AA 473-99 Belvoir Farms Homeowners
VAR 99-0359 Assoc.

MSA_S_1829-285

Kathi KC
11/1/99

Comments
5/4/83 RL

N/F

RECEIVED

JUL 21 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2003-0132-V

IN RE: **BELVOIR FARMS HOMEOWNERS ASSN. INC.**

SECOND ASSESSMENT DISTRICT

DATE HEARD: JUNE 24, 2003

ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: **LIZ WEST**

DATE FILED: **JULY** 14 **, 2003**

PLEADINGS

Belvoir Farms Homeowners Association, Inc., the applicant, seeks a variance (2003-0132-V) to permit an extension in the time required for the implementation and completion of a previously approved special exception and variances on property located along the east side of River Road, north of Eva Gude Drive, Crownsville.

PUBLIC NOTIFICATION

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Thomas Quinn, the applicant's past president and chairman of its pier committee, testified that the property was posted on June 5, 2003. I find and conclude that the requirements of public notice have been satisfied.

MOTION TO DISMISS

At the hearing, the protestants[1] filed a written Motion to Dismiss the application. The motion asserted that the County - and therefore this office- lacks

[1]The protestants are: Bernard and Peggy Andrews, James A. Earl and the Bayberry Hill Property Owners Association, Inc.

jurisdiction to exercise zoning authority in this matter because the applicant has yet to obtain a State wetlands license.[2] The matter was fully briefed by the parties. The protestants place primary reliance on People's Counsel for Baltimore County v. Maryland Marine Manufacturing, Inc., 316 Md. 491 (1989). The case concerned the application of Baltimore County's zoning regulations to a proposal to construct a floating restaurant on a pier. After reviewing the rights of riparian owners under Sec. 9-201 of the Wetlands Act[3], the Court ruled that Baltimore County could not permit construction because the proposed restaurant neither preserved access nor protected the shore from erosion. But Baltimore County was specifically held to enjoy zoning authority over riparian improvements.

More recently, The Court of Appeals held that Anne Arundel County's zoning authority "encompasses the extension of ... piers for the purpose of creating additional boat slips." Holiday Point Marina Partners v. Anne Arundel County, Maryland, 349 Md. 190, 208 (1998). The protestants, in their Reply to Memorandum in Opposition to Dismiss, correctly point out that "Holiday Point first obtained its right to expand into submerged lands of the state ... ." Reply Memorandum at 1. However, the Court of Appeals gave the state permits and approvals secondary consideration:

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[2]In the alternative, the Motion to Dismiss asserted that the application should be denied based on the passage of time since the zoning approvals by the County Board of Appeals in Case Nos. BA 45-96S and 46-96-V.

[3]Now codified at Md. Code Ann., Environment Article, Sec. 16-201.

> We first note that, because the *Harbor Island*[4] and *Maryland Marine* opinions indicated that a county's zoning authority over improvements in the State's tidal waters, and a riparian owner's right to construct such improvements, were generally coextensive, any doubts in this case might raise similar doubts concerning Holiday Point's right to wharf out. Under the *Harbor Island* and *Maryland Marine* opinions, this is both within an adjacent owner's riparian rights and within a county's zoning authority. Moreover, even if there could be any doubt about the matter, the record shows that Holiday Point has received a license from the Board of Public Works for the extension of its marina facilities. (Emphasis supplied)

Id.

Any remaining question concerning Anne Arundel County's jurisdiction to exercise zoning authority in the absence of a State wetlands license is dispelled by the applicable regulation, which provides in pertinent part:

> The Department may suspend processing of an application ... if the application is inconsistent with ... local land use requirements, including ... critical area, zoning, special exception, variance, or conditional use approvals. The Department will make these consistency determinations in cooperation with the ... local regulatory agencies. Project approval under this subtitle does not relieve a licensee or permittee from the need to obtain other approvals that may be required. (Emphasis supplied)

COMAR 26.24.02.02H(1).

Accordingly, the Motion to Dismiss for lack of jurisdiction is denied.[5]

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[4]Harbor Island Marina v. Calvert County, 286 Md. 303 (1979).

[5]The alternate grounds of dismissal concerning the passage of time relates to the merits of the application and is considered below.

FINDINGS

This matter was last before this office in Case No. 2001-0370-V (January 8, 2002). The Order conditionally granted a modified variance to allow up to April 1, 2003 to obtain a building permit and up to April 1, 2004 to complete construction and begin operating the community pier use, including the additional boat slips and driveway. On April 1, 2003, the applicant filed the current application, requesting a further extension of the approvals. Specifically, the applicant requests one year from the date of state approval of the community pier proposal to obtain a building permit and two years to complete construction and begin operating the community pier use, including the additional boat slips and driveway.[6]

Liz West, a zoning analyst with the Office of Planning and Zoning, testified that the applicant continues to pursue County, state and federal approvals with all due diligence. At present, the applicant's state wetlands licence is pending an administrative hearing before the state Office of Administrative Hearings. In view of the delays associated with the lengthy judicial process to date, Ms. West supported a further time extension.

Mr. Quinn described the chronology of events since October, 2000 and efforts to comply with the one and two year requirements set forth in the zoning

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[6]In the alternative, the applicant suggests the elimination of the one year building permit requirement; and the imposition of a singular time restriction of completion by December 1, 2005.

code. More particularly, the applicant revised the state wetlands license application (originally filed in November, 1995); the state and federal agencies conducted a joint application meeting; a public hearing was held on the revised wetlands license application; the Maryland Department of the Environment confirmed the applicant's depth survey in December, 2001; and the completed application package was submitted to the Maryland Department of the Environment and the Corps of Engineers in the spring of 2002.[7] Mr. Quinn testified that the County building permit is ready for issuance but will not be released pending issuance of the state wetlands license. He does not know when to expect that the state wetlands license will be resolved. However, inasmuch as the Office of Administrative Hearings has scheduled a pre-hearing conference for July 23, 2003, the project is unlikely to be completed in 2004. Finally, Mr. Quinn testified that nothing has changed since October, 2000. In particular, the project is still needed as Belvoir Farms approaches build out.

On cross-examination, Mr. Quinn acknowledged that the applicant has not registered a mooring grouping in accordance with new state regulations.[8] He explained that the field is not active and stated he wrote to the Department of Natural Resources concerning the matter but received no reply.

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[7]These matters and other interim items are set forth in a "regulatory chronology" dated June 11, 2003 prepared by Mr. Quinn.

[8]The relinquishment of the mooring buoys was a condition of the approvals by the County Board of Appeals.

Michael Klebasko, an environmental biologist in the applicant's employ, testified that the site conditions have not changed since 1996. In his judgement, the requested time extension complies with the variance standards. On cross-examination, the witness indicated that depth and submerged aquatic vegetation resurveys described by Mr. Quinn chronology confirmed earlier data. He conceded that the July 15, 2002 denial of the applicant's wetlands license application includes findings that are not consistent with the finding by the County Board of Appeals that there is no adverse impact to water quality, fish, wildlife or plant habitat.

Shep Tullier, a land planning consultant to the applicant, opined that the variance standards are achieved. In particular, there is nothing more the applicant could have done to meet the time restrictions imposed by the County Code. He also indicated that the communities of Bayberry to the south and Maynadier to the north/northeast enjoy community piers. Accordingly, the request is consistent with the character of the neighborhood.

Mr. Earl testified on his own behalf and for the Bayberry Hill Property Owners Association, Inc. in opposition to the request. He believes that the proposed community pier will have adverse environmental impacts; that the applicant has been afforded enough time; and the applicant is unlikely to complete the project within the requested extension.

CONCLUSIONS

The events transpiring since the last extension bear out the prediction of future contention. In refusing the previous request for an open ended extension in preference for what was considered the minimum relief, I did not foreclose the present application: "to the extent I am wrong, then the applicant can seek to prove entitlement to another extension." Opinion at 6. This the applicant has succeeding in doing. For while the protestants complain about the amount of time that has passed since the zoning approvals by the County Board of Appeals, they have not suggested that the applicant has been dilatory; much less refuted the record evidence of the applicant's due diligence.

The matter of the extent of the relief is still a quagmire. In the absence of any better benchmark, I will fall back on the code. That is, the applicant will have one year from the Order to obtain a building permit and two years to complete construction and begin operating the community pier use, including the additional boat slips and driveway. I further find that the variance will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or cause a detriment to the public welfare. In this regard, I adopt the findings and conclusion of the previously approved special exception and the previously approved variances. The new approval is subject to the condition in the Order.

ORDER

PURSUANT to the application of Belvoir Farms Homeowners Association, Inc., petitioning for a variance to permit an extension in the time required for the implementation and completion of a previously approved special exception and variances; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 14th day of July, 2003,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County that the applicant is hereby **granted** variance to allow until July 14, 2004 to obtain a building permit and until July 14, 2005 to complete construction and begin operating the community pier use, including the additional boat slips and driveway.

The foregoing variance is subject to the condition that the building permit is subject to the approval of the Health Department.

Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

May 14, 2003

Ramona Plociennik
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: Variance 2003-0132, Belvoir Farms Homeowners Association

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit an extension in time for the implementation and completion of a previously approved variance and a special exception.

This office has no comment on the variance to permit the extension of time for implementation of the previous approvals.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

Julie V. LaBranche

Julie V. LaBranche
Natural Resources Planner

cc: AA 473-99

AA 473-99

Page: 1 Document Name: untitled

DATE: 04/01/2003 ANNE ARUNDEL COUNTY, MARYLAND PROGRAM ID: PNZ020C
TIME: 16:44:40 PACE ZONING APPLICATION SYSTEM SCREEN ID: PNZMS20
CREATE APPLICATION REQUEST

APPLICATION TYPE VARIANCE

CASE NUMBER	TAX ACCT NBR	MAP	BLK	PARCEL	LOT	ACRES	TYPE
2003-0132-V	2060-9006-1517	38	22	0081		3.180	R

APPLICANT NAME BELVOIR FARMS HOMEOWNERS ASSOC APPLICATION DATE 04/01/2003
CLASS COM STANDARD TIME TYPE APPLICATION FEE 250.00
ANALYST KAS STATUS OPEN DECISION COURT APPEAL
OWNER NAME/ADDRESS/PHONE PROPERTY DESCRIPTION
BELVOIR FARMS HOMEOWNERS ASSN INC 3.186 ACRES SC D
P O BOX 366 RECREATION AREA
BELVOIR
CROWNSVILLE MD 21032 TELEPHONE
PROPERTY LOCATION 1650 FEET OF FRONTAGE ON E SIDE OF RIVER ROAD
1250 FEET N OF EVA GUDE DRIVE IN CROWNSVILLE
TAX DIST 2 COUNCIL DIST 6 ZONING RA
WATERFRONT Y CORNER LOT N CRITICAL AREA: IDA N LDA N RCA Y
MAPS: 200 ALEX DEED: LIBER 04851 FOLIO 836

Page: 1 Document Name: untitled

DATE: 04/01/2003 ANNE ARUNDEL COUNTY, MARYLAND PROGRAM ID: PNZ021C
TIME: 16:49:32 PACE ZONING APPLICATION SYSTEM SCREEN ID: PNZMS21
CREATE DESCRIPTION AND RECOMMENDATION DATA

CASE NUMBER 2003-0132-V APPLICATION TYPE VARIANCE
DESCRIPTION
VARIANCE TO PERMIT AN EXTENSION IN TIME FOR THE IMPLEMENTATION AND COMPLETION OF PREVIOUSLY APPROVED VARIANCES AND A SPECIAL EXCEPTION.

