

AA 798-05
VAR

Kazaz, Harun
0421

MSA-S-1829-4741

Ms 12/15/06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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/

December 15, 2005

Ms. Ramona Ploceinnik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0421-V Harun and Leyla Kazaz

Dear Ms. Ploceinnik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a two-story, single-family dwelling with attached garage, deck, well, and septic system with less setbacks and Buffer than required. The property is currently designated as Limited Development Area (LDA), is developed with a single-family dwelling with attached garage, sidewalk, well and septic system.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the dwelling, deck, well, and septic system; however, impacts must be minimized and the variance the minimum necessary. Based on the review of the site plans we have the following comments.

- 1) The property is 0.147 acres or 6,400 square feet and the applicant is proposing 1,941 square feet of impervious surface coverage. The amount of allowable impervious surface coverage is 25% (2,100 square feet). 2,218 square feet will be disturbed and 200 square feet of vegetation will be removed.
- 2) Mitigation at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on site to the extent possible.

Ms. Ramona Ploceinnik
Variance 2005-0421-V Harun and Leyla Kazaz
December 15, 2005
Page 2

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Green".

Gary Green
Environmental Analyst
cc: AA798-05

798-05

RECEIVED

JAN 19 2006

CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2005-0421-V

IN RE: HARUN AND LEYLA KAZAZ

THIRD ASSESSMENT DISTRICT

DATE HEARD: JANUARY 12, 2006

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: SUZANNE SCHAPPERT

DATE FILED: JANUARY 18th, 2006

PLEADINGS

Harun and Leyla Kazaz, the applicants, seek a variance (2005-0421-V) to permit a dwelling with less setbacks and buffer than required on property located along the south side of Riverside Drive, east of Pinehurst Road, Pasadena.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's web site 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 feet of the property was notified by mail, sent to the address furnished with the application. Stan Serwatka, the applicants' development consultant, 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 AND CONCLUSIONS

The applicants own a single-family residence with a street address of 8206 Riverside Drive, in the subdivision of Pinehurst on the Bay, Pasadena. The property comprises 6400 square feet and is zoned R1-Residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This waterfront lot on Locust Creek is located in a buffer modification area. The applicants seek to raze the existing dwelling, followed by the construction of a

new dwelling (26 X 39 feet) with covered porch and waterside deck (8 X 30 feet). The disturbance is 18 feet from Locust Creek. The replacement dwelling is 39 feet from water (4 feet closer than the existing dwelling) with an east side yard measuring 8 feet and a west side yard measuring 12 feet. The proposal also retains an existing garage, which would be a foot from the replacement dwelling and 17 feet from the rear lot line along Riverside Drive.

Anne Arundel County Code, Article 18, Section 18-13-104(a) creates a 100-foot buffer from tidal waters. Section 18-13-104(b) creates a buffer modification area for lots created before December 1, 1985 on which the existing pattern of development prevents the 100-foot buffer from performing its protective function. Under Article 17, Section 17-8-702(c), replacement of existing impervious surfaces is allowed when redevelopment occurs in the same footprint. Finally, Section 18-4-501 requires lots in the R1 district to maintain side yards 15 feet wide with a combined width of 40 feet and a rear yard 35 feet deep.¹ Accordingly, the proposal requires buffer variances of 82 feet for the disturbance and 4 feet for the dwelling; as well as variances of 7 feet to the east side setback, 3 feet to the west side setback, 20 feet to the combined side yard width and 18 feet to the rear setback for the dwelling.

Suzanne Schappert, a Planner with the Office of Planning and Zoning, testified that the property is below the minimum area and width for the district. It

¹ Under Section 18-2-204(a), due to the nominal separation, the garage is considered as part of the principal dwelling rather than as a separate accessory structure.

is located in an older, cottage-type community with other nonconforming dwellings. The applicants are proposing 1,941 square feet of impervious surfaces versus an allowance of 2,100 square feet. The witness summarized the agency comments. The Health Department requested plan approval. The Chesapeake Bay Critical Area Commission offered no objection, subject to mitigation. By way of conclusion, Ms. Schappert supported the request.

Mr. Serwatka testified that the leading edge of the waterside deck addition corresponds with an existing sidewalk that would be removed. The project also includes a replacement septic system (includes pretreatment and nitrogen removal) in the same location as the existing system, which is in front of the dwelling within the limits of the disturbance. Mr. Kazaz testified that the dwelling is aligned with a dwelling under construction on the adjacent lot. There was no other testimony in the matter.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. For this critical area property, due to the proximity to water, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program would deny the applicants the right to redevelop the property with a single-family dwelling, a right commonly enjoyed by other properties in similar areas of the critical area. Conversely, the granting of the variances will not confer any special privilege that the program typically denies. There was no indication that the request results from the actions of the applicants or from land use on neighboring property. Finally,

subject to mitigation and other conditions, the granting of the variances will not adversely impact protected resources and harmonizes with the general spirit and intent of the program.

