

LA
Comment
10/24/05

BE 692-05 Evergreen Knoll
VAR

51829-6178

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/

October 24, 2005

Ms. Mary Ann Skilling
Maryland Department of Planning
120 Broadway, Suite 10
Centreville, Maryland 21617

Re: Evergreen Knoll, Edward R. Moffit

Dear Ms. Skilling:

I have received the above-referenced variance to construct a deck in the 100-foot Buffer. The property has a Critical Area designation of a Limited Development Area (LDA). The site plan provided shows the property supports a dwelling, sidewalks, a concrete pad and stairs to the river. I have outlined our comments below.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law.

The State law provides that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the Town's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Town must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

Ms. Skilling
October 24, 2005
Page Two

In this case, the applicant is proposing to place a freestanding, 10 x 16 deck in the Buffer. This office typically does not support accessory structures in the Buffer. However, it is our understanding that the location of the deck will be over an existing concrete area. Nevertheless, because freestanding decks are accessory structures, not permitted in the Buffer, the applicant must present competent and material evidence to show that he meets the burden of proof on each of the variance standards described below. Under the law as established by the General Assembly, even if there is nowhere else on the lot to site the proposed deck, the variance cannot be granted unless the applicant proves, and the Board finds, that without the variance, the applicant would suffer an unwarranted hardship, that is, "denial of reasonable and significant use of the entire parcel or lot."

Below I have outlined for the Board of Appeals each one of the variance standards that must be met by the applicant in order to receive the requested variance.

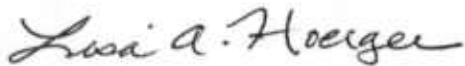
1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.*
2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction.*
3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*
4. *The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*
5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

In conclusion, if the Board finds by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, we recommend mitigation in the form of native Buffer plantings be provided at a 3:1 ratio for the area of the new deck.

Ms. Skilling
October 24, 2005
Page Three

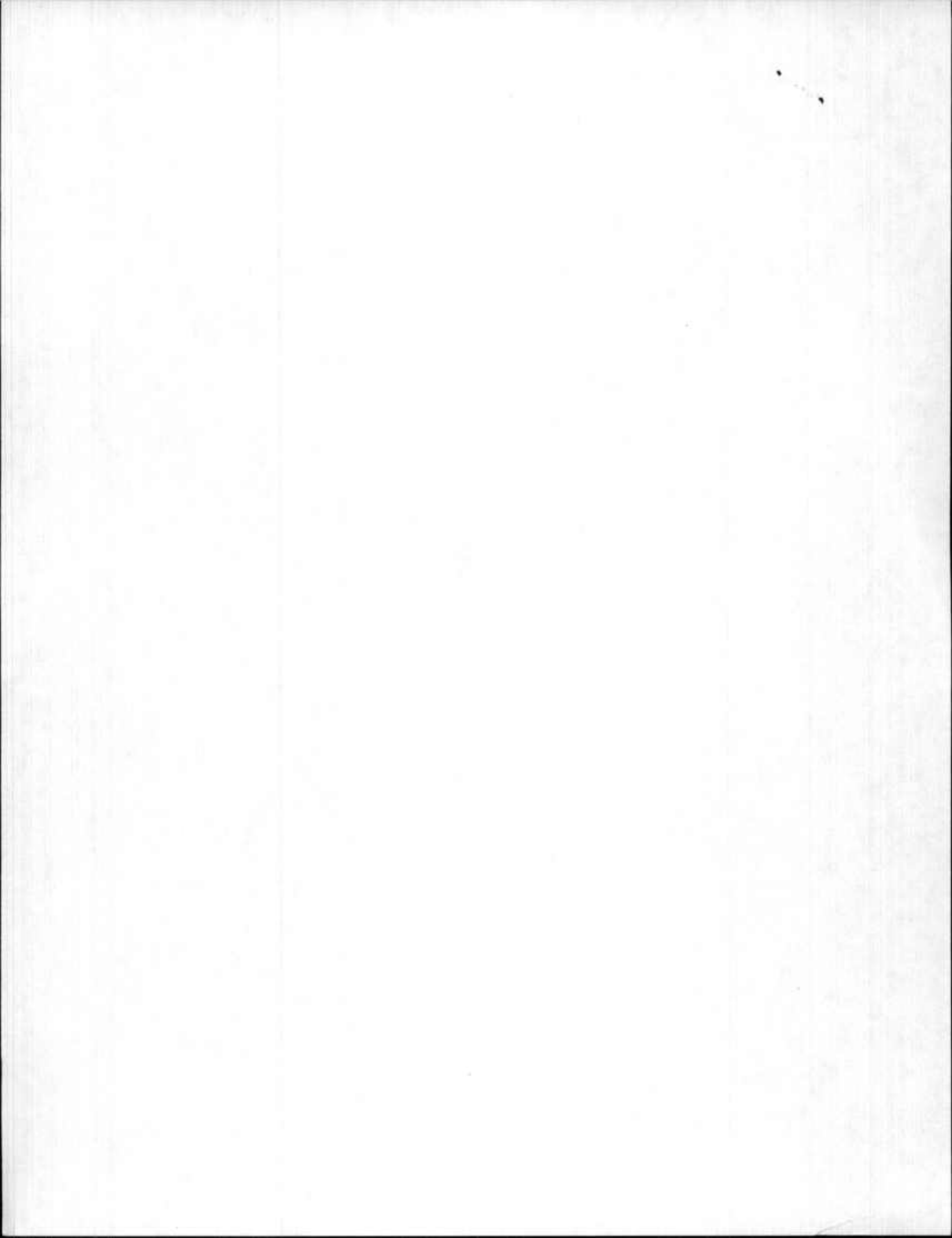
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Edward Moffit
David Teel, Town Administrator
Marianne Mason, Assistant Attorney General
BE 692-05



BE 692-05

BEFORE THE TOWN OF BETTERTON BOARD OF APPEALS

IN THE MATTER OF

BETTERTON, MARYLAND

EVERGREEN KNOLL Ltd./
EDWARD R. MOFFIT

APPEAL NO. 2005-02

.....

A hearing was held before the Board of Appeals on October 27, 2005. in the Town Hall Hearing Room, Betterton, Maryland. Sitting for the Board were Anita Williams, Chairperson, Marian Feeley, Charles C. Daggett, Julie Jones and Jack M. Luike, Jr. Alice S. Ritchie served as attorney for the Board and Jean Berry Smith acting as Secretary

DECISION

The Board has before it the Application of Evergreen Green Ltd./Edward R. Moffitt, 130 1st Ave, Betterton, Maryland 21610, requesting a variance to construct a 10' x 16' deck in the Critical Area Buffer on property located at 130 1st Ave., Betterton, Maryland. The matter had been previously scheduled on July 14, 2005, only three members of the Board were present on that date, and the Applicant at that time elected to continue the hearing because only three members were present. The matter was continued to October 27, 2005 and all interested persons were given an opportunity to be heard in a public hearing held on that date. The Board, having read and considered all matters filed in the proceedings and evidence offered, having studied the specific property and the neighborhood, and having deliberated in a public hearing, decides as follows.

FINDINGS OF FACT

The Board finds the following facts based on the testimony given and exhibits presented. The subject property is 35,445 square foot water front lot which is developed as a rental cottage community, entitled Evergreen Knoll, Ltd. Edward R. Moffitt is on the Board of Directors and gave testimony at the hearing in support of the Application as well as Pat Moffitt. The topography at the subject property is a bluff with a steep incline to the waterfront, the cottages are located on the level bluff, and within the 100 foot buffer, the incline, there are steps to a beach and pier for the use of the rental community. Also, there is on the waterfront within the Critical Area Buffer, a preexisting concrete slab on the bank, designed by the Army Corps of Engineers. The concrete slab goes from the top point of the bluff down towards the water and serves as erosion control. The concrete slab has been in place since approximately 1944. In the summer of 2002 the concrete slab needed to be repaired, Evergreen Knoll repaired the concrete, and at that time, placed six posts, three in the top of the slab and three further down the slab with the intent by Evergreen Knoll to construct a deck over the concrete slab. There had been a small railing for safety at the top of the concrete slab with three posts prior to the repair. Evergreen Knoll applied for a permit for a deck after that work was done, in 2002, but they never had a response to their permit application nor did they pursue it further. In 2004 Evergreen Knoll, Ltd. again addressed the issue of the deck, they applied for a building permit in December of that

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DEC 19 2005

CRITICAL AREA COMMISSION

ALICE S. RITCHIE
ATTORNEY AT LAW
P. O. BOX 67
CHESTERTOWN, MD.
21620-0067
TELEPHONE
410-778-2442

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5800 S. UNIVERSITY AVENUE, CHICAGO, ILL. 60637

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JAN 15 1964

FROM: [Illegible]

TO: [Illegible]

[Illegible text]

[Illegible text]

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year. When told they needed a variance to have a permit to construct the deck in the 100 foot Buffer, Evergreen Knoll Ltd. applied to the Board for a variance, April, 2005. The Applicant feels that they have had inadequate and inconsistent responses from the town of Betterton.

The proposed deck is 10' out and 16' across, it will be approximately 50' from the mean high water mark and over 10' from either side property line. The deck is in the 100 foot Critical Area Buffer. The Applicant believes that a deck will allow the business to utilize space which is not presently used for the enjoyment of their clientele i.e. "dead space" and will not impact the buffer because it is over preexisting impervious surface.