RECOMMENDATIONS

CLEAR-MENU RECORD SUCCESSFULLY UPDATED
PF1-MST PF2-HEA PF3-SIG PF6-COM PF11-FWD PF12-BCK
4-43 1 Sess-1 189.9.9.4 PA60

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MAY 8 2003
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CRITICAL AREA COMMISSION

BELVOIR
GRADING AND SEDIMENT CONTROL PLAN

ANNE ARUNDEL SOIL CONSERVATION DISTRICT
DETAILS AND SPECIFICATIONS FOR VEGETATIVE ESTABLISHMENT

FOLLOWING INITIAL SOIL DISTURBANCE OR REDISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION SHALL BE COMPLETED WITHIN SEVEN CALENDAR DAYS FOR THE SURFACE OF ALL PERIMETER CONTROLS, DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES GREATER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1) AND FOURTEEN DAYS FOR ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE.

1. PERMANENT SEEDING:

A. SOIL TESTS:
LIME AND FERTILIZER WILL BE APPLIED PER SOIL TESTS RESULTS FOR SITES GREATER THAN 5 ACRES. SOIL TESTS WILL BE DONE AT COMPLETION OF ROUGH GRADING. RATES AND ANALYSES WILL BE PROVIDED TO THE GRADING INSPECTOR AS WELL AS THE CONTRACTOR.

(i) OCCURRENCE OF ACID SULFATE SOILS (GRAYISH BLACK COLOR) WILL REQUIRE COVERING WITH A MINIMUM OF 12 INCHES OF CLEAN SOIL WITH 6 INCHES MINIMUM CAPPING OF TOP SOIL. NO STOCKPILING OF MATERIAL IS ALLOWED. IF NEEDED, SOIL TESTS SHOULD BE DONE BEFORE AND AFTER A 6 WEEK INCUBATION PERIOD TO ALLOW OXIDATION OF SULFATES.

B. SEEDBED PREPARATION:
AREA TO BE SEEDED SHALL BE LOOSE AND FRIABLE TO A DEPTH OF AT LEAST 3 INCHES. THE TOP LAYER SHALL BE LOOSENED BY RAKING, DISKING, OR OTHER ACCEPTABLE MEANS BEFORE SEEDING OCCURS. FOR SITES LESS THAN 5 ACRES, APPLY 100 POUNDS OF DOLOMITIC LIMESTONE AND 21 POUNDS OF 10-20-20 FERTILIZER PER 1,000 SQUARE FEET. HARROW OR DISK LIME AND FERTILIZER INTO THE SOIL TO A DEPTH OF AT LEAST 3 INCHES ON SLOPES FLATTER THAN 3:1.

C. SEEDING:
APPLY 5-6 POUNDS PER 1,000 SQUARE FEET OF TALL FESCUE BETWEEN FEBRUARY 1 AND APRIL 30 OR BETWEEN AUGUST 15 AND OCTOBER 31. APPLY SEED UNIFORMLY ON A MOIST FIRM SEEDBED WITH A CYCLONE SEEDED DRILL, CULTIPACKER SEEDER OR HYDROSEEDER (SLURRY INCLUDES SEEDS AND FERTILIZER, RECOMMENDED ON STEEP SLOPES ONLY). MAXIMUM SEED DEPTH SHOULD BE 1/4 INCH IN CLAYEY SOILS AND 1/2 INCH IN SANDY SOILS WHEN USING OTHER THAN THE HYDROSEEDER METHOD. IRRIGATE IF SOIL MOISTURE IS DEFICIENT TO SUPPORT ADEQUATE GROWTH UNTIL VEGETATION IS FIRMLY ESTABLISHED. IF OTHER SEED MIXES ARE TO BE USED, SELECT FROM TABLE 25, ENTITLED "PERMANENT SEEDING FOR LOW MAINTENANCE AREAS" FROM THE 1994 STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL. MIXES SUITABLE FOR THIS AREA ARE 1, 3 AND 5-7. MIXES 5-7 ARE SUITABLE IN NON-MOWABLE SITUATIONS.

D. MULCHING:
MULCH SHALL BE APPLIED TO ALL SEEDED AREAS IMMEDIATELY AFTER SEEDING. DURING THE TIME PERIODS WHEN SEEDING IS NOT PERMITTED, MULCH SHALL BE APPLIED IMMEDIATELY AFTER GRADING. MULCH SHALL BE UNROTTED, UNCHOPPED, SMALL GRAIN STRAW APPLIED AT A RATE OF 2 TONS PER ACRE OR 90 POUNDS PER 1,000 SQUARE FEET (2 BALES). IF A MULCH ANCHORING TOOL IS USED, APPLY 2.5 TONS PER ACRE. MULCH MATERIALS SHALL BE RELATIVELY FREE OF ALL KINDS OF WEEDS AND SHALL BE COMPLETELY FREE OF PROHIBITED NOXIOUS WEEDS. SPREAD MULCH UNIFORMLY, MECHANICALLY OR BY HAND, TO A DEPTH OF 1-2 INCHES.

E. SECURING STRAW MULCH:
STRAW MULCH SHALL BE SECURED IMMEDIATELY FOLLOWING MULCH APPLICATION TO MINIMIZE MOVEMENT BY WIND OR WATER. THE FOLLOWING METHODS ARE PERMITTED:

(i) USE A MULCH ANCHORING TOOL WHICH IS DESIGNED TO PUNCH AND ANCHOR MULCH INTO THE SOIL SURFACE TO A MINIMUM DEPTH OF 2 INCHES. THIS IS THE MOST EFFECTIVE METHOD FOR SECURING MULCH, HOWEVER, IT IS LIMITED TO RELATIVELY FLAT AREAS WHERE EQUIPMENT CAN OPERATE SAFELY.

(ii) WOOD CELLULOSE FIBER MAY BE USED FOR ANCHORING STRAW. APPLY THE FIBER BINDER AT A NET DRY WEIGHT OF 750 POUNDS PER ACRE. IF MIXED WITH WATER, USE 50 POUNDS OF WOOD CELLULOSE FIBER PER 100 GALLONS OF WATER.

(iii) LIQUID BINDERS MAY BE USED AND APPLIED HEAVIER AT THE EDGES WHERE WIND CATCHES MULCH, SUCH AS IN VALLEYS AND ON CRESTS OF SLOPES. THE REMAINDER OF THE AREA SHOULD APPEAR UNIFORM AFTER BINDER APPLICATION. BINDERS LISTED IN THE 1994 STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL OR APPROVED EQUAL SHALL BE APPLIED AT RATES RECOMMENDED BY THE MANUFACTURERS.

(iv) LIGHTWEIGHT PLASTIC NETTING MAY BE USED TO SECURE MULCH. THE NETTING WILL BE STAPLED TO THE GROUND ACCORDING TO MANUFACTURER'S RECOMMENDATIONS.

2. TEMPORARY SEEDING:
LIME: 100 POUNDS OF DOLOMITIC LIMESTONE PER 1,000 SQUARE FEET.
FERTILIZER: 15 POUNDS OF 10-10-10 PER 1,000 SQUARE FEET.
SEED: PERENNIAL RYE - 0.92 POUNDS PER 1,000 SQUARE FEET (FEBRUARY 1 THROUGH APRIL 30 OR AUGUST 15 THROUGH NOVEMBER 1).
MILLET: 0.92 POUNDS PER 1,000 SQUARE FEET (MAY 1 THROUGH AUGUST 15).
MULCH: SAME AS 1 D AND E ABOVE.

3. NO FILLS MAY BE PLACED ON FROZEN GROUND. ALL FILL TO BE PLACED IN APPROXIMATELY HORIZONTAL LAYERS, EACH LAYER HAVING A LOOSE THICKNESS OF NOT MORE THAN 8 INCHES. ALL FILL IN ROADWAYS AND PARKING AREAS IS TO BE CLASSIFIED TYPE 2 AS PER ANNE ARUNDEL COUNTY CODE - ARTICLE 21, SECTION 2-308, AND COMPACTED TO 90% DENSITY; COMPACTION TO BE DETERMINED BY ASTM D-1557-66T (MODIFIED PROTECTOR). ANY FILL WITHIN THE BUILDING AREA IS TO BE COMPACTED TO A MINIMUM OF 95% AS DETERMINED BY METHODS MENTIONED. FILLS FOR POND EMBANKMENTS SHALL BE COMPACTED AS PER MD-378 CONSTRUCTION SPECIFICATIONS. ALL OTHER FILLS SHALL BE COMPACTED SUFFICIENTLY SO AS TO BE STABLE AND PREVENT EROSION AND SLIPPAGE.

