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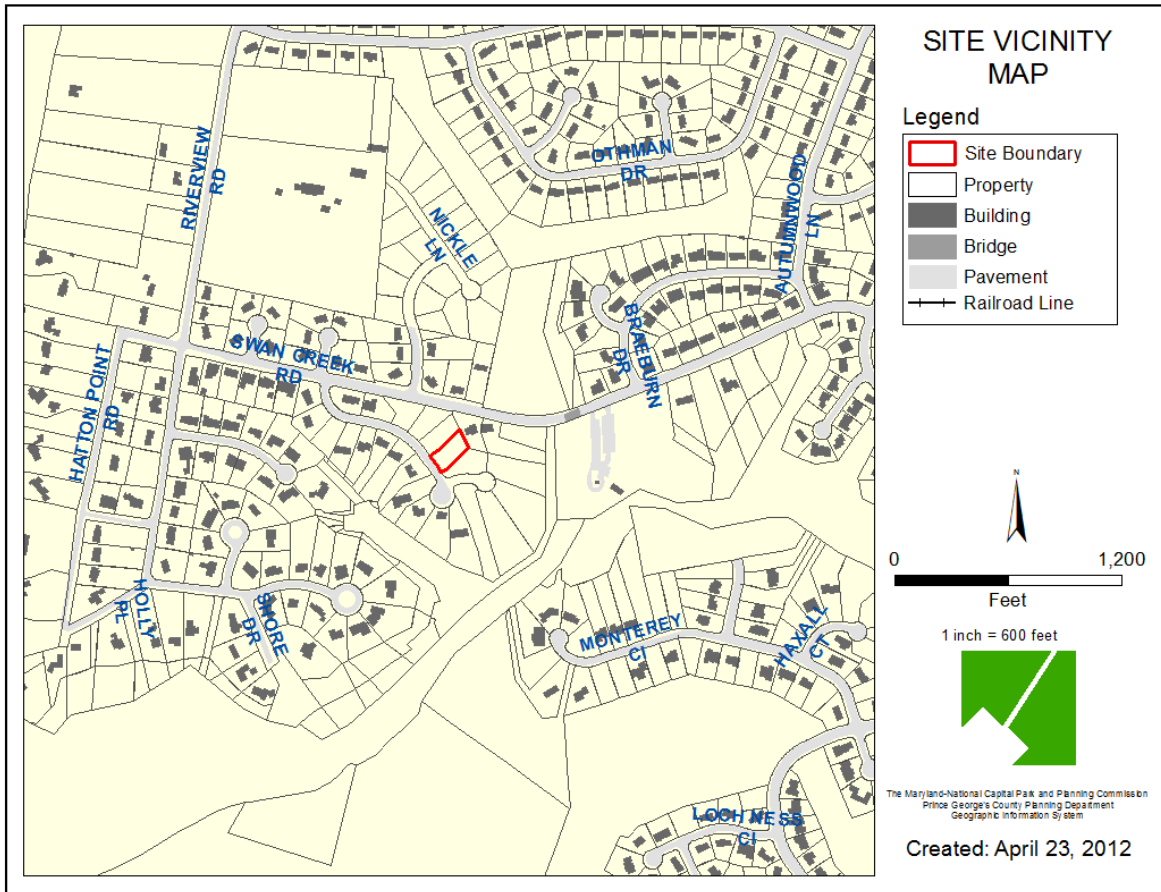
Conservation Plan Detailed Site Plan

CP-89039-11
DSP-90076-04

Application	General Data	
Project Name: Tantallon on the Potomac, Lot 6, Block E Location: East side of Firth of Tae Drive, 700 feet south of its intersection with Swan Creek Road. Applicant/Address: Walter T. & Genevive J. During 761 Ayrshire Lane Woodbridge, VA 22191	Planning Board Hearing Date:	05/09/13
	Staff Report Date:	04/25/13
	Date Accepted:	03/04/13
	Planning Board Action Limit:	05/13/13
	Plan Acreage:	0.46
	Zone:	R-R, L-D-O
	Dwelling Units:	1
	Gross Floor Area:	3,308 sq. ft.
	Planning Area:	80
	Tier:	Developing
	Council District:	08
	Election District	05
	Municipality:	N/A
	200-Scale Base Map:	216SE01

Purpose of Application	Notice Dates	
Construction of a 3,308-square-foot single-family detached dwelling with a garage and circular driveway on a vacant and wooded property within the Chesapeake Bay Critical Area (CBCA).	Informational Mailing:	01/30/13
	Acceptance Mailing:	03/01/13
	Sign Posting Deadline:	04/09/13

Staff Recommendation		Staff Reviewer: Meika Fields Phone Number: 301-780-2458 E-mail: Meika.Fields@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: Conservation Plan CP-89039-11
Detailed Site Plan DSP-90076-04
Tantallon on the Potomac, Lot 6, Block E

The Urban Design 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.

EVALUATION CRITERIA

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

- a. The requirements of the Limited Development Overlay (LDO) Zone of Chesapeake Bay Critical Area (CBCA).
- b. The requirements of Section 27-230, Criteria for granting appeals involving variances.

This detailed site plan (DSP) was reviewed and evaluated for conformance with the following criteria:

- a. The requirements in the Rural Residential (R-R) Zone and the site plan design guidelines of the Zoning Ordinance.
- b. The requirements of the 2010 *Prince George's County Landscape Manual*.
- c. The requirements of the 2010 Prince George's County Woodland and Wildlife Conservation and Ordinance.
- d. The requirements of the Tree Canopy Coverage Ordinance.
- e. Referral comments.

FINDINGS

Based upon the analysis of the subject application, the Urban Design staff recommends the following findings:

1. **Request:** The proposal is for the construction of a 3,308-square-foot single-family detached dwelling with a garage and circular driveway on a vacant and wooded property within the Chesapeake Bay Critical Area (CBCA). The approval of a conservation plan by the Planning Board is required prior to the issuance of permits in the Chesapeake Bay Critical Area (CBCA) because the approval of a variance to Subtitle 5B of the Prince George's County Code is required.

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2. **Location:** The 0.46-acre property is located on the east side of Firth of Tae Drive 700 feet south of its intersection with Swan Creek Road. The property address is 12308 Firth of Tae Drive, Fort Washington.

3. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-R/L-D-O	R-R/L-D-O
Use(s)	Vacant	Residential
Acreage	.46	.46
Total Gross Floor Area (GFA)	0	3,308 sq. ft.
Areas not included in GFA		
3-car garage		(638 sq. ft)
Unfinished Basement		(1,536 sq. ft)

OTHER DEVELOPMENT DATA

	PERMITTED	PROPOSED
Maximum Building Height	35 ft.	35 ft.
Maximum Lot Coverage (per R-R Zone)	25 percent	23 percent
Minimum Front Yard Setback	25 ft.	66 ft.
Minimum Side Yard Setbacks	8 ft./17ft.	18 ft./43 ft.

4. **Surrounding Uses:** The subject property is located within the Rural-Residential (R-R) and Limited Development Overlay (LDO) Zone within the Chesapeake Bay Critical Area (CBCA) and is surrounded by identically-zoned properties within the Tantallon on the Potomac Subdivision. Swan Creek Road is located north of the subject property. A tributary of the Potomac River is located south and east of the subject property, beyond which to the east is the Tantallon Marina. The Potomac River is located approximately 0.4 miles west of the subject property.

5. **Previous Approvals:** The site was previously reviewed as part of Detailed Site Plan, SP-90076 with a Type II Tree Conservation Plan TCP-II-183-90. A Chesapeake Bay Critical Area Conservation Plan, CP-89036, (Battersea on the Bay, Lot 17B) was approved by the Planning Board on December 21, 1989, and included approximately 38.6 acres of Parcel 52 of Tax Map 131. The Preliminary Plan of Subdivision 4-89176 was approved by PGCPB Resolution No. 89-652 on December 21, 1989. A limited Detailed Site Plan, DSP-90076, was approved by the Planning Board on October 18, 1990 and incorporated into the revised Conservation Plan, CP-89036-01, which was approved the same day. The subject lots were recorded by Final Plat VJ 157-36 on February 25, 1991.

Detailed Site Plan DSP-90076 was vested by the construction of residential structures on Lot 8 and Lot 9. The subject property was included in Conservation Plan CP-89039, but not in any subsequent revisions.

The approved Type II Tree Conservation Plan TCP-II-183-90 for the site became invalid with the current regulations when TCP2s were no longer required for applications within the Chesapeake Bay Critical Area.

The site is subject to the current Chesapeake Bay Critical Area (CBCA) regulations in Subtitle 5B of the Prince George's County Code. This lot had a previous approval for a single-family dwelling with a driveway to an attached garage in October 1990, which was revised in August 2005. According to Section 5B-116 (g), this approval has since expired because the plan validity period is only for three years after approval. No one-year extensions were received after the three year approval time expired.

6. **Design Features:** The 0.46-acre, wooded property is located on the east side of Firth of Tae Drive. The applicant proposes to construct a two-story, brick, 3,308-square-foot, single-family detached dwelling with a hip roof. A circular driveway with an approximate radius of 50 feet with a 20-foot-wide circular planting bed at its center is proposed in the front of the lot. The driveway leads to an attached three-car-garage on the northwestern corner of the dwelling. The primary building entrance is setback into the property approximately 21 feet from the front wall of the garage.

The plan indicates that one forest stand totaling 0.39 acres (17,291 square feet) currently exists on the property. The canopy is generally dominated by American Elm, Black Locust, and Virginia Pine trees with an average diameter at breast height (DBH) of four to twelve inches. The applicant's plan also indicates that approximately 4,609 square feet of the existing vegetation is invasive species. Upon full development, the applicant's site plan indicates that 3,025 square feet of existing woodland is to remain, which means that the applicant proposes to clear approximately 82.5 percent of the existing vegetation on the site.

COMPLIANCE WITH EVALUATION CRITERIA

7. **The Chesapeake Bay Critical Area Ordinance:** The site is located within the Limited Development Overlay (L-D-O) Zone; therefore, the site is subject to the Chesapeake Bay Critical Area regulations. The purposes of the L-D-O Zone, as outlined in Section 27-548.14 are to: maintain or, if possible, improve the quality of runoff and groundwater entering the tributaries of the Chesapeake Bay; maintain existing areas of natural habitat; and accommodate additional low- or moderate-intensity development. The regulations concerning the impervious surface ratio,

density, slopes, and other provisions for new development in the L-D-O Zone are contained in Subtitle 5B of the Prince George's County Code, as follows:

Section 5B-114, Limited Development Overlay (L-D-O) Zones.

(e) **Development standards. An applicant for a development activity shall meet all of the following standards of environmental protection in the L-D-O Zone:**

- (1) **All development sites that are within the designated network of the Countywide Green Infrastructure Plan shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this Subtitle. The wildlife corridors shall be included and identified on the Conservation Plan. The maintenance of the wildlife corridors shall be ensured by the establishment of conservation easements.**

Comment: The site is located within a Network Gap of the Countywide Green Infrastructure Plan. The woodlands on the subject site are connected to existing tracts of connected woodland on developed lots that consist of a habitat corridor leading to the open waters associated with the main channel of the Patuxent River Basin. Ideally, the woodlands in the rear of the site would contribute greatest to this corridor and meet the intent of Section 5B-114(e)(1). In a previous approval of the site, woodland preservation was focused in the rear of the site, on the east and west sides of the proposed sewer easement. Staff recommends that the conservation plan be revised to be more consistent with the previous approval, which would result in the removal and redesign of the proposed driveway, and the relocation of the proposed dwelling approximately 40 feet closer to the front lot line.

A condition regarding the preservation/planting of woodlands has been recommended to address this requirement.

- (2) **For the cutting or clearing of trees in natural or developed woodland areas in current, planned or future activities in the L-D-O Zone, the following shall be addressed:**
 - (A) **Development activities shall be designed and implemented to minimize the destruction of woodland vegetation;**
 - (B) **Provisions for protection for natural and developed woodlands identified shall be provided;**
 - (C) **The total acreage of natural and developed woodlands shall be maintained or preferably increased to the fullest extent practicable; and**
 - (D) **Mitigation for woodland impacts shall be within the Critical Area.**

Comment: Based on staff review, the proposed development is not designed to minimize the destruction of woodland vegetation. The proposed clearing on the front side of the

proposed dwelling for the circular driveway results in a significant amount of clearing over the maximum allowed by the code without a variance (30 percent). Additionally, an open, nonwooded area in the northeast corner of the site is proposed to remain unwooded. This area should be planted as woodlands as part of the mitigation requirement resulting from the proposed clearing.