A neighbor, Richard Kcephart, testified. He is resident on the property but owns his cottage, his cottage being the sole separate lot. He does not feel the deck will have an impact on him or his property.

CONCLUSIONS OF LAW

Appendix 1 of the Betterton Zoning Ordinance, (hereafter referred to as Ordinance) amends and sets forth the applicable sections of the Zoning Ordinance which apply to the Critical Area within the township of Betterton. Specifically, Article VI, Zone Regulations, was amended to add a new section "CAZ-1 Critical Area Overlay Zone. Article VI, Section 7.10.1 prohibits new development activities including structures and new impervious surfaces in the Buffer. Article VI, Section 7.11 contains Buffer Exemption Area Provisions. Under 7.11.3 of that section are the Development and Redevelopment Rules specifically 7.11.3 (a) and (c) providing that redevelopment or new development either no closer than 100 feet from the edge of tidal waters or in the case of new development be minimized the shoreward extent of impervious surfaces insofar as possible. Further Appendix 1 amended Article II, Section 10 of the Ordinance with reference to the powers of the Board of Appeals to grant variances from the Critical Area Overlay Zone Provisions where owing to special features of a site or other circumstances, a literal enforcement of the Critical Area Natural Resource Ordinance would result in unwarranted hardship. The decision of the Board is to be based on the following criteria in addition to any other requirements contained in the Article:

- (a) That special conditions or circumstances exist that are unique to the subject property or structure and that strict enforcement of the provisions within the Critical Area Overlay Zone ("CAZ-1") would result in unwarranted hardship which is not generally shared by owners of property in the same management areas of (i.e. IDA, LDA, RCA) of the Critical Area.
- (b) That strict enforcement of the provisions within the Critical Area Zone would deprive the property owner of rights commonly shared by other owners of property in the same management area within the Critical Area Zone.
- (c) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the Critical Area Zone.
- (d) That the variance request in (sic) based upon conditions or circumstances which are self-created or self-imposed, nor does the request arise from conditions or

ALICE S. RITCHIE
ATTORNEY AT LAW
P. O. BOX 67
CHESTERTOWN, MD.
21620-0067
—
TELEPHONE
410-778-2442

to gain the ability to... and that the... of the... Area...

(9) That the... of the... will... the... of the... and...

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circumstances either permitted or non-conforming which are related to adjacent parcels.

- (e) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Zone, and that the granting of the variance will be consistent with the spirit and intent of the Town's Critical Area Program and associated ordinances.
- (f) That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

The Board finds that the Applicant's proposed deck is a new structure in the Critical Area, the structure is not water dependent. The Board does not find that the granting of the variance to build a deck would adversely affect the water quality or impact on fish, wildlife, or plant habitat within the Critical Zone, but they do find that the granting of the variance would not be consistent with the spirit and intent of the Town's Critical Area Program and associated ordinances. Further, the Board finds that the proposed deck if granted would confer upon the Applicant a special privilege that would be denied to other owners of like property, within the Critical Area Zone. Likewise a strict enforcement of the provisions relative to the Critical Zone would not deprive the Applicant of rights shared by other owners of property in the same management zone. The Board further finds the property has access to the waterfront, beach and pier, and therefore, Applicant does have reasonable and significant use of their land. That use is similar to the use by their neighbors of their land, and denial of the proposed deck would not deny the Applicant reasonable or significant use of their land. The Board finds no special conditions or circumstances exist that are unique to the property that the strict enforcement of the provisions within the Critical Area Overlay Zone would result in an unwarranted hardship not generally shared by owners of property in the same management areas. All owners of waterfront property are prohibited from building decks or impervious surfaces in the Critical Area Buffer. Therefore, Applicant does not suffer an unwarranted hardship which is not generally shared by owners of property in the same management area which is caused by special conditions or circumstances i.e. the concrete slab. The special features of the site do not create an unwarranted hardship. The Board does not accept the argument that because this is a business there are different standards for a business within the Critical Area Zone.

IT IS THEREFORE, this 10th day of December, 2005,
ORDERED that the Applicant's request for a variance to build a new structure within the 100' Critical Area Buffer is hereby **DENIED**.

TOWN OF BETTERON BOARD OF APPEALS

Scott S. Williams

Chad Lipp

Jack M. Lark

ALICE S. RITCHIE
ATTORNEY AT LAW
P. O. BOX 67
CHESTERTOWN, MD.
21620-0067
TELEPHONE
410-778-2442

Handwritten text at the top of the page, possibly a title or header, which is mostly illegible due to fading and bleed-through.

Marion L. Feeley

EVERGREEN KNOLL Ltd./
EDWARD R. MOFFIT

APPEAL NO. 2005-02

ALICE S. RITCHIE
ATTORNEY AT LAW
P. O. BOX 67
CHESTERTOWN, MD.
21620-0067

TELEPHONE
410-778-2442

BE 69205

Hoerger, Lisa

From: Hoerger, Lisa
Sent: Tuesday, September 27, 2005 12:35 PM
To: Esslinger, Regina
Subject: FW: Evergreen Knoll - Betterton MD

I faxed him our letter. This was back in February. I wonder what's going on?

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

From: Patrick A. Moffit [mailto:pmoffit@morabitoconsultants.com]
Sent: Tuesday, September 27, 2005 11:09 AM
To: Hoerger, Lisa
Cc: kworcester@choosemaryland.org
Subject: Evergreen Knoll - Betterton MD

Hello Lisa, about a month ago we received a copy of a letter from the Betterton Zoning Administrator, Mr. Lou Grahmer. The letter was sent to Mr. Grahmer by Ms. Mary Ann Skilling (Maryland Department of Planning) dated February 22, 2005. Apparently attached to the letter was a copy of a letter from the Critical Area Commission regarding a 1988 Town Ordinance. The bottom of the letter copies my Uncle, Ed Moffit (Treasurer of Evergreen Knoll, LTD) and you. We never received a copy of the letter from the Critical Area Commission and neither did Lou Grahmer. Could you please fax me a copy of this letter that we had never received. Thank you for your time. Please contact me if you have any questions or concerns regarding this e-mail.

Thanks

Pat Moffit

Vice President of Evergreen Knoll, LTD

Work Phone: 410-467-2377 ext 243

Fax: 410-467-4132

E-mail: pmoffit@morabitoconsultants.com

10/18/2005

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100
Annapolis, Maryland 21401

FACSIMILE TRANSMITTAL

TO: Pat Moffit FAX: (410) 467-4132

COMPANY: _____

FROM: Lisa Hoeger

DATE: 9/27/05 TIME: _____ : _____ a.m. p.m. NO. PAGES: 2

COMMENTS:

*Per your request, here is a copy
of my letter to Ms. Skilling.*

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100
Annapolis, Maryland 21401

FACSIMILE TRANSMITTAL

TO: David Teel FAX: (410) 348-5131
COMPANY: Town Administrator - Beltsville
FROM: Lisa Hoerger
DATE: 10/24 TIME: : a.m. p.m. NO. PAGES: 4

COMMENTS:

Mr. Teel,

Here is the comment letter for
the Evergreen Knoll case.

L. Hoerger

CHESAPEAKE BAY CRITICAL AREA COMMISSION
1804 WEST STREET, SUITE 100
ANNAPOLIS, MD 21401

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Town of Betterton Date: _____

Name of Project (site name, subdivision name, or other): Evergreen Knoll

Local case number: _____

Project location/Address: 150-~~150~~ 1st Avenue

Tax map# 100 Block# _____ Lot# _____ Parcel# 1613, 1614

Type of application:
(Select all applicable)

- SUBDIVISION
- SITE PLAN
- VARIANCE:
 - Buffer Slope
 - Imp. Surf. Other
- SPECIAL EXCEPTION
- CONDITIONAL USE
- REZONING
- GRADING PERMIT
- BUILDING PERMIT
- INTRAFAMILY
- GROWTH ALLOCATION
- OTHERS _____

Type of Project:
(Select all applicable)

- RESIDENTIAL ? Summer Rental Properties
- COMMERCIAL
- WATER-DEPENDENT FACILITY/PIER/MARINA
- INDUSTRIAL
- MIXED USE
- REDEVELOPMENT
- SHORE EROSION PROTEC.
- AGRICULTURE
- OTHERS _____
e.g. PUD

Current Use:
(Select all applicable)

- COMMERCIAL
- RESIDENTIAL
- AGRICULTURE
- FOREST/BUFFER/ WOODLAND
- INDUSTRIAL
- INSTITUTIONAL
- OPEN SPACE/RECREATIONAL
- SURFACE MINING
- VACANT
- WATER DEPENDENT FACILITY/PIER/MARINA
- OTHERS _____

Describe Proposed use of project site: Deck over existing concrete slab. Past Put in during repair of concrete without permit.