With respect to the zoning variances, this property satisfies the test of unique physical conditions, consisting of its extremely small area and width, such that there is no reasonable possibility of development in strict conformance with the code.

I further find that the variances represent the minimum relief. The dwelling is appropriately sized. The project is within the allowed impervious coverage. There was nothing to indicate that the granting of the variances would 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. The approval is subject to the conditions in the Order.

ORDER

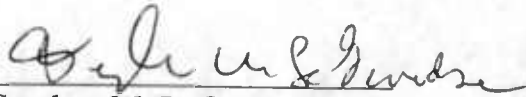
PURSUANT to the application of Harun and Leyla Kazaz, petitioning for a variance to permit a dwelling with less setbacks and buffer than required; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 18th day of January, 2006,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a buffer variance in the amount of 82 feet for the disturbance and 4 feet for the dwelling and variances of 7 feet to the east

side setback, 3 feet to the west side setback, 20 feet to the combined side yard width and 18 feet to the rear setback to permit a dwelling in accordance with the site plan. *The approval is subject to the following conditions:*

- 1. The building permit is subject to the approval of the Health Department.*
- 2. No further expansion of the dwelling is allowed.*
- 3. The applicants shall provide mitigation at a 3:1 ratio for disturbance in the buffer with plantings on site.*


Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty 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.

Further Section 18-16-405(a) provides that a variance expires by operation of law unless the applicant obtains a building permit within one year. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

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

CHESAPEAKE BAY CRITICAL AREA REPORT
Pinehurst on the Bay, Lots 639 & 640
TAX MAP 18, BLOCK 23, PARCEL 81

INTRODUCTION

This is a 6,400 sq. ft. Or .147-acre property that is located on the South side of Riverside Dr. in Anne Arundel County, Maryland. The property is completely inside the Chesapeake Bay Critical Area Boundary and is designated as Limited Development Area (LDA). The property is zoned R-1. A variance is necessary because development is proposed to be closer to the property lines then allowed in a R- 1 Zone, See plan for proposed setbacks..

EXISTING LAND USE

The site is improved with an existing house which will be removed. The proposed use in the construction of a new single-family dwelling served by a proposed well and septic system.

SURROUNDING LAND USE

The surrounding properties consist of single-family dwellings and vacant land..

SOILS

The U.S. Department of Agriculture Soil Survey of Anne Arundel County shows the subject property to contain the soil type:

DWB – DonLonto, Fine Sandy Loam.

FLOODPLAIN

The property is shown on the Federal Emergency Management Agency (FEMA) panel 240008 0015 C. The site is shown as Zone A-9 Elevation 8.0'

TIDAL WETLANDS

Tidal wetlands do not exist within this site.

BODIES OF WATER

The property drains to the Locust Creek.

STEEP SLOPES

Steep slopes of 15%+ does not exist on this site.

FOREST COVER

The site consists of Grass, Lawn and a small area of Shrubs and Trees.

RARE AND ENDANGERED SPECIES

An environmental review statement has been requested for this site.

STORMWATER MANAGEMENT

The existing runoff is conveyed via sheet flow over a vegetated surface to a stable outfall with outfall to Locust Creek. The proposed runoff will be collected by gutters and downspouts and conveyed to grass swales along the side of the house to provide water quality and also water quality plantings will be provided.

FOREST MITIGATION

Reforestation will be provided on site at the time of grading permit.

DATES OF FIELD WORK

September 2005

SITE ANALYSIS

TOTAL SITE AREA = . 147 ACRES OR 6,400 SQ.FT.

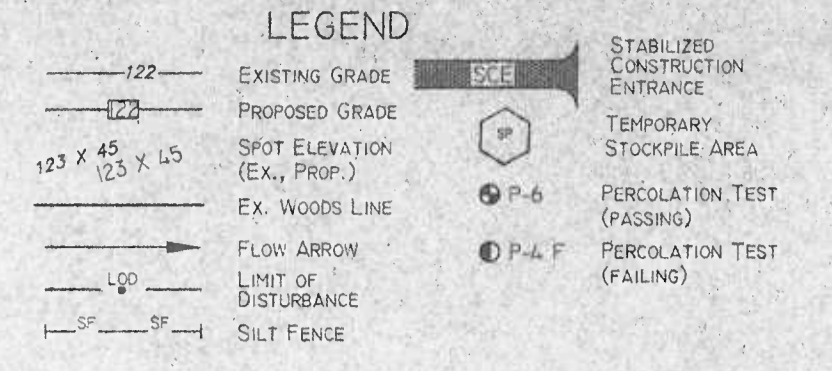
TOTAL EXISTING WOODLANDS ON-SITE = 2,100 SQ. FT.

