The Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530

Chesapeake Bay Critical Area Conservation Plan CP-18002 East Hyattsville, Lot 21, Block F

REQUEST	STAFF RECOMMENDATION
Proposed single-family detached dwelling with variances in the CBCA.	APPROVAL with Conditions
Variance request to Sections 27-442(b) and 27-442(d).	APPROVAL
Variance request to Section 27-442(e)	DISAPPROVAL

Location: Approximately 670 feet southeast of the intersection of Emerson Street and 50th Avenue.

Gross Acreage:	8,500 sq. ft.
Zone:	R-55/I-D-O
Dwelling Units:	1
Gross Floor Area:	N/A
Planning Area:	68
Council District:	05
Election District:	16
Municipality:	Hyattsville
200-Scale Base Map:	206NE04

Applicant/Address:
Werrlein Property, c/o Karl Granzow
4110 Melwood Road
Upper Marlboro, MD 20772

Staff Reviewer: Ras Tafari Cannady II, AICP
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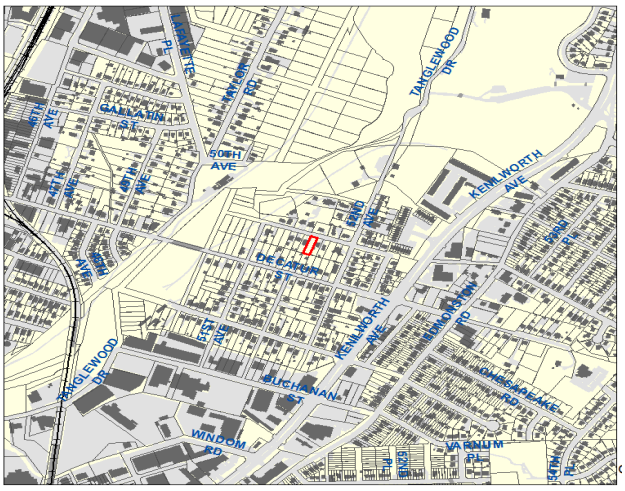

Planning Board Date:	09/26/19
Planning Board Action Limit:	N/A
Staff Report Date:	09/06/19
Date Accepted:	05/29/19
Informational Mailing:	12/28/18
Acceptance Mailing:	05/23/19
Sign Posting Deadline:	08/26/19

Note: Staff reports can be accessed at http://mncppc.iqm2.com/Citizens/Default.aspx

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THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Chesapeake Bay Critical Area Conservation Plan CP-18002
East Hyattsville, Lot 21, Block F

The Subdivision and Zoning staff has completed the review of the subject application and appropriate referrals. The following evaluation and findings lead to a recommendation of APPROVAL with conditions, as described in the Recommendation section of this technical staff report.

The applicant filed three variances with this application. Staff is recommending approval of two of the variances, and disapproval of the third for building setbacks as set forth in the Findings section of this report. Denial of the variance would not preclude the applicant from moving forward if the Planning Board approves the application. The denial of the variance will require that the applicant change the footprint of the proposed dwelling to meet the building setbacks. Staff has recommended a condition that prior to signature approval the house siting be adjusted to meet the applicable zoning regulations, allowing the applicant to continue to move forward.

EVALUATION CRITERIA

This conservation plan was reviewed and evaluated for conformance with the following criteria:

a. The requirements of the Chesapeake Bay Critical Area (CBCA) Intense Development Overlay (I-D-O) Zone of the Prince George's County Zoning Ordinance;

b. The requirements of the One-Family Detached Residential (R-55) Zone and the site design guidelines of the Prince George's County Zoning Ordinance;

c. The requirements of the 2010 *Prince George's County Landscape Manual;*

d. The requirements of the 2010 Prince George's County Woodland and Wildlife Habitat Conservation Ordinance;

e. The requirements of the Prince George's County Tree Canopy Coverage Ordinance;

f. Referral comments.

FINDINGS

Based upon the analysis of the subject application, the Subdivision and Zoning staff recommends the following findings:

1. **Request:** The proposal is for the construction of a single-family detached dwelling on vacant property within the Chesapeake Bay Critical Area (CBCA) Intense Development Overlay (I-D-O) and One-Family Detached Residential (R-55) Zones. The single-family detached dwelling is located entirely within the 100-year floodplain, requiring a variance to the minimum net lot area, which must be heard by the Prince George's County Planning Board, pursuant to Section 27-239.03 of the Prince George's County Zoning Ordinance. In addition, the property does not meet the minimum lot width at the front building line and minimum side yard setbacks, necessitating variances to Sections 27-442(b), 27-442(d), and 27-442(e), respectively.

