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Chesapeake Bay

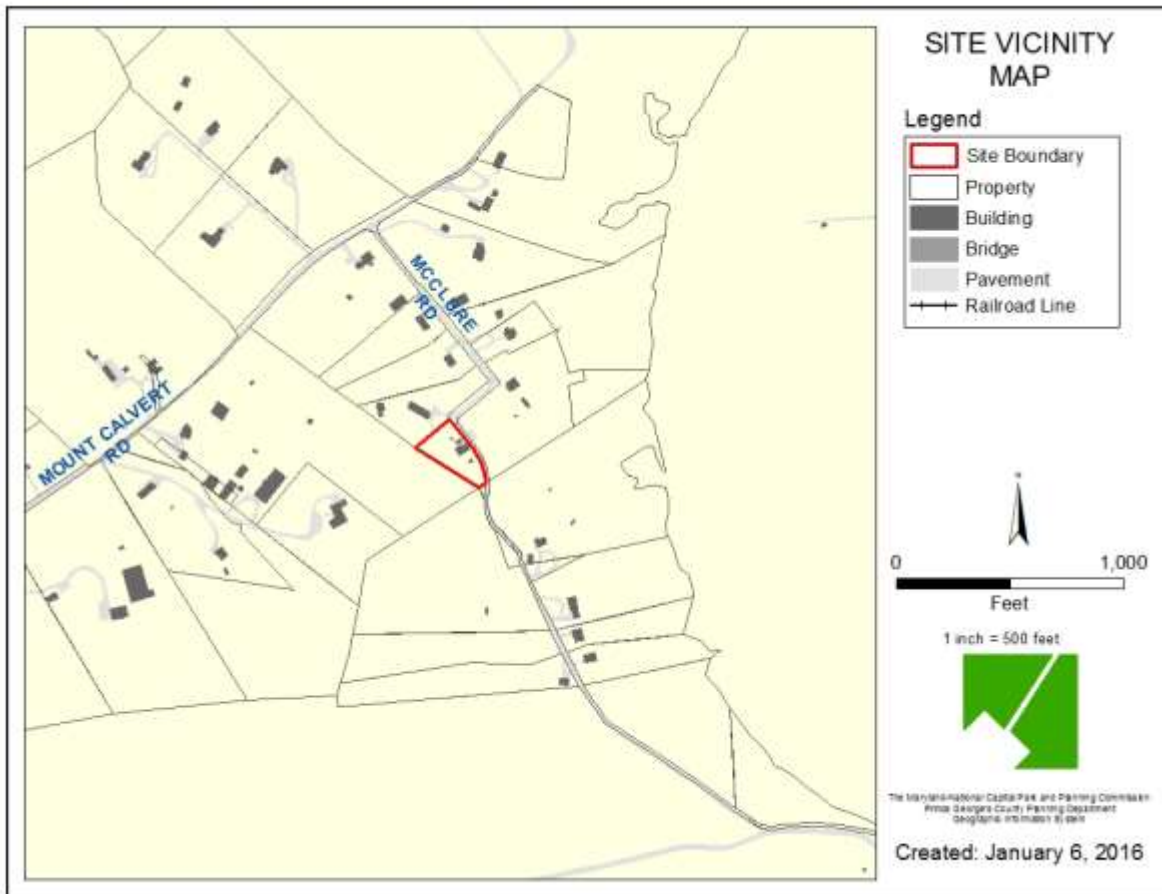
Critical Area Conservation Plan

CP-13000

Application	General Data	
Project Name: Thomas Property, Parcel 8 Location: Along the north side of Indian Queen Point Road, approximately 250 feet west of Kiskonko Road. Applicant/Address: Sonia Casey 9923 Indian Queen Point Road Fort Washington, MD 20744	Planning Board Hearing Date:	01/21/16
	Staff Report Date:	01/07/16
	Date Accepted:	03/24/15
	Planning Board Action Limit:	N/A
	Most Recent Revision:	N/A
	Plan Acreage:	0.9445 sq.ft.
	Zone:	O-S/R-C-O
	Variance Requested:	Yes
	Planning Area:	82B
	Council District:	09
	Municipality:	N/A
	200-Scale Base Map:	211SE14