TOTAL WOODLANDS TO BE CLEARED = 200 SQ. FT.

PROPOSED IMPERVIOUS AREA = 1,030 SQ. FT.

TOTAL EXISTING IMPERVIOUS AREA TO REMAIN = 911 SQ.FT.

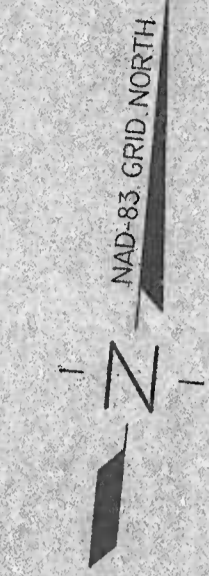
MAXIMUM IMPERVIOUS ALLOWED = 2,100 SQ. FT.



- LANDSCAPING GENERAL NOTES**
- All plant material and installation of plant material shall be in strict accordance with AAS Standards and the LCA/M/ASA Landscape Specifications Guidelines. Provide 1 year warranty.
 - All shrubs and ornamental trees shall be matched within groups.
 - All evergreen trees shall be staked as per the Tree Staking Detail provided.
 - Do not prune plant material unless directed to do so by the Landscape Architect.
 - All areas disturbed by construction, and not paved or otherwise planted, shall be seeded with Kentucky 31 Certified Seed, at the rate of 5 to 8 pounds of seed per 1,000 square feet.
 - All sod shall be Kentucky 31 Certified Sod.
 - Plant lists have been provided for the Contractor's information only. Quantities shall be as shown on the plan.
 - Landscaping as shown on this plan is subject to revision, as directed by the Architect or Landscape Architect, with approval from W.P.B.
 - It is the Owner's responsibility to properly mark all plant material (ground cover and vines excluded) with an identifying label listing Genus, Species, and Variety, if applicable, these labels are not to be removed until after the final Use and Occupancy Permit has been issued.
 - Sod shall meet the SWM, Bio-Retention Manual requirements within the Bio-Retention Facility requirements.

N 529,750
E 1,469,750

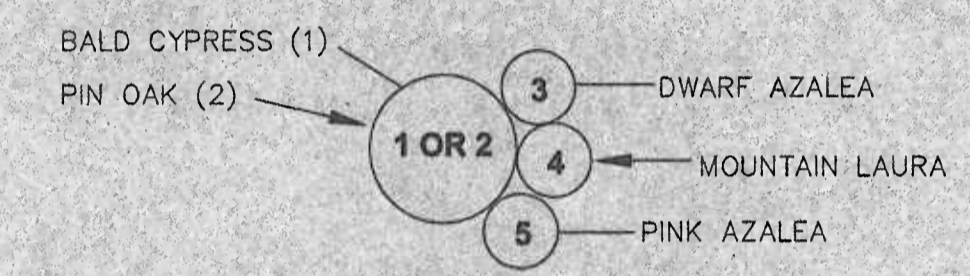
TAX MAP 18, BLOCK 15, PARCEL 323
BODKIN POINT SECTION III
PLAT BOOK 244, PAGE 28, PLAT#12755
LOT 1R
CHARLES J. MOST JR.
AND TINA W. MOST
LIBER 13311, FOLIO 77
ZONING:R1



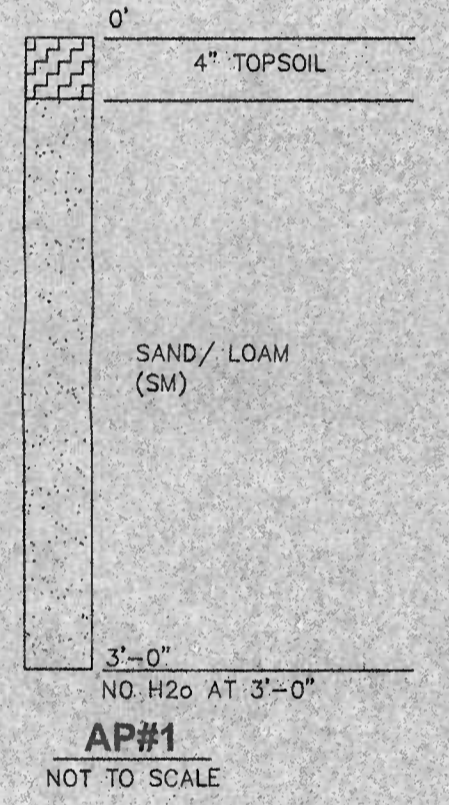
SWM PLANTINGS/ REFORESTATION
TOTAL IMPERVIOUS AREA = 2,073 S.F. + 542 S.F REFORESTATION/BUFFER MITIGATION= 2,615 S.F.
USE 7 TREES AND 21 BUSHES
(1 TREE AND 3 BUSHES = 400 S.F.)

