

MSA-S-1829-4922

Comments 2/11/04 -KES
Revised 9/12/05 -KES

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/

September 2, 2005

Ms. Heather Kelley
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Coghlan Habitat Protection Plan

Dear Ms. Kelley:

Thank you for providing information on the above referenced site plan and Habitat Protection Plan (HPP). Based on our review of the revised materials provided, we have the following comments.

Requirement #4 (d) of the order issued by the Charles County Board of Appeals states that as a minimal requirement, the Habitat Protection Plan (HPP) will show Buffer mitigation including a planting plan at a ratio of 3:1 for disturbance to the Buffer. The applicant has shown the total disturbed area, as delineated by the limits of disturbance, to be 2,138 square feet. Therefore, the mitigation provided should be equivalent to 6,414 square feet, not 1,641 square feet. In addition, the Department of Natural Resources' Katharine McCarthy previously recommended and requested that the applicant address rooftop runoff by means of a structural best management practice which intercepts rooftop runoff, directs the flow away from Nanjemoy Creek, and provides enhanced infiltration opportunities. Examples of these types of measures include French drains, drywells, or a rain garden. As it appears that ample room exists on the site to accommodate such measures, please have the applicant address this request as a component of the HPP.

Based on the comments above and outstanding concerns regarding the ability of the HPP to provide tangible water quality and plant and wildlife habitat benefits, we are not able to recommend approval of this HPP at this time. We recommend that the applicant submit a revised HPP which adequately addresses the concerns above. Thank you for the opportunity to provide comments on this habitat protection plan. If you have any questions, please call me at 410-260-3482.

Sincerely,

A handwritten signature in cursive script that reads "Kerrie L. Gallo".

Kerrie L. Gallo
Natural Resource Planner
CS40-05

CC: Katharine McCarthy, DNR

- Does not address structural requirements

**Habitat Protection Plan
Friendship Acres
Lot 9 Section 2
Nanjemoy
3rd Election District
Charles County, Maryland**



RECEIVED

AUG 16 2005

CRITICAL AREA COMMISSION

○ ■ **BEN DYER ASSOCIATES, INC.**
9375 Chesapeake Street, Suite 227
La Plata, MD 20646
Telephone: (301) 753-1696
Fax: (301) 753-1827
e-mail: bendyer2@erols.com

J - A99700/7287
WO -81707
July, 2005

1.0 Introduction

The Chesapeake Bay Critical Area Law was established to minimize and arrest the decline in the natural resources of the Chesapeake Bay and its tributaries due to impacts of human activities. The purpose of this plan is to insure through a combination of measures, including minimization, that the goals of this are met.

The property which is the subject of this plan consists of 1.37 acres located on Moore's Point Place in Nanjemoy, Maryland and is shown on Tax Map 61, Grid 10, Parcel 21. The site lies within the Chesapeake Bay Critical Area Overlay Zone and within the Natural Heritage Area of the Upper Nanjemoy Creek. The Nanjemoy Creek Natural Heritage Area is a major significant natural area. The extensive, secluded forest bordering Nanjemoy Creek includes several high quality natural communities and provides excellent habitat for wildlife species that are vulnerable to human activities. A number of rare species of plants and animals have been discovered in the heritage area, although none now presently exist on this site. Vulnerable aquatic species, and rare insect and plant species occur within the creek, adjacent flood plain, uplands and in groundwater-fed seepage wetlands on lower slopes. There exists, as well, a diverse animal population. Again it is the purpose of this plan to provide for the protection and preservation of this example of a wetland complex of tidal waters, tidal wetlands, freshwater wetlands, nontidal wetlands and upland forested areas and to make the owners of the property associated with this plan aware of the human effects and threats so as to minimize effects to this sensitive eco system associated with occupying the land.

The property is currently developed with single family dwelling along four associated shed out-buildings. The lot is currently covered by 0.68 acres of intermediate aged mixed upland forest dominated by Pin Oak and including Virginia Pine, Mulberry, Black Gum, and Black Locust as co-dominant species. The property is 49 percent forested.

The property has been evaluated for compliance to the Charles County Critical Area Program and Ordinance. Flood Plain, topography, steep slopes, hydric soils, tidal and non tidal wetlands were evaluated to determine the proper Chesapeake Bay Critical Area buffering requirements. The attached plan illustrates the Critical Area Overlay Zone and Critical Area Buffer. The house location, proposed addition and the limits of disturbance are also shown on the plan. The site plan does not call for any additional forest clearing. Mitigation due to the impacts will be at a replanting ratio of 3:1 and designed in accordance with Charles County Planning and Growth Management, Chesapeake Bay Critical Area Commission and Maryland Department of Environment requirements and approved as a condition of issuance of building permits. Implementation of the mitigation plan shall be prior to, or at the first recommended planting season after issuance of the building permit and shall be a condition of a Use and Occupancy Permit. A joint inspection by representatives of Charles County Planning and Growth Management, Chesapeake Bay Critical Area Commission and the Natural Heritage Program of the mitigation planting shall occur at the time of planting and two years after planting to determine compliance with the approved plan and planting survival rates.

This plan provides adequate protection of Nanjemoy Creek Natural Heritage Area by addressing sediment control measures not only during construction of the addition, but as an ongoing practice, and by providing for water quality control. In order to make improvements to the existing dwelling, impacts to the Buffer could not be avoided. Current driveway maintenance is performed on an as needed basis for minor repair, and will be performed biannually for major repairs. Minor repairs include filling of pot holes and erosion checks. These minor repairs will compact all disturbances immediately to minimize erosion and runoff. Biannual repairs will include grading and addition of base material as required. Adequate erosion protection, such as straw bales in swales and super silt fence, will be incorporated in areas of sheet flow runoff. No portion of the entrance road within the Critical Area will be asphalt, concrete or any other totally impervious surface treatments.

2.0 Critical Area Buffer

As stated in the introduction, the Critical Area Buffer has been established in accordance with the Charles County Critical Area Ordinance. The existing house site is located within the Buffer. The proposed addition will also be located entirely within the Buffer. Erosion and water quality are sensitive issues and are addressed.

This plan does not propose any activity other than an addition to a single family dwelling within the Chesapeake Bay Critical Area Overlay Zone. The driveway shall remain a gravel road and shall not be paved without consent of the Charles County Environmental Planning Office and the Chesapeake Bay Critical Area Commission. Impervious area will be kept to a minimum. Buffer Management Practices shall be incorporated on the site. As an ongoing practice shoreline erosion will be controlled through management of dead and downed trees.

Water quality will be addressed by providing natural buffers at all times between the development activity and sensitive areas. Best Management Practice as approved by Charles County Planning and Growth Management upon their review of building permit applications will be implemented during construction and clearing to include; limiting ground disturbance to that required to construct the addition onto the existing dwelling, the use of super silt fence around the perimeter of the improvements location, and after initial soil disturbance temporary stabilization using straw to be accomplished within seven days and permanent vegetative stabilization to be established within 14 days..

3.0 Rare, Endangered or Threatened Species

No rare, threatened, or endangered species were noted during the field investigation. A request was made to the Maryland Department of Natural Resources, Wildlife and Heritage Division, to determine if threatened, or endangered species or significant natural communities occur on-site. Should it be determined that sensitive species exist onsite, then this information will be forwarded to the appropriate county review agency.

Should threatened or endangered species be found on the site in the future, the Owner shall cooperate

in pursuing conservation measures and a specific Habitat Protection Management Plan will be prepared by the property owner, Charles County Planning and Growth Management and the Department of Natural Resources. The Owner shall limit activity and disturbances within 1/4 mile for birds and mammals and 200 feet for other plant and animal species. No aquatic activities are permitted by this plan.

4.0 Bald Eagle Habitat

The site was reviewed with respect to known Bald Eagle nesting sites. No sites are within or 1/2 mile of the site. If a nesting site occurs in the future on the site or within 1/4 mile of the property, the most current guidelines and habitat protection zones in effect at that time shall be immediately implemented.

