Martin O'Malley

Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale Chair

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/

March 25, 2011

Mr. Kevin Scott City of Annapolis Department of Planning and Zoning 145 Gorman Street, 3<sup>rd</sup> Floor Annapolis, Maryland 21401

Re: Palmer Variance

Dear Mr. Scott:

Thank you for forwarding the above-referenced variance application for review and comment. The applicant has requested a variance to permit disturbance in the 100-foot Buffer for replacement of a deteriorated timber retaining wall with a stone retaining wall and patio. The 0.75 acre property is entirely within the Critical Area, it is designated as a Limited Development Area (LDA) and it is currently developed with a single family dwelling, driveway, pool and pier. The area of Buffer disturbance for the replacement retaining wall is 1,720 square feet.

We note that the replacement retaining wall was constructed prior to obtaining the required permits and variance. At this time, it appears that the applicant has resolved that violation with payment of a fine, and by providing restoration plantings on the property as shown on a submitted restoration planting plan. The applicant has also submitted a proposed variance mitigation planting plan showing that if the requested variance is obtained, additional plantings will be provided on the property at a 3:1 ratio for the area of Buffer disturbance from the project. Based on this information, and based on the applicant's description of the necessity of the replacement retaining wall to remedy and prevent a serious erosion problem on the site that would be detrimental to the water quality of Weems Creek, this office does not object to granting the requested variance. However, we recommend that the applicant be required to remove the area of patio that was constructed with the new retaining wall, to the extent that it is not integral to the support structure of the retaining wall.

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. If you have any questions, please feel free to call 410-260-3481.

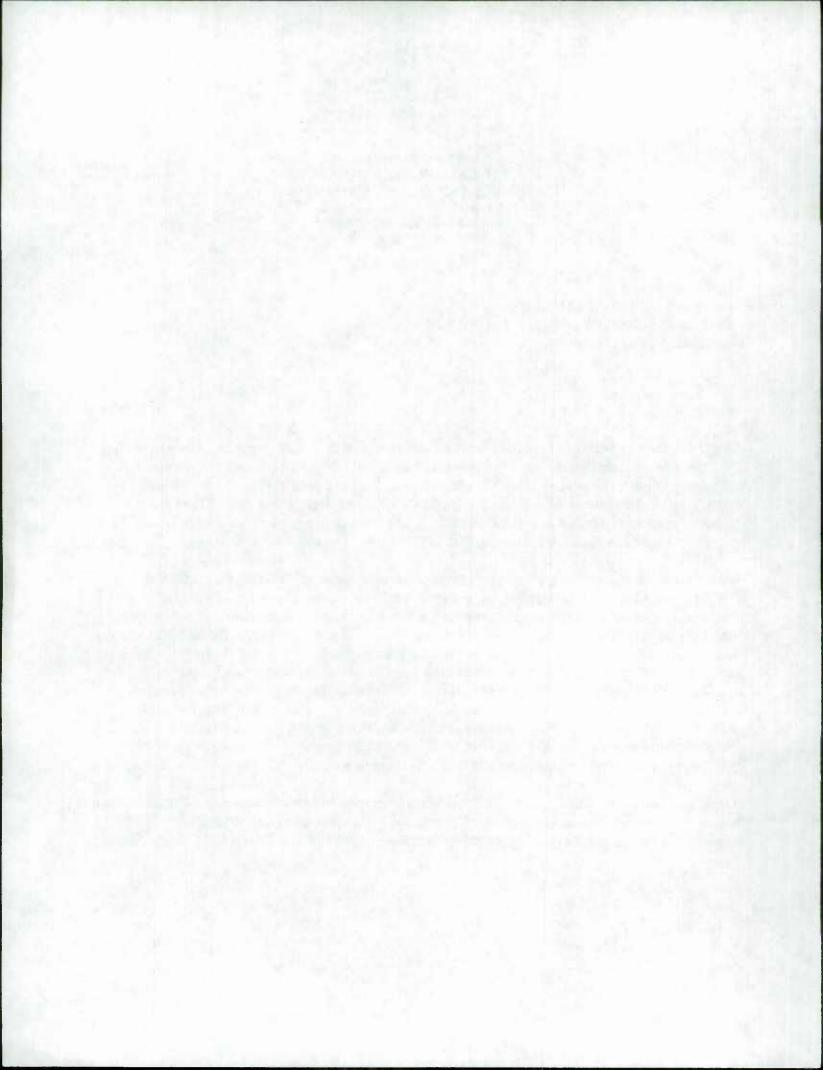
Sincerely

Amber Widmayer

Natural Resources Planner

cc:

AN 522-08



## IN THE DISTRICT COURT OF MARYLAND FOR ANNE ARUNDEL COUNTY

CITY OF ANNAPOLIS

Plaintiff

\* Citation Nos. 1z34045481 and

2z34045482

**COURTNEY PALMER** 

Defendant

Consen T

Upon consideration of the Motion for Show Cause Order filed by the City of Annapolis, and any response thereto of the Defendant, it is this 2 day of \_\_\_\_\_\_\_, 2009, by the District Court of Maryland for Anne Arundel County,

#### ORDERED:

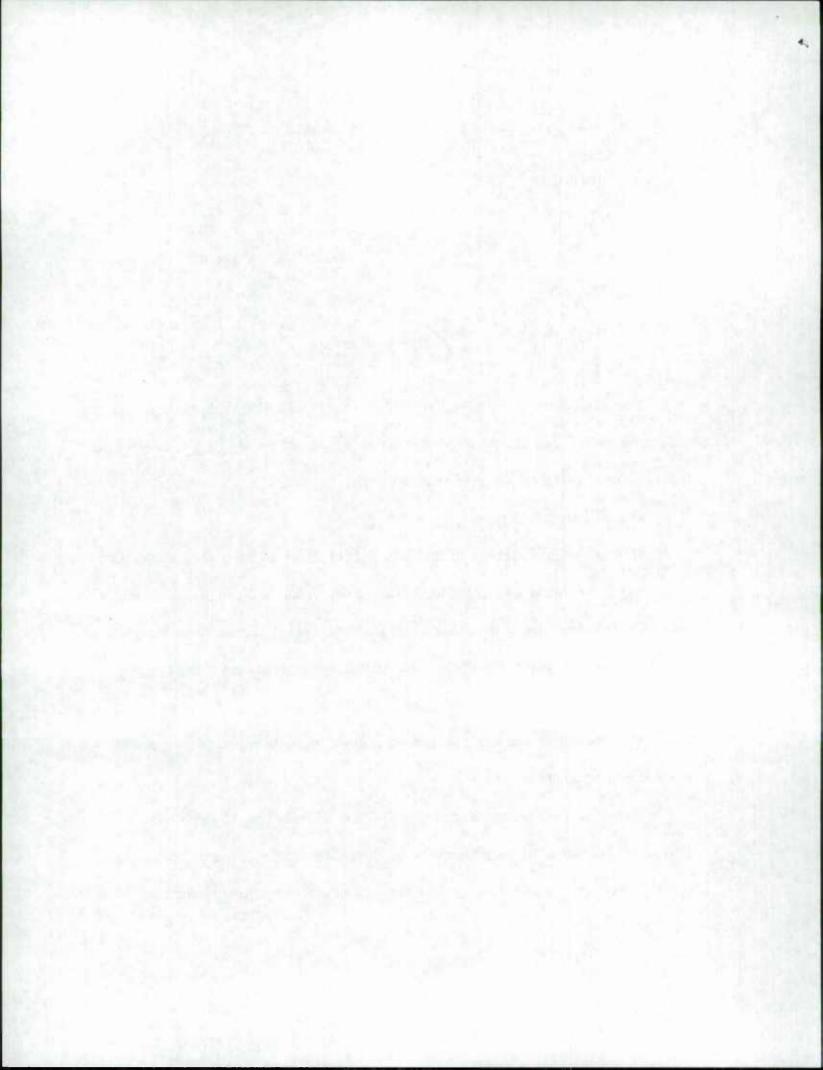
- (1) the Plaintiff shall have an immediate right of entry onto the Defendant's property at 369 Dewey Drive, Annapolis, Maryland, to evaluate the overall condition of the retaining walls which the Defendant constructed on the property without a permit and which are the subject of the above referenced citations, and to evaluate ground conditions and any safety factors associated with the retaining walls and ground conditions;
- (2) the Plaintiff shall notify the Defendant in writing of the results of the evaluation referenced in paragraph 1;
- (3) within 30 days from the date of notification referenced in paragraph 2, the