A condition regarding the preservation/planting of woodlands has been recommended to address this requirement.

- (3) For the alteration of natural and developed woodlands in the L-D-O Zone, the following requirements shall apply:**
 - (A) All woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;**
 - (B) No more than 20 percent of any natural or developed woodland may be removed from forest use, except as provided in paragraph (4) below. The remaining 80 percent shall be maintained through conservation easements; and**
 - (C) Developed woodlands shall be preserved and/or restored to the greatest extent practicable.**
- (4) For replacement of natural and developed woodlands, if more than 20 percent is to be removed from forest use, an applicant may clear or develop not more than 30 percent of the total forest area provided that the afforested area shall consist of 1.5 times the total surface acreage of the disturbed forest or developed woodland area, or both.**

Comment: The County Code requires that woodland be preserved on-site to the greatest extent practicable. As a disincentive and to discourage overdevelopment of a site containing woodlands, the code requires that any on-site clearing in the L-D-O be replaced at a 1:1 ratio for woodland cleared up to 20 percent, and at a 1.5:1 ratio for any woodland cleared over 20 percent. For off-site woodland clearing, the replacement requirement is also 1.5:1 because more than 20 percent of woodland has been cleared for the development of that site (Lot 8). The proposed clearing on the plan not only exceeds the 20 percent threshold, it exceeds the 30 percent threshold, and therefore a variance request is needed to justify the excessive amount of clearing.

The worksheet submitted has been revised on the current plan. The plan contains two woodland calculation worksheets. The first worksheet is labeled “This is a revision to DSP-90076-01 and CP-89039.” The second worksheet is labeled “CBCA Woodland Calculation Worksheet.” The plan should only show one worksheet. Because both worksheets are not in accordance with the standard worksheet reviewed by staff, both worksheets need to be removed and replaced with the Environmental Planning Section’s standard worksheet.

The first worksheet was not sufficient for review. There are several errors shown on the second worksheet and it could not be used to do a complete review of the plan. The second worksheet shows an incorrect total woodland area of 17, 219 square feet. The correct square footage is 17,291 square feet. The worksheet calculates the total area of

invasive species on the site; however, the CBCA code does not distinguish invasive species separately from woodland or developed woodlands. The worksheet shows a section for Net Area of existing woodland based on the area of invasive species. As discussed earlier, the area of woodland limits was identified and confirmed onsite by staff and the Qualified Professional who delineated the site. Also, because the invasive species are part of the overall woodland area, they cannot be subtracted from the total woodland area.

The worksheet states that the proposed clearing is 9,060 square feet; however, according to staff's review, the plan proposes the clearing of 14,266 square feet of on-site woodlands. The plan only shows the preservation of 3,025.21 square feet of woodland and the proposed design demonstrates that the remaining woodlands would be cleared. The plan states that the off-site clearing is 175 square feet; however, upon review of the plan, staff calculates the off-site clearing to be approximately 1,360 square feet. The total on-site woodland clearing is 83 percent of the existing on-site woodlands, which is required to be mitigated/replaced at 1.5 square feet for every one- square-foot because it exceeds the 20 percent maximum clearing allowed. For the off-site clearing, it must be mitigated/replaced at 1.5 square feet for every one-square-foot because the proposed clearing on that lot exceeds the 20 percent maximum that was cleared on the site under the previous conservation plan. After all on-site mitigation options have been exhausted for both areas of woodland clearing, the remaining requirement must be met with fee-in-lieu at a rate of \$1.50 per square foot in accordance with Section 5B-116(k)(1)(B). Because woodland cannot be replanted within the proposed water/sewer easement, the entire off-site must be met with fee-in-lieu. As proposed on the submitted plan, staff has determined that the total required woodland replacement fee-in-lieu cost is \$35,158 (\$32,098 on-site and \$3,060 off-site). Below are copies of the standard CBCA worksheet for on-site and off-site, with the calculations based on the plan as submitted.

CBCA Developed Woodland Calculations (outside the Buffer)	
Lot 6	
Existing gross lot area (SF)	20,072
Area of existing woodland (SF)	17,291
Percent of existing woodland on-site	86%
Proposed woodland clearing (SF)	14,266
Percent of proposed woodland clearing (%)	83%
Mitigation rate required	1.5
Area of required woodland replacement (SF)	21,399
Credit for on-site planting (SF) *see planting schedule this sheet*	0
Area of mitigation requirement not met on site (SF)	21,399
Proposed fee-in-lieu (\$1.50/SF) for required mitigation not met on-site	\$32,098.50

CBCA Developed Woodland Calculations (outside the Buffer) Lot 8 (off-site clearing)	
Existing gross lot area (SF)	20,647
Proposed woodland clearing (SF)	1,360
Mitigation rate required	1.5
Area of required woodland replacement (SF)	2,040
Credit for on-site planting (SF) *see planting schedule this sheet*	0
Area of mitigation requirement not met on site (SF)	2,040
Proposed fee-in-lieu (\$1.50/SF) for required mitigation not met on-site	\$3,060.00

The applicant/owner submitted a list of options to address the on-site woodland clearing. Because most of the options are not in conformance with the Critical Area Ordinance, these options are not supported by staff. Staff recommends several revisions to reduce the clearing to under 30 percent, including: designing the dwelling closer to the front of the lot, which would allow more woodlands to be preserved in the rear of the dwelling; woodland planting in the open/non-wooded area of the lot in the northeast corner; and a reduction/redesign of the proposed driveway.

(5) Clearing in excess of 30 percent of a natural or developed woodland is prohibited without a variance.

Comment: This site has a gross tract area of 20,072 square feet containing 17,291 square feet of developed woodlands. These developed woodlands are 86 percent of the vegetative coverage on-site subject to the preservation requirements of the code. The applicant proposes to clear 14,266 square feet of woodlands which is 83 percent of the existing woodlands. A variance is required. For discussion of the variance request see Finding 8.

