



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-88007/06, VC-88007A, VC-88007B & VC-88007C

Application	General Data
Project Name: Indian Queen South Lots 67-69, Block C Location: South side of Edgewater Terrace approximately 100 feet east of its terminus Applicant/Address: McDaniels Development LLC 9470 Annapolis Road, Suite 226 Lanham, MD 20706	Date Accepted: 05/13/03
	Planning Board Action Limit: N/A
	Plan Acreage: 3.26
	Zone: R-R/L-D-O
	Dwelling Units: 3
	Planning Area: 80
	Council District: 8
	Municipality: N/A
	200-Scale Base Map: 213SW01

Purpose of Application	Notice Dates
This Chesapeake Bay Critical Area Conservation Plan requires Planning Board approval prior to the issuance of a building permit. CP-88007/06 serves as a major revision to CP-88007. The proposal is for the construction of three single-family detached dwellings. The currently approved Conservation Plan shows development on lots 67-69, Block C; however, variances are needed from the Zoning Ordinance because the proposed houses exceed the maximum net lot coverage.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 05/23/03
	Variance(s): Adjoining Property Owners: N/A

Staff Recommendation		Staff Reviewer: Jim Stasz	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			

Agenda Date: 06/12/03

Agenda Item:

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-88007/06, VC-88007A, VC-88007B
and VC-88007C
Indian Queen South, Lots 67-69, Block C

Council District: 8 Planning Area: 80 Municipality: None

OVERVIEW:

The proposal is for the construction of three single-family detached dwellings on lots 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.

Chesapeake Bay Critical Area Conservation Plan CP-88007/01 was approved for Indian Queen South on March 30, 1989. CP-88007 was withdrawn before being heard by the Planning Board. CP-88007/01 included the subject properties, along with 96 other lots and four parcels. CP-88007/02 revised the plan to bring it into conformance with the approvals of 4-91011 and DSP-91004. CP-88007/03 was a staff-level revision to the impervious surface table that transferred impervious surface from Parcel P to lots 67-71, Block C. CP-88007/04 was a staff-level revision to the impervious surface table to transfer impervious surface from lots 51-66, Block C, to lots 10-155, Block D. CP-88007/05 is currently under review to allow development on lots 150-155, Block D.

CP-88007/06 serves as a major revision to CP-88007. The proposal is for the construction of three single-family detached dwellings. The currently approved conservation plan shows development on lots 67-69, Block C; however, variances are needed from the Zoning Ordinance because the proposed houses exceed the maximum net lot coverage. Because the Planning Board is the final approving authority for conservation plans, the Planning Board may rule on the requested variances.

SITE DESCRIPTION:

The lots are on the south side of Edgewater Terrace, approximately 100 feet east of its terminus. There are no streams or wetlands on the property. There is substantial floodplain on the lots. Current air photos indicate that the site is partly 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 has been approved by the Prince George's County Department of Environmental Resources. The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Aura series. The site is in the Developing Tier according to the General Plan.

FINDINGS:

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 impervious surface for each of lots 67-69, Block C, is 5,000 square feet. The impervious surface calculations vary from 2,622 square feet to 2,820 square feet. The maximum net lot coverage for each of lots 67-69, Block C, is 2,500 square feet. The proposed net lot coverage calculations vary from 2,622 square feet to 2,820 square feet. Variances are needed to allow net lot coverages to exceed the 25 percent maximum set by Table II of Section 27-442(c) of the Zoning Ordinance.

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. If conformance with the grandfathering provisions can be found, the proposal can move forward. The following is an analysis of the text (shown in *italics*) from the Zoning Ordinance. The lots meet all of the requirements of the Zoning Ordinance to be considered a buildable lot in the R-R Zone. Additionally, the variances sought are not part of the Prince George's County Chesapeake Bay Critical Area program but are to provisions of the Zoning Ordinance that are applicable to all lots within Prince George's County.