5.0 Invasive Species

During the field inspections no invasive were noted on the subject property. Monitoring and assistance in the control of this or any other invasive species will be permitted and welcomed by Charles County Environmental Planning and DNR Wildlife and Heritage Service Representatives. If during any subsequent field inspection any habitat protection areas are determined, a specific plan shall be prepared and management practices implemented.

6.0 Colonial Water Bird-nesting Site

The site was inspected for Colonial Water Bird-nesting Site locations. No nesting sites occurred on the site at that time, however nesting sites do occur in the Nanjemoy Creek Natural Area. Should nesting occur on the site or in the immediate vicinity in the future, a specific management plan shall be developed in conjunction with Charles County Planning and Growth Management (CCPGM), Environment Planning, Maryland Department of Natural Resources, The Nature Conservancy, and local Audobon Society. If nesting of Colonial Water Birds should occur on the site at the time of construction of the addition, loud noise generating activities will immediately cease.

7.0 Forest Interior Dwelling Birds

The forested areas occurring on the property provide habitat for Forest Dwelling Species Habitat (FIDS). Impacts to the FIDS habitat have been minimized. The proposed addition to the existing dwelling will not result in the clearing of any forested area.

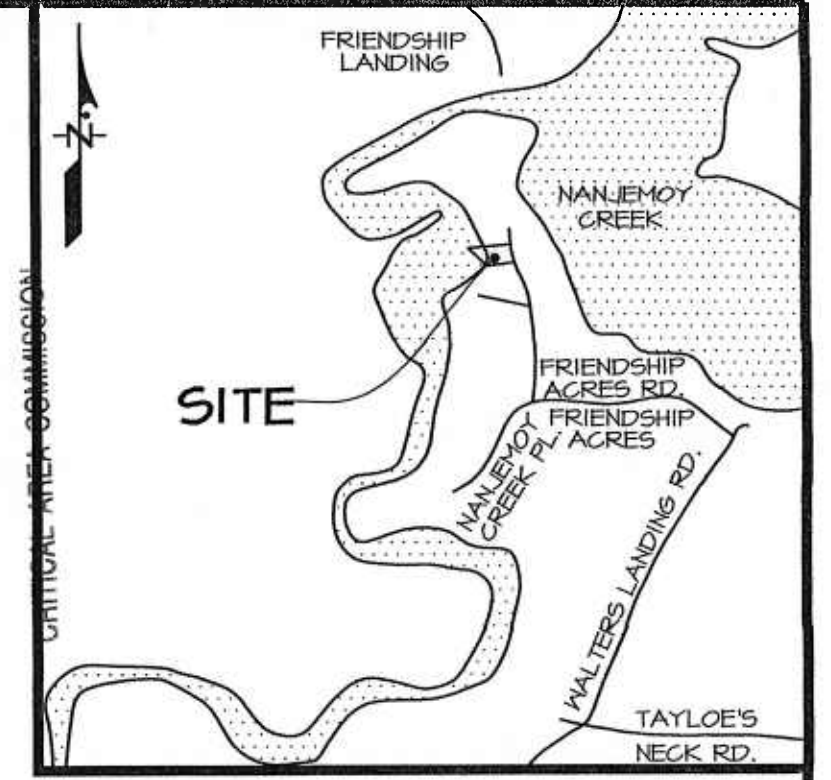
Any further creation of small clearings or expansion of forest edges shall be avoided unless provided for in an approved timber harvest management plan.

8.0 Possible Adverse Impacts

The proposed activity is to construct an addition onto a single family residence located entirely within the Critical Area Buffer. The greatest possible impact will be the chance of erosion due to soil exposure in the area of the addition. The plan provides no clearing and minimal ground disturbance. It also minimizes the potential of soil erosion, pollutant laden waters and silt deposits from leaving the construction area and entering the adjacent forested areas, wetlands, and Nanjemoy Creek. Best Management Practices for sediment and erosion control as outlined in Section 2.0 of this plan should be and strictly adhered to during the construction process and until such time as all disturbed areas are fully established and vegetatively stabilized. Parking of construction vehicles outside the limits of sediment control devices or the existing gravel driveway is prohibited at all times. Replanting of vegetation and establishment of the ground cover shall be undertaken within 14 days of soil disturbance. Temporary stabilization shall be accomplished within 7 days and will be performed in accordance with the Standards and Specifications of the Charles County Soil Conservation District. Final vegetative stabilization shall be accomplished immediately after final grades are established. Parking of all vehicles on final graded areas except the designated driveway is prohibited. Fertilization of lawns and plants can cause significant pollution hazards to the wetlands, and aquatic wildlife in the nearby creek and tributaries. Fertilizers shall be only applied in accordance with the local office of the Maryland Agricultural Extension Service recommendations after testing of the soils.

Encroachments and disturbances of the property within the Critical Area Buffer, including, but not limited to, accessory structures and All Terrain Vehicle (ATV) paths, will not be allowed beyond the limits of disturbance shown the site plan.

SOILS CHART			
SOIL TYPE	SYMBOL	HYDRIC	"K" FACTOR
MATTAPEX FINE SANDY LOAM	MB2	N	0.37
MATTAPEX SILT LOAM	MuA	N	0.43



VICINITY MAP SCALE: 1" = 2000
TAX MAP 61, GRID 10, PARCEL 21
ACCOUNT # 03-010325

CRITICAL AREA NOTES

THIS LOT LIES WHOLLY WITHIN THE CHESAPEAKE BAY CRITICAL AREA AND PARTIALLY WITHIN THE CRITICAL AREA BUFFER
TOTAL LOT AREA: 1.3670 Ac. or 59,541 SF.
ALLOWED IMPERVIOUS AREA = 15% or 8,932 SF.
IMPERVIOUS AREA INSIDE THE 100' BUFFER

EXISTING	
Dwelling	1,187 SF.
Conc. Walk	346 SF.
Grav. Driveway 225 SF. X 0.5	= 112 SF.
Wood Sheds	221 SF.
Porch	509 SF.
Wood Stoop & Steps 62 SF. (x 0.5)	= 31 SF.
Block Shed (To Be Removed)	142 SF.
TOTAL	2,548 SF.