(6) In addition, applicants shall adhere to the following criteria for forest and woodland development:

- (A) At time of permit issuance, the permittee shall post a bond with DPW&T in an amount equivalent to the cost of completion of the planting requirements for the L-D-O Zone;**
- (B) Woodland which have been cleared before obtaining a grading permit or that exceed the maximum area allowed in subsection (3) above shall be replanted at the rate specified in subsection 5B-109(j)(3)(A);**
- (C) If the areal extent of the site limits the application of the reforestation standards in this section, alternative provisions or reforestation guidelines may be permitted in accordance with Section 5B-119 Woodland Protection and Planting of this Subtitle. Alternative provisions must conserve, enhance, or increase the natural and developed woodland resources of the Critical Area.**

- Alternative provisions may include fees-in-lieu provisions or use of an off-site conservation bank if the provisions are adequate to ensure the restoration or establishment of the required woodland area;**
- (D) If less than 15% natural or developed woodland exists on the proposed development site, the site shall be planted to provide a natural or developed woodland cover of at least fifteen percent (15%);**
 - (E) All forests designated on a Conservation Plan shall be maintained to the extent practicable, through conservation easements;**
 - (F) The applicant shall designate, subject to the approval of the County, a new forest area on a part of the site not forested; and**
 - (G) All forests designated on a Conservation Plan shall be maintained, and to the extent practicable protected through conservation easements.**

Comment: A Chesapeake Bay Conservation and Planting Agreement will be required to be executed and recorded prior to permit approval for development of the site. This is for all the required tree and shrub plantings as part of this development. Review of the Conservation and Planting Agreement falls under the purview of DPW&T; however, recordation of this document is the responsibility of the property owner.

A Conservation Easement will be required for the natural woodland that is to remain undisturbed on-site per Section 5B-114(e)(3)(B) of the County Code. This Conservation Easement is just for the subject lot to prevent a loss of on-site woodlands. A metes and bounds description must accompany the easement. Reviewing and recordation of the easement falls under the purview of DPW&T prior to the issuance of the first permit.

- (7) Applicants shall adhere to the following standards for development on steep slopes. Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for L-D-O Zones set forth above and with the provisions below.**
 - (A) Consistent with an approved Forest Management Plan, if applicable;**
 - (B) Consistent with an approve Surface Mining Permit, if applicable; and**
 - (C) Consistent with an approved Soil Conservation and Water Quality Plan, if applicable.**

Comment: Development on slopes greater than 15 percent is not proposed.

- (8) Critical Area lot coverage shall be limited to 15 percent of the site or as permitted by 27-548.17(c).**

Comment: In accordance with Section 5B-114 (e)(8) and Section 27-548.17(c)(2) of the County Code, the CBCA lot coverage requirement for the site is no more than 25 percent of the site. A review of the plan and Table B-1 (CBCA Lot Coverage) demonstrate that the proposed development totals 4,850 square feet of lot coverage, which is below the 25 percent requirement. The plan needs to be revised to label all structures on the plan that are listed on Table B-1.

- (9) **Conservation plans and associated development plans may propose modifications in road standards on a case-by-case basis to reduce potential impacts to the site, reduce total lot coverage in the Critical Area, and limit impacts to Critical Area resources, where the reduced standards do not significantly affect safety.**

Comment: The above provision does not apply to the subject proposal. Modification of road standards is not proposed.

8. **Required Findings for Approval of a Variance:** The applicant proposes to clear 14,266 square feet, or 83 percent, of existing woodlands on the site. According to Section 5B-114(e)(5), clearing in excess of 30 percent of a natural or developed woodland is prohibited without a variance. Section 27-230 of the Zoning Ordinance contains the following required findings to be made before a variance to Subtitle 5B can be granted.

- (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 applicant's justification is that the lot is "the only piece of real property that does not have direct access to the sewer system." The justification also noted notes on the approved plat that grants the site reasonable access to the water and sewer. While there is a sewer connection closer to the subject lot, access for an easement to connect through the adjacent lot (Lot 7) was not secured.

No other justification for this finding was provided. Staff finds that the clearing for the sewer connection is necessary for development; however, the house can be located closer to the building restriction line. The previous conservation plan for this lot was approved with a design consistent with staff's recommended relocation of the dwelling and preservation of woodlands in the rear to preserve a connection to a larger tract of woodlands off-site.

The sight has no significant topographic constraints or other unique conditions that would prohibit the development of a residential dwelling. The proposed house footprint is consistent with the type of recent development approved within the subdivision under CBCA regulations; however the driveway is not. No justification was provided for the proposed driveway. Finding that there are no significant site constraints or unusual conditions, the circular driveway should be redesigned to show a direct connection to the garage loading area and the house footprint should be relocated closer to the BRL (approximately 40 feet). Woodland in the rear of the home should be preserved to the

extent practicable (outside of the rear yard area and sewer easement) and in accordance with the goals of the green infrastructure plan.

(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 applicant has stated that the owner of Lot 7 is requesting that the entire lot be purchased to access the closer sewer connection. It should be noted that staff is not in disagreement on where the sewer is connected because it is necessary to develop the site, although the closest easement would be best. Whether the site is connected through Lot 7 or Lot 8, the layout should be designed to preserve woodlands in accordance with the code. The applicant states that because the connection has to occur through Lot 8, the house needs to be located deeper into the lot to attain the desired flow; however, it is very possible to attain flow if the dwelling is relocated. In cases where positive drainage is a concern, it is common to use a grinder pump, which ensures positive drainage to the main sewer connection.

The applicant states that there are other dwellings that are similarly recessed within their lots; however, a review of the lots in and around the areas confirmed that those lots were developed prior to the CBCA regulations adopted in 1990. Staff did identify one lot that was approved with a dwelling recessed into the lot; however, that lot was designed with a direct driveway, and not a circular driveway. Some woodland in the front of the dwelling was preserved.

The allowable woodland clearing for the L-D-O is 20 percent and the current application proposes a total of 83 percent woodland clearing. The strict application of the 20 percent maximum clearing would present an undue hardship by severely limiting the ability of the applicant to develop the property. At 30 percent, development on the site would also be significantly limited; however, a reduction in the driveway would not present an undue hardship or difficulty because its primary function, to provide vehicular access to the site and to the garage, would not be lost. If the house cannot be relocated closer to the BRL, the driveway should still be reduced to a direct access and woodlands in the front of the dwelling, near the east and west boundaries, should be preserved to the extent possible.