PLANTING SCHEDULE

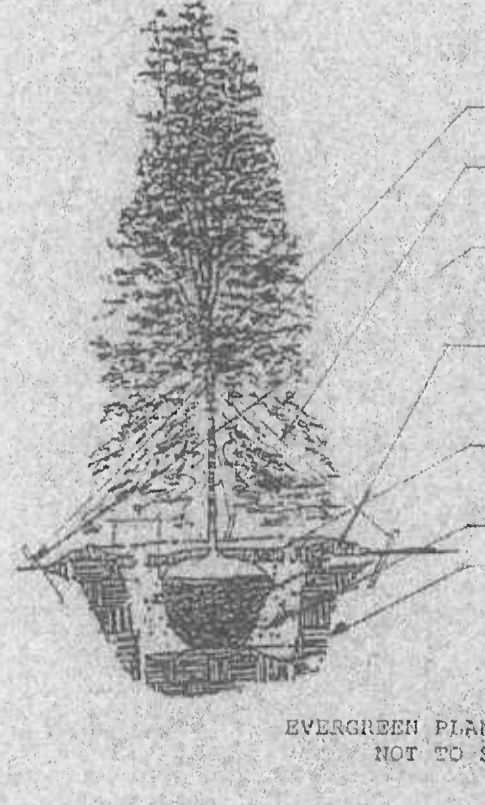
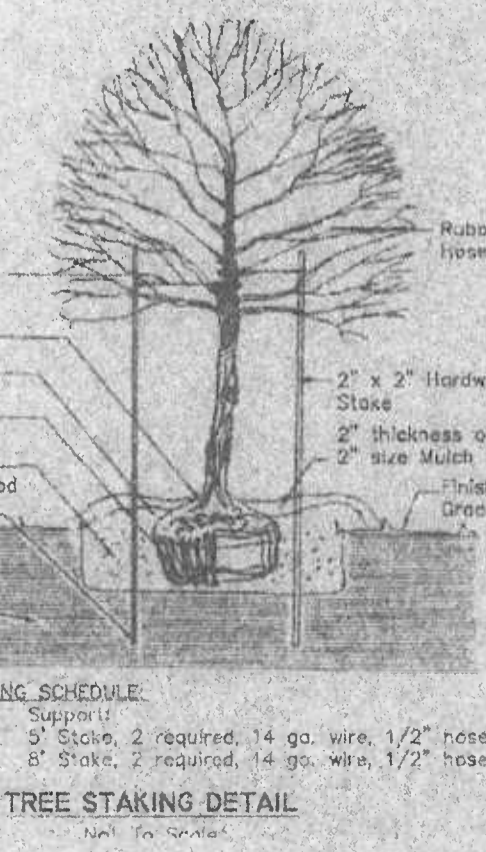
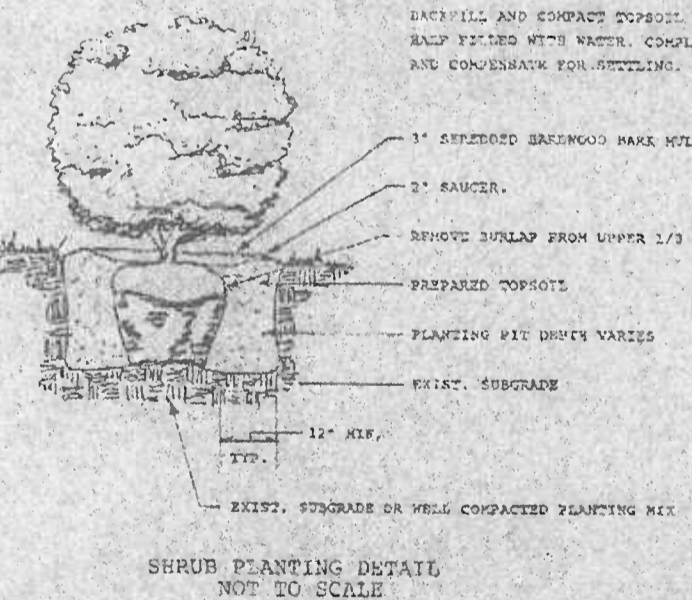
SPECIES	SPACING	SIZE	NO.	SYMBOL
BALD CYPRESS	20' o.c.	1-1/2" TO 2-1/2"	3	1
PIN OAK	20' o.c.	1-1/2" TO 2-1/2"	4	2
DWARF AZALEA	4' o.c.	18" TO 24"	7	3
MOUNTAIN LAURA	4' o.c.	18" TO 24"	7	4
PINK AZALEA	4' o.c.	18" TO 24"	7	5