4. PERMANENT SOD:
INSTALLATION OF SOD SHOULD FOLLOW PERMANENT SEEDING DATES. PERMANENT SOD IS TO BE TALL FESCUE, STATE APPROVED SOD; LIME AND FERTILIZER PER PERMANENT SEEDING SPECIFICATIONS AND LIGHTLY IRRIGATE SOIL PRIOR TO LAYING SOD. SOD IS TO BE LAID ON THE CONTOUR WITH ALL ENDS TIGHTLY ABUTTING. JOINTS ARE TO BE STAGGERED BETWEEN ROWS. WATER AND ROLL OR TAMP SOD TO INSURE POSITIVE ROOT CONTACT WITH THE SOIL. ALL SLOPES STEEPER THAN 3:1, AS SHOWN, ARE TO BE PERMANENTLY SODDED OR PROTECTED WITH AN APPROVED EROSION CONTROL NETTING. ADDITIONAL WATERING FOR ESTABLISHMENT MAY BE REQUIRED. SOD IS NOT TO BE APPLIED ON FROZEN GROUND. SOD SHALL NOT BE HARVESTED OR TRANSPLANTED WHEN MOISTURE CONTENT (DRY OR WET) AND/OR EXTREME TEMPERATURE MAY ADVERSLEY AFFECT ITS SURVIVAL. IN THE ABSENCE OF ADEQUATE RAINFALL, IRRIGATION SHOULD BE PERFORMED TO INSURE ESTABLISHED SOD.

5. MINING OPERATIONS:
SEDIMENT CONTROL PLANS FOR MINING OPERATIONS MUST INCLUDE THE FOLLOWING SEEDING DATES AND MIXTURES:

FOR SEEDING DATES OF:
FEBRUARY 1 THROUGH APRIL 30 AND AUGUST 15 THROUGH OCTOBER 31, USE SEED MIXTURE OF TALL FESCUE AT THE RATE OF 2 POUNDS PER 1,000 SQUARE FEET AND SERICEA LESPEDEZA AT THE RATE OF 0.5 POUNDS PER 1,000 SQUARE FEET.

FOR SEEDING DATES OF:
MAY 1 THROUGH AUGUST 14, USE SEED MIXTURE OF TALL FESCUE AT THE RATE 2 POUNDS PER 1,000 SQUARE FEET AND WEEPING LOVEGRASS AT THE RATE OF 0.1 POUND PER 1,000 SQUARE FEET.

NOTE: USE OF THIS INFORMATION DOES NOT PRECLUDE MEETING ALL OF THE REQUIREMENTS OF THE "1994 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL".

STANDARD RESPONSIBILITY NOTES

I (WE) CERTIFY THAT:

1. A. ALL DEVELOPMENT AND CONSTRUCTION WILL BE DONE IN ACCORDANCE WITH THIS SEDIMENT AND EROSION CONTROL PLAN, AND FURTHER, AUTHORIZED THE RIGHT OF ENTRY FOR PERIODIC ON-SITE EVALUATION BY THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT BOARD OF SUPERVISORS OR THEIR AUTHORIZED AGENTS.

B. ANY RESPONSIBLE PERSONNEL INVOLVED IN THE CONSTRUCTION PROJECT WILL HAVE A CERTIFICATE OF ATTENDANCE FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT'S APPROVED TRAINING PROGRAM FOR THE CONTROL OF SEDIMENT AND EROSION BEFORE BEGINNING THIS PROJECT.

RESPONSIBLE PERSONNEL ON SITE:

____

____

C. THE APPROPRIATE ENCLOSURE WILL BE CONSTRUCTED AND MAINTAINED ON SEDIMENT BASIN(S) INCLUDED IN THIS PLAN. SUCH STRUCTURE(S) WILL BE IN COMPLIANCE WITH ARTICLE 21, SECTION 2-304 OF THE ANNE ARUNDEL COUNTY CODE.

2. THE DEVELOPER IS RESPONSIBLE FOR THE ACQUISITION OF ALL EASEMENTS, RIGHTS, AND/OR RIGHTS-OF-WAY THAT MAY BE REQUIRED FOR THE SEDIMENT AND EROSION CONTROL PRACTICEC, STORMWATER MANAGEMENT PRACTICES AND THE DISCHARGE OF STORMWATER ONTO OR ACROSS ADJACENT OR DOWNSTREAM PROPERTIES NCLUDED IN THIS PLAN. HE IS ALSO RESPONSIBLE FOR THE ACQUISITION OF ALL EASEMENTS, RIGHTS AND/OR RIRIGHTS-OF-WAY THAT MAY BE REQUIRED FOR GRADING AND/OR WORK ON ADJACENT PROPERTIES INCLUDED IN THIS PLAN.

3. FOLLOWING INTIAL SOIL DISTURBANCE OR REDISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION SHALL BE COMPLETED WITHIN SEVEN CALENDAR DAYS FOR THE SURFACE OF ALL PERIMETER CONTROLS, DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES GREATER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1) AND FOURTEEN DAYS FOR ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE.

4. THE SEDIMENT CONTROL APPROVALS ON THIS PLAN EXTEND ONLY TO AREAS AND PRACTICES IDENTIFIED AS PROPOSED WORK.

5. THE APPROVAL OF THIS PLAN FOR SEDIMENT AND EROSION CONTROL DOES NOT RELIEVE THE DEVELOPER/CONSULTANT FROM COMPLYING WITH ANY FEDERAL/STATE/ COUNTY REQUIREMENTS APPERTAINING TO ENVIRONMENTAL ISSUES.

6. THE DEVELOPER MUST REQUEST THAT THE DEPARTMENT OF INSPECTIONS AND PERMITS APPROVE WORK COMPLETED IN ACCORDANCE WITH THE APPROVED EROSION AND SEDIMENT CONTROL PLAN, THE GRADING OR BUILDING PERMIT, AND THE ORDINANCE.

7. ON ALL SITES WITH DISTURBED AREAS IN EXCESS OF 2 ACRES, APPROVAL OF THE DEPARTMENT OF INSPECTIONS AND PERMITS SHALL BE REQUIRED ON COMPLETION OF INSTALLATION OF PERIMETER EROSION AND SEDIMENT CONTROLS, BUT BEFORE PROCEEDING WITH ANY OTHER EARTH DISTURBANCE OR GRADING. OTHER BUILDING OR GRADING INSPECTION APPROVALS MAY NOT BE AUTHORIZED UNTIL THE INITIAL APPROVAL BY THE DEPARTMENT OF INSPECTIONS AND PERMITS IS GIVEN.

8. APPROVAL SHALL BE REQUESTED ON FINAL STABILIZATION OF ALL SITES WITH DISTURBED AREAS IN EXCESS OF 2 ACRES BEFORE REMOVAL OF CONTROLS.

Thomas Quinn 10-30-98
SIGNATURE(S) OF DEVELOPER/OWNER DATE

(PRINT) NAME: THOMAS QUINN TITLE: PRESIDENT OF COMMUNITY ASSOC.

ADDRESS: P.O. BOX 366 CROWNSVILLE, MD. 21032

TELEPHONE: (410) 682-1300 FAX (410)

CONSULTANT'S CERTIFICATION

"THE DEVELOPERS PLAN TO CONTROL SILT AND EROSION IS ADEQUATE TO CONTAIN THE SILT AND EROSION ON THE PROPERTY COVERED BY THE PLAN. I CERTIFY THAT THIS PLAN OF EROSION AND SEDIMENT CONTROL REPRESENTS PRACTICAL AND WORKABLE PLAN BASED ON MY PERSONAL KNOWLEDGE OF THIS SITE, AND WAS PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ANNE ARUNDEL SOIL CONSERVATION DISTRICT PLAN SUBMITTAL GUIDELINES AND THE CURRENT MARYLAND STANDARDS AND SPECIFICATIONS FOR SEDIMENT AND EROSION CONTROL. I HAVE REVIEWED THIS EROSION AND SEDIMENT CONTROL PLAN WITH THE OWNER/DEVELOPER."

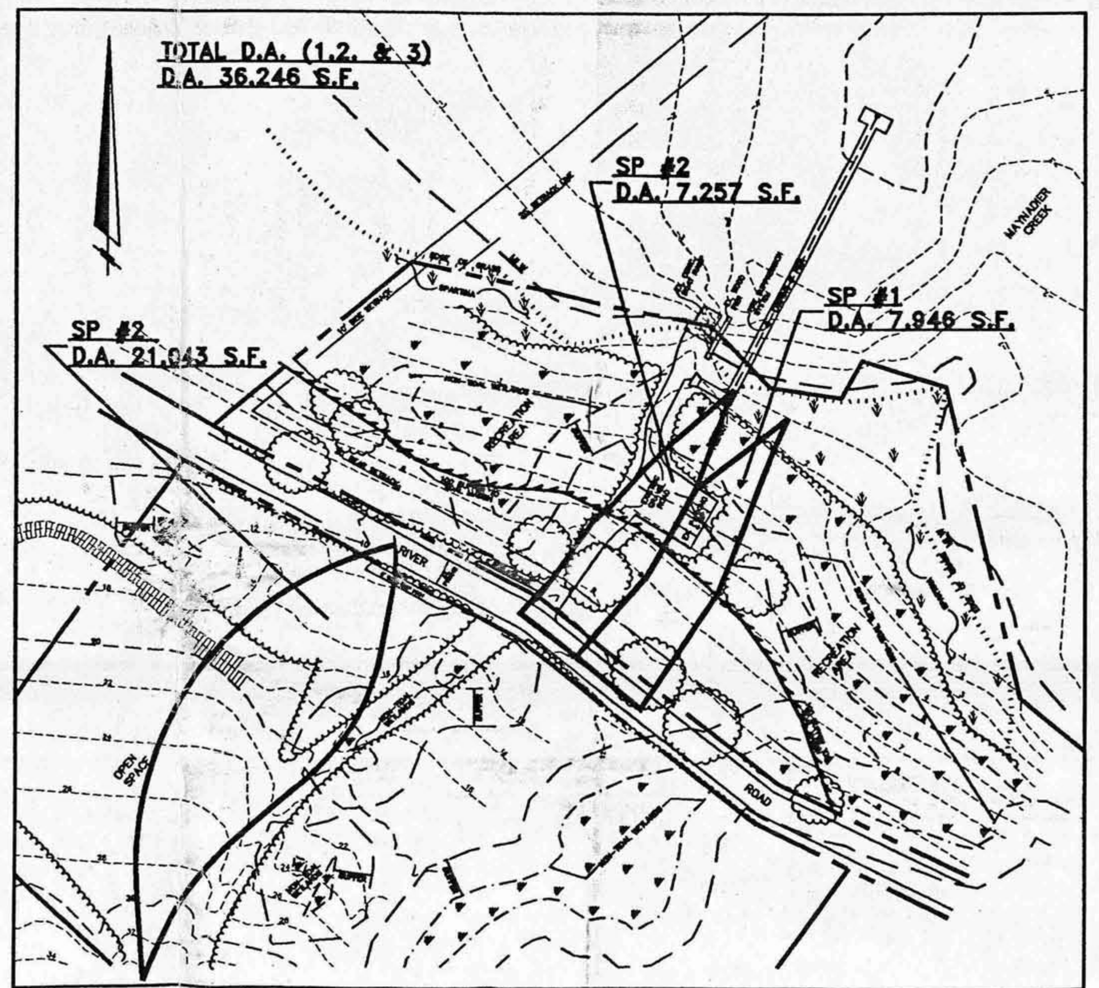
SIGNATURE______ MD P.E. LICENSE#______ DATE______

MD LAND SURVEYOR LICENSE#______ DATE______

(PRINT) NAME: RONALD W. JOHNSON FIRM NAME: RONALD W. JOHNSON ASSOC., INC.