  Defendant shall take all actions required by the Plaintiff to brace and otherwise secure the

  retaining walls and stabilize the ground; all such actions shall be subject to inspection and final



OFFICE OF LAW

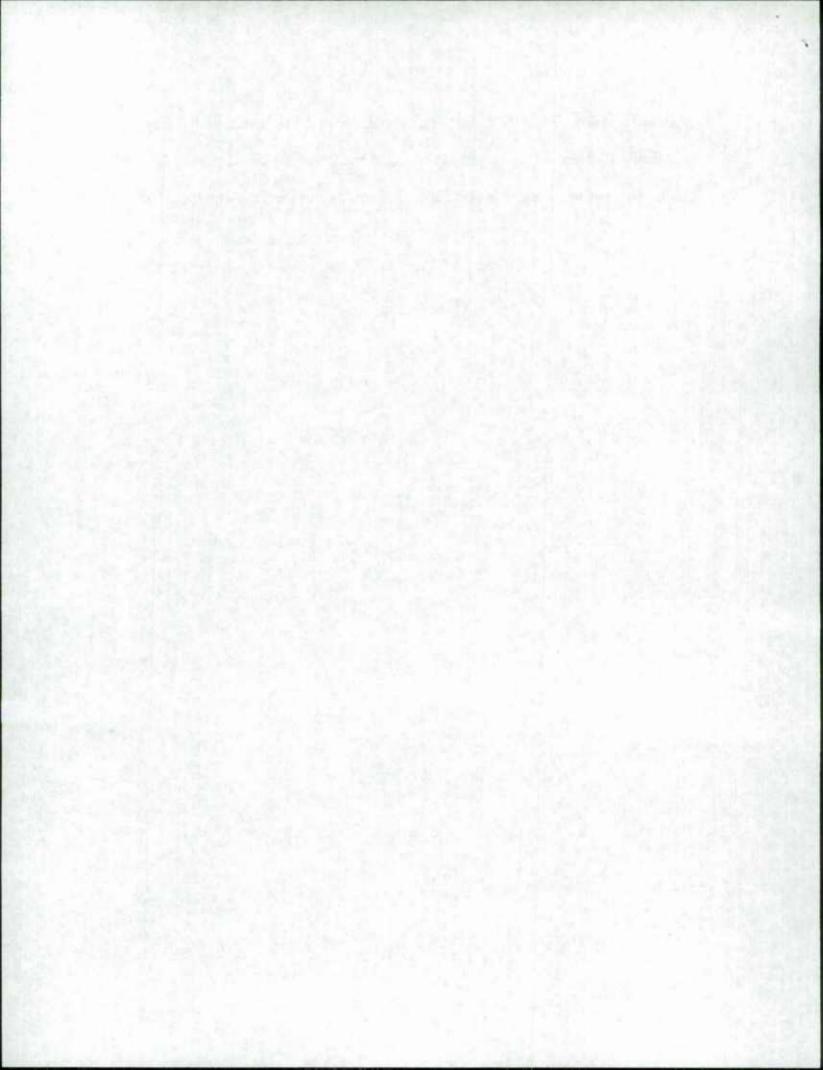


approval of the Plaintiff; the Plaintiff shall have a right of entry onto the Defendant's property to monitor such actions and conduct inspections; the Plaintiff shall give the Defendant written notification of final approval;

- (4) if the Defendant does not take the actions required by the Plaintiff referenced in paragraph 3, the Plaintiff and its employees and contractors shall have a right of entry onto the Defendant's property to brace and otherwise secure the retaining walls and stabilize the ground at the Defendant's expense; the Defendant shall pay such expense in full within 30 days of invoicing by the Plaintiff and failure to pay within such time shall result in immediate judgment in favor of the Plaintiff against the Defendant for the full expense without further order of Court;
- (5) within 30 days after the Plaintiff gives written notification to the Defendant pursuant to paragraph 3, the Defendant shall have 30 days to complete mitigation plantings required by the Plaintiff and the Critical Areas Commission for disturbances created by the unapproved construction of the retaining walls, which the parties acknowledge was done within the 100' critical area buffer on the Defendant's property; the Plaintiff and representatives of the Critical Areas Commission shall have a right of entry onto the Defendant's property to inspect all such mitigation plantings for compliance with critical area requirements; all mitigation plantings are subject to final approval by the Plaintiff and the Critical Areas Commission;
- (6) within 30 days after approval of mitigation plantings referenced in paragraph 5, the Plaintiff shall notify the Defendant of any supplementation required of the variance application which the Defendant has submitted to the Plaintiff for the purpose of constructing retaining walls within the 100' critical area buffer on the Defendant's property, and the Defendant shall