PLANTING DETAIL
NOT TO SCALE



- GENERAL NOTES**
- Trees, evergreens, and shrubs shall be installed per planting details. Soil mix shall be 2/3 topsoil and 1/3 peat humus thoroughly mixed. All plantings to be mulched with 3" of shredded hardwood mulch immediately after planting.
 - Shrubs with ornamental trees, and without, to be planted in mulch beds.
 - All planting shall be done in accordance with the "Landscape Specifications Guidelines for the Baltimore-Washington Metropolitan Area".
 - All plant material shall meet American Association of Nurserymen standards as outlined in the publication, "American Standards for Nursery Stock".
 - Shade trees shall be located a minimum of 10' from underground and above ground utilities, street signs, etc. Ornamental trees, evergreens, and shrubs shall be located a minimum of 5' from underground and above ground utilities, street signs, etc.
 - Contractor shall verify location of all underground utilities prior to digging. Repair work required as a result of any damage to pavement, utilities, and/or structures by the contractor shall be the responsibility of the contractor.



A 13' SIDE SETBACK VARIANCE IS REQUESTED TO THE MIN./COMBINATION SETBACK OF 25'.

A 18' SETBACK VARIANCE FOR THE GARAGE TO THE REAR SETBACK IS REQUESTED

A 7' SIDE SETBACK VARIANCE IS REQUESTED TO THE MIN. REQUIRED OF 15'.

A VARIANCE TO ALLOW THE DECK TO BE 4 FT. CLOSER TO THE WATER THEN THE PREVIOUS EXISTING HOUSE. DECK TO BE CANTILEVERED BY 4 FT.

LOCUST CREEK

PLAN

SCALE: 1" = 20'

NOTE: CRAWL SPACE = 8 FT. IN HEIGHT

100 YEAR HURRICANE ELEV. 8.0

OUTFALL STATEMENT
THIS SITE SHEET FLOWS TOWARDS THE FRONT OF THE LOT AND HAS A DIRECT TIDAL OUTFALL INTO LOCUST CREEK.

STORMWATER MANAGEMENT NOTE
THE ON-SITE BORING PERFORMED BY C.L.C., INC. ON APRIL 30, 2005 INDICATES 4" OF TOPSOIL. THE SUBSOIL IS PREDOMINANTLY SAND/ LOAM. THE SUBSOIL WAS MOIST TO WET. WATER WAS FOUND AT A DEPTH OF 3'. BASED ON THE SOIL INFORMATION AND SIZE OF THE LOT THIS SITE COULD NOT SUPPORT ANY INFILTRATION OR ATTENUATION DEVICES. THE SITE AREA IS 6,400 S.F. THEREFORE, THIS TO REQUEST APPROVAL OF USE OF THE REPLANTING METHOD FOR THE REQUIREMENT OF STORMWATER MANAGEMENT AS SHOWN ON THIS PLAN.

****VARIANCE PLAN**

GRADING, EROSION AND SEDIMENT CONTROL PLAN

PINEHURST ON THE BAY
8206 RIVERSIDE DRIVE
LOTS 639 AND 640

ANNE ARUNDEL COUNTY, MARYLAND 21122
TAX MAP: 18 GRID: 23 PARCEL: 81
TAX DISTRICT: 03 SUBDIV.: 653 TAX ACCT. NO.: 02751700
DRAWN BY: E.D.S. C.L.C. Job #508
CHECKED BY: S. J. S. SCALE: As Noted
DATE: MARCH, 2005 SHEET 2 OF 2

ANNE ARUNDEL COUNTY MARYLAND

OWNER/DEVELOPER
HARUN AND LEYLA A. KAZAZ
9407 FEMWOOD ROAD
BETHESDA, MARYLAND 20817
TEL.: 202-752-1238
DEED: LIBER 15708, FOLIO 238

CLC, Inc.

CHESAPEAKE LAND CONSULTING, INC.
Land Development and Permit Services
313 NAJOLAS ROAD
MILLERSVILLE, Maryland 21108
Phone: 410-729-5533
Fax: 410-729-5533

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