ADDRESS: 2661 RIVA ROAD, BLD. 400, STE. 420

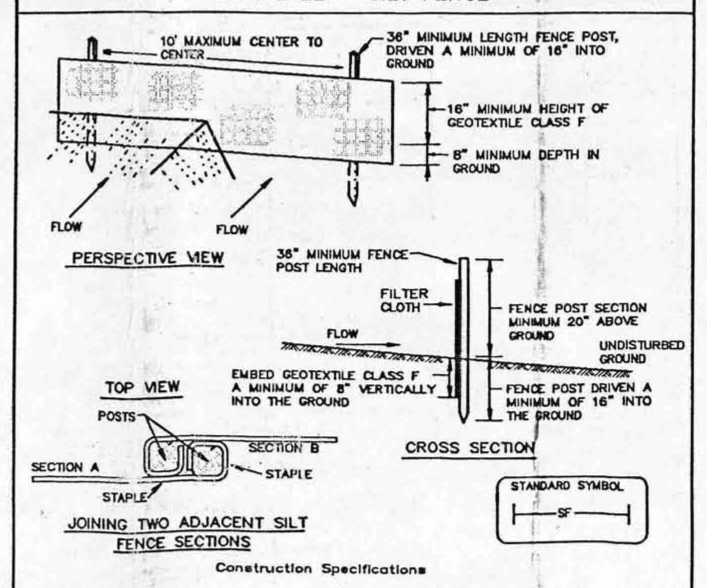
ANNAPOLIS, MARYLAND 21401 410-841-5221



DRAINAGE AREA MAP
1"=200'

ADJOINING PROPERTY OWNER INFORMATION WITHIN 175'															
T.M	BLK.	P.	NAME/ADDRESS OR SUBDIVISION	TAX ACCT. # OR LOT #	DEED REF. OR PLAT REF.	EX. ZONING	T.M	BLK	P.	NAME/ADDRESS OR SUBDIVISION	TAX ACCT. # OR LOT #	DEED REF. OR PLAT REF.	EX. ZONING
38	16	81 REC. AREA (SITE)	BELVOIR FARMS HOMEOWNERS ASSOCIATION, INC. P.O. BOX 366 CROWNSVILLE, MD. 21032	2-060-90061517	4851/836	RA	38	16	167	MARYLAND ORNITHOLOGICAL SOC. 4915 GREEN SPRING AVE. BALTIMORE, MD. 21032	2-000-07745300	2732/753	RA
38	16	81 OPEN SPACE	BELVOIR FARMS HOMEOWNERS ASSOCIATION, INC. P.O. BOX 366 CROWNSVILLE, MD. 21032	2-060-90061518	4851/836	RA	38	16	190	NANCY LEE & STEVEN DUNN 1366 RIVER ROAD CROWNSVILLE, MD. 21032	2-000-08123700	6934/372	RA
38	16	81 LOT 32	JMG DEVELOPMENT CORP. 1487 TENBURY COMMONS CROWNSVILLE MD. 21401	2-060-90061499	3991/97	RA	38	16	81 LOT 12 13	JMG DEVELOPMENT CORP. 1487 TENBURY COMMONS CROWNSVILLE, MD. 21401	2-060-90061495	3991/97	RA
38	16	81 LOT 33	JMG DEVELOPMENT CORP. 1487 TENBURY COMMONS CROWNSVILLE, MD. 21401	2-060-90061522	3991/97	RA	38	6	258	LAWRENCE J. WILNER BOX 291 LONG POINT ROAD CROWNSVILLE, MD. 21032	2-530-12728983	3232/647	RA
38	16	299	CHARLES W. & LORENA McKNEW 1356 RIVER ROAD CROWNSVILLE, MD. 21032	2-000-08123600	4763/223	RA	38	17	222	CHAS W. & LORENA McKNEW 1356 RIVER ROAD CROWNSVILLE, MD. 21032	2-000-08122000	1838/13	RA
38	16	337 REC AREA	BAYBERRY HILL PROP. OWN. ASSOC. C/O JUDITH M. BEVILLE 1300 EVA GUDE DR. CROWNSVILLE, MD. 21032	2-044-90023590 2-044-90023572	4372/713	RA	38	17	337	ROBERT & STEPHANIE CLARK 1317 EVA GUDE DRIVE CROWNSVILLE, MD. 21032	2-044-90023565	4263/776	RA
38	16	82	NORA B. GARMON 1308 RIVER ROAD CROWNSVILLE, MD. 21032	2-000-04235680	5555/305	RA	38	10	71	CHARLES & ANN GARMAN 1270 RIVER ROAD CROWNSVILLE, MD. 21032	2-000-04234990	2705/429	RA

DETAIL 22 - SILT FENCE



Construction Specifications

1. Fence posts shall be a minimum of 36" long driven 16" minimum into the ground. Wood posts shall be 11/2" x 11/2" square (minimum) cut, or 13/4" diameter (minimum) round and shall be of sound quality hardwood. Steel posts will be standard T or U section weighting not less than 1.00 pond per linear foot.

2. Geotextile shall be fastened securely to each fence post with wire ties or staples at top and mid-section and shall meet the following requirements for Geotextile Class F:

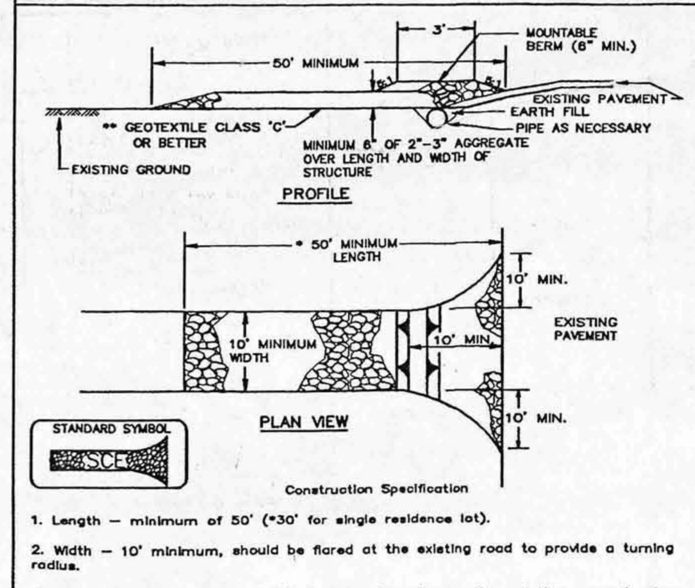
Tensile Strength	50 lbs/in (min.)	Test: MSMT 509
Tensile Modulus	20 lbs/in (min.)	Test: MSMT 509
Flow Rate	0.3 gal ft ²/ minute (max.)	Test: MSMT 322
Filtering Efficiency	75% (min.)	Test: MSMT 322

3. Where ends of geotextile fabric come together, they shall be overlapped, folded and stapled to prevent sediment bypass.

4. Silt Fence shall be inspected after each rainfall event and maintained when bulges occur or when sediment accumulation reached 50% of the fabric height.

U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	PAGE E - 15 - 3	MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION

DETAIL 24 - STABILIZED CONSTRUCTION ENTRANCE



Construction Specification

1. Length — minimum of 50' (*30' for single residence lot).

2. Width — 10' minimum, should be flared at the existing road to provide a turning radius.

3. Geotextile fabric (filter cloth) shall be placed over the existing ground prior to placing stone. **The plan approval authority may not require single family residences to use geotextile.

4. Stone — crushed aggregate (2" to 3") or reclaimed or recycled concrete equivalent shall be placed at least 6" deep over the length and width of the entrance.

5. Surface Water — all surface water flowing to or diverted toward construction entrances shall be piped through the entrance, maintaining positive drainage. Pipe installed through the stabilized construction entrance shall be protected with a mountable berm with 5:1 slopes and a minimum of 6" of stone over the pipe. Pipe has to be sized according to the drainage. When the SCE is located at a high spot and has no drainage to convey a pipe will not be necessary. Pipe should be sized according to the amount of runoff to be conveyed. A 6" minimum will be required.

6. Location — A stabilized construction entrance shall be located at every point where construction traffic enters or leaves a construction site. Vehicles leaving the site must travel over the entire length of the stabilized construction entrance.

U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	PAGE F - 17 - 3	MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION

GENERAL NOTES

1. ● SIGN TO STATE THAT "SANITARY FACILITIES" ON WATERCRAFT WITHOUT HOLDING TANKS SHALL NOT BE USED WHILE IN THE MARINA BASIN.
2. ONSHORE MAINTENANCE OF WATERCRAFT SHALL NOT BE PERMITTED.
3. WALKWAY LIGHTING ALONG PIER IS TO BE PROVIDED, NO ADDITIONAL LICHTING IS TO BE PROVIDED.
4. TRASH CONTAINERS TO BE PROVIDED AS REQUIRED BY THE ANNE ARUNDEL COUNTY HEALTH DEPARTMENT.
5. ■ BOARDING LADDERS TO BE SPACED AT 50' O/C WHERE WATER DEPTHS EXCEED 4' AT M.L.W.
6. ○ UNITED STATES COAST GUARD APPROVED PERSONAL FLOATATION DEVICE AT 100' O/C ALONG PIER.
7. FIRE SUPPRESSION EQUIPMENT TO BE PROVIDED AS REQUIRED BY THE ANNE ARUNDEL COUNTY FIRE PREVENTION BUREAU.
8. LANDSCAPING TO BE PROVIDED IN ACCORDANCE WITH TITLE 9 OF THE ANNE ARUNDEL COUNTY CODE.
9. ALL SIGNS SHALL BE IN ACCORDANCE WITH TITLE 8 OF THE ANNE ARUNDEL COUNTY CODE.
10. ASSUMED BOATS WITH A MAXIMUM DRAFT OF 3.0' ON EAST AND WEST SIDES OF PROPOSED PIER AND 4.0' MAXIMUM DRAFT ON NORTH END.
11. THE MARINA BASIN WAS DETERMINED IN ACCORDANCE WITH ARTICLE 28, TITLE 5, SECTION 5-120.
12. THE COMMUNITY PIER WILL BE SEVICED BY A PORTABLE PUMPOUT FACILITY.
13. EXISTING MOORING BOUYS PRESENTLY SITUATED ON MAYNADIER CREEK WILL BE REMOVED UPON APPROVAL AND CONSTRUCTION OF THIS PROJECT.