2. **Location:** The subject property is located approximately 670 feet southeast of the intersection of Emerson Street and 50th Avenue. The property address is 5115 Emerson Street, Hyattsville, Maryland 20781.

3. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-55/I-D-O	R-55/I-D-O
Use(s)	Vacant	Residential
Acreage	8,500 sq. ft.	8,500 sq. ft.

OTHER DEVELOPMENT DATA

	PERMITTED	PROPOSED
Maximum Building Height	35 feet	27 feet
Maximum Lot Coverage (per R-55 Zone)	30%	25%
Minimum Front Yard Setback	25 feet	40 feet
*Minimum Side Yard Setbacks *Minimum Lot/Width Frontage *Minimum Net Lot Area	8 feet/17 feet 65 feet 6,500 square feet	7.5 feet/15 feet 50 feet 0 square feet

Note: * A variance is requested.

4. **Surrounding Uses:** The subject property is located within the R-55 and I-D-O Zones within the CBCA, and is surrounded by identically zoned, developed single-family residential properties within the East Hyattsville, Prince George's County Subdivision. Emerson Street abuts the subject property to the north.

5. **Previous Approvals:** The subject property is located on Tax Map 50 in Grid D1, consists of one lot, and contains a total of 0.19 acre or 8,500 square feet. The subject property is known as Lot 21, Block F, of the unrecorded plat, East Hyattsville, Prince George's County. The unrecorded plat shows that the subject lot was created in 1903. The subject property was brought into the Maryland-Washington Regional District in April 17, 1928. At that time, the property was placed in the "A" Residential Zone. In November of 1949, the R-55 Zone came

into effect. Since the proposed site has never been the subject of a record plat, this lot is considered acreage, recorded in Liber 41648, folio 320 and subject to the current regulations for development of a single-family detached dwelling in the R-55 Zone. According to the earliest available aerial photographs from 1938, no dwellings have existed on the subject lot.

6. **Design Features:** The conservation site plan reflects the lot bearings and distances, in accordance with the record plat, and meets the requirements of the Zoning Ordinance for development in the R-55 Zone regarding lot coverage, but not the minimum net lot area, minimum lot width at the front building line, and minimum side yard setbacks, as discussed within the findings of this technical staff report. The property is located entirely within the 100-year floodplain and therefore does not meet the minimum net lot area for a single-family detached dwelling unit lot in the R-55 Zone of 6,500 square feet. The applicant has submitted a variance for the minimum net lot area. The site plan illustrates the grading of the lot and proposal to construct a 27-foot-tall, single-family detached dwelling. The submitted site plan shows an existing driveway to be removed. A 433-square-foot driveway, with permeable interlocking concrete pavers is proposed to provide vehicular access to the attached garage.

COMPLIANCE WITH EVALUATION CRITERIA

7. Environmental Review and Conformance with Subtitle 5B

Background
The following applications and associated plans were previously reviewed for the subject site:

Development Review Case	Associated Tree Conservation Plan	Authority	Status	Action Date	Resolution Number
N/A	NRI-192-2018	Staff	Approved	12/21/2018	N/A
CP-18002	N/A	Planning Board	Subject Application Pending		

Site Description
This 0.19-acre property is located at 5115 Emerson Street, Hyattsville, is in the R-55 Zone and entirely within the I-D-O Zone of the CBCA. The property is currently vacant with mowed grass and part of a driveway located along the western property boundary that serves as access to the residence located on adjacent Lot 19 to the west, which is to be removed. No primary buffer is associated with the site. The entire property is mapped within the County regulated 100-year floodplain; however, the property is situated behind an existing levee that protects the site from flooding and interrupts the natural hydrological flow between the mean highwater line of the Lower Northeast Branch of the Anacostia River and the site. Therefore, no secondary buffer is associated with this site despite it being located within the County mapped 100-year floodplain. The predominant soil found to occur, according to the US Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Web Soil Survey (WSS), includes Zekiah-Urban land complex (frequently flooded). According to available information, Marlboro clay and Christiana complexes are not found to occur on this property.