PROPOSED

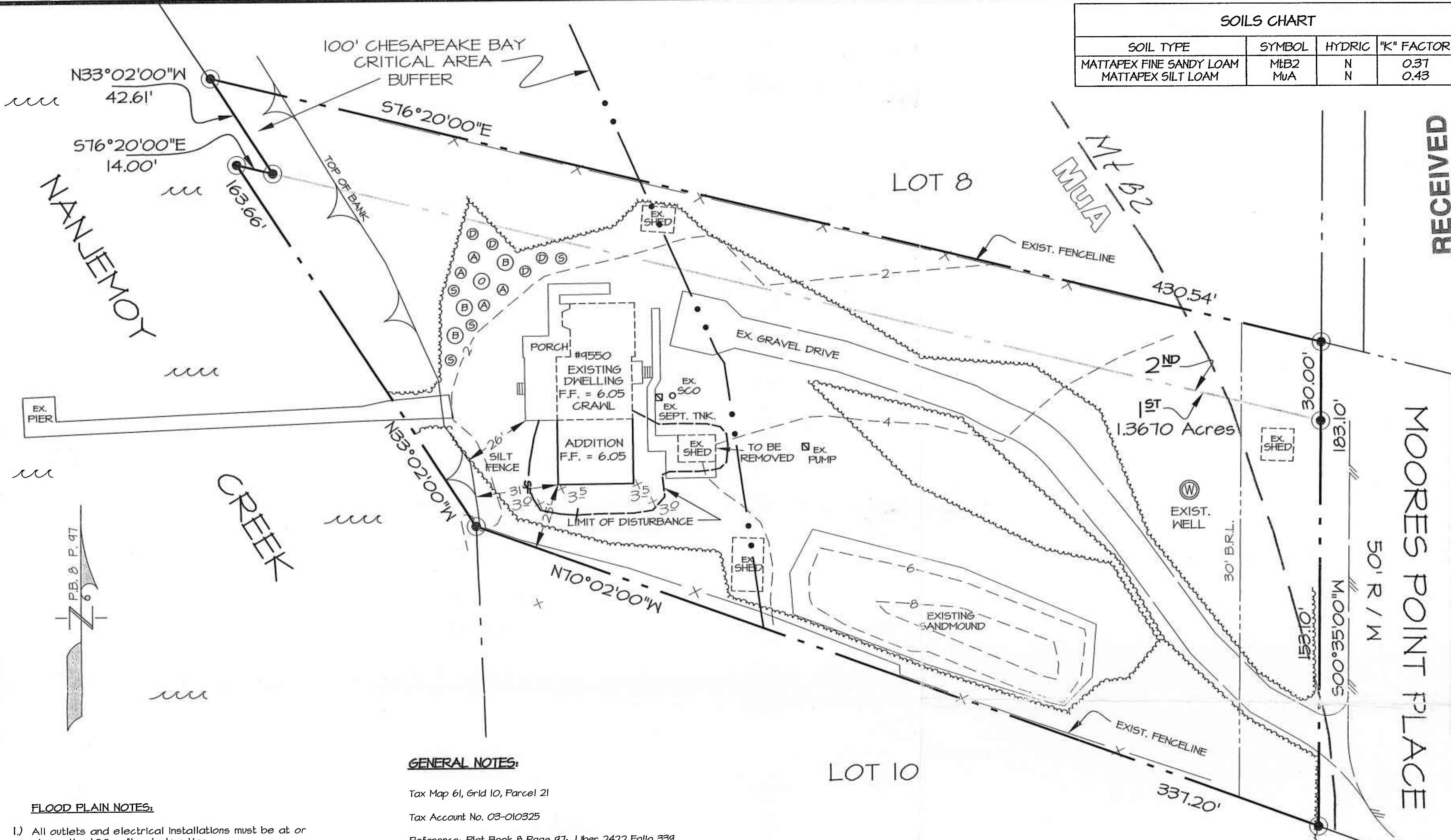
Proposed Addition	684 SF.
Block Shed (To Be Removed)	-142 SF.
NET INCREASE IN IMPERVIOUS AREA = 547 SF. (TO BE MITIGATED AT 3:1 or 1:641 SF.)	

IMPERVIOUS AREA OUTSIDE THE 100' BUFFER

Grav. Driveway 3,554 SF. X 0.5	= 1,774 SF.
Wood Sheds	274 SF.
TOTAL	2,058 SF.

TOTAL PROPOSED IMPERVIOUS AREA 5,153 SF. or 8.7%

FOREST COVER REQUIRED = 15% or 8,932 SF.
FOREST COVER EXISTING = 49% or 29,420 SF.
TOTAL FORESTED AREA DISTURBED = 0 SF.
TOTAL DISTURBED AREA = 2,138 SF. WITHIN L.O.D.



GENERAL NOTES:

Tax Map 61, Grid 10, Parcel 21
Tax Account No. 03-010325
Reference: Plat Book 8 Page 97; Liber 2422 Folio 339
Zone: Agricultural Conservation (AC)
This plan has been prepared based on available records, but without the benefit of a title report. Prior to construction, please contact your attorney or title company to determine whether there are any easements, or restrictions, other than those shown, which could affect the use of this property.
The dwelling appears to lie within Zone A as shown on F.I.R.M. Panel 240089-00105 B, effective date June 5, 1985.
This lot lies wholly within the Chesapeake Bay Critical Area (CBCA) Overlay Zone, and RCZ Overlay Zone.
The existing grades have been field verified by Ben Dyer Associates, Inc. NGVD 1929.
Lot is serviced by individual septic disposal system and well drilled into an approved, confined aquifer.
This plat is in compliance with the Charles County Comprehensive Water and Sewer Plan.

FLOOD PLAIN NOTES:

- All outlets and electrical installations must be at or above the 100yr. flood elevation.
- Provide flood equalization vents to equal or exceed 1 sq. in. of clear opening for 1 sq. ft. of enclosed space. Bottom of equalization vent to be no greater than 1 ft. above grade.
- The grade in the crawl space shall be at or above the exterior grade. In no case shall the crawl space be lower than the exterior grade of the lowest wall.

EXISTING	LEGEND:	PROPOSED
x(201.00)	SPOT ELEVATION	x201.00
---	2' CONTOUR LINE	---
---	10' CONTOUR LINE	---
---	PROPERTY LINE	---
---	BUILDING RESTRICTION LINE	---
⊕	PERCOLATION TEST	
⊕	SEPTIC EASEMENT	
---	SUPER SILT FENCE	---
---	LIMIT OF DISTURBANCE	---
---	TREELINE	---

CRITICAL AREA PLANTING PLAN @ 3:1
AREA OF MITIGATION = 1641 SF.

PLANT TYPE	TYPE	ALLOWANCE	NUMBER	AREA
(B) RIVER BIRCH	LARGE TREE	400 SF.	3	1,200 SF.
(C) RED OAK	LARGE TREE	400 SF.	1	400 SF.
(S) SERVICEBERRY	SHRUB	36 SF.	4	144 SF.
(D) RED-OSIER DOGWOOD	SHRUB	36 SF.	4	144 SF.
(A) ARROWWOOD	SHRUB	36 SF.	4	144 SF.
TOTAL			20	2,432 SF.

SITE PLAN, SEDIMENT CONTROL PLAN, HABITAT PROTECTION PLAN AND CRITICAL AREA PLANTING PLAN FOR EXPANSION OF AN EXISTING DWELLING

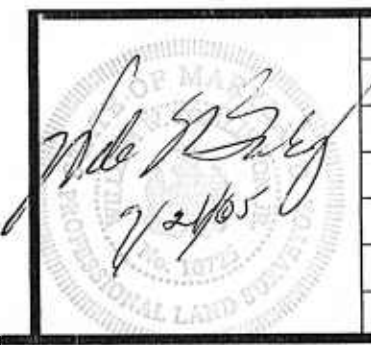
LOT 9 SECTION 2 "FRIENDSHIP ACRES"

3rd ELECTION DISTRICT
CHARLES COUNTY, MARYLAND

(61)

CHARLES COUNTY HEALTH DEPARTMENT
DIRECTOR, CHARLES COUNTY ENVIRONMENTAL HEALTH - DATE
SANITARIAN DATE

This plan is based upon an existing sand mound system, no new living space shall be created by this plan.
Total disturbed area = 4,200 s.f. - 12,600 - 10
Total forested area disturbed = -0- s.f.
Following initial soil disturbance or redisturbance, permanent or temporary stabilization shall be completed within seven (7) calendar days as to 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 (14) days as to all other disturbed areas on the project site.



DATE	DESCRIPTION	BY

9375 CHESAPEAKE STREET, SUITE 227
P.O. BOX 2727, LA PLATA, MARYLAND 20646
BEN DYER ASSOCIATES, INC.
Engineers / Surveyors / Planners
TELEPHONE (301) 753-1696
COPYRIGHT © 2004 BEN DYER ASSOCIATES, INC.
DRAWN BY DESIGNED BY CHECKED BY RECORD NO.
GSN GSN WNT
SCALE 1" = 50'
DATE NOVEMBER, 2004 DRWG. NO. 6.08.01-P

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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February 15, 2005

Ms. Heather Kelley
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Variance for Docket #1138, Charles Coghlan

Dear Ms. Kelley:

Thank you for providing information on the above referenced variance request. The applicant is requesting an after-the-fact variance to construct an addition to the existing primary dwelling within the 100-foot Critical Area Buffer. The property lies within a designated Resource Conservation Area (RCA), a known Natural Heritage Area (NHA), and is currently developed.