CONSTRUCTION SEQUENCE
THE CONTRACTOR SHALL NOTIFY ANNE ARUNDEL COUNTY "INSPECTIONS AND PERMITS" 48 HOURS PRIOR TO COMMENCING WORK.

TIME		ITEM
		Phase I
2 WK.	1.	Clear, grub and rough grade all areas necessary for the installation of all sediment and erosion control devices. *Install S.C.E. & S.F.*
2 WK.	2.	Obtain phase one inspection.
		Phase II
2 WK.	1.	Clear, grub and rough grade the minimum area required for excavation of the foundation, installation of septic system & construction of parking areas.
2 MOS.	2.	Construct catwalks, mooring piles, lighting, boarding ladders, fire suppression, floatation devices and other pier related items.
2 MOS.	3.	Construct building. Backfill and temporally stabilize as necessary.
2 WK.	4.	Install proposed septic holding tank septic lines from building to the drywell.
1 WK.	5.	Install well.
2 WK.	6.	Install all other utility and drain lines.
3 WK.	7.	Complete any parking lot grading & wood chip path installation.
3 WK.	8.	Install proposed stormwater management trenches, inlets & piping.
3 WK.	9.	Fine grade, permanently stabilize and landscape all remaining areas.
2 WK.	10.	With approval from the grading inspector remove all sediment and erosion control devices.

SOIL TYPES AND CLASSIFICATION
Mt : MIXED ALLUVIAL LAND

STORMWATER MANAGEMENT NOTES:
THERE WILL BE BOTH QUALITY AND QUANITY STORMWATER PROVIDED FOR THE INCREASE IN IMPERVIOUS SURFACE.

OUTFALL STATEMENT:
THE RUNOFF WILL BE CONVEYED TO THE SWM TRENCHES IN THE PARKING AREAS WHERE IT WILL BE ATTENUATED BY THE STONE STORM WATER MANAGEMENT TRENCH. THE RUNOFF WILL CONTINUE TO FLOW IN THE SAME PATTERN AS IT DOES UNDER EXISTING CONDITIONS.

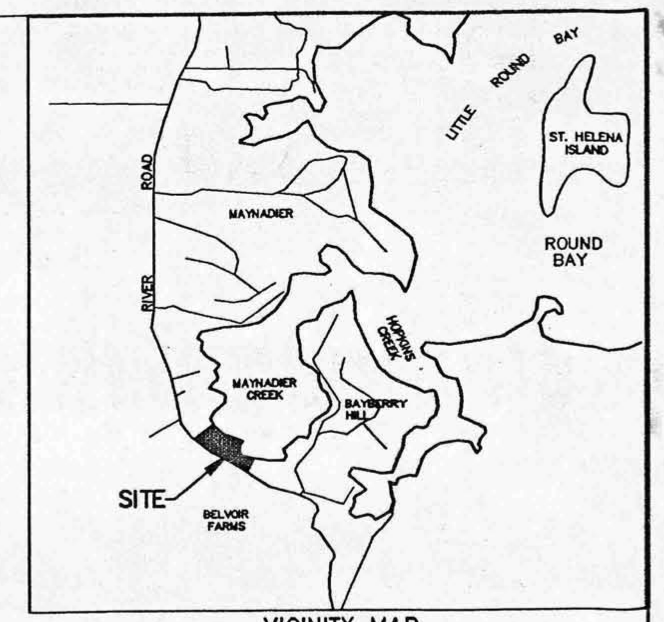
THE OUTFALL IS STABLE AND NO EROSION, SEDIMENTATION, OR FLOODING SHALL OCCUR AS A RESULT OF THIS DEVELOPMENT IF ALL CONSTRUCTION IS IN ACCORDANCE WITH THESE PLANS AND THE ANNE ARUNDEL COUNTY STANDARDS AND SPECIFICATIONS.

INDEX TO SHEETS

NO.	DESCRIPTION
1	TITLE SHEET: GENERAL SITE DATA; NOTES, MAPS & DETAILS
2	SITE PLAN/GRADING & SEDIMENT CONTROL PLAN

PARKING CALCULATIONS

PERMANENT SPACES REQUIRED = 18 SLIPS÷5 = 4 SPACES
PERMANENT SPACES PROVIDED = 5 SPACES
OVERFLOW SPACES REQUIRED 18 SLIPS÷2 = 9 SPACES - 5 PERMANENT SPACES = 4 SPACES
OVERFLOW SPACES PROVIDED = 7 SPACES
TWO (2) TRAILER SPACES REQUIRED FOR COMMUNITY BOAT RAMP
TRAILER SPACES PROVIDED = 2
TOTAL NUMBER OF SPACES REQUIRED = 8 SPACES
TOTAL NUMBER OF SPACES PROVIDED = 12 SPACES



VICINITY MAP
1"=2000'

GENERAL NOTES

1. COORDINATES ARE BASED ON THE MARYLAND STATE PLANE COORDINATE SYSTEM 1927 DATUM PROJECTED BY THE PLANNING AND ZONING COMMISSION OF ANNE ARUNDEL COUNTY, MARYLAND.
2. ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929 PROJECTED BY THE PLANNING AND ZONING COMMISSION OF ANNE ARUNDEL COUNTY, MARYLAND.
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE ANNE ARUNDEL COUNTY DEPARTMENT OF PUBLIC WORKS STANDARD DETAILS AND STANDARD SPECIFICATIONS FOR CONSTRUCTION SEPTEMBER 1988 AND THE 1994 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATION OF HIS CONSTRUCTION WITH THE CONSTRUCTION BY THE OTHER CONTRACTORS.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING AND REPLACING ANY EXISTING FENCES, DRIVEWAYS, ETC., DAMAGED OR REMOVED DURING CONSTRUCTION.
6. THE EXISTING UTILITIES AND OBSTRUCTIONS SHOWN ARE FROM THE BEST AVAILABLE RECORDS AND SHALL BE VERIFIED BY THE CONTRACTOR TO HIS OWN SATISFACTION BEFORE STARTING CONSTRUCTION. NEITHER THE OWNER NOR THE ENGINEER WARRANT OR GUARANTEE THE COMPLETENESS OR CORRECTNESS OF THE INFORMATION.
7. THE CONTRACTOR SHALL NOTIFY THE ANNE ARUNDEL COUNTY DEPARTMENT OF INSPECTIONS AND PERMITS, ANNAPOLIS, MARYLAND 48 HOURS (222-7780) BEFORE STARTING WORK SHOWN ON THESE DRAWINGS.
8. UNLESS OTHERWISE INDICATED ON THESE PLANS, BALTIMORE GAS AND ELECTRIC COMPANY IS CUSTODIAN OF ALL UTILITY POLES AND OWNS THEM JOINTLY WITH THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF MARYLAND.
9. ALL POLES SHALL BE BRACED WHEN NECESSARY AT THE CONTRACTOR'S EXPENSE. THE UTILITY POLES SHALL BE RELOCATED AT THE OWNER'S EXPENSE ONLY IN CASES WHERE THEY WILL INTERFERE WITH CONSTRUCTION.
10. EXCESS MATERIAL FROM EXCAVATION MUST BE PLACED ON AN APPROVED SITE. IF AN APPROVED SITE IS NOT AVAILABLE THE CONTRACTOR WILL SUBMIT TO THE SOIL CONSERVATION DISTRICT, ANNAPOLIS, MARYLAND (222-7822) A PLAN FOR APPROVAL PRIOR TO DUMPING OF EXCESS EXCAVATION MATERIAL.
11. NECESSARY PRECAUTIONS SHALL BE TAKEN BY THE CONTRACTOR TO PROTECT EXISTING SERVICES AND MAINS, AND ANY DAMAGE TO THEM DUE TO CONTRACTOR'S NEGLIGENCE SHALL BE REPAIRED IMMEDIATLY AT THE CONTRACTOR'S EXPENSE.
12. THE CONTRACTOR SHALL NOTIFY MISS UTILITIES (1-800-257-7777) THREE (3) DAYS BEFORE STARTING WORK SHOWN ON THESE DRAWINGS.
13. PROPERTY SHOWN HEREON IS BASED ON A FIELD SURVEY BY RONALD W. JOHNSON ASSOCIATES, INC.
14. ELEVATIONS AND CONTOURS SHOWN ON THESE PLANS ARE TAKEN FROM SURVEY BY RONALD W. JOHNSON
THE ENGINEER DOES NOT WARRANT THE ACCURACY OF THE ELEVATIONS AND CONTOURS. THE CONTRACTOR SHALL VERIFY THE ELEVATIONS AND CONTOURS TO HIS OWN SATISFACTION PRIOR TO STARTING WORK. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ENGINEER'S ATTENTION IMMEDIATELY.