The site is not located within a Sensitive Species Protection Review Area. No scenic or historic roads are affected by this proposal. According to the approved 2017 *Countywide Green Infrastructure Plan* of the *Approved Prince George's Resource Conservation Plan*, the property is entirely within a Regulated Area. The site is located within the Established Communities of the Growth Policy Map and Environmental Strategy Area 4 of the Regulated Environmental Protection Areas Map as designated by *Plan Prince George's 2035 Approved General Plan* (Plan 2035).

Chesapeake Bay Critical Area (CBCA) Commission Review
Comments were received from the Critical Area Commission on June 5, 2019. The Commission had no comments regarding the applicant's requests for Subtitle 27 variances for the reduction of the minimum net lot area, minimum lot width at the front building line, and minimum side yard setbacks to construct a single-family detached dwelling because the variances requested are not related to critical area requirements; but provided comments regarding critical area requirements, as follows:

1. Annual pre-development pollutant levels will be reduced by 10 percent (as per Section 5B-113 of the Prince George's County Code) by rooftop disconnection of all downspouts.

2. Note 4 of the Site Development and Landscaping Plan indicates that the lot is partially located within the I-D-O Zone. A desktop review indicates that the lot is located entirely within the I-D-O Zone. Please review Note 4 accordingly.

3. Note 11 on the Site Development and Landscaping Plan indicates that existing vegetation management will comply with Section 5B-121 of the Prince George's County Code. The lot does not contain the 100-foot buffer; therefore, Section 5B-113 should be referenced. Please revise Note 11 accordingly.

Variances
This application does not require a CBCA variance for the proposed development, but zoning variances are required to address the minimum net lot area because the lot is located entirely within the 100-year floodplain, as well as the property not meeting the minimum lot width at the front building line or minimum side yard setbacks, necessitating variances to Sections 27-442(b), 27-442(d), and 27-442(e), respectively. The site is identified within the I-D-O Zone and there is no maximum lot coverage threshold for this designation. The maximum R-55 zoning lot coverage threshold is 30 percent, and the submitted plan shows 25 percent lot coverage.

Environmental Review

Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) Review
A copy of the approved Stormwater Management (SWM) Concept plan and letter (59951-2018-00), dated March 19, 2019 was submitted with the subject application. The project is exempt from SWM requirements, as less than 5,000 square feet is proposed to be

disturbed. A $750.00 fee in lieu of providing on-site attenuation/quality control measures is required and a floodplain waiver has been issued for this site by DPIE.

Projects within the I-D-O Zone are required to demonstrate at least a 10 percent reduction in pollutant run-off through post-development impervious area pollutant reduction calculations.

The required calculations are not shown on the CBCA Conservation Plan; however, the CBCA Commission stated in their comments dated June 5, 2019 that the annual pre-development pollutant levels will be reduced by 10 percent (as per Section 5B-113) by rooftop disconnection of all downspouts. No additional information is required regarding SWM.

Chesapeake Bay Critical Area (CBCA) Conservation Plan
The plan labeled as a conservation plan contains the required information such as most existing and proposed conditions, lot coverage calculations, and proposed landscape planting information.

Because a separate landscape plan was not submitted with this application, this indicates that the conservation plan is also serving as a landscape plan in the title block and includes all the associated required landscaping specifications per the 2010 *Prince George's County Landscape Manual* (Landscape Manual). It was noted that a cultivar of red maple (*Acer rubrum* 'Red Sunset') specified on the plan typically matures to a size of 45–50 feet in height by 35–40 feet in width. Two of these trees are proposed to be placed within 10 feet of the footprint of the proposed dwelling. Staff recommends relocating proposed major shade trees a minimum of 20 feet from the dwelling footprint to limit their mature canopy spread over the proposed dwelling.

Technical revisions required prior to certification of the plan are listed in the recommended condition provided at the end of this report.

Natural Resources Inventory Plan
The subject site has an approved Natural Resources Inventory equivalency letter (NRI-192-2018), dated December 21, 2018, which was included with the application package. An existing conditions plan was also submitted with this application. Except for the existing tree-line, the existing conditions of the site are correctly shown on the conservation plan and existing conditions plan. No additional information is required regarding the existing conditions of the site.