Purpose of Application	Notice Dates	
To raze one existing detached car garage and construction of a 768-square-foot two-car garage to an existing single-family detached dwelling located within the Chesapeake Bay Critical Area (CBCA). Four variances are also requested with this Conservation Plan: Section 27-442(b),(c),(d)and (e)	SDRC Meeting:	04/10/15
	Informational Mailing:	02/23/15
	Acceptance Mailing:	03/18/15
	Informational Sign(s) Posted:	12/21/15
	Hearing Requested:	N/A
	Sign(s) Posted for Hearing:	12/21/15

Staff Recommendation		Staff Reviewer: Taslima Alam Phone Number: 301-952-4976 E-mail: Taslima.Alam@ppd.mncppc.org	
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 CP-13000
Thomas Property, Parcel 8

Council District: 09 Planning Area: 82B Municipality: N/A

- A. **Nature of the Applicant's Request:** The proposal is to raze one existing detached garage and construct a 768-square-foot two car attached garage to an existing single-family detached dwelling located within the Chesapeake Bay Critical Area (CBCA). The applicant is also proposing to relocate an existing shed, and remove gravel parking areas and replace it with a gravel parking area partially inside the CBCA 100-foot buffer. The conservation plan approval is required because the entire site lies within the CBCA. A CBCA conservation plan is required prior to issuance of any permit by Prince George's County. The Planning Board is the final approving authority for CBCA conservation plans. The 0.94-acre property is located in the Open Space (O-S) and Resource Conservation Overlay (R-C-O) Zones in the Patuxent River basin.

The applicant also requested four variances from Section 27-442(b) (net lot area), 27-442(c) (lot coverage), 27-442(d) (minimum lot width at front building line), and 27-442(e) (front yard setback) of the Zoning Ordinance. The four variance requests are as follows: (1) the site does not meet the minimum net lot area of 217,800 square feet; (2) exceeds the maximum five (5) percent lot coverage; (3) does not meet minimum 300 linear feet lot width at front building line; and (4) the existing house does not meet fifty (50) feet front yard setback requirement. Therefore, the application included variances.

Site Description: The subject property is composed of Parcel 8, a deed-parcel recorded in Liber 9525 at Folio 388 of the County Land Records on the south side of McClure Road. The property is located on Tax Map 111 in Grid E-4, and is approximately 41,144 square feet. The 0.94-acre lot in the O-S/R-C-O Zones and is located at 8009 McClure Road; approximately 1,200 feet from its intersection with Mt. Calvert Road, within Patuxent River Basin. It is developed with a single-family home constructed in or about 1942 with a detached garage, a gravel parking area for multiple car parking, and a storage shed. The subject property is wholly within the Chesapeake Bay Critical Area (CBCA). The site contains the Critical Area 100-foot primary buffer, secondary buffer, streams, wetlands and woodlands. No scenic or historic roads are affected by this proposal. There are no significant nearby transportation-related noise sources and the proposed improvements are not expected to be a noise generator. The site is adjacent to McClure Road a non-listed master planned roadway. This site is located entirely with the Regulated and Evaluation Area designations of the Green Infrastructure Network. The Web Soil Survey indicates that the site is comprised of Collington-Wist Complex and Potobac-Issue complex soil types. The property is located within the Sensitive Species Review Area. A rare, threatened and endangered species request for information letter to the Maryland Department of Natural Resources (MD DNR) has been submitted.

At this time, no response has been received from MD DNR.

- B. **History:** In approximately 1900, the 4.76 acres of property was improved with a house which was used as the club house for the Rod and Gun Club.

January 24, 1904—The subject property was acquired by the Glebe Rod and Gun Club, (L. 21 F. 368).

1935— The property was conveyed to Emily Beauvais Sr. and Emile Beauvais, Jr. (L. 434 F. 329). The Beauvais used the club house as summer cottage.

1942— Beauvais constructed a second residence on the subject site to be used for a caretakers.

February 1954— The owner of the nearby tract of waterfront land, the McClure Gun Club acquired an ingress/egress easement through the land of several property owners, to Mt. Calvert Road. Three property owners conveyed easement to McClure Gun Club the easement documents recorded in Liber 1705 Folio 522 (see deed Exhibit “A”). One of the property through which road ran was owned by Beauvais. At the time this easement was recorded, the Beauvais names were stricken through because they did not sign the easement.

July 1957— The Applicant Margaret Thomas and her husband, moved into the house utilizing it as their primary residence and acting as caretakers of the former club house.

June 1958— The Beauvais conveyed the portion of the ingress/egress easement through their property to the McClure Gun Club. This easement is recorded among the Land Record of Prince George’s county at Liber 2283 Folio 423 (see deed Exhibit “B”). Over time this easement became known as McClure Road. The easements were located such that the subject property with the house constructed in 1942 was on the west side of the easement while the former club house was located on the east side of the easement, essentially splitting the Beauvais property into two parcels.