SITE DATA

TOTAL SITE AREA	
TOTAL LOT AREA	552,776 SF./12.69 AC.
REC. AREA	138,782 SF./3.186 AC.
OPEN SPACE	413,994 SF./9.504 AC.
EXISTING ZONING	RA
CRITICAL AREA DESIGNATION (SITE LIES PARTIALLY IN CRITICAL AREA)	RCA
DISTURBANCE CALCULATIONS	
TOTAL LIMIT OF DISTURBANCE	22,791 SF./.52 AC.
TOTAL AREA TO BE VEGETATIVELY STABLIZED	17,446 SF./.40 AC.
TOTAL AREA TO BE MECHANICALLY STABILIZED	5345 SF./.12 AC.
EARTHWORK CALCULATIONS	
TOTAL CUT WITHIN DEVELOPED SITE AREA	68 CY
TOTAL FILL WITHIN DEVELOPED SITE AREA	68 CY
IMPERVIOUS CALCULATIONS	
MAX. IMPERVIOUS ALLOWED (15%)	67,630 SF./1.55 AC.
EXISTING IMPERVIOUS WITHIN DEVELOPED SITE AREA	4,600 SF. /.11 AC.
PROPOSED IMPERVIOUS DEVELOPED SITE AREA	6,113 SF. /.14 AC.
ULTIMATE IMPERVIOUS (1%)	6,113 SF. /.14 AC.
CRITICAL AREA	
TOTAL AREA WITHIN CRITICAL AREA	449,539 SF./10.32 AC.
CLEARING/REFORESTATION CALCULATIONS	
EX. WOODED ON SITE	396,396 SF./9.1 AC.
MAXIMUN CLEARING ALLOWED 20% OF EX. WOODED	79,279 SF./1.82 AC.
CLEARING PROPOSED (4%)	14,583 SF. /.33 AC.

ANNE ARUNDEL SOIL CONSERVATION DISTRICT
SEDIMENT AND EROSION CONTROL APPROVAL

DISTRICT OFFICAL ______ DATE ______

AA SCD#______ SMALL POND#______

REVIEWED FOR TECHNICAL ADEQUACY BY
USDA, NATURAL RESOURCES CONSERVATION SERVICE

RECEIVED MAY 9 2003 CHESAPEAKE BAY CRITICAL AREA COMMISSION

Ronald W. Johnson Associates, Inc.
Consulting Engineers . Land Planners . Surveyors
2661 Riva Road Building 400, Suite 420 Annapolis, MD 21401
410.841.5221 410.266.6612 Fax 410.841.5124

STATE OF MARYLAND RONALD W. JOHNSON No. 10991 REGISTERED PROFESSIONAL ENGINEER 10/28/98

GRADING, SEDIMENT AND EROSION CONTROL PLAN

DWG NAME: 1319GP01.DWG	SCALE AS SHOWN	O.S. AND RECREATION AREA **BELVOIR** COMMUNITY PIER
PERC NO. T-	DRAWN BY MRL	
GRADING NO.	CHECKED BY SHC	
BUILDING NO.	SHEET 1 OF 3	T.M. 38; BLK 16; P.81
DATE: OCTOBER 1998	PROJECT NO.: 95-1319	2nd. TAX DISTRICT SCALE: AS SHOWN — ANNE ARUNDEL CO., MD OCTOBER, 1998
	PROPOSAL NO.:	

175-89 473-99
721-95
215-97

RE: An Appeal from a Decision of the Administrative Hearing Officer	*	**BEFORE THE**
	*	
	*	**COUNTY BOARD OF APPEALS**
	*	
	*	**OF ANNE ARUNDEL COUNTY**
BELVOIR FARMS, INC.	*	
	*	**CASE NO. BA 46-96V**
Petitioner	*	
	*	

REVISED MEMORANDUM OF OPINION

Summary of Pleadings

This appeal is before the Board of Appeals pursuant to a remand from the Circuit Court for Anne Arundel County in Case No. C-97-42848-AA, regarding the conditional granting of a variance to permit a greater number of boat slips at a community pier than permitted, on property located on 1,650 feet along the east side of Old River Road, 1,250 feet north of Eva Gude Drive, Crownsville.

This Board rendered this decision following legal argument by all parties. No additional evidence was accepted into the record and no additional testimony was taken.

Findings and Conclusions

This matter was originally before the Board of Appeals regarding a request for a special exception to permit a community pier and boat ramp in a residential zoning district and a request for variances to the Zoning Regulations to permit a greater number of boat slips at a community pier and a drive aisle with less width and buffer than required. In its original decision, the Board granted the request for the special exception and the variance to permit a drive aisle with less and buffer than required. The Board also granted a variance to permit 18 boat slips at the community pier (only four such slips are permitted by right). The grant of the variance to permit the boat slips was appealed to the Circuit Court of Anne Arundel County and proceeded through the court system. The case was eventually brought before the Court of Appeals. The Court of Appeals directed that the matter be remanded to the Board of Appeals for fact finding consistent with the Court's written opinion.

The sole issue presently before this Board is whether the Petitioner meets the criteria for the grant of a variance to permit more boat slips than allowed by the Anne Arundel County Code (the "Code"), Article 28, Zoning, Section 12-214(b)(2). The Code provides that the number of boat slips at a community pier shall be based on the lesser of one slip for each 300 feet of shoreline (for property within the RCA, as here) or one slip for each lot in the Critical Area within the subdivision. See, id. In the Belvoir Farms subdivision, there is approximately 1,800 feet of shoreline, which would yield six boat slips, but only four lots within the Critical Area. Therefore, without a variance, the Belvoir Farms Subdivision could construct a community pier with only four boat slips. The Code specifically provided that a variance might be granted to this section of the Code. See, id., Section 12-214(c).

In order to obtain the requested variance, the Petitioner must show that the denial of the request will result in an "unwarranted hardship". See, Belvoir Farms Homeowners Association, Inc. v. North, 355 Md. 259, 734 A.2d 227 (1999). The Court has made clear that the "unwarranted hardship" standard is less restrictive than an unconstitutional taking standard. The key to determining whether an unwarranted hardship exists is whether an applicant would be denied a "reasonable and significant use" of the applicant's property if the permission requested were not granted.

The Petitioner contends that the denial of the requested variance would result in an unwarranted hardship. For perhaps different reasons than those expounded by the Petitioner and with the imposition of several conditions on the proposed use, which we will develop in greater detail later in this opinion, we agree.

Recently, the Anne Arundel County Council adopted Council Bill No. 12-00 that amended the County's Critical Area Program. As part of that amendment, the standards for the grant of a variance were revised to provide that variances might be granted where "certain unique physical conditions, such as exception topographical conditions peculiar to and inherent in the particular lot, or irregularity, narrowness, or shallowness or lot size and shape" would result in an unwarranted hardship to the

431-99

RECEIVED

JAN 10 2002

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2001-0370-V

IN RE: **BELVOIR FARMS HOMEOWNERS ASSOCIATION, INC.**

SECOND ASSESSMENT DISTRICT

DATE HEARD: DECEMBER 20, 2001

ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: **KATHLEEN A. SHATT**

DATE FILED: **JANUARY** 8, **2002**

PLEADINGS

Belvoir Farms Homeowners Association, Inc., the applicant, seeks a variance (2001-0370-V) to permit extensions in the time required for the implementation and completion of a previously approved special exception and previously approved variances on property located along the east side of River Road, north of Eva Gude Drive, Crownsville.

PUBLIC NOTIFICATION

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Tom Quinn, chairman of the applicant's pier committee, testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS

This matter was last before this office in Case No. 1999-0359-V (November 5, 1999). The Order granted a variance to extend the time of the approved special exception and variance to drive aisle width from November 14, 1999 until two years from the remand decision concerning the slip variance by the Board of

Appeals. The Board's revised Memorandum of Opinion is dated October 30, 2000. On September 7, 2001, the applicant filed the current application, requesting one year from the date of state approval of the community pier proposal to obtain a building permit, and two years to complete construction and begin operating the community pier use, including the additional boat slips and driveway.

Kathleen A. Shatt, a zoning analyst with the Office of Planning and Zoning (OPZ), testified that the applicant has diligently pursued the building permit but it has not been issued pending state and federal approval. Neither the Chesapeake Bay Critical Area Commission nor the Soil Conservation District oppose the variance request. A sewer crossing in River Road is unacceptable to the Health Department. By way of conclusion, Ms. Shatt supported the application.

On cross-examination by counsel to the protestants, Ms. Shatt indicated that it is the County's policy to accept time extension variance applications so long as the one-year period under Anne Arundel County Code, Article 28, Section 11-102.1 has not expired.

Mr. Quinn described the development of Belvoir Farms and the history of the community pier project. The applicant requested grading and building permits in 1998. One building permit application sought four slips (no variance required), a second application sought 14 slips (variance required). Given that an appeal of the boat slip variance was pending, the applicant did not pursue the permit for

four slips. In 1999, the Corps of Engineers advised that the previously filed project application was considered withdrawn. Following the expiration of the time to appeal from the Board's Order, the applicant's engineering consultant revised the State Wetlands License application with assistance from a newly hired environmental engineering firm. A joint application meeting was held with state and federal agencies on March 28, 2001. After encountering resistance at the staff level within the Maryland Department of the Environment (MDE), the applicant sought the assistance of the Honorable Robert R. Neall in scheduling a meeting with Secretary Nishida for May 29, 2001. MDE representatives failed to attend the meeting, which was rescheduled. Ultimately, the revised wetlands license application was submitted on August 17, 2001. The application included mitigation at a 3:1 ratio for 0.2 acres of new impact to Submerged Aquatic Vegetation (SAV).[1] At this juncture, MDE notified the public of the revised application. A public hearing was conducted on November 1, 2001. The Corps of Engineers has requested additional SAV studies from May 1 - June 1, 2002 and from July 15 - September 30, 2002. Mr. Quinn does not expect state and Corps of Engineers approval until the fall of 2002 or beyond. Once the approvals are received, he anticipates six months to obtain the building permit, then 12

[1]Existing mooring buoys impact 2.7 acres of SAV. The mitigation plantings consist of widgeon and redhead, which are considered higher quality grasses as compared to the horned pond weed in the area of disturbance.

months to complete construction. According to the witness, the need for the community pier is more pronounced than ever based on the continued build-out of Belvoir Farms.

On cross-examination, Mr. Quinn conceded that the prior extension request was filed prior to the expiration of the underlying approvals. He acknowledged that the project has engendered opposition throughout its lengthy duration. There is no assurance of ultimate approval; but if it is approved, there is every likelihood of future appeals and litigation. Finally, none of the mooring buoys are being used.

Michael Klebasko, an environmental biologist in the applicant's employ, described the site and environmental conditions, which remain unchanged from 1996. He anticipated no detrimental impact to Critical Area resources from the approval of the variance. On cross-examination, the witness conceded that his opinion is based on the requirements of existing law; that is, to the extent there are changes in the law, his opinion of no adverse impact could change.

There was public opposition to the application. Peggy Andrews, a resident of Eva Gude Drive, anticipates adverse impacts to Critical Area resources from the community pier; increased noise from boating activities; security problems within the Bayberry Hill community; and an adverse impact to property values. The witness contended that the approvals have already expired; and in any event, any extension should not exceed one year from the Board's Order.