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: _____	AREA DISTURBED: <u>NA</u>
IDA ACRES <u>✓</u>	# LOTS CREATED: _____
LDA ACRES _____	# DWELLING UNITS: _____
RCA ACRES _____	
AGRICULTURAL LAND: _____	
EXISTING FOREST/WOODLAND/TREES: <u>none</u>	FOREST/WOODLAND/TREES REMOVED: _____
FOREST/WOODLAND/TREES CREATED: <u>NA</u>	
EXISTING IMPERVIOUS SURFACE: _____	PROPOSED IMPERVIOUS SURFACE: <u>no new</u>
TOTAL IMPERVIOUS SURFACE: _____	
GROWTH ALLOCATION DEDUCTED: _____	
RCA to LDA: _____	RCA to IDA: _____
LDA to IDA: _____	

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OCT 19 2005

Local Jurisdiction Contact person: Dave Teel, Town Admin. CRITICAL AREA COMMISSION
Telephone number: 410-438-5522
Response from Commission required by: 10/26/05 Hearing Date: 10/27/05

MINUTES
JULY 12, 2004

CALL TO ORDER 7:10 PM.

PRESENT: FALSTAD, JEWETT, WILLIAMS, ZELLERS

GUESTS: ELIZABETH WATSON, MARY ANN SKILLING, JACK MASSEY

MINUTES APPROVED AS READ

BUSINESS:

NO ONE HAS HEARD FROM ART KUDNER RE: REP AT COUNTY TAC MEETING.

MARY ANN SKILLING DISCUSSED ADOPTION OF THE CRITICAL AREA ORDINANCE. SHE IS GETTING PRESSURE FROM THE CRITICAL AREA COMMISSION TO HAVE THE ORDINANCE ADOPTED AS WE ARE FUNCTIONING W/OUT A LEGAL ORDINANCE. THERE NEEDS TO BE A PUBLIC HEARING. MAYOR AND COUNCIL, AND THE CRITICAL AREA COMMISSION MUST ADOPT THE ORDINANCE TOGETHER AND SIGN OFF ON MAPS. MARY ANN SAID SHE WILL BRING FINAL CHANGES TO THE 7/26 WORKSHOP.

LEIGH/BAUM: BOB RECEIVED THE FINAL PLAT FROM ELIZABETH FINK. BOB EXPLAINED TO MARY ANN THAT WE CANNOT DO ANYTHING ON THE APPROVAL UNTIL THE WATER ALLOCATIONS HAVE BEEN RESOLVED.

RIGBIE I: MARY ANN DISCUSSED THE STORMWATER INFILTRATION TRENCH. JOHN KLING, THE CONDO ASSOCIATION, SOIL CONSERVATION AND MARY ANN MET AT SITE. THE SYSTEM IS ALREADY SATURATED; THE STEPS AND BANK ARE ERODING. MARY ANN WROTE THE CRITICAL AREA COMMISSION ASKING FOR PERMISSION TO FILL IN THE PIT AND PAY IN TO MITIGATE. THIS MONEY, WHICH IS \$12,000, MUST ONLY BE USED FOR WATER QUALITY. MARY ANN WOULD LIKE IT TO BE USED TO SECURE THE BANK AND STEPS; MAYOR AND COUNCIL HAVE AGREED. NOTHING HAS BEEN DECIDED AS YET. THIS COMES UNDER MITIGATION IN CRITICAL AREAS. MARY ANN WILL PROVIDE US WITH COPIES OF THE CORRESPONDENCE. THE CONCRETE STEPS MUST ALWAYS REMAIN THERE.

MARY ANN BRIEFLY DISCUSSED THE KEEPHART PROPERTY. EVIDENTLY PILINGS WERE PUT IN BY THE MOFFITTS OF EVERGREEN KNOLL. THE DOCK HAS BEEN EXTENDED OVER ON THE KEEPHART PROPERTY. THE WORK WAS DONE BASED ON NEEDED REPAIRS FROM THE ISABEL EMERGENCY. A CORPS/MDE COMBINED PERMIT WAS NEEDED. AS NO TOWN PERMIT WAS ISSUED, THERE IS A TOWN VIOLATION ALSO. MARY ANN WILL CHECK BACK WITH MDE AS THEY ARE DOING THE OFFICIAL ENFORCEMENT.

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OCT 19 2005

CRITICAL AREA COMMISSION

ELIZABETH WATSON, EXECUTIVE DIRECTOR OF EASTERN SHORE HERITAGE, INC., GAVE A SHORT PRESENTATION ON THE *STORIES OF THE CHESAPEAKE HERITAGE AREA*. IT IS THE HOPE THAT IT WILL BE A BALANCE OF HERITAGE TOURISM AND PRESERVATION/CONSERVATION. EASTERN SHORE HERITAGE PRESENTS MORE OPPORTUNITIES FOR PEOPLE TO LEARN ABOUT THIS AREA AND ENJOY IT. THEY WILL BE TAKING THE DRAFT MANAGEMENT PLAN TO THE STATE FOR APPROVAL ON 7/19. IF APPROVED IT WILL NEED TO BE ADOPTED BY REFERENCE IN THE COMPREHENSIVE PLAN.

BETTERTON IS A TARGET INVESTMENT ZONE. ONCE THEY HAVE STATE APPROVAL THEY HOPE TO DO A SMALL ROUND OF GRANTS FOR LOCAL PROJECTS.

THE LIGHTS WENT OUT, BUT WE KEPT ON!

LOU GRAHAMER HAD A QUERY RE THE OLD BETTERTON HOTEL SITE, FOR A 12 UNIT HOTEL/MOTEL. THE PROPERTY HAS COMMERCIAL ZONING.

BATTEN: 101 ERICSSON AVE, WOULD STILL LIKE TO BUILD A DECK ON HOUSE. WE WILL NEED MORE SPECIFICS ON PROPERTY SIZE SO WE CAN BETTER LOOK AT SETBACK REQUIREMENTS.

HAENTZE: MAIN ST, PROPERTY OWNERS HAVE APPLIED FOR SUBDIVISION, TO GO FROM ONE LOT TO TWO. WE CAN TAKE NO ACTION UNTIL THERE IS A WATER ALLOCATION.

MEETING ADJOURNED: 8:55 PM

JOANNE JEWETT-HOLLIDGE

A handwritten signature in cursive script, reading "Joanne Jewett-Hollidge". The signature is written in dark ink and is positioned below the printed name.

Anita Williams

From: "judith c. kohl" <kohlinmd@dmv.com>
To: <asw@dmv.com>
Sent: Tuesday, July 12, 2005 2:28 PM
Subject: Zoning Commission on Moffit petition

To Anita Williams, Chair, Betterton Zoning Appeal Committee

This is to inform you that at its meeting on July 11, 2005, the Zoning Commission took the following action.

At this meeting, Anita Williams transmitted to the Commission a petition from Edward Moffit for a variance in buffer zone regulations (Article VI, Appendix 1) to permit a deck to be constructed at the shoreline at 130 First Avenue, which is in the buffer zone. A permit had earlier been denied by Lou Grahmer, as in violation of the rule that no new structures may be constructed in the buffer zone. A hearing on Mr. Moffit's petition is scheduled before the Zoning Appeal Board for July 14, and at Ms. Williams' request that Commission exercised its right to make a recommendation on Ms. Moffit's appeal. After discussion, the Betterton Planning and Zoning Commission voted unanimously to recommend against granting a variance in this case, since the construction of the deck would permit the creation of a structure that would be in clear violation of the Zoning Code.



Town of Betterton

3 THIRD AVENUE
P.O. BOX 339
BETTERTON, MARYLAND 21610

Phone: 410-348-5522
Fax: 410-348-5131
betterton@dmv.com

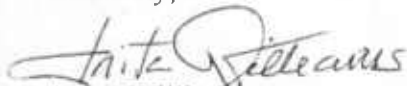
July 11, 2005

Joanne J. Hollidge
Chair
Betterton Planning and Zoning
PO Box 339
Betterton, MD 21610

There will be an Edward Moffit has filed an application to the Board of Zoning Appeals requesting a variance from Article VI, Appendix I; to build a deck over pre-existing concrete erosion control protection system at 130 First Avenue at Evergreen Knoll. The hearing is scheduled for July 14, 2005 at 7:00 PM in the Betterton Town Hall.

Please forward any Planning and Zoning recommendations to the Appeals Board.

Sincerely,



Anita Williams

Chair
Board of Zoning Appeals

MARYLAND DEPARTMENT OF PLANNING

Mary Ann Skilling
Critical Area Planner
120 Broadway, Suite 10
Centreville, Maryland 21617
410-819-4080
Fax 410-819-4090
410-556-6262
Fax 410-556-6280

FAX/MEMORANDUM

TO: Dave Teel
FROM: Mary Ann Skilling
DATE: 4/5/05
RE: Evergreen Knoll

Attached is correspondence regarding Evergreen Knoll and the deck they want to build on pilings that were placed in concrete during a repair of the concrete slope. I have been asked to respond to Mr. Moffit regarding the process for appealing the building permit denying the construction (see letter from Denver 3/18/05). This is not my role in providing assistance to the Town on Critical Area issues, and I am uncomfortable responding on behalf of the Town on policies and procedures. As mentioned in the letter from Lisa A. Hoerger from the CAC, the process for appealing the deck in the Buffer would be to apply for a variance. I don't think the Moffits have seen this letter, but Denver had a copy of the letter.

In order to resolve this and respond to the property owner/owners, I would suggest you touch base with Mitch on the process for appealing a building permit. Also, if appealing the building permit and applying for a variance for the deck in the Buffer, does the fine mentioned cease until the issue is resolved. If denied how long do they have after the decision before they must remove the piling as stated in Denver's letter.

If you have any questions, please give me a call.