Soils
According to the USDA, NRCS, WSS, the site does not contain the soil type Russett-Christiana-Urban land complex. According to available information, Marlboro clay and Christiana complex soil types are not found to occur on this property.

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.

Chesapeake Bay Conservation Easement
A Conservation Easement will not be required for this site. The site does not contain any woodland that is to remain.

Chesapeake Bay Critical Area (CBCA) Ordinance
The site is located within the I-D-O Zone; therefore, the site is subject to CBCA regulations. The purposes of the I-D-O Zone, as outlined in Section 27-548.13 of the Zoning Ordinance are to accommodate existing residential, commercial, or industrial land uses within the CBCA; to promote new residential, commercial, and industrial land uses, in accordance with development intensity limits designated for the I-D-O Zone; to conserve and enhance fish, wildlife, and plant habitats; and improve the quality of runoff that enters the tributary streams of the Chesapeake Bay from developed areas. The regulations concerning the impervious surface ratio, density, slopes, and other provisions for new development in the I-D-O Zone are contained in Subtitle 5B of the County Code, as follows:

Section 5B-113. – Intensely Development Overlay (I-D-O) Zones.

(e) Development standards. The following development standards must be demonstrated within the I-D-O Zone:

(1) For redevelopment plans, opportunities to reduce impacts on water quality generated by existing development shall be analyzed;

The subject property is not defined as a redevelopment plan.

(2) Urban (BMPs) for stormwater treatment shall be considered and, where appropriate, implemented as part of all plans for development and redevelopment;

Staff has identified two urban best management practices (BMPs) that the applicant has proposed, including a rooftop disconnect downspout and pervious pavers, satisfying the requirements of this finding.

(3) Stormwater shall be addressed in accordance with the following provisions:

(A) Development or redevelopment projects shall use technologies as required by applicable ordinances in order to minimize adverse impacts to water quality caused by stormwater;

(B) In the case of redevelopment, if these technologies do not reduce pollutant loadings measured by use of the keystone pollutant method by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided. Guidance for compliance with this requirement is provided in the Critical Area 10% Rule Guidance Manual - Fall 2003 and as may be subsequently amended

(C) In the case of new development, offsets shall be used if they reduce pollutant loadings by at least 10 percent of the

pre-development levels. Guidance for compliance with this requirement is provided in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance - Fall 2003 and as may be subsequently amended.

(D) Offsets may be provided either on or off site, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring or other computation of mitigation measures. Guidance regarding offsets is provided in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance - Fall 2003

As part of the SWM approval process, two BMPs were approved: rooftop disconnect downspout and pervious pavers. However, the SWM concept approval does not specifically address the 10 percent pollutant reduction requirement. Staff has included a condition in the Recommendation section of this staff report requiring the applicant to demonstrate conformance with the 10 percent pollutant reduction requirement by submitting written approval from DPIE to the Maryland-National Capital Park and Planning Commission (M-NCPPC).

(4) There is no Critical Area lot coverage maximum in the I-D-O, however, where practicable, permeable areas shall be established in vegetation, and whenever possible, redevelopment shall reduce existing levels of pollution

The subject property proposes 25 percent CBCA lot coverage. The proposed site plan shows a parking pad made of permeable paving, which contains sustainable materials that allow the movement of stormwater through the surface. In addition to reducing runoff, the permeable paving is designed to effectively trap suspended solids and filter pollutants from the water.

(5) Areas of public access to the shoreline, such as foot paths, scenic drives and other public recreational facilities, should be maintained and, if possible, encouraged to be established within the I-D-O.

The subject lot is not abutting the shoreline and therefore this standard does not apply.

8. Prince George's County Zoning Ordinance: The application conforms to the requirements of the R-55 Zone, including Section 27-441, Permitted Uses, of the Zoning Ordinance; but not Section 27-442, Regulations, of the Zoning Ordinance, as follows:

(a) The property has never been the subject of a record plat; therefore, the lot is considered acreage created by deed dated February 4, 1981 and recorded in Liber 5378 at folio 737.