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 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 Preliminary Plan of Subdivision was approved on September 8, 1972, as the first subdivision in Prince George's County utilizing provisions for R-R cluster development. The lots were recorded on August 28, 1980, and are shown on Record Plat NLP 107-31 in the Prince George's County Land Records. On the record plat, lot 67 is shown with a gross tract of 49,070 square feet and a net tract of 21,470 square feet, lot 68 is shown with a gross tract of 46,755 square feet and a net tract of 20,210 square feet, and lot 69 is shown with a gross tract of 46,232 square feet and a net tract of 19,782 square feet. During the review of CP-88007/01, the Prince George's County Department of Environmental

Resources determined that the floodplain easement shown on the record plat was not sufficient to enclose the 100-year floodplain. PGCPB. No. 89-169 contains the following:

“Prior to the issuance of grading permits for lots 66-71, Block C, the applicants shall obtain all necessary state and local permits for the filling of the 100-year floodplain. The area of fill shall be no less than that sufficient for the construction of a single-family dwelling, but no more than that necessary to create 10,000 square feet free-and-clear of the 100-year floodplain on any individual lot.”

All required permits were obtained and lots 66-71, Block C, were graded to create lots with net lot areas of 10,000 square feet. The conservation plan approved by PCGPB. No. 89-169 also includes a development table that limits the maximum net lots coverage on lots 67-71, Block C, to 2,500 square feet based upon net lots areas of 10,000 square feet.

Lot 71, Block C, was the subject of CP-00014 and 4-01035. As part of those approvals, lot 71 was reconfigured to have a gross tract area of 46,954 square feet, a net lot area of 15,479 square feet, and a maximum net lot coverage of 3,869.75 square feet.

The lot size, frontage, and vehicular access are in accordance with the requirements of the R-R Zone, and development of these lots requires no use of growth allocation.

Variance Analysis

Section 27-230(b) permits that variances may be granted from the provisions of the Zoning Ordinance or the *Conservation Manual* for property 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 (a). The following is an analysis of the application's conformance with the Zoning Ordinance 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: Lot 67 has a gross tract of 49,070 square feet and a net tract of 10,000 square feet, lot 68 has a gross tract of 46,755 square feet and a net tract of 10,000 square feet, and lot 69 has a gross tract of 46,232 square feet and a net tract of 10,000 square feet. These are unusually small net lot areas for lots of this size and represent 20 percent of the gross tract of lot 67, 21 percent of the gross tract of lot 68, and 22 percent of the gross tract of lot 69. Lots 138-145, Block C, are immediately across the street from the subject properties and have gross tract areas ranging from 14,540 square feet to 19,000 square feet; however, because none of these lots is encumbered by any 100-year floodplain, the net lot areas are 100 percent of the gross tract.

- (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 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 these variances neither creates a need for other variances nor establishes a special treatment.

- (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 significant 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 approved Chesapeake Bay Critical Area plan 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 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-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: Because 100-year floodplain area reduces the net tract areas, development with any

reasonable single-family residential structures would require some variances.

- (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 Table II of Section 27-442(c) of the Zoning Ordinance would result in the building area of the lot being reduced to an amount significantly less than lots with similar gross tract areas.

- (3) *The variances 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 May 23, 2003, the Subdivision Review Committee determined that the conservation plan was in general conformance with the requirements of the R-R Zone, the L-D-O Zone, and the *Conservation Manual*. This plan will replace sheet CP-4B of 5 (sheet 11 of 22 in the full set). Some minor technical changes have been made to bring the plan into complete conformance with all regulations. The revised plan accepted by the Prince George's County Department of Environmental Resources on May 28, 2003, has been determined to meet all applicable requirements. The granting of these variances is appropriate to permit reasonable development of the site with single-family residences that are similar in character to those in the neighborhood. Staff recommends approval of VC88007A, VC8807B and VC88007C.

RECOMMENDATION:

APPROVAL of VC-88007A, VC-88007B, VC-88007C and CP-88007/06.