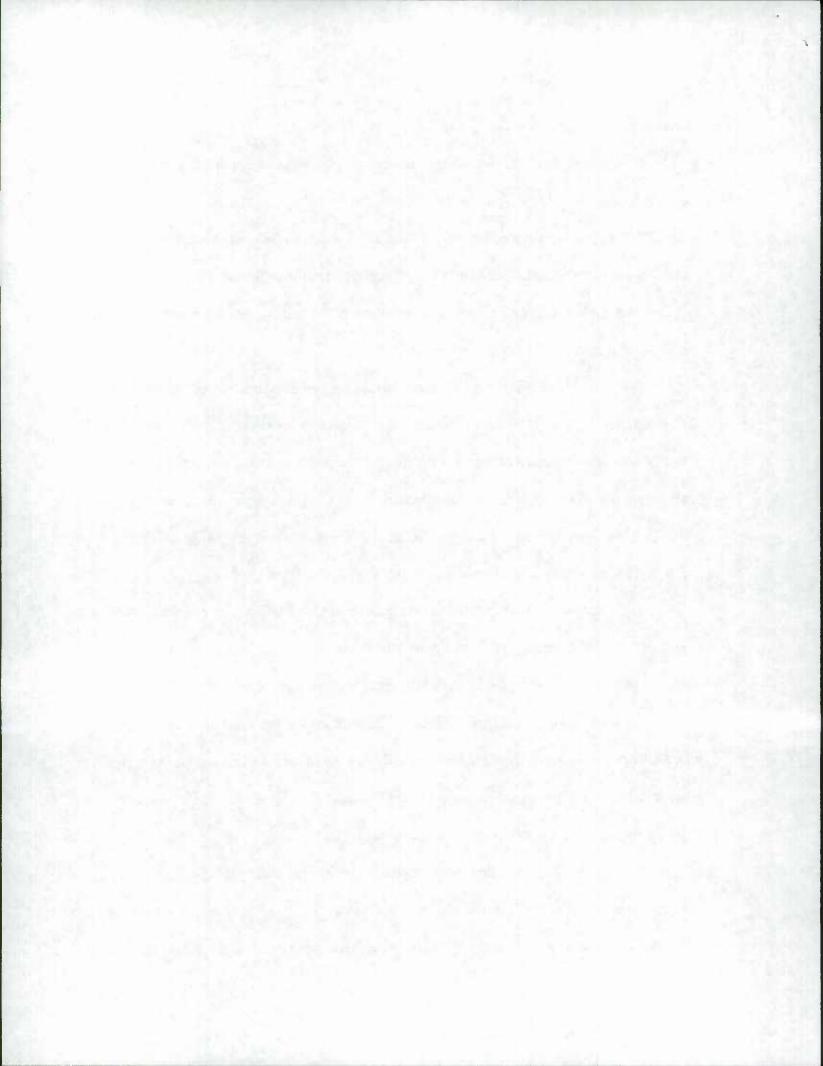
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walls and stabilize the ground at the Defendant's expense; the Defendant shall pay such expense in full within 30 days of invoicing by the Plaintiff and failure to pay within such time shall result in immediate judgment in favor of the Plaintiff against the Defendant for the full expense



have 30 days to supplement the application;