Pursuant to Section 24-107(c)(7)(a) of the Subdivision Regulations, the site is exempt from the requirements of filing a preliminary plan of subdivision because

the proposed use is for a single-family detached dwelling. The proposed dwelling will meet all the current zoning requirements except for the required minimum lot width at the front building line of 65 feet. The subject lot provides 50 feet at the front building line. The only grandfathering allowed by footnote 4 is in Section 27-442, which allows a front building line below 65 feet if the lots are shown on a record plat. The subject property, which was created by deed and has never been the subject of a record plat does not meet this grandfathering provision.

(b) The minimum net lot area for the subject lot is 6,500 square feet. The provided net lot area is 0 square feet, due to the subject property being entirely within the floodplain. The applicant has requested a variance as part of this application, which is discussed further.

(c) The maximum permitted zoning lot coverage is 30 percent. The proposed lot coverage, 25 percent, meets this requirement.

(d) The required front yard setback of 25 feet is provided.

(e) The minimum lot width at the front building line permitted by Section 27-442(d), Table III, is 65 feet for one-family detached in general. The site plan shows lot width at the front building line is 50 feet. The applicant requested a variance for a reduction of 15 feet as part of this application, which is discussed further.

(f) The required rear yard setback is 20 feet. The provided rear yard setback of 86 feet exceeds this requirement and is delineated on the plan.

(g) The maximum building height permitted is 35 feet. The site plan indicates that the proposed dwelling is 27 feet in height, which meets this requirement.

(h) No accessory dwellings are indicated on the site plan.

(i) The proposed lot's side yard setbacks do not comply with the minimum requirement set forth within Section 27-442(e) of 8 feet from the property line to the building, and the total of both side yards requirement of a minimum of 17 feet. The side yard setbacks proposed are an individual minimum of 7.5 feet and a total of 15 feet for the side yards, which is demonstrated on the site plan. The applicant requested a variance as part of this application, which is discussed further.

(j) The minimum lot width at the street frontage permitted by Section 27-442(d), Table III, is 45 feet. The lot width provided at the street frontage is 50 feet, satisfying this requirement.

Based on this analysis of the Zoning Ordinance requirements, variances to the minimum net lot area, minimum lot width at the front building line, and minimum side yard setbacks are needed.

9. **Variance Analysis:** The applicant has filed three variances from the requirements of the Zoning Ordinance for the minimum net lot area, minimum lot width at the front building line, and minimum side yard setbacks.

Because the analysis and findings are consistent staff evaluated the variances to the minimum net lot area and lot width at the front building line together below (a.) and recommends APPROVAL of those two variances.

Staff recommends DISAPPROVAL of the variance to the side yard setbacks based on the second set of findings (b.) below.

a. Variance: Minimum Net Lot Area (Section 27-442(b)) and Lot Width at the Front Building Line (27-442(d)):

Section 27-230(a) of the Zoning Ordinance contains findings required for all variances, 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;

The subject lot was created by deed in 1903, prior to establishment of the current R-55 zoning regulations in November 1949. The lot was created, in accordance with the Residential "A" zoning regulations in effect at the time. The subject lot, therefore, does not conform to the current regulations; however, Subtitle 27 contains no grandfathering for this lot. The minimum lot width at the front building line at the time was required to be 50 feet. The extraordinary condition is that the applicant would not be able to develop the property without being subject to current regulations because lots are unrecorded, and the applicant does not own any abutting lots to which this lot could be combined to meet the minimum lot width requirement. Without relief from the strict application of the Zoning Ordinance, the applicant would not be able to develop the property.

The subject property, which is comprised of 8,500 square feet, all of which lie in the county delineated 100-year floodplain, as a result of topography, and is protected by a levee to the east of the site. Although the subject property and surrounding community is protected by the levee, according to County records, the floodplain level is 0.7 feet above the height of the levee (24.3 feet high). Staff notes that the Federal Emergency Management Agency floodplain level in this location is 22.89 feet, which is 1.41 feet under the height of the levee.

The property's existing platted shape and topography results in an extraordinary situation for the development of this property and the need for the two variances analyzed herein.

(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

Without the requested variances from the lot width at the front building line, as well as the minimum net lot area, due to the location of the lot within the 100-year floodplain, the applicant would not be able to develop the subject property. The lot was created over 115 years ago, prior to the implementation of zoning in the County, and is not grandfathered from the zoning regulations currently in effect. The subject property will not be buildable without approval of the variances to the minimum net lot area and lot width at the front building line.

Therefore, the strict application of the Zoning Ordinance would result in a practical difficulty upon the owner of the property.