5 Pages

IN THE MATTER OF THE APPLICATION OF
(Name and address of the Applicant)

For Board Use Only:

Case No. _____
Date filed: _____
Date of Hearing: _____
Parties Notified: _____
Notice Published: _____

Edward R. Moffitt
7119 Hegeman St.
Phila. Pa. 19135
215-333-6966

Evergreen Knoll
130 1st Ave (P.O. Box 9)
Betterton MD 21610

TO THE BETTERTON BOARD OF APPEALS:
In accordance with Article II Section 3 of the Betterton Zoning Ordinance as amended, request is hereby made for:

Appeal from Administrator's Decision Conditional Use Variance
 Special Exception Interpretation

DESCRIPTION OF PROPERTY INVOLVED: (Is lot improved, or unimproved; a farm or a tract? Put name of abutting public road; if in a subdivision tell the lot and block number and other information by which property can be identified.)

Evergreen Knoll - 130 1st Ave

How is property presently zoned? Residential

DESCRIPTION OF RELIEF REQUESTED: (If appealing decision of the Administrator, please state the date of this decision and attach copy of same. If requesting Conditional Use, Variance or Special Exception state the intended use of the property, size of buildings, etc.)

Common Area - used by tenants at

Evergreen Knoll - requesting Variance Article II Appendix I
To build deck over pre-existing concrete erosion control perimeter Sys

Present Owner(s) of property: Evergreen Knoll LTD
Telephone (215) 333-6966

Address of Present Owner(s) P.O. Box 9 130 1st Ave Betterton

Status of Applicant(s) if other than Owner(s): Bd. of Directors
Has property involved ever been subject of previous application? yes no

If so, give Application number and date: July 15, 2002

Edward R. Moffitt
Signature of Applicant(s) or Agent or Attorney

(SUBMIT ORIGINAL AND 6 COPIES)
If you need more space attach a supplemental sheet.

The \$250.00 application fee must accompany this form
TURN TO OTHER SIDE FOR INSTRUCTIONS AND SKETCH REQUIREMENTS

RECEIVED
OCT 19 2005
CRITICAL AREA COMMISSION

RECEIVED
4-14-05

FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THE PROPERTY, with dimensions of lot and buildings shown thereon. Define distances between present buildings or proposed buildings and property lines, identify names of adjoining streets or rights-of-way.

ALSO, PLEASE FILL IN NAMES AND ADDRESSES OF PROPERTY OWNERS ADJOINING SUBJECT PROPERTY ON THE SIDES, IN THE BACK, AND IN FRONT.

Thomas Hodge

P.O. Box 4

Betterton MD 21610

Dick Keephart

P.O. Box 132

Betterton MD 21610

Jack Sullivan

P.O. Box 143

Betterton MD 21610

Joseph Stock

122 1st Ave

Betterton MD 21610



Town of Betterton

3 THIRD AVENUE
P.O. BOX 339
BETTERTON, MARYLAND 21610

April 4, 2005

Phone: 410-348-552
Fax: 410-348-5131
betterton@dmv.com

Mr. Edward Moffit
71190 Hegerman Street
Philadelphia, PA 19135

Re: Evergreen Knoll, Ltd. New Deck

Dear Mr. Moffit,

This letter is written as a follow up to various items of correspondence concerning the proposed deck on your property in Evergreen Knoll. I trust that this will clarify the matter so that you may follow up appropriately.

The procedure that should have been followed in seeking to construct the deck is that first application should have been made and a zoning permit should have been secured. This is particularly true in the critical area due to the complexity and sensitivity of the requirements. If a zoning permit is denied, as was the case in this instance, then an appeal must be filed and a variance from the zoning requirements must be requested.

If the variance is denied, the process stops and there is to be no construction

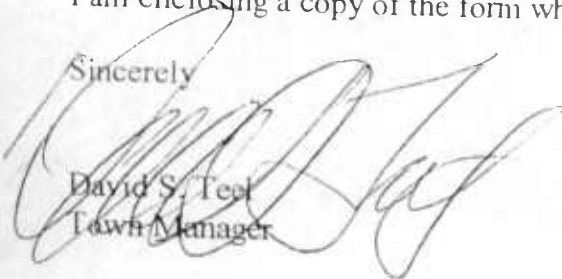
If the variance is granted, then application must be submitted for the building permit. If the zoning issues are resolved by the granting of a variance, the determination as to the issuance of the building permit is then resolved solely on the basis on conformity of the proposed structure to the requirements of the building code and any special requirements that may have been imposed by the Board of Appeals in granting the variance.

As a matter of general policy, appeals are not processed where there are violations of the zoning ordinance or the building permit outstanding, however in this case it seems appropriate to stay the order to remove the pilings until after a ruling by the zoning board of appeals. This will require, however, that you make application to the Zoning Board of Appeals immediately. If that is not done, then the town will require the removal of the pilings or pursue fines or both as indicated in Mr. Snelson's letter.

Each of these stages requires separate applications and reviews by separate individuals or agencies. Mary Ann Skilling is a valuable resource as a critical area planner and consultant to the Town on Critical Area matters, but is not directly responsible for the issuance of any of the permits or approvals.

I am enclosing a copy of the form which we require for application to the Zoning Board of Appeals.

Sincerely


David S. Teel
Town Manager

7119 Hegerman Street
Philadelphia, Pa. 19135\

April 4, 2005

Mr. Denver Snelson
Code Enforcement Officer
Town of Betterton
3 Third Avenue
P.O. Box 339
Bettertown, Maryland 21610

Dear Mr. Snelson:

I am writing this letter to inform you that Evergreen Knoll, Ltd. will be pursuing the variance regarding the deck permit.

Evergreen Knoll has been operating a summer cottage rental business since 1946. Evergreen Knoll has been a positive economic force for the benefit of the town of Betterton and Kent County. As a small business, we trust that we will be dealt with in a fair and forthright manner.

The following is a short history of our attempt to construct a deck:

- 1) On July 15, 2002, Evergreen Knoll, submitted a permit application for a deck to the town of Betterton. We then attended a zoning board meeting at the town hall and were told by Mr. Falstead, then Zoning Chair, that we should be patient and wait for the new updated ordinances to be written in order to accommodate the deck over concrete. It was made clear at this time by Mr. Falstead that there would be no problem with the deck being built.
- 2) In September, 2004, Evergreen Knoll asked Mary Ann Skilling of (MDP) to visit Evergreen Knoll and look at the site for the deck. Mary Ann observed that there was no problem since the deck was over a pre-existing impervious surface and that there would not be any negative impact to the buffer.
- 3) In December 2004, Evergreen Knoll made formal application for the permit with Zoning Administrator, Lou Grahmer.
- 4) Lou left a phone message that there was no problem; however, he needed a distance mark with regard to the property line. Evergreen Knoll immediately made the necessary adjustments to the permit

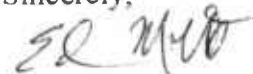
showing a 12 foot distance from our neighbor's property line. When the permit was handed to Lou, he stated that Mary Ann Skilling was now opposed to issuing the permit and that the permit application was on hold.

- 5) Evergreen Knoll waited another month and then asked for a written response as to what the problem was with the permit.
- 6) We received a written letter with no date on it from Lou Grahmer stating that the permit was denied.
- 7) Another written request was made to Mary Ann Skilling as to how to pursue the variance. No response was received from Mary Ann.
- 8) Evergreen Knoll then received an order to tear down six posts from Mr. Snelson.

I think it is fair to say that the treatment of Evergreen Knoll, Ltd. By those in a position to assist us with this permit application was unfair, confusing and unreasonable.

I believe a small business which has been operating in the town of Betterton for over half a century should be treated with greater respect and dignity.

Sincerely,



Edward R. Moffit
Board of Directors
Evergreen Knoll, Ltd.
215-333-6966

Cc: Mayor and Council
Lou Grahmer
Mary Ann Skilling
Thomas N. Yeager

:MOFFIT

FAX NO. :215-333-6966

Mar. 24 2005 12:25PM F1

**Town of Betterton**3 THIRD AVENUE
P.O. BOX 339
BETTERTON, MARYLAND 21610Phone: 410-348-5524
Fax: 410-346-5131
betterton@dmv.com

March 18, 2005

Mr. Edward R. Moffit
71190 Hegerman St
Philadelphia, PA 19135

RE: Evergreen Knoll, LTD - New Deck

Dear Mr. Moffit:

Your request dated 12-16-04 for a building permit to build a deck over the existing 6" X 6" posts has been denied. It does, however, point out the fact that those six posts still exist as a structure in the Buffer Zone. There was no building permit issued and they should not have been installed there in the first place.

By notice of this letter, the Town of Betterton requires that you remove these six 6" X 6" posts from the Buffer Zone. It would be satisfactory if they were cut down flush with the surface of the concrete slab. This work should be completed in forty five (45) days from the date of this letter.

If the work is not completed as required then I refer you to the Betterton Code of Ordinances, Chapter III, Article 1, Section 3-116.4 which states you have committed a municipal infraction and the fine would be not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1000.00).

Sincerely,

Denver Snelson
Code Enforcement Officer
cc: Mayor and Council
Lou Grahmer
Mary Ann Skilling
Thomas N. Yeager

7119 Hegerman Street
Philadelphia, Pa. 19135

March 10, 2005

Mr. Lou Grahmer
Zoning Administrator
Town of Betterton
3 Third Avenue
P.O. Box 339
Betterton, Maryland 21610

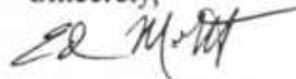
Dear Lou,

Thank you for informing me which ordinance is in question with regard to the building permit.