1962— The McClure Gun Club conveyed its property to the Maryland-National Capital Park and Planning Commission, which still owns the property.

1965— This property was brought into the Maryland-Washington Regional District.

February 1978— Emile Beauvais, Jr. the sole owner of the property conveyed the land on the east side of McClure Road, including the club house, to George and Alice Denny and west side of McClure Road property to John and Margaret Thomas, Liber 4886 Folio 91 ((see Deed Exhibit “C”).

April 1994— Ms. Margaret Thomas deeded her property to her daughter and son-in-law, Joseph and Debbie Richards.

The subject property was brought into the Maryland-Washington Regional District in April 1965. At that time, the property was zoned R-R. On July 1977, the first Sectional Map Amendment was adopted for the Upper Marlboro and Lower Patuxent Planning area. The subject property was

placed in the O-S Zone at that time.

- C. **Environmental Review:** The Environmental Planning Section reviewed the Chesapeake Bay Critical Area Plan, CP-13000, and provided the following comments in a memorandum dated January 3, 2016:

1. **Natural Resource Inventory Plan (NRI)**—The subject site has an approved Natural Resource Inventory Plan (NRI-139-14) dated September 12, 2014, that was included with the application package. The site does contain woodlands and regulated environmental features. The existing conditions of the site are correctly shown on the Conservation Plan.

Comment: No additional information is required with regard to the existing conditions of the site.

2. **Conservation Plan**—The plan labeled as a “Chesapeake Bay Critical Area - Conservation Plan – Existing conditions Plan, Site Grading Plan & Site Development Concept Plan” contains the information such as existing conditions, site improvements, and landscape because these requirements are needed as part of the overall Conservation Plan for this site. No woodlands or regulated environmental features will be impacted as part of this application. There are minor changes that are recommended before the signature approval of the plan.

The site is located within the R-C-O Zone and the allowable CBCA lot coverage (also known previously as “impervious surfaces”) is 15 percent. This application proposes to construct a garage and remove existing impervious areas and replace them with grass and landscape areas. The proposed application proposes an overall impervious surface area of 8.0 percent. The Conservation Plan shows a secondary buffer within the primary buffer. The secondary buffer is an expansion of the primary buffer, therefore it would not be located within the primary buffer. Revise the Conservation Plan to remove the portion of the secondary buffer symbol that is within the primary buffer.

Table A, the Zoning Lot Coverage table, needs to be revised to show the total of driveway lot coverage. Table B and B1 needs to be removed and show a combined new table format. The “Major Landscape Buffer plan” needs to be revised to show the planting closer to the existing on-site woodland areas. Sheet 3 of 3 needs to be revised to show all the correct property information within the title blocks.

Comment: The site is mapped within a Sensitive Species Protection Review Area. A letter from the Maryland Department of Natural Resources (MD DNR) must be submitted confirming the presence or absence of Rare, Threatened or Endangered (RTE) species and what, if any, mitigation measures are required to identify any specific species within the area. Conditions are added in the Recommendation section of this report.

3. **Chesapeake Bay Conservation and Planting Agreement**—A Chesapeake Bay Conservation and Planting Agreement will be required to be executed and recorded prior to certification approval for development of the site.

Comment: A condition is added in the Recommendation section of this report.

4. **Conservation Easement**—A Conservation Easement will be required for the natural woodland that is to remain undisturbed on-site per Section 5B-114(e)(6)(E) of the County Code. This Conservation Easement is for the subject site to prevent a loss of on-site woodlands. A metes and bounds description shall accompany the easement.

Comment: Review of the easement falls under the purview of the Department of Permitting, Inspection and Enforcement (DPIE) prior to the issuance of the first permit. A condition is added in the Recommendation section of this report.

5. **Chesapeake Bay Critical Area Commission (CAC) Review**—At this time, no comments have been received by the CAC staff concerning this case.
6. **Department of Permitting, Inspections and Enforcement (DPIE) Review**—A copy of the approved Stormwater Management Concept plan and letter (34656-2014-00) dated October 15, 2014, were submitted with the subject application. The project is exempt from stormwater management regulations since the project is disturbing less than 5,000 square feet of new disturbance. According to the approval letter, no quantity or quality control is required. The CP is consistent with the SWM concept plan.
7. **Prince County Soil Conservation Service (SCS) Review**—At this time, no comments have been received by the SCS staff concerning this case.