No justification for the driveway was provided for this finding.

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

Comment: The applicant again refers to the granting of the variance for the sewer system; however, no other clearing on the site is addressed. Again, staff is not contesting the need for a sewer connection.

The General Plan Policy states for sites within the Developing Tier the policy is to “Preserve and enhance environmental features and green infrastructure elements.” The woodlands on-site could be enhanced by planting woodlands within the open nonwooded area of the site within the northeast corner.

This site is within a Network Gap Area of the Countywide Green Infrastructure Plan (GIP), a functional Master Plan. Network Gaps are areas critical to the connection of

Regulated and Evaluation areas that are usually associated with a regulated water feature. As stated previously, the site contains woodland connected to a habitat corridor that leads to the Patuxent River Basin. Clearing of the woodland would not substantially impair the goals of the GIP, but it would contribute to this connection by preserving the woodlands in the rear of the site and would meet the intent of the GIP and the CBCA Code.

- (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 applicant states that all lots have access to the sewer system and also notes that there are high costs and proper elevation needed for proper flow with this sewer connection. There is no objection to the applicant having access to the sewer system, nor clearing for access to the sewer system. It is necessary infrastructure; however, the original design for the subdivision and the subject Lot 6 had the sewer line crossing Lot 7, and then connecting with a sewer line in Moyer Court; however, the proposed sewer line easement was never platted. The previously approved design had the sewer line crossing Lot 8, and then connecting with the main sewer line on Swann Creek Drive, similar to the current proposed design; however, the dwelling on the previously approved plan was located closer to the front of the lot, preserving more woodland, specifically in the northwest corner.

No justification was provided for the clearing in the front of the proposed dwelling for the circular driveway. The proposed location of the dwelling results in an increased amount of clearing; however, if the Planning Board determines that the location of the house is necessary for the proposed sewer connection, staff's position regarding the proposed driveway remains because no special circumstances were presented nor found to warrant excessive clearing for the driveway as shown. Because the driveway contributes significantly to the excessive clearing, it should be reduced to allow what is practicable for the site, to access the home site and garage.

No alternative analysis was submitted showing various alternative ways to gain utility access for the subject lot; however based on discussion with the Washington Suburban Sanitary Commission (WSSC), a grinder pump would allow proper flow, if needed, allowing a layout consistent with the previously approved plan.

- (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: The applicant states that enforcement would render the lot unbuildable and “during the land acquisition process, the approved SDP and CP that were conveyed and relied upon showed an identical amount of clearing.” The developed lots approved as part of the subdivision were all approved with some woodland preservation on the Lot.

The subject lot was approved with a subdivision in 1990 and revised as a single lot in 2005. The developed woodland clearing on the current application appears to be significantly more than what was previously approved in 2005. Many of the adjacent neighbors on the north side of Firth of Tae Drive have more restrictive parcels. Most of the lots on the south side of Firth of Tae are larger, contain primary and secondary buffers which require stringent protection requirements, and more importantly, were developed prior to the CBCA regulations. The subject lot does not have any special buffers; however, the desire to build a larger footprint home consistent with other homes in the surrounding area is understood. It should be noted that lots under this subdivision and most lots under the CBCA code were not constructed with circular driveways due to the desire to reduce clearing and impervious area to the fullest extent possible. The approved 2005 plans demonstrates that the woodland clearing in the subject application can be reduced and still meet the development goals of the applicant.

- (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 driveway as proposed results in an excessive amount of clearing over the amount needed to construct the dwelling, which is already over the 30 percent maximum. Granting of the variance would present a special privilege with regard to over-development of a site that is subject to regulations aimed to minimum development/clearing to the extent practicable in the CBCA Overlay Zone. There are three other lots along Firth of Tae and Moyer Court that have circular driveways; however, those lots were developed in the 1980’s prior to the adoption of State Critical Area Program, the CBCA County Code and stormwater management regulations. The proposed circular driveway is located almost 40 feet beyond the front yard setback limits.

- (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 majority of developed woodland clearing on Lot 6 is the result of the proposed design by the applicant. The lot is 86 percent wooded; therefore it could not be developed without some clearing; however, the proposed driveway results in an excessive amount of clearing above the minimum needed to develop what is necessary to serve the proposed dwelling.

- (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;**

- (6) The development plan would minimize adverse impacts on water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands;**
- (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: With regard to Findings 5–7, adverse water quality impacts are not anticipated. The site has an approved Stormwater Management Concept Plan and Letter of Approval (31182-2005-01) that shows infiltration using drywells and recommends a fee of \$500 in lieu of providing on-site attenuation/quality control measures.

The general spirit and intent of the State Critical Area Law is to allow reasonable use of properties within the Critical Area while preserving, enhancing and/or restoring vegetation of existing areas of natural habitat. The subject lot at its closest point to open water is 414 feet away from tidal waters. This entire 414 feet length is comprised with developed woodlands. The entire project area is within the Network Gap area of the June 2005 *Approved Countywide Green Infrastructure Plan*. The on-site developed woodlands are part of a riparian wooded corridor around the adjacent tidal waters. This application's proposed woodland clearing would remove a portion of the corridor to the large wooded tract to the north.

Currently, most of the property will drain to the far eastern corner where the subject property meets Lots 7 and 8. The stormwater is then conveyed across the adjacent wooded lots to sheet flow to the south and east. The application will remove 83 percent of the on-site woodlands, add impervious structures and create a more concentrated storm flow coming off this site towards the adjacent woodlands. The best option for woodland preservation on-site is to minimize the woodland clearing in the rear yard and concentrate the development to the front half of the site. This would allow better sheet flow/filtration before any runoff flows into the adjacent waters. The applicant's concern is adequate sewer flow; however flow can be achieved through a grinder pump if elevation is not sufficient.

The applicant states that there are no rare, threatened or endangered (RTE) species at this location. All areas in the Critical Area need protection for all animals and plants not just RTE species.

- (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: No adverse environmental impacts for two adults and one student child away on campus are anticipated.