Could you please send me a copy of the ordinance so I may review it?

Again, thank you your assistance is much appreciated.

Sincerely,



Edward R. Moffit

Cc: Counsel

No Response



The Town of Betterton

NUMBER THREE, THIRD AVENUE
P.O. BOX 339
BETTERTON, MARYLAND 21610

TELEPHONE: 410-348-5522

Evergreen Knoll, LTD
Mr. E.R. Moffit
7119 Hegerman St.
Phila., Pa.

Mr. Moffit

Your permit application for a deck in the buffer zone has been denied per Betterton Zoning Ordinance Article VI, Appendix 1.

Lou Grahmer
Zoning Administrator

7119 Hegerman Street
Philadelphia, Pa. 19135

March 10, 2005

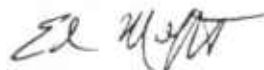
Ms. Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway, Suite 10
Centreville, Maryland 21617

Dear Mary Ann,

Concerning the issue stated in your recent correspondence regarding variances, am I correct in assuming that if a variance is granted by the Critical Areas Commission that I will be issued a building permit for the deck?

Thank you for your prompt attention to this matter.

Sincerely,


Edward R. Moffit

No Response



Town of Betterton

3 THIRD AVENUE
P.O. BOX 339
BETTERTON, MARYLAND 21610

Phone: 410-348-5522
Fax: 410-348-5131
betterton@dmv.com

March 18, 2005

Mr. Edward R. Moffit
71190 Hegerman St
Philadelphia, PA 19135

RE: Evergreen Knoll, LTD - New Deck

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Sincerely,

Denver Snelson

Code Enforcement Officer

cc: Mayor and Council

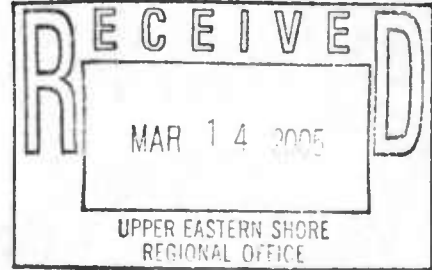
Lou Grahamer

Mary Ann Skilling ✓ 556-6280

Thomas N. Yeager

7119 Hegerman Street
Philadelphia, Pa. 19135

March 10, 2005



Ms. Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway, Suite 10
Centreville, Maryland 21617

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Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ed Moffit".

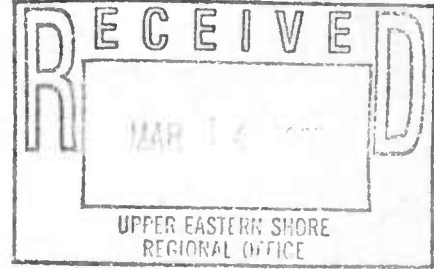
Edward R. Moffit

Handwritten note: Sent to [unclear] 3/14/05

Pat

7119 Hegerman Street
Philadelphia, Pa. 19135

March 10, 2005



Ms. Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway, Suite 10
Centreville, Maryland 21617

Dear Mary Ann,

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Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ed Moffit".

Edward R. Moffit

*MAS - did not respond
Steel responded for town*

Duke



Maryland Department of Planning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

February 22, 2005

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

Mr. L. Grahamer
Zoning Administrator
Town of Betterton
P.O. Box 338
Betterton, Maryland 21610

Re: Evergreen Knoll, Ltd – New Deck

Dear Mr. Grahamer:

I received a copy of Mr. Moffit's letter of February 15, 2005. A written response was sent to the Town on January 18, 2005 recommending that existing violations be resolved prior to acting on the deck permit. The 30 day time limit for a written response does not usually pertain to the issuing of a building permit.

As a follow up to my February letter, I asked for a written response from the Critical Area Commission regarding the issue of a structure in the Buffer based on the 1988 Critical Area ordinance. Attached is a copy of that letter (a copy sent to Mayor Sorge). I believe this letter is self explanatory regarding the procedure the applicant must follow should he desire to pursue this activity. All variances from Critical Area regulations must be submitted to the Critical Area Commission (see the attached Summary of Notification Requirements).

If you should have any additional questions regarding this project, feel free to call.

Sincerely,

Mary Ann Skilling
Critical Area Planner

Copy: Lisa A. Hoerger, CAC
Mr. Edward R. Moffit

7119 Hegerman Street
Philadelphia, Pa. 19135
215-333-6966

February 15, 2005

Zoning Administration
Town of Betterton
3 Third Avenue
P O Box 339
Betterton, Maryland 21610

Attention: Mr. Lou Grahmer

Dear Lou,

In December 2004 you received a permit application submitted by me, Edward R. Moffit, on behalf of Evergreen Knoll, Ltd.

As of this date, I have received no written response from the Zoning Board. I have been advised that the law requires a written response within 30 days of application. Since there has been no written response citing any ordinances or legal hindrances to the permit, I assume the permit is granted.

Sincerely,



Edward R. Moffit

Cc: Mary Ann Skilling
Legal Counsel

Robert L. Ehrlich, Jr.
Governor

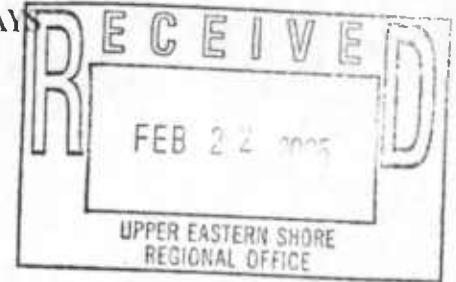
Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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



February 10, 2005

Ms. Mary Ann Skilling
Critical Area Circuit Rider
Maryland Office of Planning
Upper Eastern Shore Regional Office
Centreville, Maryland 21617

Re: Evergreen Knoll, LTD.- 130 First Avenue, Betterton

Dear Ms. Skilling:

At your request, I am providing you and the Town with the Commission staff's recommendation concerning the above-referenced case. While the site is in a mapped Buffer Exemption Area, it appears the request for the deck would require a variance to the Town's Buffer provisions based on the Town's original 1988 Critical Area amendments to the Town's ordinance. The version adopted by the Town more recently was never approved by the Commission so the Town must rely on its 1988 ordinance language. Therefore, if the applicant chooses to pursue installing a deck, a variance would be the proper route under the Town's Ordinance.

If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Carolyn Sorge

RECEIVED

OCT 19 2005

CRITICAL AREA COMMISSION



Maryland Department of Planning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

January 18, 2005

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

Mr. L. Grahamer, Zoning Administrator
Town of Betterton
P.O. Box 338
Betterton, Maryland 21610

Re: Evergreen Knoll, Ltd. – New Deck

Dear Mr. Grahamer:

Because of an outstanding violation pending with the Maryland Department of Environment regarding the expansion of an existing pier without prior approval, it is my recommendation that this permit be put on hold until there is a resolution to this violation. Rick Ayalli from MDE has contacted Mr. Moffett regarding the encroachment of the pilings on Mr. Keephart's riparian rights that were not included on the permit application. A letter is forthcoming regarding the steps to be taken to resolve this violation.

It has also been brought to my attention that the concrete installed along the bank below the proposed deck was done prior to receiving appropriate approvals from the town. Placing concrete on a steep slope would not necessarily be a structure that would be allowed in the Buffer to solve an erosion problem, if that were the intent. In fact, using concrete on such a steep slope increases the conveyance of water.

Finally, structures are not usually allowed in the Buffer except under certain conditions. I need to review the Town's old ordinance for the Buffer Exemption provision.

If you should have any questions, please give me a call.

Sincerely,

Mary Ann Skilling
Critical Area Planner

Copy: David Teel, Town Administrator

TOWN OF BETTERTON

Our Copy

Permit Application

Date of Application: 12-16-04	Zoning Administrators Approval:	Date:	Fee Paid:
---	---------------------------------	-------	-----------

The Town of Betterton requires that before a building is "constructed, structurally altered, moved, demolished, converted, enlarged, occupied, or its use changed" a permit must be issued by the Town's Zoning Administrator. The consideration to issue a permit will be based on the information supplied on this form and other documentation that may be required. There are fees associated with obtaining the permit and these fees will be calculated by the Zoning Administrator when this application is considered for permit issuance. The fee must then be paid prior to the issuance of the permit. This form is an application for a permit, it is not a permit.

permit #

Three (3) copies of this form must be submitted.

~~Make three copies and request the Town to make the necessary~~
~~changes to the zoning ordinance.~~

This application is for which of the following permits:

Mark those that apply with an x and then complete the pages as indicated below the permit type.

- Building Permit
pages 1,2,3,4,5,7
- Addition Permit
pages 1,2,3,4,5,7
- Renovation Permit
pages 1,2,3,4
- Moving a Building Permit
pages 1,2,3,4,5,10
- Use Permit
pages 1,2,6
- Occupancy Permit
pages 1,2,7
- Demolition Permit
pages 1,2,9
- Sign Permit
pages 1,2,8

Please print or type

RECEIVED

Owner's Full Name: Evergreen Knoll, LTD		Day Phone Number:	
Owner's Mailing Address: P.O. Box 9		410-348-5731	
Betterton, MD 21610		Evening Phone Number: 410-647-114	
Street address: 130 First Ave			
Location in terms of North, South, East, or West of the named road: North		CONTRACTOR LICENSE #	
Deed Reference: MLM 68 336	MAP #: 100	Grid: 6	Parcel: 2 1614/1613
Area of lot (in sq. ft. or acres) 35,445 Sq. ft.		Road frontage (in feet) 125 ft	

The above information is available on the properties NOTICE OF ASSESSMENT, TOWN TAX BILL, or COUNTY TAX BILL.