Summary of Recommended Conditions

Based on the review, the Environmental Planning Section recommends approval of Conservation Plan CP-13000, Thomas Property, subject to the conditions listed referenced in the Recommendation section of this report.

D. Recommended Findings

1. The subject property is composed of Parcel 8, a deed-parcel recorded in Liber 9525 at Folio 388 of the County Land Records on the south side of McClure Road. The property is located on Tax Map 111 in Grid E-4, and is approximately 41,144 square feet. Pursuant to Section 24-107(c)(7) of the Subdivision Regulations, a site is exempt from the requirement of filing a preliminary plan of subdivision if the proposed use is for a single-family dwelling and uses accessory thereto. The Conservation Plan indicates that the proposed use is for a single-family dwelling and accessory uses, therefore a Preliminary Plan of Subdivision and final plat are not required.
2. This site is not subject to the provisions of the Woodland Conservation and Wildlife Habitat Ordinance because the entire site is within the Chesapeake Bay Critical Area (CBCA).
3. The maximum amount of impervious surfaces permitted per the CBCA regulations (Section 27-548.17 of the Zoning Ordinance) is 15 percent of the gross lot area or 6,172 square feet. Table B on the site plan indicates existing impervious surfaces of 3,514 square feet, or 8.54 percent. Although some of the square footage calculation for CBACA appears to be incorrect on Table B, and should be corrected prior to the certification of the site plan, the proposed impervious surface calculation appears to be well within the 15 percent maximum requirements.

4. The minimum net lot area required by Section 27-442 (b), Table I, of the Zoning Ordinance is 217,800 square feet. The net lot area, as indicated on the site plan is only 41,144 square feet. Thus a variance of 176, 656 square feet from the net lot area requirements is requested.
5. The maximum percentage of lot coverage permitted by Section 27-442(c), Table II, of the Zoning Ordinance is five (5) percent of the contiguous net tract area. Table A on the site plan provided incorrect lot coverage calculations. This table must be revised to provide the correct existing and proposed lot coverage information, which includes square footage of the existing house foot print, covered porch, shed, proposed garage, and proposed driveway. According to the dimensions of these structures provided on the site, the total lot coverage calculation for the existing and proposed structures appears to be 3,478 square feet or 8.45 percent. Thus a variance of 3.45 percent from the net lot are requirement is requested.
6. The minimum lot width at the building line permitted by Section 27-442(d), Table III, of the Zoning Ordinance is 300 feet. The site plan shows lot width at the front building line is approximately 236 feet. Therefore a variance of seven (63) feet is necessary.
7. The minimum front yard setback permitted by Section 27-442 (e), Table IV, of the Zoning Ordinance is 50 feet for one-family detached dwellings, in general. At its closest point, the existing house is setback 14.23 feet from the front property line. Therefore, a variance of 35.77 feet from the front yard setback is requested.
8. The minimum side yards permitted by Section 27-442(e), Table IV, of the Zoning Ordinance are a total of 50 feet with a minimum of 20 feet. The existing setbacks far exceed this number.
9. The minimum rear yard width required by Section 27-442(e), Table IV, of the Zoning Ordinance is 20 feet. The existing rear yard is 85 feet wide.
10. The minimum setback for accessory structures (sheds) from the rear property line is two feet. The existing shed that will be relocated to the north side of the property will have a setback of 90 feet.
11. The maximum height permitted by Section 27-442(f), Table V, of the Zoning Ordinance is 35 feet. The existing single-family structure is 14 feet in height, which is far below this number.
12. The statement of justification had requested variance for lot area, lot coverage and front yard setback only. However, the site also does not meet the 300 linear feet lot width requirement at the front building line. Therefore, a variance of 63 linear feet of lot width at front building line is also added by staff to bring site to current zoning compliance. Because the Planning Board is the final approving authority for CBCA conservation plans, it is also the approving authority for the requested variances.