- (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.

Based on staff's review of the current plan, variance request, and previously approved conservation plan, woodlands have not been preserved and/or restored to the fullest extent practicable. Staff recommends that revisions to reduce the on-site developed woodland clearing be required as a condition of the granting of the variance. The applicant could relocate the proposed house closer to the front yard setback off Firth of Tae Drive and show a reduced driveway instead of the circular drive that directly connects to the proposed garage. Staff's review does not dispute the sewer connection, as it is understood clearing is required for this infrastructure. If the Planning Board finds that the house should not be relocated due to positive drainage, at a minimum, the proposed driveway should be reduced. The above listed recommendation on the subject lot will create two larger preservation areas in the rear of the lot with a narrow ten-foot clearing for the needed utility connections and adequate rear yard activity area. A small open area along the rear property line should be reforested to help expand the existing on-site developed woodlands. It also may be necessary to relocate the proposed wall.

At this time, staff cannot recommend a finding for conformance with all of the required findings of 27-230 regarding lot clearing in excess of 30 percent because the plan and variance justification do not demonstrate the preservation and/or restoration of woodlands onsite to the fullest extent practicable. The site contains 17,291 square feet or 86 percent of developed woodlands. The proposed design shows 14,266 square feet or 83 percent of the on-site woodlands being removed. If the plan is revised in accordance with the recommended conditions, staff believes the plan can demonstrate the preservation and/or restoration of woodlands on-site to the fullest extent practicable and meet the findings of Section 27-230 of the Zoning Ordinance.

9. **Prince George's County Zoning Ordinance:** The application conforms to the requirements of the R-R Zone, including Section 27-441, Permitted Uses; Section 27-442; and site design guidelines contained in Sections 27-283 and 27-274.

- a. The proposed single-family detached residence is a permitted use and meets the setback, lot size and lot coverage requirements, as follows:
 - (1) Required net lot area is 20,000 square feet. The provided net lot area is 20,072 square feet, which meets this requirement.
 - (2) Maximum permitted lot coverage is 25 percent. The proposed lot coverage is 23 percent if the net lot area, (or 4,618 square feet), which meets this requirement.
 - (3) The required front yard setback is 25 feet. The minimum front yard setback is exceeded, but it is not delineated on the plan, and should be provided on the plans prior to certificate of approval.
 - (4) The required side yard setbacks are a minimum of eight feet from the property line to the building, and the total of both side yards should be a minimum of 17 feet. The side yard setbacks are demonstrated on the site plan and they meet this requirement.
 - (5) The required rear yard setback is 20 feet. The minimum rear yard setback is exceeded, but it is not delineated on the plan, and should be provided on the

plans prior to certificate of approval.

- (6) The maximum building height permitted is 35 feet. The site plan indicates that the building will be two stories, and 35 feet in height, which meets this requirement.
- (7) No accessory buildings are indicated on the site plan.

Based on this analysis of the Zoning Ordinance requirements, no variances from the above provisions are required.

- b. The detailed site plan (DSP) is in general conformance with the applicable site design guidelines contained in Sections 27-283 and 27-274. The following discussion is offered:
 - (1) In accordance with Section 27-274(a)(7)(A), Grading; grading should be performed to minimize disruption to existing topography and other natural resources on the site. To the extent practicable, grading should minimize environmental impacts.

Comment: The submitted detailed site plan and conservation plan does not clearly indicate the extent of the grading that is proposed. In addition to this, the proposed tree line is not provided on the plan. The grading plan should be designed to minimize impacts of the construction on the existing trees on the site. The plan shall be revised to clearly show proposed topography and the proposed tree line. Staff encourages the applicant to reduce the limit of disturbance of the grading to lessen environmental impacts.

- 10. **2010 Prince George's County Landscape Manual:** The application is subject to Section 4.1 Residential Requirements. The over 20,000-square-foot lot requires 4 major shade trees and 3 ornamental or evergreen trees. The conservation plan indicates that the requirement is to be met through existing plant material. Landscaping provided in accordance with the requirements of the 2010 *Prince George's County Landscape Manual* is required to conform to Section 4.9, Sustainable Landscaping Requirements. Section 4.9 requires certain percentages of native plants be provided on-site, along with no invasive plants, and no plants being planted on slopes steeper than three-to-one. A Section 4.9 schedule should be provided on the plan. Based on the information provided, the applicant does not propose the planting of invasive or non-native trees; therefore, conformance with the requirements of Section 4.9 may be found.

As the site is located within the Chesapeake Bay Critical Area (CBCA), the removal of existing vegetation, including invasive species, is discouraged. For this reason, removal of invasive species in accordance with Section 1.5, Certification of Installation of Plant Materials is not recommended.

- 11. **Prince George's County Woodland and Wildlife Habitat Conservation Ordinance:** The project is not subject to the Woodland and Wildlife Habitat Conservation Ordinance (WCO), because the entire site is within the Chesapeake Bay Critical Area (CBCA), therefore a Letter of Exemption from the WCO will be issued.

12. **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, it is exempt from the TCC Ordinance in accordance with 25-127 (b)(1)(E).
13. **Referral Comments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:
 - a. **Environmental Planning Section**—In a memorandum dated April 19, 2013, the State of Maryland Critical Area Commission provided comment on the subject conservation plan, as follows:
 - (1) **Existing Conditions:** The conservation plan is a development plan that also serves as site's existing conditions plan which was reviewed for verification prior to the acceptance of the detailed site plan application. The plan accepted for review for this application was confirmed to show that the 20,072-square-foot site is 86 percent wooded and contains no development. The on-site woodlands have been assigned a Priority 3 rating because they are not associated with any Waters of the U.S. and also because of the presence of invasive species within the woodlands.

The most recently submitted CP, received March 18, 2013, has been revised from the plan reviewed for acceptance and the previously submitted plan (received December 21, 2013). It now shows a reduction in the woodland limits from what was shown on the previous plan. The on-site acreage and woodland limits previously reviewed and confirmed by staff were delineated by a Qualified Professional who confirmed the on-site limits via phone in January 2013 and again in April 2013.