Given that the existing primary dwelling is a legal non-conforming structure within the Buffer, this office would generally not oppose an addition to the existing dwelling as shown on the site plan. However, we note that the applicant's property lies within a designated Natural Heritage Area and that the applicant appears to have purchased the property in 1997, and should therefore have been sufficiently informed about Critical Area Laws. Based on this information, we recommend that the Board consider including conditions as a component of a variance approval. In particular, the designation of an NHA requires that the County follow the management guidelines for Habitat Protection Areas (HPAs) as described in the Charles County Zoning Ordinance and Critical Area Program (Section 297-132 (G)(2) and Chapter 8 respectively).

In accordance with these management guidelines, Katharine McCarthy of DNR's Wildlife and Heritage Division has provided specific recommendations regarding stormwater management and mitigation plantings to be addressed by the applicant in order to ensure that the environmental integrity of the NHA is maintained. I have attached this memo for your records. Should the Board approve this variance request, we recommend that DNR's recommendations be required as conditions of approval.

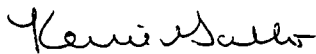
Given that the proposed construction was undertaken in violation of the Critical Area regulations and that the variance request is after-the-fact, we recommend that the applicant be required to

Heather Kelley
Variance 1338 Coghlan
February 15, 2005
Page 2

provide mitigation at a 3:1 ratio as described in Section 298-135 of the Charles County Zoning Ordinance. This mitigation should be performed in accordance with the guidelines provided within the attached memo from DNR.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner

CS 40-05

cc: Katharine McCarthy (DNR)

BOARD OF APPEALS FOR CHARLES COUNTY, MARYLAND

IN THE MATTER OF THE PETITION OF :
 CHARLES JAMES COGHLAN FOR A :
 VARIANCE TO THE CHESAPEAKE BAY : **Docket #1138**
 CRITICAL AREA BUFFER REGULATIONS :
 FOR AN ADDITION TO THE PRIMARY :
 RESIDENCE :

.....

DECISION AND ORDER

This matter came before the Board of Appeals for hearing on March 8, 2005 at 7:00 p.m., in the Commissioners' Meeting Room of the County Government Building, La Plata, Charles County, Maryland, as a request for a Variance for an addition to the primary residence within the Chesapeake Bay Critical Area buffer, in accordance with Article IX, Section 297-131 and Article XXV, Section 297-416 of the *Charles County Zoning Ordinance*. The property is located at 9550 Moores Point Place, Nanjemoy, Maryland within the Agricultural Conservation (AC) Zone. A quorum of Board Members was present for, and participated in, the hearing. The Notice of the hearing was properly advertised, adjacent property owners notified, and the property was posted in accordance with the applicable regulations.

Incorporated into the record were the following:

1. The appropriate provisions of the Charles County Code;
2. The Charles County Zoning Regulations;
3. The Comprehensive Plan for Charles County;

Docket #1138

4. The Zoning Map of Charles County;
5. The Technical Staff Report; and
6. The Petition and Plat submitted by the Applicant.

Testimony for was given by the Applicant. Testimony from the audience was given by John Coghlan and Ron Talley. Based upon the testimony presented at the hearing, the plat and materials submitted by the Applicant along with the Petition and the standards set forth by the *Zoning Ordinance*, and considering the proposed use on the health, safety, welfare, and interest of the general public, the Board of Appeals makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board is authorized to grant variances under Article XXV, Section 297-416, of the *Charles County Zoning Ordinance*.

1. Charles James Coghlan is the owner of the property known as Tax Map 61, Parcel 21, Grid 10.
2. The Board found that strict enforcement of the Ordinance would result in unwarranted hardship on the property owner and would prevent the property from improvement and expansion.
3. The Board found that in order to improve the dwelling, impacts to the Buffer could not be avoided. Since the house lies wholly within the Buffer, a variance is necessary for any modifications.
4. The Board found that the property owner would be deprived of rights other property owners in the area would be allowed. The Applicant testified that strict enforcement

would deprive him of the ability to have comfortable living space.

5. The Board found that the property owner would be deprived of rights other property owners in the area would be allowed.
6. The Applicant claims that the addition has been made the minimal square footage to allow for the house to be uniform.
7. The Board found that no special privilege will be conferred by granting the variance that would be denied to other owners of similar property outside the Chesapeake Bay Critical Area Buffer.
8. The Board found that there were no self-imposed or created conditions which have caused the hardship, as the existing dwelling is in the original location in which it was built prior to Critical Area regulations.
9. The Board found that no greater profitability or lack knowledge have occurred.
10. The proposed variance is consistent with the Charles County Comprehensive Plan. The following findings were in accordance with Section 416 (k) of the Ordinance, pertaining to the Critical Area Zone:

1. The Department of Natural Resources found that the property lies within the Nanjemoy Creek Natural Heritage Area, whose wetlands have been designated by the Maryland Department of the Environment as wetlands of special state concern. The ecological significance of these wetlands mandates a 100 ft upland buffer, however, the addition to the existing home has been constructed approximately 35 feet from the creek at its closest point and the construction of new impervious surface in this buffer increases surface runoff and reduces infiltration of stormwater. Also, as stated

in Chapter 8 of the Charles County Chesapeake Bay Critical Area Program, Natural Heritage Areas are communities where endangered species are in need of conservation and/or have unique geological and/or hydrological areas. The Zoning Ordinance (Article IX, Section 132, H) and Chesapeake Bay Critical Area Program (Chapter 8) require the approval of a Habitat Protection Plan to insure no adverse affects to water quality or wildlife.

2. The Chesapeake Bay Critical Area Commission does not oppose the granting of this variance. However, there are concerns regarding the property's location in a Natural Heritage Area, which requires that the County follow the management guidelines for Habitat Protection Areas as described in the Zoning Ordinance and Critical Area Program.
3. The addition is in the only feasible location that will have the least impact on the watershed and is as far away from mean high water as possible. The property is restricted by a building restriction line to the north and the septic tank and drain fields to the east. Therefore, the Board found that no reasonable alternatives to the current location exist due to the above-mentioned restrictions and the layout of the existing dwelling.
4. The Applicant testified that he is willing to mitigate any impact to the environment at a ratio of 3:1. The site contains 49% forest cover and does not require afforestation. The Department of Natural Resources recommends that mitigation be planted at least at the density which is required under the Forest Conservation Act. Also, Red Cedar is an unacceptable tree species. The mitigation planting should

include three (3) shrubs for every tree planted, and be arranged so as to reflect the current forest composition. The Zoning Ordinance (Article VIII, Section 132, G) and Chesapeake Bay Critical Area Program (Chapter 8) require the approval of a Habitat Protection Plan to insure no adverse affects to water quality or wildlife.

5. The variance will be in harmony with the general purpose and intent of the Zoning Ordinance and shall not result in a use prohibited in the zone in which the property subject to the variance is located and will not be injurious to the neighborhood, or otherwise detrimental to the public

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is, this 14th day of Apr, 2005, by the Board of Appeals for Charles County, Maryland

ORDERED, that the Variance for Docket #1138 is hereby GRANTED, and it is further,

ORDERED, under the following conditions:

1. Mitigation in accordance with the Charles County Zoning Ordinance Article IX, Section 132E should be proposed and approved. This includes mitigation planting at 3:1 for new impervious surface and tree clearing in the Buffer. Per recommendations from the Department of Natural Resources, and supported by the Chesapeake Bay Critical Area Commission, the use of Red Cedar is discouraged. DNR recommends that tree species should be selected that will tolerate the shaded conditions that will be created by the proposed Red Oaks. The mitigation planting should reflect the composition of the existing upland forest and

also include three (3) native shrub species for each tree.

2. Strict sediment and erosion control devices are to be installed and approved by Soil Conservation. Super silt fence, or better, should be utilized for the limits of disturbance.