E. Variance Analysis

Section 27-230(a) of the Zoning Ordinance contains findings required for all variances and provides as follows:

- (a) **A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:**

- (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 has exceptional conditions not ordinarily found on lots in the O-S Zone. The O-S zoned property normally requires a five acre minimum lot size. The subject 0.99-acre property in part of a 4.46 acre tract of land that was created back in early 1900s. Since 1942, the property have had two dwelling units on it. In 1958, the 4.46-acre land was bisected by a right-of-way easement, which created McClure Road and placed a dwelling units on either side of the road. At the time the property was first subjected to zoning laws, it did not conform to the requirements of the Prince Georges County Code (Section 27-118.01) which prohibits multiple dwellings on a single lot. Further, by the time the original tract of land of which the subject property was a part was first subdivided by deed on February 1978, the property was zoned O-S. The property never contained the five acres minimum lot size and couldn't have been subdivided to place each home on a separate lot to satisfy the net lot area requirement. Based on these facts, the applicant believes that the property should have never been zoned O-S. All these factors, create an extraordinary condition or situation which justifies the granting of a variance from the net lot area requirement of Section 27-442(b) of the Zoning Ordinance.

Similarly, given the history of the subject property above, which dictated its size and shape, also creates an extraordinary condition or situation which justifies the granting of variances from the percentage of lot area coverage, lot width at the building line, and front yard setback requirement. The existing house on the property has been in its location for several decades. The conveyance of an ingress and egress easement in 1958 and the subsequent construction of roadway created the substandard sized lot (approximately 0.99 acres) and makes it difficult for the existing or proposed improvements to conform to current zoning requirements, thereby creates an extraordinary condition. Thus, the 50 feet front yard setback, 300 linear feet lot width requirement at the front building line and five(5) percent lot coverage requirements are nearly impossible without granting 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 the Zoning Ordinance would result in undue hardship upon the owner of the property. The plan, as submitted, simply request to replace the existing garage and driveway with a two-car garage and a new gravel driveway is a very simple and reasonable request to allow for convenient enjoyment of the applicant's property. The requested improvements the applicant is proposing is very reasonable in keeping with the character of the existing neighborhood. The strict application of the Zoning Ordinance would require the applicant to remove the long-existing (more than 70 years) structure which was constructed long before zoning existed in this area.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Comment: The variance will not substantially impair the integrity of the *Plan Prince George's 2035 Approved General Plan* and the December 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment*. The use of the site is for single-family detached residential development with a shed is in complete conformance with the recommendations of the General Plan and master plan. Section 27-230(b) permits that a variance may be granted from the provisions of the Zoning Ordinance or the *Chesapeake Bay Critical Area Conservation Manual* for properties within the CBCA 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 (PGCPB) (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.

- (b) **Variances may only be granted by the Planning Board from the provisions of this Subtitle or Subtitle 5B for property located within the Chesapeake Bay Critical Area Overlay Zones where an appellant 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, in addition to the findings set forth in Subsection (a), that:**

- (1) **Special conditions or circumstances exist that are peculiar to the subject land or structure and that a literal enforcement of the Critical Area Program would result in unwarranted hardship which is defined as a circumstance where without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested;**

Comment: The variance requested by the applicant is not from requirements of CBCA. The applicant had minimized the environmental impact of the proposed development. No vegetation would need to be removed to construct the improvements. As noted above, the history of the subject property is unique. The entire site is located within the CBCA and a portion of the site lies within the 100-foot tributary stream critical area buffer. These circumstances peculiar to the subject property would cause an unwarranted hardship if the Code were literally enforced. The variance being sought does not involve a CBCA regulation.

- (2) **A literal interpretation of the provisions of the Critical Area Program and related ordinances would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area;**

Comment: A literal interpretation of the County Code would deny the applicant of rights enjoyed by other properties in the neighborhood and located in the CBCA. Other properties located within the primary and secondary buffer in similar locations on-site would be provided the same considerations during the review of the required variance application.

- (3) **The granting of a variance would not confer upon an applicant any special privilege that would be denied by Critical Area Program to other lands or structures within the Critical Area;**

Comment: The granting of these variances from the requirement of the zoning regulations does not establish a special privilege. Each application would be examined based on the parameters that it presents.

- (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 nonconforming, on any neighboring property;**

Comment: The reason for the variance request is due to the size of the property, which was established before the applicant acquired title. It is not based upon circumstances which are the result of actions by the applicant or neighboring properties. Granting the variance will bring the site in conformance to the current regulations.

- (5) **The granting of a variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance would be in harmony with the general spirit and intent of the State Critical Area Law and the County Critical Area Program;**

Comment: The variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the critical area as the proposed improvement will be constructed in accordance with all applicable environmental requirements. As such, it will be in harmony with general spirit and insight of the State Critical Area Law and County Critical Area Program.