On cross-examination, Ms. Andrews acknowledged that she purchased her property in July 2000; and that most of the approximately 25 Bayberry Hill lots have their own docks.

James Earl, an authorized representative of the Bayberry Hill Property Owners Association, opposed the community pier because it will adversely impact the environment and the security of Bayberry Hill and result in increased boat traffic and automobile traffic. He disputed that the relief requested represents the minimum and recommended that the applicant first obtain the requisite state approval.

On cross-examination, Mr. Earl conceded that the Bayberry Hill Property Owners Association participated in the original case before the Board of Appeals but did not file a separate appeal to the Circuit Court.

Nora Garman, a long term resident of River Road, opposed the application on the grounds of adverse environmental impacts to the creek. In this regard, the once dense SAV population is just starting to make a comeback. The witness also anticipated increased noise on the creek and traffic along River Road. Finally, in her view, the applicant has already received enough time to implement the project.

CONCLUSIONS

This office has previously reviewed the extensive prior proceedings in this matter. It would appear that the future of the project will be no less contentious.

Regrettably, this application interjects the additional issue of timeliness. Because the applicant (1) timely filed for the building permits - which the County will not issue absent state and federal approval - and (2) diligently pursued the state and federal approval and (3) timely filed the variance request and (4) has absolutely no control over the scheduling by this office of its request; and because extensions filed in advance of the expiration of the one year period under Sec. 11-102.1 have always been accepted by OPZ and heard by this office, I have denied the protestant's Motion to Dismiss.

The matter of the extent of the relief is more troublesome. This office is not in the practice of granting open-ended extensions. In the best case scenario, the required decision by the state and federal authorities will be rendered in October, 2002. I am lacking a crystal ball to predict the result or the outcome of what appears to be the likely appeals and litigation. Giving the applicant its best case, the County permit will issue within six months and construction will be completed after an additional 12 months. I believe these periods represent the minimum relief. To the extent I am wrong, then the applicant can seek to prove entitlement to another extension. So limited, I find and conclude that the variance will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property or cause a detriment to the public welfare. In this regard, I adopt the findings and conclusions of the previously approved special exception and the previously approved variances.

The new approval is subject to the condition in the Order.

ORDER

PURSUANT to the application of Belvoir Farms Homeowners Association, Inc., petitioning for a variance to permit an extension in the time required for the implementation and completion of a previously approved special exception and previously approved variances; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 30th day of January, 2002,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a *modified* variance to allow up to April 1, 2003 to obtain a building permit and up to April 1, 2004 to complete construction and begin operating the community pier use, including the additional boat slips and driveway. *The approval is subject to the condition that the building permit is subject to the approval of the Health Department.*

Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved

thereby may file a Notice of Appeal with the County Board of Appeals.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

EXISTING PIER LOCATIONS OUTSIDE OF THE IMMEDIATE FIELD SURVEY AREA WERE TAKEN FROM AACO 200 SCALE TOPOGRAPHIC PIER PERMITTING MAPS AT THE AT THE TIME OF THE ORIGINAL EXHIBIT PREPARATION

EXISTING SHORELINE

EX. MAYNADIER 16 SLIP COMMUNITY PIER

EXISTING PIERS

CREEK

PROPOSED PIER LAYOUT

EXISTING PIER

PREVIOUSLY DREDGED AREA AND EXISTING PIER AREA LICENSED BY STATE OF MARYLAND 83-WL-345 AND US.COE, CENAB-OP-RW (ROGERS, ARCHIBALD) 83-0289-6

SITE

PREVIOUSLY DREDGED AREA

EXISTING WATER SKIING COURSE

MANDERES

-1 -2 -3 -4 -5

0 -1 -2 -3 -4 -5 -6

AFFECTED AREA

2 slips @ 25' wide	600 SF
8 slips @ 30' wide	3,600 SF
8 slips @ 40' wide	5,640 SF

TOTAL AFFECTED AREA 9,840 SF (0.23 acre)

* Includes pilings and finger piers

* Numbers compiled and calculated by Charles K. Cover, Belvior Community representative

PLAN SCALE

1" = 100'

I HEREBY CERTIFY THAT THE RIVER BOTTOM ELEVATIONS AND CONTOURS SHOWN HEREON IN MANDERES CREEK ARE TRUE AND ACCURATE, AND REPRESENT THE DEPTH OF WATER RELATIVE TO MEAN LOW WATER DATUM EQUAL TO ZERO ELEVATION, AND WERE ESTABLISHED FROM A SURVEY BY RONALD W. JOHNSON ASSOCIATES, INC. MAY 25, 1995.

3/8/96

CARL A. STEVENSON DATE
REG. PROPERTY LINE SURVEYOR NO. 149

MANDERES CREEK EXHIBIT

Ronald W. Johnson Associates, Inc.
Consulting Engineers · Land Planners · Surveyors
2661 Riva Road Building 400, Suite 420 Annapolis, MD 21401
410.841.5221 410.266.6612 Fax 410.841.5124

	OF "EXHIBIT B", AFFECTED AREA TABLE	06-01-01	SRJ
	ADDED; PREVIOUS DREDGE AREA, MISC. NOTATIONS FOR CREATION		
1	MODIFIED ORIGINAL MYLAR TO REMOVE; MOORING BUOYS		

SITE PLAN - BATHYMETRIC SURVEY AND CLUSTERED PIER LAYOUT

EXHIBIT B

DRAWN BY	S.R.J.	SCALE	1" = 100'
CHECKED BY	S.R.J.	SHEET	1 OF 1
DATE	MAY, 2001	RWJA NO.	95-1319

O.D. & RECREATION AREA
BELVOIR COMMUNITY PIER
TAX MAP 36, BLOCK 16, PARCEL 81
2 ND. TAX DISTRICT ANNE ARUNDEL COUNTY, MD
SCALE: 1" = 100' MAY, 2001

Chesapeake Bay Critical Area Report

Belvoir Farms Community Marina

Site Plan Information

Trees: This parcel is completely wooded with the exception of the existing drive, parking area, and roadway to a rough boat put-in area. This is a mature, well-structured woodland dominated by sweet gum, red maple and tulip poplar in the canopy. Other frequently encountered woody species include ironwood, flowering dogwood, willow oak, sweet pepperbush, smooth arrowwood, northern red oak, and black cherry. Eight specimen trees were encountered: four tulip poplar, one willow oak, one sweet gum, and two red maple. All large trees observed range between 30 and 40 inches in diameter. Their locations are shown on the attached site plan. None of these trees fall within 75-80 percent of the currently listed state champion for their species. The woodland floor tends to be covered with vines or ferns. There is only a minor presence of disturbance/invasive plant species.

Limits of Area That Will Be Disturbed During Construction: The proposed locations of construction are shown on the attached site plan.

100-Year Floodplains: Panel 33 of the Flood Insurance Rate Maps for Anne Arundel County indicates that this entire site falls within a 100-year floodplain along Maynedier Creek off the Severn River. The projected flood elevation is 7 feet without velocity. (See Attachment 2)

Wetlands: The South River Quadrangle of the National Wetlands Inventory identifies the presence of emergent, narrow-leaved tidal wetlands along the Maynedier Creek shoreline just to the north of this property. In fact, these tidal wetlands extend along this parcel's shoreline and then continue around the Creek's shoreline beyond this site. A thick patch of reed grass is found along the water's edge just to the north of this property. This changes to a thick bed of saltmarsh cordgrass dotted with big cordgrass and switch grass along the marina shoreline. Arrow arum, water dock, narrow-leaved cattail, and marsh hibiscus are found about the existing pier and along the interior of this tidal growth. (See Attachment 3)

The National Wetlands Inventory does not identify the presence of nontidal wetlands on this parcel. However, several small patches of wetlands are present which fulfill the criteria established by the 1987 Nontidal Wetlands Delineation Manual in current use by the U.S. Army Corps of Engineers and the Maryland Department of Natural Resources. These wetland patches are located along the shoreline in depressions to which the slopes of the site drain. (See attached data sheets for plots 4 and 5) A third small area, located off the existing road cut to the boat put-in, contains some of the characteristics of nontidal wetlands but the soil coloration and hydrological indicators appear to be insufficient. (See attached data sheet for plot 1) The remaining environmental conditions of the site are pretty well represented by the information contained in data sheets 2, 3, and 6.

Bodies of Water: This property is found between River Road and the Maynedier Creek shoreline. Maynedier Creek is a small inlet off Round Bay in the Severn River.

Aquatic Resources: The Submerged Aquatic Vegetation Survey conducted in 1992 records a citizen's observation of horned pondweed (Zannichellia palustris) within Mayneider Creek. This observation was not re-reported in 1993. This Survey is coordinated by the U.S. Fish and Wildlife Service. In fact, a thick bed of horned pondweed was present along the nondredged portions of this parcel's shoreline during the course of fieldwork conducted for this report. Horned pondweed reproduces primarily by seed. Seed germination may occur within a single growing season. The plants die back as temperatures increase, forming free-floating mats (which aid seed dispersal). A second growth period may occur as temperatures drop in the early fall. (See Attachments 4)

The Aquatic Resource Areas Handbook prepared by the Maryland Department of Natural Resources identifies Mayneider Creek as a spawning area for migrating and local finfish species. While some historical oyster beds are mapped for Round Bay, shellfish beds within the Severn River are generally closed due to poor water quality. (See Attachment 5)

Finfish species frequently encountered in the Severn River system include white perch, river herring, American eel, oyster toadfish, rough silversides, Atlantic needlefish, sheepshead minnow, mummichog, striped killifish, hogchoker, four-spine stickleback, menhaden, northern pipefish, Atlantic silversides, tidewater silversides, naked gobi, Norfolk spot, striped blemny, striped bass, bluefish, and clingfish.

Soils: Map 18 of the Soil Survey for Anne Arundel County indicates the presence of mixed alluvial soils (Mt) throughout this property. Neighboring soils on steeps slopes are identified as Monmouth fine sandy loam (MvE). Monmouth soils are considered to be highly erodible. The erosion factor K for Mixed alluvial soils is .28 from 0 to 12 inches and .37 from 12 to 60 inches in depth. Soil conditions were examined at 6 locations. This information is found within the attached Routine Determination data forms. Please note that plots 1, 4, and 5 describe locations found within small confined areas. (See Attachment 6)

Steep Slopes: Steep slopes present, if any, are shaded on the attached site plan. (See Attachment 1)

Rare and Endangered Species Habitat, Plants, and Animals: No rare or endangered species of plants, animals nor unusual habitat were encountered on this property during the fieldwork conducted for this report.