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

The variances will not substantially impair the integrity of the Plan 2035 and the 2009 *Approved Port Towns Sector Plan and Sectional Map Amendment* (Port Towns Sector Plan and SMA). Plan 2035 designates the area in the Established Communities Growth Policy area. The vision for the Established Communities area is context-sensitive infill and low- to medium-density development. The subject application proposes the development for a single-family detached residential dwelling, which is in conformance with the recommendations of Plan 2035 and master plan.

The site is also within the Port Towns Sector Plan and SMA, but outside of the limits of the Development District Overlay (D-D-O) Zone included in that plan.

Section 27-230(b) allows a variance to be granted from the provisions of the Zoning Ordinance for properties within the CBCA, as follows:

(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;

The subject property is slated for infill development within an established neighborhood. The development proposal seeks to create a single-family detached dwelling that is cohesive with the existing character of adjacent detached dwellings. Without variances to the minimum requirements of lot

width at the front building line and minimum net lot area**,** the applicant would be denied reasonable and significant use of the entire lot.

(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;

The 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. Without the variances to the minimum requirements of lot width at the front building line and minimum net lot area, the applicant would not be able to develop, and subsequently enjoy the rights of their property.

(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;

The granting of variances to the minimum requirements of lot width at the front building line and minimum net lot area would not confer upon the applicant any special privilege that would be denied by the Critical Area Program to other lands or structures within the critical area. Similarly located and configured properties in the area are developed as requested.

(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;

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 nonconforming, on any neighboring property. The variance requests are based upon conditions that existed at the time of the lot's creation.

(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;

The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the critical area, and the granting of the variances will be in harmony with the general spirit and intent of the State Critical Area Law and the County Critical Area Program. The SWM plan is approved with conditions to provide low impact development techniques to ensure enhancement of water quality.

(6) The development plan would minimize adverse impacts on water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands;

The development plan will minimize adverse impacts on water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands. The subject application, which is within the I-D-O Zone is subject to a 10 percent pollutant reduction requirement. As part of the SWM approval process, two BMPs were approved; rooftop disconnect downspout and pervious pavers. However, the SWM concept approval does not specifically address the 10 percent pollutant reduction requirement. Staff has included a condition in the Recommendation section of this staff report requiring the applicant to demonstrate conformance with the 10 percent pollutant reduction requirement by submitting written approval from DPIE to M-NCPPC.

(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;

The granting of the variances would not cause adverse environmental impacts, as the proposal demonstrates compliance with all applicable CBCA criteria.

(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

The number of persons, their movements, and activities are in conformity to established land use policies. The granting of the variances will not cause adverse environmental impacts, as the proposal demonstrates compliance with all applicable CBCA criteria.

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

The growth allocations for overlay zones within the County will not be exceeded by the granting of the variances.

Staff recommends **APPROVAL** of a variance to Section 27-442(b) for minimum net lot area and Section 27-442(d) for the lot width at the front building line.

b. Variance: Side Yard (Minimum Depth/Width in Feet) (27-442(e)):

Section 27-230(a) of the Zoning Ordinance contains findings required for all variances, 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;

The subject lot was created by deed in 1903, prior to the establishment of the current R-55 zoning regulations in November 1949. The lot was created, in accordance with the Residential "A" zoning regulations in effect at the time. The subject lot, therefore, does not conform to the current regulations. At the time of the lot's creation, the minimum side yard setback was required to be not less than seven feet on each side of the main building. However, subsequently the regulations changed to the current minimum side yard building setbacks of a minimum of eight feet on one side of the dwelling and nine on the other. This change did not include a grandfathering for lots that were not the subject of a record plat. The subject lot is recorded by deed and not the subject of a record plat.

Although the subject lot has an extraordinary situation in relation to lot width at the front building line and minimum net lot area, due to the lot being unrecorded, the applicability does not apply in context to this variance for building setbacks. This lot, like all other existing lots in the neighborhood, is a rectangular shape with a width of 50 feet. The variance to the side yard setbacks is due to the applicant's proposal to construct a dwelling with a footprint that does not conform to zoning. Staff finds that a decrease to the required side yard setbacks may negatively impact the neighboring single-family detached dwellings. In addition, staff finds that the extraordinary situation will be a result of the applicant's own actions. Since the lot has excessive depth, the applicant has the ability to increase the depth of the dwelling footprint to achieve the same amount of interior space without a side yard variance.