A site visit was conducted in January 2013 by the Maryland-National Capital Park and Planning Commission (M-NCPPC) Planning Department staff to investigate the on-site woodlands because the applicant/owner indicated in an e-mail dated March 15, 2013, that the areas with no trees were not excluded from the computation. It appears this comment was due to the presence of understory vegetation, invasive species and/or disposed Christmas trees in the wooded area; however it should be noted that the CBCA County Code considers areas of invasive species and understory as part of developed woodlands, which is subject to the code. It is common for these areas to make up the forest floor. It was also noted that the area of disposed trees were in a platted right of way. Based on the site visit, staff agrees with the Qualified Professional, Mr. Ken Wallis, that the woodland limits and acreage (17,291 square feet) were correct as originally delineated and that the existing woodlands/developed woodlands meet the definition of developed woodlands.

The off-site woodland limits are not consistent with the plan. Staff performed a site visit on April 19, 2013 because the most current aerial photos indicated that the entire area within the proposed clearing area for the sewer connection was wooded. The proposed off-site sewer connection is located along the western boundary of proposed Lot 8. The site visit confirmed that the area was entirely wooded. Revise the plan to show the correct limits of the off-site woodland on Lot 8 where the sewer connection is proposed.

(2) **Plan Preparation:** A number of revisions are recommended to the plan prior to certificate of approval.

- (a) The limits of disturbance (LOD) indicates that the entire area on the front side of the proposed dwelling is proposed to be cleared for a circular driveway and landscaping with existing and proposed trees. For clarity, the conservation plan should label each individual tree, shrub, etc., existing or proposed on the plan and in the legend; and remove the symbol for the canopy width of the existing trees on the plan and in the legend.
- (b) The plan set has been increased with written information and details. To reduce the cluttered appearance and amount of unnecessary information on the plan set, remove the CBCA checklist from Sheet 2 of the plans and provide it on 8 ½ x 11-inch paper. This information is not required on the conservation plan.
- (c) The proposed plan only shows the existing grade/contours and not the proposed grade/contours. Revise the plan to show the proposed grading and associated contours on the plan.
- (d) The conservation plan (CP) shows a planting schedule which indicates that some tree planting is proposed on the site. According to the schedule and the worksheet, the applicant proposes to use the plantings as 2,800 square feet of credit to mitigate for some of the proposed clearing. The plantings as listed in the schedule are identified as canopy trees, small shrubs, large shrubs, and understory trees. The specific tree and shrub species were not provided. It should be noted that the CBCA code does not contain a provision for credit for individual plantings outside of the CBCA primary and secondary buffers; however, staff recommends credit for shade trees proposed to be planted towards woodland replacement after all on-site woodland preservation, afforestation and reforestation efforts have been exhausted. The credits must be in accordance with Table (g)(2) of Subtitle 5B. The table must specify the species, caliper and height of each tree proposed to be planted. Shrubs and ornamental trees cannot be used as credit. The legend only identifies one shade tree species as proposed; however, it could not be located on the plan. As proposed on the plan, no shade trees are proposed to be planted.
- (e) The plan also shows a schedule for credit for existing trees proposed to remain on the site; however the code does not allow credit for existing trees to remain. Remove the schedule entitled “Existing Tree Planting Credit Schedule.”
- (f) The Cover Sheet of the plan set shows a 12-inch-high by 12-inche-wide retaining wall that is 69 feet long. The wall shown on the plan view on Sheet 1 of 2 is 35 feet long and does not go into the woodland preservation area. When reviewed with the site plan as show on the cover sheet, the 69-foot-long wall shown on the cover sheet would be located through a developed woodland area that Sheet 1 proposes to preserve.

Revise the retaining wall on the cover sheet to match the 35 foot long proposed wall. The height of the proposed wall is not shown on the plan. Label the height of the proposed wall. Revise the retaining wall on Sheet 1 to be more readable on the plan by using a more legible symbol. If the proposed wall is revised to be longer, the plan and worksheet shall be revised as necessary.

Retaining walls are used to bring the site to a grade that is stable and level enough for safe development. The plan does not show the proposed grades for the site, particularly for the area of the retaining wall. A condition has been recommended to show the proposed grading for the entire site within the limits of disturbance (LOD).

- b. **Permit Review Section**—In a memorandum dated January 21, 2013, the Permit Review Section provided the following comments regarding the site plan.
 - (1) All plan revisions not previously addressed by the applicant should be provided prior to signature approval of the detailed site plan.
 - (2) Per Section 27-442 of the Zoning Ordinance, provide house template demonstrating the dimensions of the structure and dimensions of any and all bump-outs, (if the front stoop has a roof provide dimensions and this counts as lot coverage) height, number car garage, setbacks and distance of dwelling to each property line and right-of-way (this is from the furthest bump-out). If there is a deck at the rear, identify and provide dimensions.
- c. **Historic Preservation Section**—In a memorandum dated December 27, 2012, (Moore to Fields), the Historic Preservation Section found that the subject application will have no effect on identified Historic Sites, Resources, or Districts.
- d. **Archaeology**—A Phase I archeological survey is not recommended on the above-referenced 0.46-acre property located at 12308 Firth of Tae Drive in Fort Washington, Maryland. The application proposes a 3,308-square-foot single-family residence located in the Chesapeake Bay Critical Area. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. A 1968 aerial photograph indicates the property was graded at that time. This proposal will not impact any known historic sites, historic resources, documented properties or archeological sites.
- e. **Critical Area Commission**—In a memorandum dated January 24, 2013, the State of Maryland Critical Area Commission provided comment on the subject conservation plan. The Critical Area Commission indicated that clearing in excess of 30 percent of natural or developed woodland is prohibited without a variance. Revised comment on the variance request has not been received from the Critical Area Commission prior to the publishing of the technical staff report.
- f. **Washington Suburban Sanitary Commission (WSSC)**—In comments dated January 4, 2013, WSSC provided an evaluation of the subject proposal, summarized as follows:

- (1) The Water House Connection (WHC) shown to Swan Creek Road will probably not be approved because a WHC can be made to Firth of Tae Drive. Show the WHC to Firth of Tae Dr.
- (2) The proposed alignment for the Sewer House Connection (SHC) will require a revised non-abutting connection review from WSSC. The previously approved non-abutting connection was for a different alignment connecting to Moyer Ct.
- (3) Align service connections to avoid environmental, storm water management facilities, ESD, devices, other utilities, landscaping, tree boxes and structures or paving impacts for future maintenance.
- (4) If elevations do not allow a gravity sewer connection, an ejector or grinder pump and pressure sewer connection will be required for sewer service.