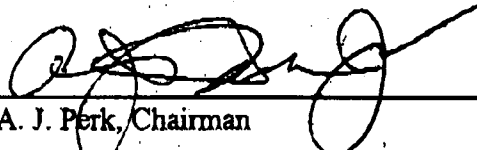
3. The requirements of the County's Floodplain Management Ordinance the Charles County Stormwater and Storm Drainage Ordinance will need to be met.

4. A Habitat Protection Plan will be required concurrent with the application of a building permit. Guidelines and information can be found in Chapter 8 of the Charles County Chesapeake Bay Critical Area Program. The following will be the minimal requirements and information to be shown on the plan:


- a. Address any and all habitat impacts and identify feasible avoidance, minimization, mitigation of impacts and preferred development alternatives.
- b. Potential sources of runoff pollution affecting wetlands, creek and the anadromous fish.
- c. Identification and delineation of Endangered and Threatened Species Habitat.
- d. Buffer Mitigation including planting plan at a ratio of 3:1 for disturbance using Maryland Native species.
- e. Identification and delineation of the Natural Heritage Area including impacts to the Heron Rookery.

The Habitat Protection Plan will be reviewed by the Planning Department and appropriate State Agencies and once complete will be approved by the Planning Director. The approval of the variance request does not guarantee the approval of the building permit or Habitat Protection Plan.

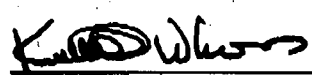
**BOARD OF APPEALS FOR
CHARLES COUNTY, MARYLAND**



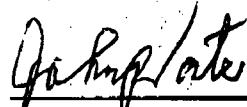
A. J. Perk, Chairman



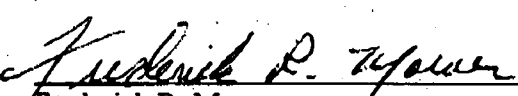
Kenneth G. White, Vice Chairman




Kenneth W. Cross



John Pearl Yates



Frederick R. Mower



Carrol Everett, Clerk

February 4, 2005

MEMORANDUM

To: Kerrie Gallo
Critical Area Commission

From: Katharine McCarthy
Natural Heritage Program

Re: Variance for Docket #1138 - Charles Coghlan, Nanjemoy Creek NHA

Given that this is an after-the-fact request for a variance, I limit my comments to the proposed mitigation for the addition to the existing home which appears to lie less than 75 ft from the creek at its closest point. The Nanjemoy Creek Natural Heritage Area was designated to protect the exceptional freshwater tidal and nontidal wetlands that border the creek. In recognition of the ecological significance of this area, the wetlands were designated by the Maryland Department of the Environment as wetlands of special state concern and have a regulated 100 ft upland buffer. The purpose of this buffer is to maintain the hydrology and water quality of the wetlands and to conserve habitat. The construction of new impervious surface in this buffer increases surface runoff and reduces infiltration of stormwater. In order to mitigate these impacts, I have the following recommendations.

- 1) Roof runoff should be directed so that it infiltrates. This could be achieved by directing gutters to a pervious area such as a dry well, french drain or rain garden.
- 2) Modify the planting plan to achieve the goal of expanding the forested buffer along the creek. The species selected for planting should reflect the composition of the existing upland forest on site. I note that Red cedar is identified for planting and that is inappropriate for this purpose of expanding the forest buffer. Red cedar is a shade intolerant tree that does not do well in a shaded forest setting. Please request that the consultant select tree species that are common in the adjacent upland forest and that will thrive in the shaded conditions that will develop as the canopies of the red oaks expand. Also, for the purpose of expanding the forest buffer, please request that native shrubs of species that are common in the adjacent forest be added to the planting plan. The number of shrubs should be at least three times the number of trees planted, and should be interspersed with the trees as they are in the adjacent forest. As we discussed, the acreage required to be planted should reflect the ecological significance of this Natural Heritage Area and the proximity of the disturbance to the creek, and the density should be at least that which is recommended under the Forest Conservation Act.

Feel free to contact me if you would like to discuss this further.

Cc: Heather Kelley

Effort (1/11) - Fined \$250 by building permit dept.
- no CA fines - structure, but not implemented
- after the fact

Gallo, Kerrie

From: McCarthy, Katharine
Sent: Tuesday, February 01, 2005 5:01 PM
To: Gallo, Kerrie
Subject: RE: Variance for Docket #1138 - Charles Coghlan

Kerrie,
The plan I have (dated Nov 2004) shows the addition to be 689sq ft impervious surface, with removal of one shed proposed so final increase in impervious area = 547 sq ft. Yet this is just 25 ft from the creek and I don't know what the precedent is for this...not many NHAs have houses in them, and I've never seen a proposal for an addition to one before. In general, I'd oppose more impervious surface in the 100ft buffer, but given that it is an existing home, perhaps more flexibility is important even if they did buy it after the critical area regs were implemented. Can we get a better planting plan that actually extends the forest edge inland better by including shrubs? When I look at this plan I envision 5 trees in a nice line that they are going to mow around. Also, I suppose red cedar is found in old fields in this area, but if the purpose is to try to create some forest, I certainly would not pick a shade intolerant species...any way to figure out what trees and shrubs grow in the woods on this property and just have them plant more of that? Also, given that they are creating more impervious surface, seems appropriate to require that they handle the runoff from that (gutters primarily) via infiltration if possible...what do you do with gutter runoff at 3ft elevation? Certainly don't want it running into the creek.

Thanks in advance for helping me think this through.

Kathy

-----Original Message-----

From: Gallo, Kerrie
Sent: Friday, January 21, 2005 12:15 PM
To: Byrne, Lori; 'Heather Kelley'
Cc: McCarthy, Katharine
Subject: RE: Variance for Docket #1138 - Charles Coghlan

Heather,

I would echo Lori's comments-both the land and water areas associated with this property fall under Heritage review areas. Given this info, we would prefer to wait for comments from Heritage to write our formal comments. If you need our comments before then, we would have a general statement that the applicant will have to address/comply with all DNR Heritage recommendations.

In addition, I would just point out that the variance standards in your ordinance require that the Board evaluate whether the request is the minimum necessary to make reasonable use of the land...the applicant is proposing a 1760 square foot addition. That's bigger than some people's primary homes and would not likely be supported by us as the "minimum necessary", especially given the sensitive species issues and the location within the Buffer.

Please let me know how you decide to proceed with this. Thanks,
Kerrie

-----Original Message-----

From: Byrne, Lori
Sent: Thursday, January 20, 2005 4:18 PM
To: 'Heather Kelley'
Cc: Gallo, Kerrie
Subject: RE: Variance for Docket #1138 - Charles Coghlan

Hi Heather,

I did a quick screening of this, and it does overlap with Upper Nanjemoy NHA and Wetland of Special State Concern, so I'm sure we'll have further comments after more in-depth

• 132-E - forest conservation standards

↳ Forest Conser

evaluation. I will forward this to Katharine McCarthy for further comments and try to get back to you before the hearing.

Thanks!

Lori A. Byrne
Environmental Review Coordinator
Wildlife and Heritage Service
Maryland DNR
410-260-8573

-----Original Message-----

From: Heather Kelley [mailto:KelleyH@charlescounty.org]
Sent: Tuesday, January 18, 2005 11:29 AM
To: Gallo, Kerrie; Byrne, Lori
Cc: Elsa Ault
Subject: Variance for Docket #1138 - Charles Coghlan

Good Morning Lori & Kerrie:

Elsa Ault and I are working together on a Variance application for the property located at 9550 Moores Point Place, Nanjemoy and owned by Charles Coghlan. When you each receive your Variance Application Packets for review, would you be able to do a brief review prior to the deadline for comments and let us know if there are any obvious issues (for example, issues relating to Natural Heritage Areas)? We would like to tentatively schedule his hearing for the March 8th Board of Appeals meeting. The Public Notice for that hearing will need to be sent out right about the time comments are due, however, if we can get confirmation earlier that there will definitely be an in-depth issue to be addressed, we will plan his hearing date accordingly.