Staff finds that this criterion **has not been** met.

(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

The strict application of this Subtitle will not result in peculiar and unusual practical difficulties to the owner of the property. Since the lot has excessive depth, the applicant has the ability to increase the depth of the dwelling footprint to achieve the same amount of interior space without a side yard variance.

Staff finds that this criterion **has not been** met.

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

The variances will not substantially impair the integrity of the Plan 2035 and the Port Towns Sector Plan and SMA. Plan 2035 designates the area in the Established Communities Growth Policy area. The vision for the Established

Communities area is context-sensitive infill and low- to medium-density development. The subject application proposes the development for a single-family detached dwelling, which is in conformance with the recommendations of Plan 2035 and master plan.

The site is also within the Port Towns Sector Plan and SMA, but outside of the limits of the D-D-O Zone included in that plan.

Section 27-230(b) allows a variance to be granted from the provisions of the Zoning Ordinance for properties within the CBCA, as follows:

(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;

The subject property is slated for infill development within an established neighborhood. The development proposal seeks to create a single-family detached dwelling that is cohesive with the existing character of adjacent detached dwellings. However, this is not the case in relation to the requested variance. The variance to the side yard setbacks may negatively impact the neighboring single-family detached dwellings. In addition, the applicant would not be denied reasonable and significant use of the entire lot as the applicant has the ability to increase the depth of the dwelling footprint to achieve the same amount of interior space without a side yard variance.

Staff finds that this criterion **has not been** met.

(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;

The literal interpretation of the provisions of the Critical Area Program and related ordinances would not deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical area. Without the variance to side yard setbacks, the applicant is still able to develop, and subsequently enjoy the rights of their property.

Staff finds that this criterion **has not been** met.

(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;

The granting of the variance to the side yard setbacks would not confer upon the applicant any special privilege that would be denied by the Critical Area Program to other lands or structures within the critical area.

(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;

The variance request is based upon a circumstance which will be the result of actions by the applicant. The applicant can increase the depth of the dwelling footprint to achieve the same amount of interior space without a side yard variance.

Staff finds that this criterion **has not been** met.

(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;

The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the critical area, and the granting of the variances will be in harmony with the general spirit and intent of the State Critical Area Law and the 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;

The development plan will minimize adverse impacts on water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands. The subject application, which is within the I-D-O Zone is subject to a 10 percent pollutant reduction requirement. As part of the SWM approval process, two BMPs were approved; rooftop disconnect downspout and pervious pavers. However, the SWM concept approval does not specifically address the 10 percent pollutant reduction requirement. Staff has included a condition in the Recommendation section of this staff report requiring the applicant to demonstrate conformance with the 10 percent pollutant reduction requirement by submitting written approval from DPIE to M-NCPPC.

(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;

Granting of the variance will not cause adverse environmental impacts, as the proposal demonstrates compliance with all applicable CBCA criteria.

(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

The number of persons, their movement, and activities are in conformity to established land-use policies. Granting of the variance will not cause adverse environmental impacts, as the proposal demonstrates compliance with all applicable CBCA criteria.

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

The growth allocations for overlay zones within the County will not be exceeded by the granting of the variances.

Staff recommends **DISAPPROVAL** of a variance to Section 27-442(e) for the side yard setbacks.

10. 2010 Prince George's County Landscape Manual: The development proposal for a new single-family detached home is subject to the Landscape Manual because the application is for new construction. The Landscape Manual applies, as follows:

Section 4.1 – Residential Requirements: The plan provides the schedule and plantings showing the requirements of Section 4.1 being met for lots less than 9,500 square feet by planting two shade trees and two evergreen trees. General Note 4, however, refers to a different lot size and needs to be corrected.

Section 4.9 - Sustainable Landscaping Requirements: The correct schedule and notes have been provided on the plan showing conformance with the requirements of Section 4.9 for native species.

11. Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO): The project is not subject to the WCO because the entire site is within the CBCA.

12. Prince George's County Tree Canopy Coverage Ordinance: The entire subject property is located within the CBCA and is exempt from the requirements of the Tree Canopy Coverage Ordinance, in accordance with Section 25-127(b)(1)(E). A note should be provided on the plan indicating the exemption, which is recommended.