- (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 project is exempt from stormwater management regulations since the project is disturbing less than 5,000 square feet of new disturbance. According to the approval letter, no quantity or quality control is required. The CP is consistent with the SWM concept plan. The SWM concept plan has been reviewed by the Environmental

Planning Section (The Maryland-National Capital Park and Planning Commission), and the Chesapeake Bay Critical Area Commission. No adverse impacts on water quality have been identified.

- (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 Statement of Justification states that all fish, wildlife and plant habitat in the designated critical areas will be protected.

- (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 proposed improvements do not result in an increase in the number of persons on the property. The existing persons and activities do create an adverse environmental impact and will continue to be in conformance with established land use policies.

- (9) **The growth allocations for Overlay Zones within the County would not be exceeded by the granting of the variance.**

Comment: No growth allocation is proposed for this property. Granting of the variance is appropriate to permit reasonable development of the site with attached double garage, and gravel driveway to serve the single-family detached residence existing on the site. Validation of the long-existing structures on the site will allow this modest accommodation.

F. **The 2010 Prince Georges County Landscape Manual**

The development proposal for an addition to a single-family detached home is subject the 2010 *Prince George's County Landscape Manual* as follows:

1. Pursuant to Section 1.1(e), Applicability, permits pertaining to any existing single-family home are exempt from Section 4.1, Residential Requirements.
2. Pursuant to Section 1.1(h)(a), Applicability, permits pertaining to any existing single-family home are exempt from Section 4.6, Buffering Development from Streets.
3. Pursuant to Section 1.1(i), Applicability, the proposed plan is subject to the requirements of Section 4.7, Buffering Incompatible Uses due to the increase in gross floor area of more than ten percent. Therefore, notes and schedules should be added to the plan as necessary demonstrating conformance to this section.
4. Section 4.9, Sustainable Landscaping Requirements, is applicable if any landscape plantings are proposed. The appropriate notes and labels should be added if any plants are proposed.

G. Tree Canopy Coverage Ordinance

The Tree Canopy Coverage (TCC) Ordinance became effective on September 1, 2010. Since the entire subject property is located within the Chesapeake Bay Critical Area (CBCA), it is exempt from the requirements of the TCC Ordinance in accordance with 25-127(b)(1)(E).

Comment: Through the review of aerial imagery, not all existing site improvements appear to be shown on the submitted conservation plan. The plan should be revised to show and account for all site improvements and impervious areas.

H. Urban Design Section

Based on the above analysis, the only urban design-related issue for CP-13000, Thomas Property, Parcel 8 is the need to add notes to the plan regarding the applicability and/or requirements of the 2010 *Prince George's County Landscape Manual*.

I. Recommendation

Staff recommends APPROVAL of Chesapeake Bay Critical Area Conservation Plan CP-13000, Thomas Property, Parcel 8 and the associated variances, subject to the following conditions:

1. Prior to signature approval of the Conservation Plan, the plan shall be revised as follows:
 - a. Revise all lot coverage calculation correctly in accordance to Finding D(5) in the Recommended Findings section of this report and update all square footage calculation accordingly.
 - b. Correct all data on Table A as well as other tables and notes on the site plan affected by the new data.
 - c. Remove Table B and B1 and show the updated Table B with proper impervious surface calculation.
 - d. Add "Thomas Property" to the project name and "CP-13000" to the project number of the M-NCPPC Approval Block on each sheet.
 - e. Revise locations of the proposed trees to be closer to the adjacent existing woodland limits on-site. (Sheet 2 of 3).
 - f. Revise Sheet 3 of 3 title blocks and approval blocks to show the correct property information.
 - g. Submit a response letter Maryland Department of Natural Resources confirming the presence or absence of rare, threatened or endangered (RTE) species.
 - h. Add notes to the plan regarding the applicability and/or requirements of the 2010 *Prince George's County Landscape Manual*.
2. Prior to signature approval of the Conservation Plan, the applicant shall execute and record a Chesapeake Bay Conservation and Planting Agreement. The agreement shall be reviewed by the County prior to recordation. The applicant shall provide a copy of the recorded agreement to M-NCPPC and the liber/folio shall be shown on the Conservation Plan approval block.

3. Prior to the signature approval of the Conservation Plan, a conservation easement for all developed woodland that is approved to remain on-site (as preservation and/ or proposed planting) as shown on CP-13000 shall be recorded in the land records. The easement document shall be reviewed by the County prior to recordation. The liber/folio shall be shown on the Conservation Plan approval block.