Thanks for your help and any preliminary info you may be able to provide.

Heather Kelley
Planner I

Charles County Government
Planning Department
Post Office Box 2150
La Plata, Maryland 20646

Gallo, Kerrie

From: Byrne, Lori
Sent: Thursday, January 20, 2005 4:18 PM
To: 'Heather Kelley'
Cc: Gallo, Kerrie
Subject: RE: Variance for Docket #1138 - Charles Coghlan

Hi Heather,

I did a quick screening of this, and it does overlap with Upper Nanjemoy NHA and Wetland of Special State Concern, so I'm sure we'll have further comments after more in-depth evaluation. I will forward this to Katharine McCarthy for further comments and try to get back to you before the hearing.

Thanks!

Lori A. Byrne
Environmental Review Coordinator
Wildlife and Heritage Service
Maryland DNR
410-260-8573

-----Original Message-----

From: Heather Kelley [mailto:KelleyH@charlescounty.org]
Sent: Tuesday, January 18, 2005 11:29 AM
To: Gallo, Kerrie; Byrne, Lori
Cc: Elsa Ault
Subject: Variance for Docket #1138 - Charles Coghlan

Good Morning Lori & Kerrie:

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Thanks for your help and any preliminary info you may be able to provide.

Heather Kelley
Planner I

Charles County Government
Planning Department
Post Office Box 2150
La Plata, Maryland 20646



Robert L. Ehrlich, Jr.
Governor

C. Ronald Franks
Secretary

Michael S. Steele
Lt. Governor

W.P. Jensen
Deputy Secretary

January 21, 2005

Ms. Heather Kelley
Charles County Government
Planning and Growth Management
P.O. Box 2150
LaPlata, MD 20646

RE: Habitat Assessment for South Glymont, Lot 41 Parcel 317; ER 2004.2155.ch

Dear Ms. Kelley:

The habitat assessment prepared by Mr. Michael Petrakis reviews the potential for rare species known from the vicinity to occur on this site. No rare species were observed during the site visit; however the visit was conducted in November, an unsuitable time for observing the rare plants and snail known in the vicinity. The assessment identifies suitable habitat on site for several rare species. However, for all but one rare species, Hitchcock's sedge (*Carex hitchcockiana*), a state endangered plant, the suitable habitat is outside the limits of disturbance (LOD) for the proposed development. As long as stormwater runoff from impervious surfaces is managed by infiltration and sediment and erosion control measures are strictly enforced with daily maintenance, the Natural Heritage Program has no further comment regarding potential impacts to the suitable habitat outside the LOD.

Regarding the destruction of suitable habitat for Hitchcock's sedge within the LOD, it is not possible to determine with certainty whether this species is present or absent from the site at this time of year. The appropriate time to conduct a survey for this species is mid-May through early June when this species is fruiting. I would be willing to assist in conducting a survey at that time if the County and the owner are interested in pursuing such a survey. In the absence of a survey, the scant description of the vegetation on site provided in the assessment suggests that it is possible the soils are not sufficiently rich to support this rare species. However, it is not possible to draw a conclusion with confidence given the lack of detail regarding the species present on site and the fact that the soil types mapped for the site are similar to the types mapped where a number of the rare species occur north of Route 210. Given that the proposal is for construction of a single home, it may be prudent to simply allow the owner to proceed but to minimize the forest clearing for the proposed home by shortening the length of the driveway and reducing the size of the parking area. This would reduce the amount of suitable habitat that is destroyed, and would also reduce the impact to habitat for forest interior dwelling birds. Reducing the amount of clearing would reduce the mitigation requirement. With regard to mitigation, it appears that the proposal is to plant trees within the existing forest. If that is the case, the proposal would not adequately mitigate for the loss of forested habitat.

Feel free to contact me to discuss these comments.

Sincerely,

Katharine McCarthy
Natural Heritage Program

Tawes State Office Building • 580 Taylor Avenue • Annapolis, Maryland 21401
410.260.8DNR or toll free in Maryland 877.620.8DNR • TTY users call via Maryland Relay

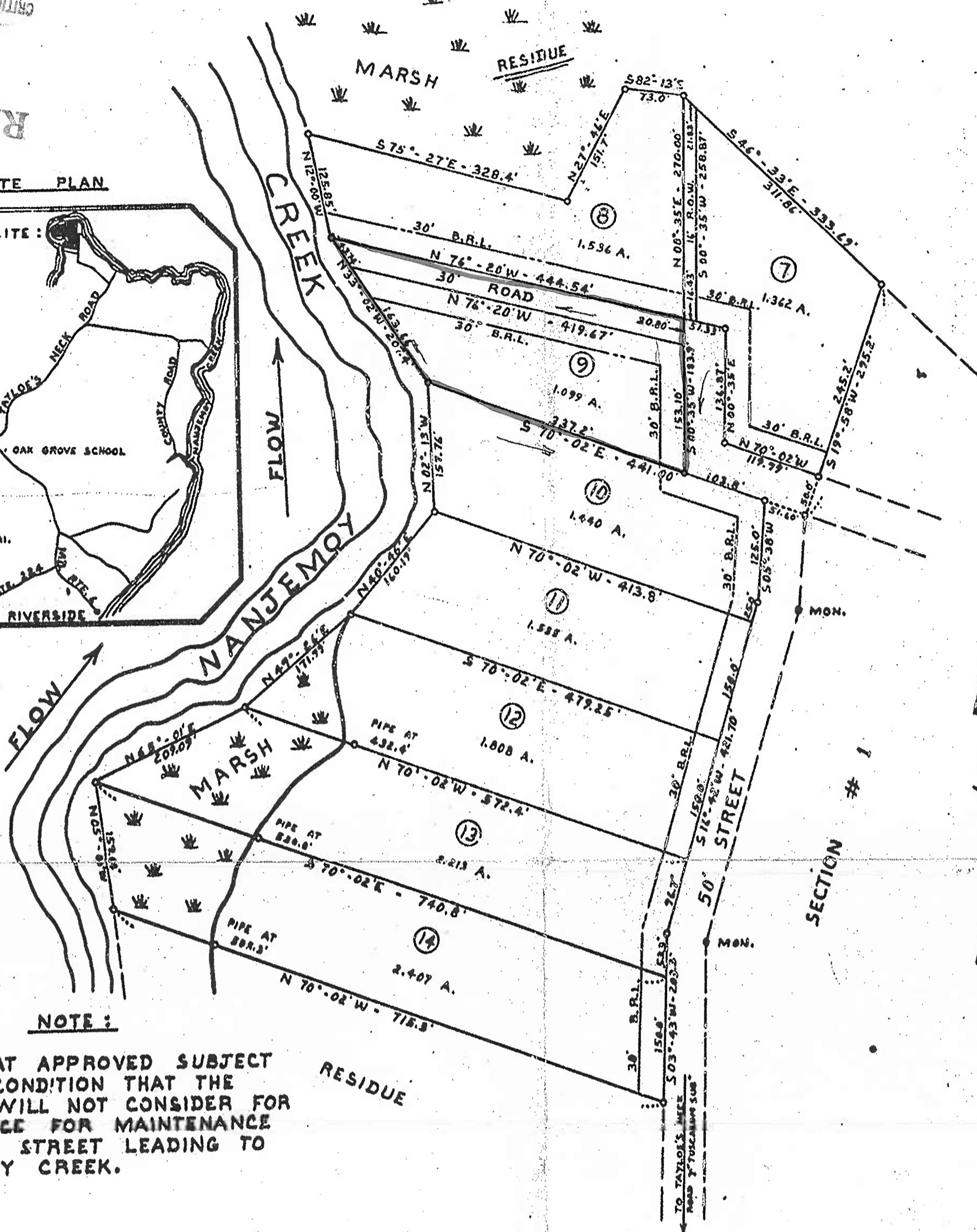
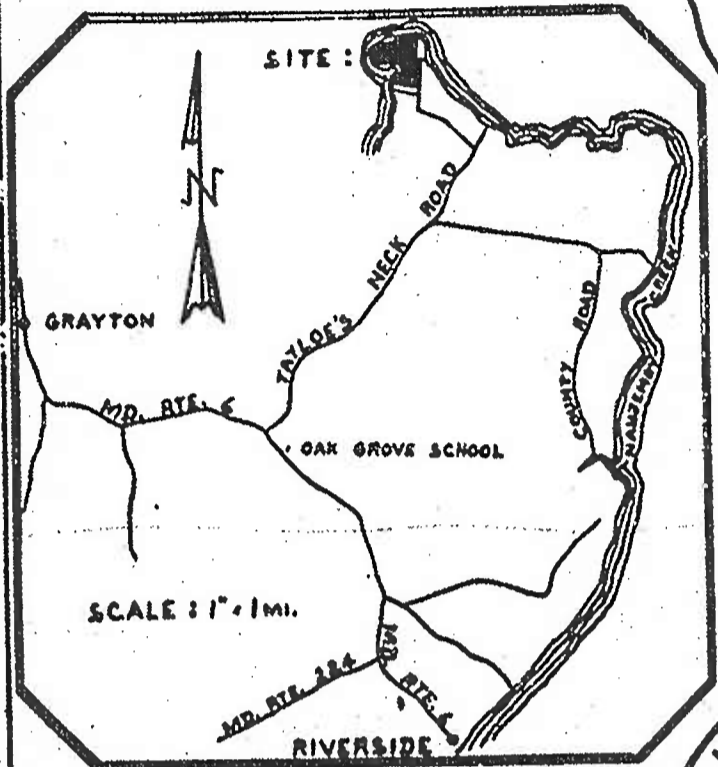
RECEIVED
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