Please describe the property in question.

How is the property currently zoned? If you do not know your current zoning, a zoning map is posted at the Town Office.

R-1 R-2 R-3 B-1 C-1

Is the property within the "Town Center Overlay District" TC-1? If you are not sure a map is posted at Town Office.

Yes No

The applicant and property owner hereby agree to comply with all regulations applicable hereto, and further agree that any misstatement or misrepresentation of facts, or any change without the approval of the agencies concerned, shall constitute sufficient grounds for denial or revocation of a permit.

Signature of applicant:

REQUIRED

Edmund R. Myer

Signature of owner:

REQUIRED

Edmund R. Myer Bd. of Directors

Return this application and all supporting documentation to:
Zoning Administrator
Town of Betterton
3 Third Avenue PO Box 339
Betterton, MD 21610-~~0000~~

The applicant will be notified by mail at the address on page one of this application of the fees due. The final approval and issuance of a permit will not be completed until receipt of necessary fee payment in full. If full payment is not received within 60 days of the date of notification, this application will be considered null and void.

Complete this page for a Building, Addition, Renovation, or Moving permit

NO CONSTRUCTION, EXCAVATION, OR ANY OTHER ACTIVITY ASSOCIATED WITH THE CONSTRUCTION FOR WHICH THIS APPLICATION APPLIES MAY BE STARTED UNTIL THIS APPLICATION HAS BEEN APPROVED AND A COPY OF IT RETURNED TO YOU. There are applicable penalties involved if this restriction is not observed.

Describe the work for which this permit is to be issued. If any of that work will effect the size and or the shape of any structure on the property, or if a new structure is to be created it will be necessary to include a drawing (blue prints required if MDIA approval will be needed.) The drawing should be to scale, with the scale indicated, and show the extent of the lot and the size of all structures (in ground area covered and in height) that will exist on the lot when the project is completed. It should show, in dimensions in feet, the space between all structures, and the distances from all structures to the nearest property lines. It should also indicate all driveways or other vehicular access on the lot, as well as the routing of all utility services (water, sewer, electric, etc.) if any of these will be effected by this project. If there is not sufficient room on this page then you may add another page here.

Please Refer to the Attached "New Deck Site Plan" and to the "New deck Cross Section" for the above referenced information. (dated 12-16-04)

Provide your estimate of the cost of this project, in dollars

\$ 3,200

Estimate the length of time to complete this project. 2-4 Weeks

Estimated starting date April 1, 2005

Estimated completion date April 30, 2005

Complete this page if you are applying for a Building, Addition, Renovation, or Moving Permit.

Yes No

- Does this building require the demolition of all or part of any existing structure. If yes see demolition permit page 9.
- Will a new structure (building) result from the proposed construction or will an existing structure be enlarged? If yes see occupancy permit page 7.
- Will any new structure be anything other than a single family dwelling or an auxiliary building to a single family dwelling (a garage, a utility shed, a detached deck, a car port, etc.)? If yes the requirements for commercial, business, or multi-family buildings require additional supporting documents, please refer to the planning and zoning commission to determine what is necessary.
- Will new sewage and or water service be required. (Note: town service is required for all new construction, as well as, all existing structures.) If yes then water and sewer connection permits will be required.
- Will the use of the property be changed as a result of this construction? Some of the uses of property are vacant, single-family residential, multi-family residential, business-grocery store, business-restaurant, business-gift shop, commercial, commercial-marine, etc. If yes then a use permit will be required, see page 6.
- Will more than 100 cubic yards of earth be moved, or more than 5,000 square feet of ground cover be disturbed? If yes, please attach a drawing indicating the amount and areas of the disturbance, showing where, in relation to the property boundaries, the ground will be disturbed. If the final grade contours will be more than three feet different from the current contours indicate the current and the proposed contours. If this information is shown on any additional documentation that you are submitting that is acceptable. Please note that there are sediment control ordinances and regulations that may apply.
- Is any part of the described property within the "Chesapeake Bay Critical Areas"? If yes then you must fill out and submit the "Critical Areas Enclosure Sheet" page 5 of this packet. There is a map posted in the Town Office if you do not know whether or not the property is in or out of this area.

CRITICAL AREAS ENCLOSURE SHEET

If part of the property in question is in the Critical Areas then this sheet must be completed. If the project is of "minor" impact to the critical areas only the information on this enclosure sheet is required. More extensive development will require more information and require the submission of site plans and impact statements. For the purpose of this application any project more extensive than the construction of a single family residence of 3,500 sq. ft. on a lot existing prior to December 31, 1985 is considered to have "major" impact and will require additional documentation. Please consult the Planning and Zoning Commission or the Betterton Zoning Ordinances for details on what additional information is required. In either case this form must be completed and submitted with the application for a Building Permit. Some of the information on this page duplicates what is on other pages of this application, this is necessary because this form will be processed separately from the Building Permit.

Fill in the following information.

Street address: 130 First Ave.			
Location in terms of North, South, East, or West of the named road: North			
Deed Reference: MLM 68 336	MAP #: 100	Grid: 6	Parcels: 2 1614/1613

Check any of the following that are applicable to this application.

Minor Impact: <input checked="" type="checkbox"/> None	Major Impact: <input type="checkbox"/>
Site plan submitted: <input checked="" type="checkbox"/>	Sub-division requested: <input type="checkbox"/> If so, how many lots? <input type="text"/>
Variance requested: <input type="checkbox"/>	Re-zoning requested: <input type="checkbox"/> From what category: <input type="text"/> To what category: <input type="text"/>
Conditional use requested: <input type="checkbox"/>	This project is: Development <input type="checkbox"/> Redevelopment <input type="checkbox"/>
Special exception requested: <input type="checkbox"/>	

Please give the area of your property that is in each of the following categories.

Outside of Critical Areas	<input type="text"/>	Inside the Buffer Zone	<input type="text"/>
Inside the Critical Area	Intensely Developed (IDA)	Entire	In The Buffer Exemption Zone
	Limited Development (LDA)		<input type="text"/>
Resource Conservation (RCA)	<input type="text"/>		Total Area in Buffer
Total Property Area	<input type="text"/>		<input type="text"/>

The primary concern of the Critical Area Program is to minimize the destruction of ground cover and forested areas and to avoid the creation of "impervious surfaces." Estimate below the areas for these categories as they currently exist and as they will be after this project is completed.

	Before This Project	After This Project
Forested Area	Within Critical Areas	No Change
	Within the Buffer	No Change
Impervious Area	Within Critical Areas	No Change
	Within the Buffer	No Change

If this project is "Minor" attach a sheet that provides a sketch showing the areas included in each of the Critical Areas categorized above and the location and extent of forest cover and impervious surfaces, both pre and post development. If this is "Major" the required documents will supply this information.

Application for a Use Permit

Describe the proposed use of the property in question.

No Change in Use

Describe the present use of the property if different from the proposed use as described above.

Present Use is: Seasonal Cottage Rental Family Business

yes

no

Will additional parking be needed? If yes, explain where the present parking spaces are located and where the additional parking spaces will be located. Attach a sketch of the property with this information marked.

Will Health Department inspections, Safety Inspections, or other types of inspections be needed? If yes, list the types and agencies that will be doing the inspections.

Will other types of licenses be required. If yes list which ones and who issues them.

Application for an Occupancy Permit

Refer to Betterton Zoning Article III, Section 8 **Not Applicable*

Before a building may be occupied certain inspections may be required. You need to provide evidence that these inspections have been performed prior to occupying the premises. If you are not sure which inspections are necessary for your building then see the Planning and Zoning Administrator or Article III, Section 8 of the Planning and Zoning Ordinances.

Electrical Inspection:
Inspected by:

Health Department:

Plumbing Inspection:

Fire Marshall/Safety Inspection:

Handicapped Accessibility:

Written Middle Department Inspection Agency (MDIA) final approval

For commercial buildings provide the information below:

Square footage of building:

Square footage of public access rooms:

Volume of the main room or rooms.



Maryland Department of Planning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

October 4, 2004

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

Mr. Denver Snelson
Town of Betterton
P.O. Box 339
Betterton, MD 21610

Re: Evergreen Knoll Ltd.

Dear Denver:

I met with Mr. Patrick Moffett on Friday, October 1, regarding issues relating to the Critical Area at Evergreen Knoll. Mr. Moffett indicated that the Town required a Buffer Management Plan to be developed for the work performed on the pier (as stated in your June 29, 2004 letter). Although a Buffer Plan would be required for construction or disturbance in the buffer for a pier, this pier already existed and no new buffer disturbance was created. Therefore, a Buffer Plan would not be required. I did indicate that if Evergreen Knoll did want to do any work in the buffer (including tree removal or shore erosion control) a plan must be developed and approved prior to doing any work. This plan and any approvals required by other permitting agencies (e.g., Maryland Department of the Environment or Corps of Engineers) must be approved in accordance with the Town's Zoning Ordinance.