Upland Natural Area and Other Site Designations: The Anne Arundel County Upland Natural Area Field Boundaries Map does not identify an upland natural area on this property. A wooded drainage found across River Road is identified as Upland Natural Area 5100. (See Attachment 7) This parcel falls within the Chesapeake Bay Critical Area. Its shoreline areas and the 100-foot buffer along that shoreline constitute Habitat Protection Areas. Anne Arundel County has not designated this site as a habitat site of local significance. It does not contain a nontidal wetland of special state concern. Additionally, the Natural Heritage Program of the Maryland Department of Natural Resources has not designated this or a neighboring site as a Habitat Protection Area (neither a Listed Species Site or a Other Significant Habitat Site) nor a Natural Heritage Area.

Stormwater Outfalls: No stormwater outfalls were observed on this property.

Narrative Section

General Site Description and Proposed Development: This property is located between River Road and Mayneider Creek. It contains a driveway, rough boat put-in, a gravelled parking lot, and a pier set in a well-structured woodland. The parcel is surrounded by neighboring woodland. The development proposed would make functional the site as a community marina for Belvoir Farms. This is its designated use. Construction would consist of installing pilings off the existing pier for securing boats, enlarging the existing parking lot, building a raised walkway to access the pier, and perhaps stabilizing the existing boat put-in area. Some sort of bathroom facility is proposed also.

Description and Extent of Vegetation Within the Critical Area Boundary: No rare or endangered species of plants or animals were encountered on this property during the course of fieldwork conducted. Existing vegetation is described in the subsections entitled "Trees" and "Wetlands" The attached List of Vegetation identifies the plant species encountered at the site. Diameters of canopy individuals are given as well as relative percentages of canopy species.

Wildlife Observed or Expected to be Present: Wood ducks were observed on the property. The site contains a number of wildlife food species. Horned pondweed seeds are consumed by shovelers and lessor scaups. Waterfowl also eat saltmarsh cordgrass seeds while its rootstocks are eaten by geese and muskrats. Sweet gum provide food to mallard duck, bobwhite quail, Carolina chickadee, purple finch, goldfinch, Carolina wren, and towhee. Red maple provide food to many of the same species. Oaks present provide food to mallards, wood duck, bobwhite quail, common crow, yellow-shafted flicker, purple grackle, bluejay, red-bellied woodpecker, Carolina wren, red fox, opposum, cottontail rabbit, raccoon, and flying squirrel. Tulip poplar provide food to redwinged blackbird, cardinal, Carolina chickadee, purple finch, goldfinch, and ruby-throated hummingbird. Other wildlife plant foods present include flowering dogwood, sweet pepperbush, black gum, American holly, black haw, mockernut hickory, greenbrier, honeysuckle, grape vine, partridgeberry, may apple, and Indian strawberry.

Small mammals and reptiles, along with white-tailed deer may frequent this site. These include masked shrew, least shrew, eastern mole, little brown myotis, eastern pipstrelle, eastern cottontail, gray squirrel, southern flying squirrel, striped skunk, white-footed mouse, red fox, raccoon, opossum, box turtle, rough green snake, black snake, garter snake, water snake, diamondback terrapin, wood frog, and Fowler's toad.

Pollutants Expected to be Generated: Common urban pollutants which may be added to stormwater runoff from the development of this property into a community marina include sediment, grit, rubber, vehicle oils and lubricants, atmospheric wetfall and dryfall, trace metals much as zinc, copper or cadmium, and some nutrients. With the exception of sediment, it is expected that the amounts of these pollutants generated will be minimal.

Project Minimization/Mitigation: During construction, sediment and erosion control measures will be used in accordance with Anne Arundel County grading ordinances in order to minimize potential sediment runoff. Any woody growth disturbed will be mitigated on-site at a 1:1 ratio or a fee will be paid. Twenty-five feet will be maintained from any of the several small nontidal wetland patches. The parking area will be expanded away from the 100-foot buffer. Stormwater run-off from the parking and driveway areas will be directed away from the shoreline, including the boat put-in. For instance, grated drains may be placed at strategic locations to prevent noninfiltrated runoff from reaching the shoreline. All specimen trees will be preserved. Parking and driveway areas will be gravelled to reduce impervious surfaces. Sanitation options include a holding tank which could be placed under the parking area to reduce disturbance.

Site Plan: The Site Plan for this report was prepared by Ronald W. Johnson Associates, Inc.

Fieldwork: The Fieldwork for this report was conducted in June, July and August of 1995 by Gale J. Reed, Biologist.

☑ LC
☑ LH
☐ RS
☐ file

473-99

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0359-V

IN RE: **BELVIOR FARMS HOMEOWNERS ASSOCIATION, INC.**

SECOND ASSESSMENT DISTRICT

DATE HEARD: NOVEMBER 2, 1999

ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: **PATRICIA A. MILEY**

DATE FILED: **NOVEMBER** 5, **1999**

RECEIVED
NOV 9 1999
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

PLEADINGS

Belvior Farms Homeowners Association, Inc., the applicant, seeks a variance (1999-0359-V) to permit an extension of time required for the implementation and completion of a previously approved special exception and variance on property located along the east side of River Road, north of Eva Gude Drive, Crownsville.

PUBLIC NOTIFICATION

The case was advertised in accordance with the provisions of the County Code. Col. Robert Shade, the applicant's vice president, testified that the property was posted on October 17, 1999. Upon observing that the sign suffered damage, it was repaired by the applicant. The witness confirmed that the sign was intact and visible at the time of the hearing. I find and conclude that the notice requirements are satisfied.

FINDINGS AND CONCLUSIONS

This case is the latest chapter in a four-year odyssey to build a community pier in a residential zoning district with a greater number of slips than permitted and less drive aisle width than required. The property comprises 3.186 acres and is zoned RA - Agricultural Residential with a Chesapeake Bay Critical Area designation as Resource Conservation Area (RCA).

The present application is a direct result of the extensive prior proceedings.

In Case Nos. 1995-0488-S and 1995-0489-V (May 21, 1996), this office denied all relief. The applicant filed a timely appeal to the Board of Appeals. In Case Nos. BA 45-96S and BA 46-96V (November 14, 1997), the Board conditionally approved a special exception for a community pier and variances to permit up to 18 slips and a variance of eight feet to the width requirements for the driveway and entrance. On December 15, 1997, the Chesapeake Bay Critical Area Commission, by John C. North, II, Chairman, sought judicial review in the Circuit Court for Anne Arundel County. By decision dated September 29, 1998, the Circuit Court reversed the Board of Appeals. Undaunted, the applicant filed a timely appeal to the Court of Special Appeals on October 27, 1998. The Court of Appeals granted a Writ Certiorari before the matter was heard by the Court of Special Appeals. The Court ultimately vacated the judgement of the Circuit Court and remanded with instructions to vacate the decision of the Board of Appeals and to remand to the Board for further proceedings consistent with the Court's decision. See, Belvior Farms Homeowners Association, Inc., v. North, ___ Md. ___, 1999 (No. 85, 1998 Term, filed August 2, 1999). The mandate issued on September 1, 1999. By Memorandum and Opinion and Order dated September 3, 1999, the Circuit Court vacated the decision of the Board of Appeals and remanded the case where it is pending.

The protracted litigation relates only to the variance allowing additional boat slips. See, Slip Opinion at 2: "the issues before this Court relate only to the grant of the variance that allows the petitioner to build 14 more boat slips than permitted

by the Critical Area regulations."

The special exception for a community pier and the variance permitting the drive aisles with reduced width are subject to the time limitations set forth in the Anne Arundel County Code, Article 28, Section 12-107(a) and Section 11-102.2(a) respectively. Under Section 12-107(a), the special exception is rescinded by operation of law if action to implement the use is not begun within one-year after the approval and the use is not in operation within two-years. Under Section 11-102.2(a), the drive aisle width variance is voided unless a building permit is obtained within one-year and construction is completed within two-years of the approval. Inasmuch as the special exception and drive aisle variance are intimately tied to the still unresolved slip variance, the applicant seeks to extend the approvals, which would otherwise expire on November 14, 1999.

Patricia A. Miley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the applicant has diligently pursued building permit approval. Nonetheless, she conceded what can only be considered painfully obvious: the approvals will expire long before the determination by the Board on remand (or after an appeal, if any, from the Board's remand decision). In the circumstances, she voiced no objection to the requested extension.[1]

The applicant proffered the testimony of Col. Shade, and Ron Johnson, its

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[1]The Chesapeake Bay Critical Area Commission did not submit a written comment concerning the extension request. However, Ms. Miley reported that she discussed the request with a representative of the Commission, and there was no objection.

engineering consultant. The proffered testimony indicated that the applicant has applied for a grading permit, building permit, and tidal wetlands license and has designed the septic system, which is pending approval by the Health Department. The applicant specifically represented that unless it wins approval for 18 boat slips, or some number close to 18, then there will be no community pier. There was no opposition to the requested extension.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief from the code. I am satisfied that the peculiar course of the litigation, in which two of the approvals are about to expire prior to a decision about the number of slips, constitutes exceptional circumstances, such that a variance is necessary to avoid an unnecessary hardship and to enable the applicant to develop the lot. As a practical matter, the minimum variance is for the approvals to run concurrently with the Board's decision on remand.[2] There was nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

ORDER

PURSUANT to the application of Belvior Farms Homeowners Association, Inc., petitioning for a variance to permit an extension in the time required for the

[2]To the extent the Board's decision is not the final word, the applicant may, of course, seek to justify a further extension.

implementation and completion of a previously approved special exception and variance; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 5th day of November, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a variance to extend the time of the approved special exception and variance to drive aisle width from November 14, 1999, until two years from the remand decision concerning the slip variance by the Board of Appeals.

Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

Judge John C. North, II
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 260-7516 Fax: (410) 974-5338

November 1, 1999

Kevin Dooley, Chief, Zoning
Anne Arundel County Department of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

RE: Variance 1999-0359-V, Belvoir Farms Homeowners Association

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit an extension of time for the implementation and completion of a previously approved special exception and variance.

This office has no comment on the variance to permit the extension of time for implementation of the previous approvals.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this case. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: AA473-99

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450