JAN 18 1965

RECORDED
PATRICK C. HULL
CLERK, CIRCUIT COURT
1962 JAN 19 PM 2 105

RECEIVED

SITE PLAN



NOTE:

THIS PLAT APPROVED SUBJECT TO THE CONDITION THAT THE COUNTY WILL NOT CONSIDER FOR ACCEPTANCE FOR MAINTENANCE THE 30 FT. STREET LEADING TO NANJEMOY CREEK.

SECTION No. 2

"FRIENDSHIP ACRES"

3RD ELECTION DISTRICT
CHARLES COUNTY, MD.

NOTE:

EACH LOT IS TO HAVE AN INDIVIDUAL WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM.

BEING A SUBDIVISION OF PART OF THE LAND CONVEYED UNTO ETHEL M. WALTER FROM EDITH F. POSEY & HUSBAND BY DEED DATED MAY 14 1936 AND RECORDED IN LIBER 62, AT FOLIO 615.

OWNER:
Ethel M. Walter

CHARLES COUNTY BOARD OF COMMISSIONERS
APPROVED
John W. ...

BOARD OF COUNTY COMMISSIONERS

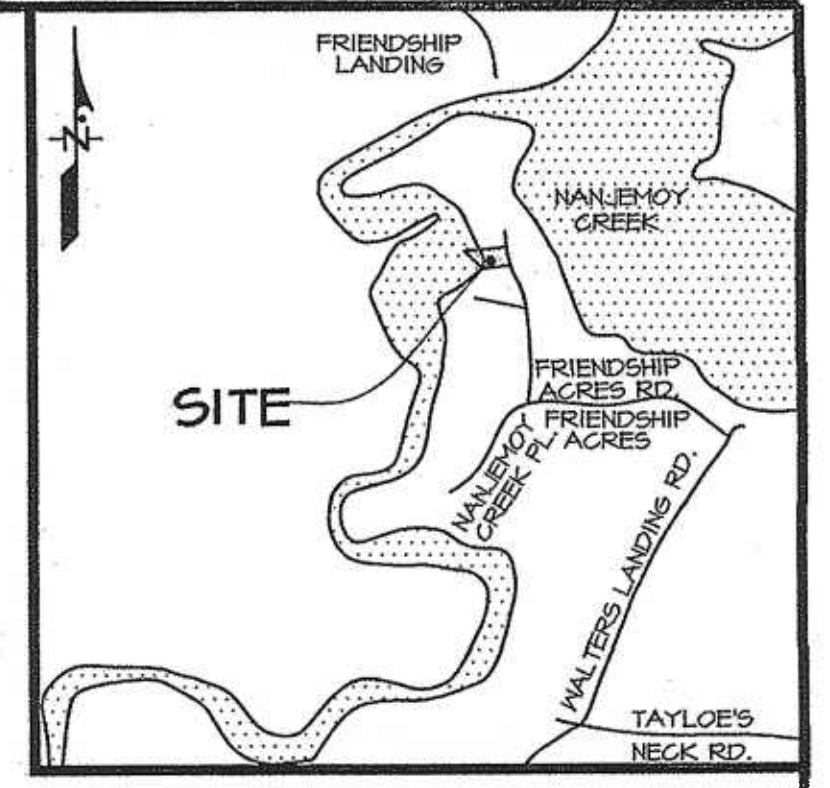
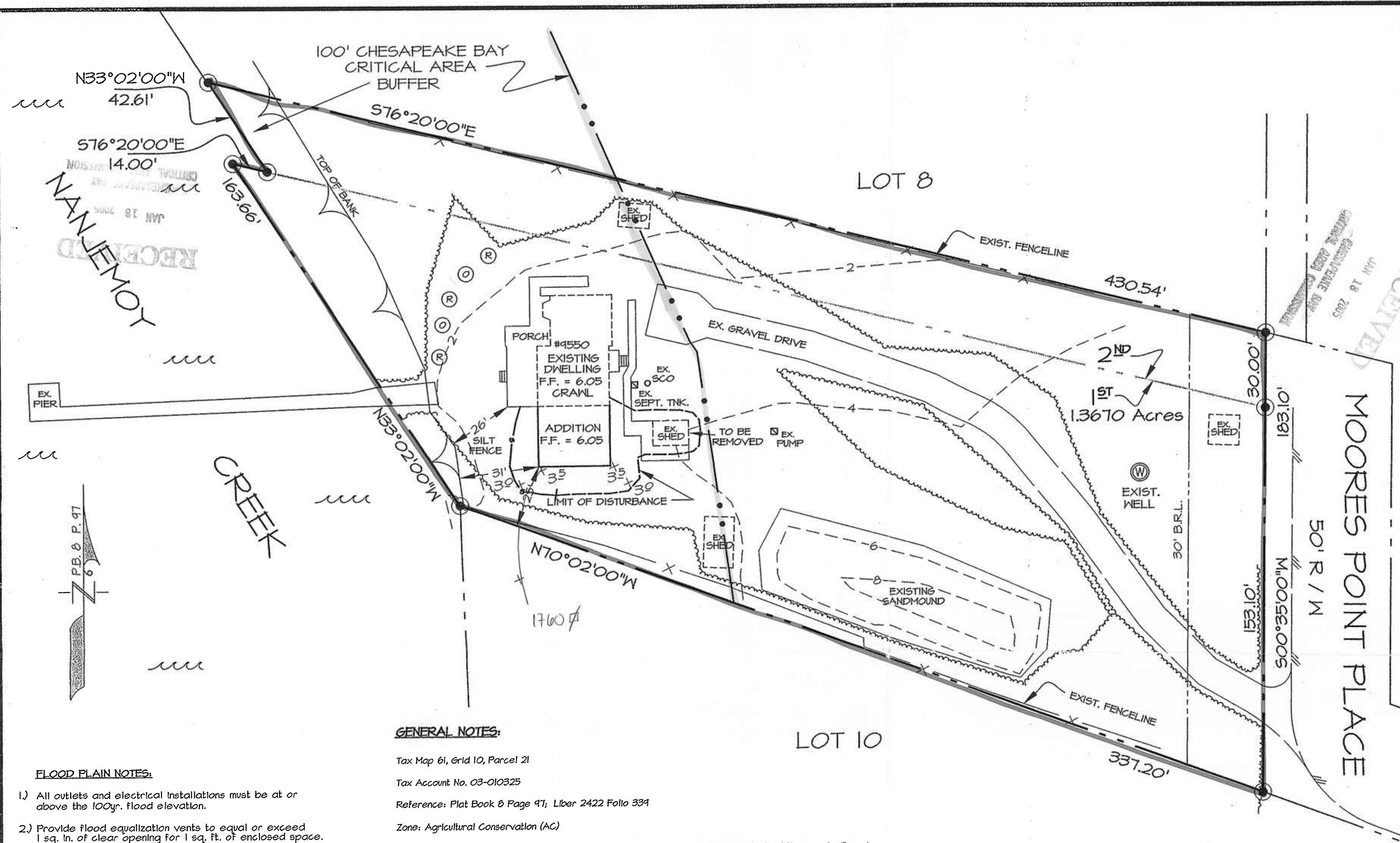
January 9, 1962
John L. Sullivan, pres.

