lot was recorded in 1904 and is shown on Record Plat Book A, Plat No. 9, 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 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 (8,000 square feet). The existing amount of impervious surfaces is zero square feet and the proposed amount of impervious surfaces is 1,734 acres or 21.68 percent. 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 lot is grandfathered because it was recorded prior to December 1, 1985, and as such is considered a buildable lot.

Variance Requests

Variances requested: for **proposed construction**.

(1) The existing side yard setback from Allison Street is less than the required 25 feet. The house is situated on a corner lot between Allison Street and 39th Place. Since the house along the rear property line adjoining this lot (Lot 10, block G) fronts Allison Road, a 25-foot setback is required. The proposed setback is 16 feet. A variance of 9 feet is required.

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 related to the Chesapeake Bay Critical Area.

(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 variance being sought is not from provisions related to the Chesapeake Bay Critical Area regulations. The lot is peculiar in that it was platted in March 1904, long before the Chesapeake Bay Critical Area regulations were envisioned. The shape of the property, when combined with required setbacks, significantly reduces the legal building envelope.

(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 before and 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 the variance as requested does not establish a special treatment because the house, as proposed, is in keeping with the character of the existing neighborhood and this lot is unusually situated on a corner with essential two front-yard setback requirements.

(4) The variance requested 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 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 applicant will be required to meet the requirements of the Stormwater Management Ordinance, which will address issues of water quality for this 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 applicant will be required to meet the requirements of the Stormwater Management Ordinance, which will address issues of water quality for this site.

(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 topographic conditions, or other extraordinary situations or conditions;

Comment: The subject property is an unusual shape in that it is a corner lot with essentially two front-yard setbacks. Furthermore, the extraordinary condition 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, as proposed, is in keeping with the character of the 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: If the variance as requested for existing conditions is not approved, the lot could only be built with a house that is exceptionally small. The application at hand is only for a house of 1,102 square feet including the porch, so to reduce the house footprint by an additional 16 feet on one side would result in an extremely small house.

(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 II master plans.

Summary

On July 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 November 18, 2004. The plan contains all of the information required for Chesapeake Bay Critical Area Conservation Plan.

The granting of the 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-04015A.

RECOMMENDATION:

APPROVAL of CP-04015 and VC-04015A.