13. Referral Comments: The following referrals were received and are incorporated herein by reference; all the comments are addressed on the site plan, or as part of this technical staff report:

a. Environmental Planning Section, dated August 20, 2019 (Juba to Cannady II)

b. Permit Review Section, dated June 14, 2019 (Glascoe to Onyebuchi)

c. Critical Area Commission, dated June 5, 2019 (Harris to Onyebuchi)

d. Transportation Planning Section, dated July 1, 2018 (Thompson to Cannady II)

e. Prince George's County Department of Permitting, Inspections and Enforcement, dated June 19, 2018 (Giles to Onyebuchi)

f. Urban Design Section, dated July 30, 2019 (Zhang to Cannady II)

g. Historic Preservation Section, dated June 10, 2019 (Stabler to Onyebuchi)

RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Subdivision and Zoning Section recommends that the Planning Board adopt the findings of this report and APPROVE Conservation Plan CP-18002 for East Hyattsville, Lot 21, Block F, as follows:

A. APPROVE Conservation Plan CP-18002 for East Hyattsville, Lot 21, Block F, subject to the following conditions:

1. Prior to certification of the conservation plan, the plan shall be revised, as follows:

a. Relabel the plan labeled as a "Chesapeake Bay Critical Area Conservation and Buffer Management Plan."

b. Add the Owner's Certificate to the plan and have it signed and dated by the owner or owner's representative.

c. The following revisions must be made to the General Notes:

(1) Revise General Note 1 to state "The site lies within the I-D-O Zone of the Chesapeake Bay Critical Area (CBCA)."

(2) Revise General Note 4 to state the correct acreage for the site (0.19 acre) and indicate that the entire site is within the I-D-O Zone.

(3) Revise General Note 5 by adding the following statement to the existing note: "No secondary buffer is associated with this site despite it being located within the County mapped 100-year floodplain, because an existing levee interrupts the natural hydrological flow between the mean highwater line of the Lower Northeast Branch of the Anacostia River and the Site."

(4) Revise General Note 10 to correctly state that the entire site is within the County mapped 100-year floodplain; however, it is associated

with a levee per a letter dated 12/26/18 from the Department of Permitting, Inspections and Enforcement.

(5) Revise General Note 11 to indicate that the plan will comply with Section 5B-113 of the Prince George's County Code.

(6) Revise General Note 16 to state that "This site is located within a Stronghold Watershed, as established by the MD DNR."

d. Complete the standard General Information Table and place it on the plan.

e. Delineate the existing tree-line (canopy line), along the perimeter of the property on the conservation plan and on the existing conditions plan.

f. Relocate all proposed major shade trees a minimum of 20 feet from the footprint of the proposed dwelling.

g. Provide a note on the plan indicating the applicable exemption from the Prince George's County Tree Canopy Coverage Ordinance.

h. Include a table of site statistics that includes:

(1) The total acreage of the subject property.

(2) The total acreage of woodlands on-site.

(3) The total acreage of floodplain on-site.

(4) The total acreage of woodland within the floodplain on-site as required.

(5) All acreages must be to the nearest hundredth of an acre.

i Add the proposed dwelling height in feet to the building height label on the plan.

j. Label each structure that is counted towards lot coverage with its square footage of lot coverage on the plan.

k. Add the required table with calculations showing compliance with the requirements of 10 percent phosphorous removal in the I-D-O Zone.

l. Identify the location of the proposed 4-foot-high fence as reflected on the stormwater management concept plan.

m. Revise Table A to reflect that the minimum net lot area for the subject property is 0.

n. Provide a general note regarding the Planning Board's action on the requested variances.

o. Revise the dwelling unit footprint to conform to the side yard building setbacks.

2. Prior to certification 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 the Maryland-National Capital Park and Planning Commission and the Liber/folio shall be shown below the conservation plan approval block.

B. APPROVE Variances to Section 27-442(b) and 27-442(d) of the Zoning Ordinance for:

1. NET LOT AREA (Minimum in Square Feet)

2. LOT/WIDTH FRONTAGE AT FRONT BUILDING LINE (Minimum in Feet)

C. DISAPPROVE Variance to Section 27-442(e) of the Zoning Ordinance for:

1. SIDE YARDS (Minimum Depth/Width in Feet)