DEC. 21, 1961
SCALE: 1" = 100'

D.H. STEFFENS
MD. SURVEYOR
LA PLATA, MD.

WE HEREBY CERTIFY THAT THE PROVISIONS OF CHAPTER 1016 OF THE ACTS OF THE GENERAL ASSEMBLY OF MD. OF 1945 HAVE BEEN COMPLIED WITH IN MAKING THIS MAP AND SETTING THE MARKERS. IRON PIPES ARE SET AT ALL LOT CORNERS.

29-8



VICINITY MAP SCALE: 1" = 2000
 TAX MAP 61, GRID 10, PARCEL 21
 ACCOUNT # 03-010325

CRITICAL AREA NOTES

THIS LOT LIES WHOLLY WITHIN THE CHESAPEAKE BAY CRITICAL AREA AND PARTIALLY WITHIN THE CRITICAL AREA BUFFER

TOTAL LOT AREA: 1.3670 Ac. or 54,541 SF.
 ALLOWED IMPERVIOUS AREA = 15% or 8,182 SF.

IMPERVIOUS AREA INSIDE THE 100' BUFFER

EXISTING		PROPOSED	
Dwelling	1,187 SF.	Proposed Addition	684 SF.
Conc. Walk	346 SF.	Block Shed (To Be Removed)	-142 SF.
Grav. Driveway	225 SF. X 0.5 = 112 SF.		
Wood Sheds	221 SF.		
Porch	509 SF.		
Wood Stoop & Steps	62 SF. (x 0.5) = 31 SF.		
Block Shed (To Be Removed)	142 SF.		
TOTAL	2,548 SF.		

NET INCREASE IN IMPERVIOUS AREA = 547 SF.
 (TO BE MITIGATED AT 3:1 or 1,641 SF.)

IMPERVIOUS AREA OUTSIDE THE 100' BUFFER

Grav. Driveway	3,559 SF. X 0.5 = 1,779 SF.
Wood Sheds	279 SF.
TOTAL	2,058 SF.

TOTAL PROPOSED IMPERVIOUS AREA 5,153 SF. or 8.7%

FOREST COVER REQUIRED = 15% or 8,182 SF.
 FOREST COVER EXISTING = 44% or 24,420 SF.
 TOTAL FORESTED AREA DISTURBED = 0 SF.
 TOTAL DISTURBED AREA = 2,000 SF.

GENERAL NOTES:

Tax Map 61, Grid 10, Parcel 21
 Tax Account No. 03-010325
 Reference: Plat Book 8 Page 97; Liber 2422 Folio 339
 Zone: Agricultural Conservation (AC)

This plan has been prepared based on available records, but without the benefit of a title report. Prior to construction, please contact your attorney or title company to determine whether there are any easements, or restrictions, other than those shown, which could affect the use of this property.

The dwelling appears to lie within Zone A as shown on F.I.R.M. Panel 240084-00105 B, effective date June 3, 1985.

This lot lies wholly within the Chesapeake Bay Critical Area (CBCA) Overlay Zone, and RCZ Overlay Zone.

The existing grades have been field verified by Ben Dyer Associates, Inc. NSVD 1929.

Lot is serviced by individual septic disposal system and well drilled into an approved, confined aquifer.

This plat is in compliance with the Charles County Comprehensive Water and Sewer Plan.

This Health Department approval certifies that the lot shown hereon is in consonance with pertinent laws and regulations as of the approval date. However, this approval is subject to change in such laws and regulations. Change in topography or site designation may void this approval. The designated perc area is the only perc area approved by the Charles County Health Department for sewage disposal purposes. The approved lot includes an approved area of at least 4,200 sq. ft. for sewage disposal purposes as required by current Maryland State Health Department Law. Improvements of any other nature, including but not limited to the installation of other utilities in this area, may render this lot undevelopable. To determine the exact area of the lot approved for sewage disposal purposes, or to establish a different area for such purposes, you must contact the Charles County Health Department, Office of Environmental Health.

There is no well or septic within 100 feet of those shown hereon unless otherwise noted.

All utility lines shall be located outside the Health Department approved sewage easement and no other easement may hinder access to it.

This plan is based upon an existing sand mound system, no new living space shall be created by this plan.

Total disturbed area = 4,200 s.f.
 Total forested area disturbed = 0 - s.f.

Following initial soil disturbance or redisturbance, permanent or temporary stabilization shall be completed within seven (7) calendar days as to 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 (14) days as to all other disturbed areas on the project site.

FLOOD PLAIN NOTES:

- All outlets and electrical installations must be at or above the 100yr. flood elevation.
- Provide flood equalization vents to equal or exceed 1 sq. in. of clear opening for 1 sq. ft. of enclosed space. Bottom of equalization vent to be no greater than 1 ft. above grade.
- The grade in the crawl space shall be at or above the exterior grade. In no case shall the crawl space be lower than the exterior grade of the lowest wall.

EXISTING	LEGEND:	PROPOSED
x(201.00)	SPOT ELEVATION	x(201.00)
---202---	2' CONTOUR LINE	---202---
---200---	10' CONTOUR LINE	---200---
---	PROPERTY LINE	---
---	BUILDING RESTRICTION LINE	---
+	PERCOLATION TEST	
---	SEPTIC EASEMENT	
---	SILT FENCE	S
---	LIMIT OF DISTURBANCE	---
---	TREELINE	---

CRITICAL AREA PLANTING PLAN @ 3:1

AREA OF MITIGATION = 1,641 SF.

PLANT TYPE	TYPE	ALLOWANCE	NUMBER	AREA
RED CEDAR	LARGE TREE	400 SF.	3	1,200 SF.
RED OAK	LARGE TREE	400 SF.	2	800 SF.
TOTAL			5	2,000 SF.

SITE PLAN, SEDIMENT CONTROL PLAN AND CRITICAL AREA PLANTING PLAN FOR EXPANSION OF AN EXISTING DWELLING

LOT 9 SECTION 2 "FRIENDSHIP ACRES"

3rd ELECTION DISTRICT
 CHARLES COUNTY, MARYLAND

CHARLES COUNTY HEALTH DEPARTMENT

DIRECTOR, CHARLES COUNTY ENVIRONMENTAL HEALTH - DATE

SANITARIAN DATE

9375 CHESAPEAKE STREET, SUITE 227
 P.O. BOX 2727, LA PLATA, MARYLAND 20646

BEN DYER ASSOCIATES, INC.
 Engineers / Surveyors / Planners
 TELEPHONE (301) 753-1696

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DRAWN BY [DESIGNED BY] CHECKED BY RECORD NO. A99700

SCALE 1" = 50'

DATE NOVEMBER, 2004 DRWG. NO. 6.08.01-P