As a follow up to the work done on the pier repair (and as indicated in your June 29, 2004 letter), I recommended that an after the fact building permit from the town be gotten. As I mentioned to you, the final determination from MDE regarding the Joint Permit for additional work done on the pier has not been received. Once the final determination has been made on the after the fact permit from MDE and the Corps of Engineers, a copy of the determination should be provided to the town.

Finally, Mr. Moffett had several questions regarding what type of work (or repair) requires a building permit. Since I was unable to answer this question, I recommended that he contact the town.

I hope this letter clarifies some of the Critical Area issues relating to Evergreen Knoll, Ltd. Please feel free to give me a call should you have any questions.

Sincerely,

Mary Ann Skilling
Critical Area Planner

Copy: Patrick Moffett, c/o Evergreen Knoll
Key Worcester, DBED
Carolyn Sorge, Mayor

RECEIVED

OCT 19 2005

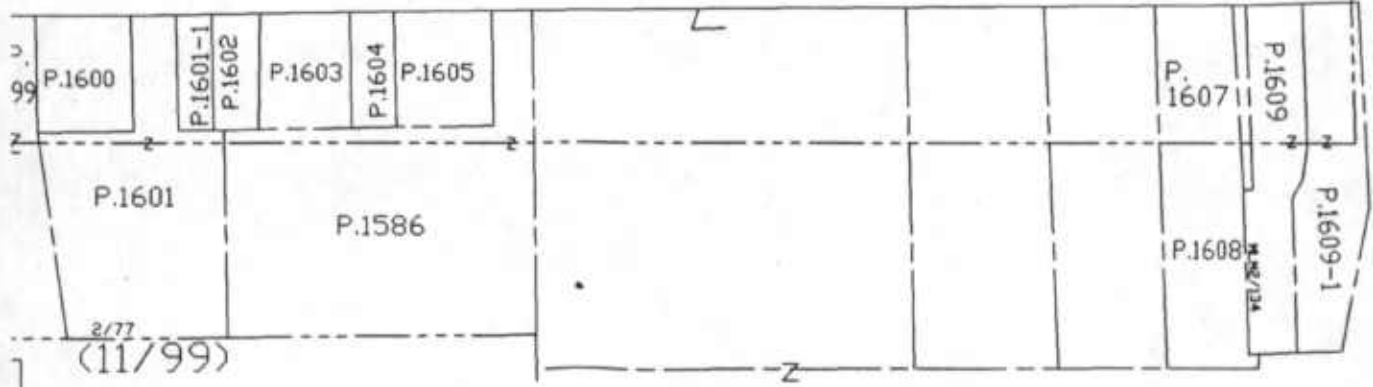
CRITICAL AREA COMMISSION



BAY

Sassafraes River

Evergreen Knoll











SASSAFRAS

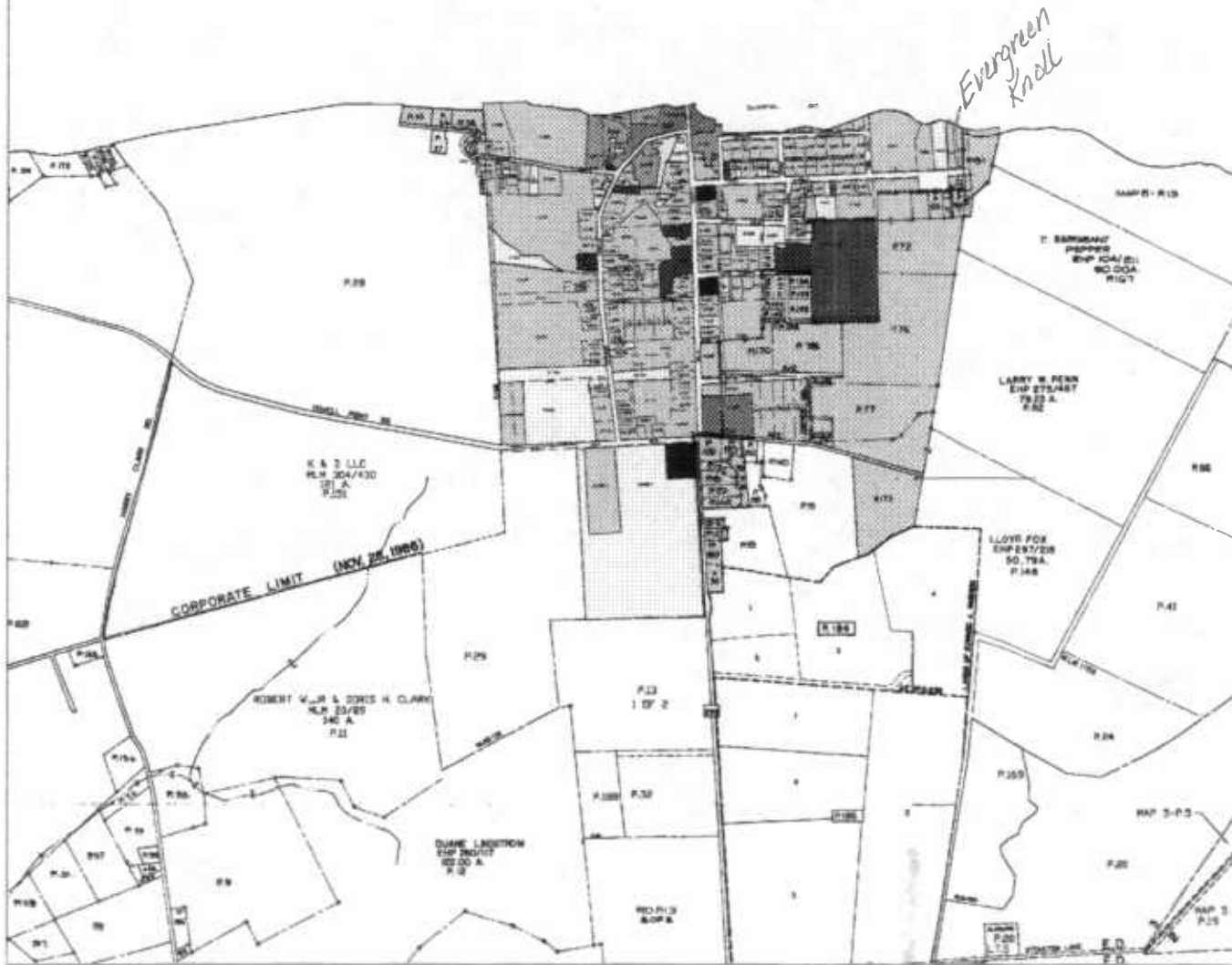
RIVER

**EXISTING LAND USE
2004
BETTERTON, MARYLAND**

LEGEND:

- Residential 
- Residential Condominium 
- Commercial 
- Public 
- Institutional 
- Park 
- Rural/Agriculture 
- Vacant* 

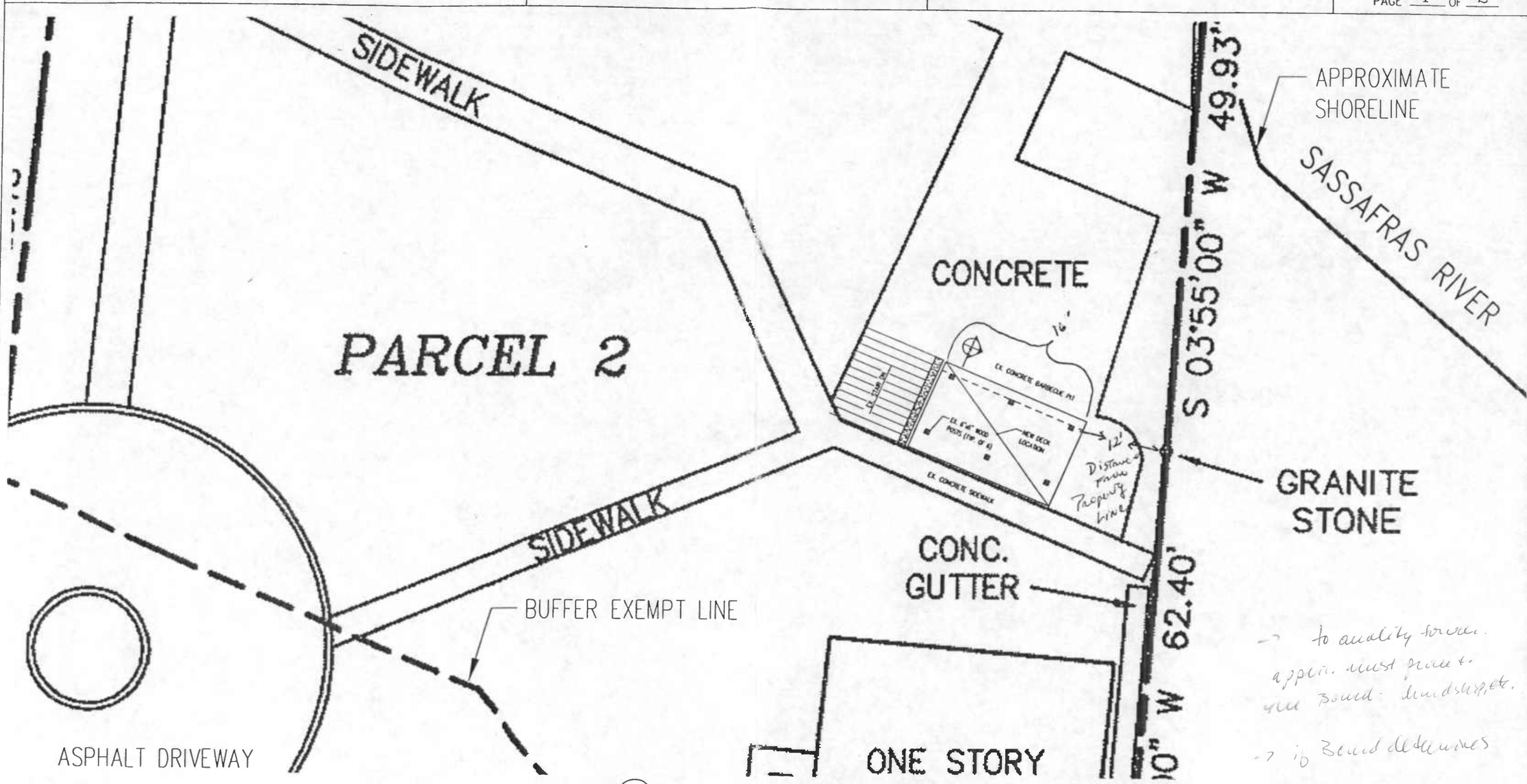
* Value of improvements less than \$10,000.