Comment: The site plan shows water and sewer connections to Swan Creek Road. The applicant has indicated the following reasons for this connection: (1) the easement cannot be secured with property owner of Lot 7; (2) the cost to construct the short sewer extension line from its terminus at Moyer Ct. and Firth of Tae Dr. to serve a single property is exorbitant and above the applicant's construction budget; and (3) the owner of 1108 Swan Creek Road has signed the easement that is pending registration.

- g. **The Department of Public Works and Transportation (DPW&T)**—In comments dated January 7, 2013, DPW&T provided an evaluation of the subject proposal, summarized as follows:

- (1) The proposed site development is consistent with the approved Stormwater Concept and Technical Plan 31182-2005-01 dated October 1, 2012.
- (2) The plantings in the conservation area must be bonded and the fee-in-lieu must be paid prior to permit issuance. The plans should be revised to show any proposed mitigation planting on the lot and off site mitigation plan details.
- (3) The Conservation Easement. Conservation Planting Agreements must be recorded prior to permit issuance.

- h. **Prince George's County Health Department**—In a memorandum dated January 4, 2013, (Wise to Fields), the Health Department stated that the Environmental Engineering Program of the Prince George's County Health Department had completed a health impact assessment review of the subject DSP and has no comments or recommendations.

14. Based on the foregoing and as required by Section 27-285(b)(1) of the Zoning Ordinance, the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

15. As required by Section 27-285(b)(4) of the Zoning Ordinance, the Planning Board should also find that the regulated environmental features on a site have been preserved and/or restored in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24-130(b)(5) of the Subdivision Regulations. The site contains no regulated environmental features; therefore, this finding is not applicable.

RECOMMENDATION FOR CONSERVATION PLAN CP-89039-11

Based upon the foregoing evaluation and analysis, the Urban Design Section recommends that the Planning Board adopt the findings of this report and APPROVE Conservation Plan CP-89039-11, Tantallon on the Potomac, Lot 6, Block E, subject to the following conditions:

1. Prior to certificate of approval of the conservation plan, the following revisions shall be made, or information shall be provided:
 - a. The proposed tree line shall be shown on the plan.
 - b. Show the correct acreage (17,291 square feet) and limits of the existing on-site woodland in accordance with the limits delineated by the Qualified Professional and as shown on the conservation plan stamped as received on December 21, 2013. Revise the worksheet as necessary.
 - c. Correctly delineate the limits of existing woodland on Lot 8 along the west boundary and show the limits on the plan. Revise the worksheet as necessary.
 - d. Identify and label all proposed structures on the plan consistent with the structures listed on table B-1. The edge of pavement for the proposed driveway shall also be identified.
 - e. Label each individual tree, shrub, etc., existing or proposed on the plan and in the legend.
 - f. Remove the symbol for the canopy width of the existing trees on the plan and in the legend.
 - g. Remove the worksheets labeled “This is a revision to DSP-90076-01 and CP-89039” and “CBCA Woodland Calculation Worksheet.”
 - h. Remove the “Existing Tree Planting Schedule” from the plan.
 - i. Show the proposed grading and associated proposed contours on the plan.
 - j. Calculate the area of woodland clearing based on the revised off-site woodland limits on Lot 8 and show the area on the plan and in the worksheet.
 - k. Show the standard worksheet that correctly shows the total area of the on-site woodland as 17, 291 square feet, the percentage of existing woodland as 86 percent, the correct area of proposed clearing, and the correct fee-in-lieu amount. Revise all other sections of the table as necessary.
 - l. Provide a second worksheet for Lot 8 for the off-site clearing. The worksheet shall show the area of proposed clearing, the mitigation rate, and the correct fee-in-lieu amount.

- m. Revise the proposed planting credit schedule to specify the species, caliper and height of each shade tree proposed to be planted and used for credit toward the required mitigation. Shrubs and ornamental trees cannot be used as credit.
- n. Provide a note on the plan under the worksheet as follows: "The total amount of fee-in-lieu required based on the remaining mitigation requirement on Lots 6 and 8 is _____ to be paid in full prior to issuance of the first permit."
- o. Remove the CBCA checklist from Sheet 2 of the plans and submit it on 8 ½ x 11-inch paper.
- p. Remove the circular driveway and show direct driveway access to the garage from Firth of Tae Drive consistent with the previously approved conservation plan.
- q. Relocate the proposed dwelling to a minimum of 40 feet closer to the 25-foot building restriction line (BRL).
- r. Revise the location of the retaining wall as necessary if still needed.
- s. Revise the plan to provide afforestation in the open nonwooded area adjacent to the northeast boundary of the site.
- t. Revise the limits of disturbance as necessary to provide additional woodland conservation in the rear of the site.
- u. Revise the worksheet as necessary to account for any changes to clearing, preservation, reforestation/afforestation, mitigation, etc.

RECOMMENDATION FOR DETAILED SITE PLAN DSP-90076-04

Based upon the foregoing evaluation and analysis, the Urban Design Section recommends that the Planning Board adopt the findings of this report and APPROVE Detailed Site Plan DSP-90076-04, Tantallon on the Potomac, Lot 6, Block E, subject to the following conditions:

- 1. Prior to certificate of approval of the detailed site plan, the following revisions shall be made or information shall be provided:
 - a. The proposed grading (contours) shall be shown on the plan.
 - b. The proposed treeline shall be shown on the plan.
 - c. Provide a house template demonstrating the dimensions of the structure and dimensions of all bump-outs, height, capacity of garage, setbacks, and distance of dwelling to each property line and right-of-way.
 - d. Identify and provide dimensions for the proposed deck.

- e. The retaining wall on the cover sheet and Sheet 1 shall be revised to be consistent, and the symbol for the wall shall be revised to be more readable on the plan by using a more legible symbol. If the proposed wall is revised to be longer, the plan and worksheet shall be revised as necessary.
- f. Provide a completed schedule in conformance with Section 4.9 of the 2010 *Prince George's County Landscape Manual* on the plan.