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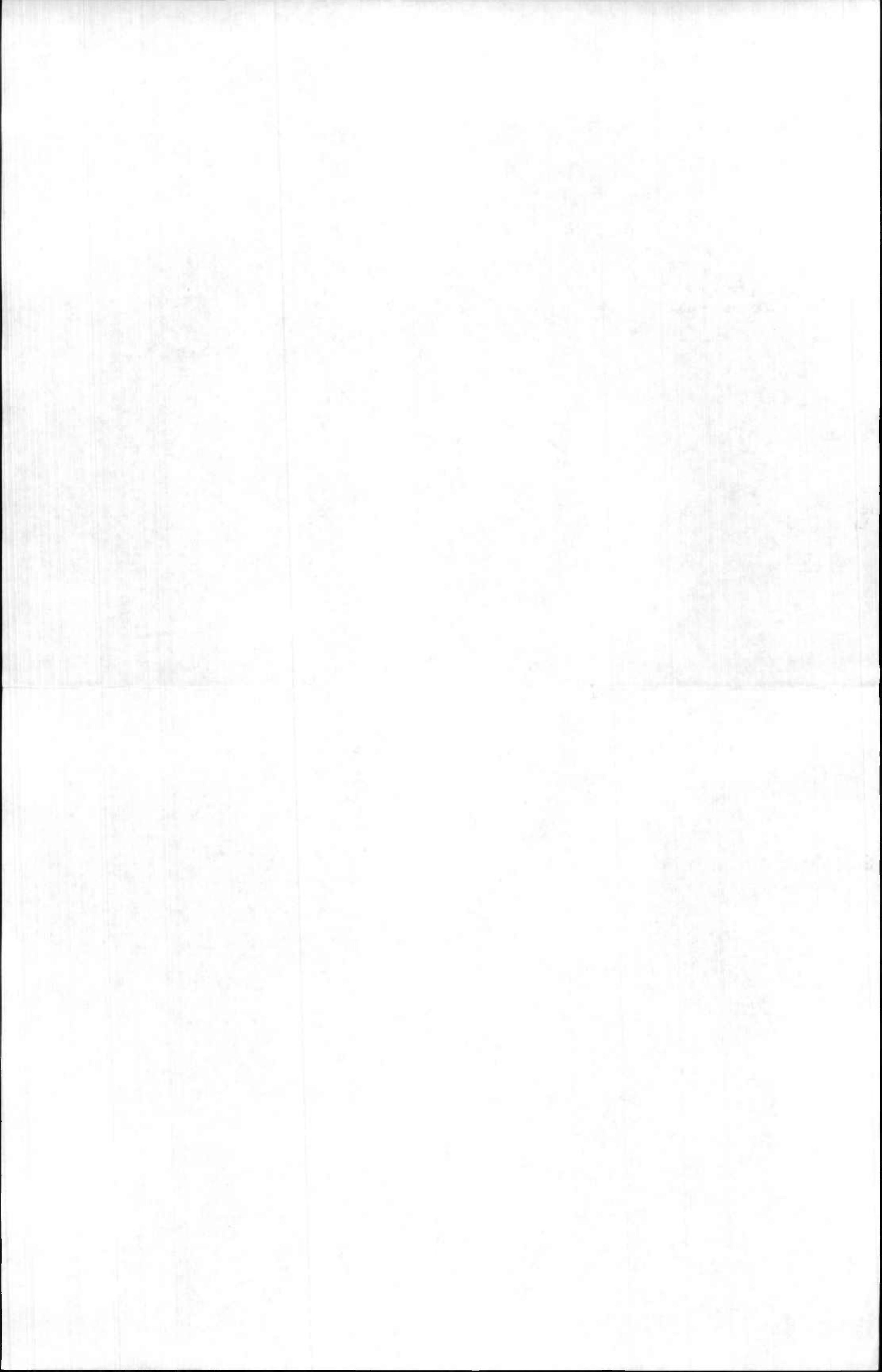
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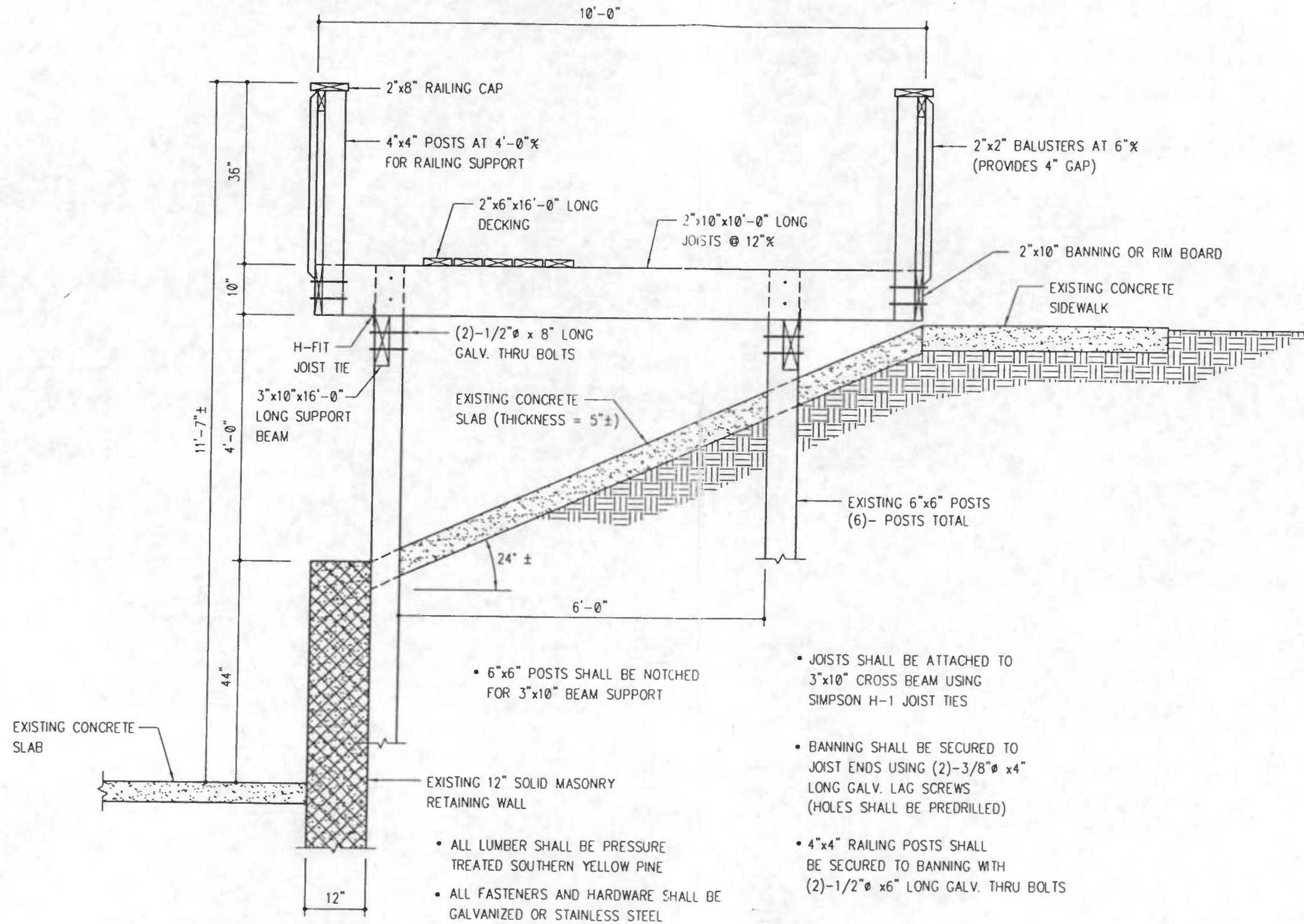
CRITICAL AREA COMMISSION



*to quality survey.
applic. must prove to
the Board: landscape, etc.
if Board determines*

(A) NEW DECK SITE PLAN





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① NEW DECK CROSS-SECTION