- (7) if the Plaintiff's Board of Appeals approves the variance application, the Defendant, within 20 days of a written Opinion and Order of the Board of Appeals, shall apply to the Plaintiff for applicable demolition, grading and building permits related to construction of new retaining walls; the Plaintiff shall have a right of entry onto the Defendant's property to monitor all construction activities and to conduct inspections; all demolition and construction activities shall be subject to the Plaintiff's final approval;
- (8) if the Plaintiff's Board of Appeals denies the variance application, and after all of the Defendant's appellate rights are exhausted, whichever comes first, the Defendant, within 20 days of a written Opinion and Order of the Board of Appeals, or a final Appellate Order, whichever is the case, shall apply to the Plaintiff for a demolition permit to completely dismantle and demolish the retaining walls and stabilize and restore the ground in compliance with all laws regarding critical areas and all other applicable laws;
- (9) within 20 days after approval of the Defendant's demolition permit, the Defendant shall complete dismantling and demolition of the retaining walls and stabilization and restoration of the ground on the Defendant's property in compliance with all laws regarding critical areas and all other applicable laws; the Plaintiff shall have a right of entry onto the Defendant's property to monitor demolition activities and to conduct inspections; all demolition and stabilization activity shall be subject to the Plaintiff's final approval; the Plaintiff shall give the Defendant written notification of final approval;
- (10) if the Defendant does not complete demolition of the retaining walls within 20 days after approval of the demolition permit, the Plaintiff and its employees and contractors shall have a right of entry onto the Defendant's property to complete demolition of the retaining



without further order of Court;

(11) the Court shall defer ruling on the Plaintiff's Motion for Show Cause Order and

shall reschedule upon motion by the Plaintiff.

Copies to:

Gary M. Elson

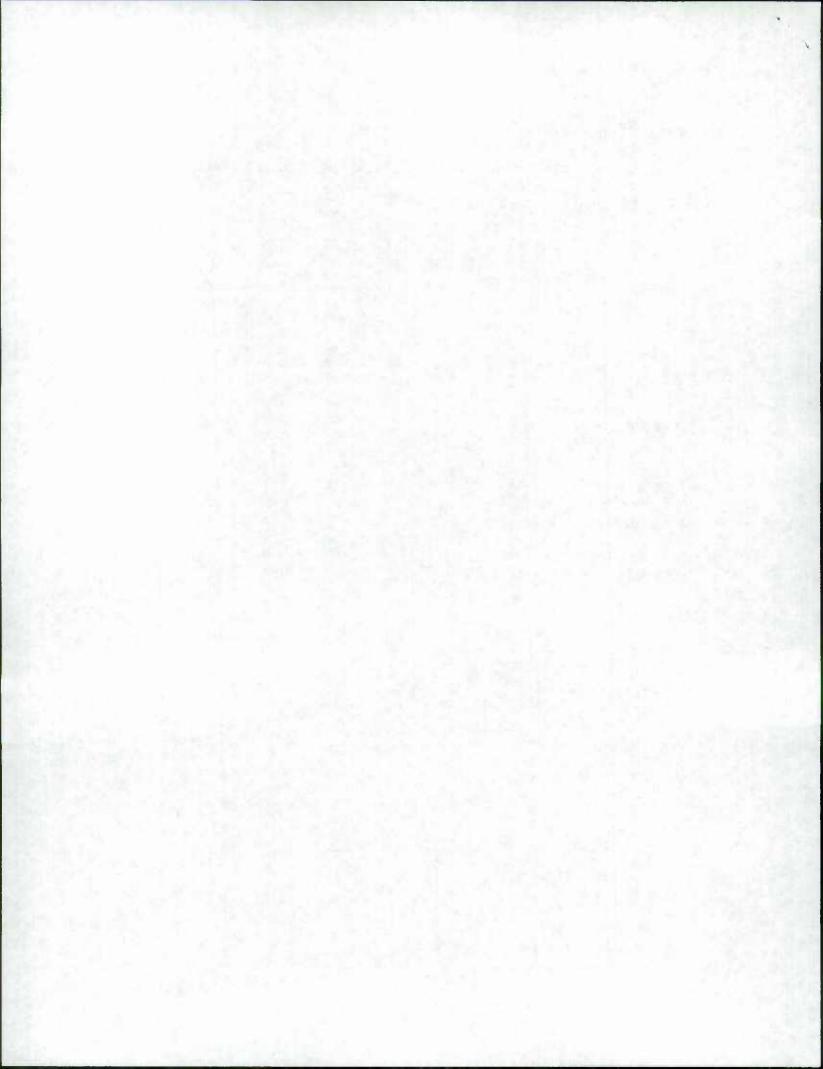
Assistant City Attorney

IMÉ CPals 145 Gorman Street, 3rd Floor

Annapolis, MD 21401

Courtney Palmer 369 Dewey Drive

Annapolis, MD 21401





# STANDARD VEGETATION MANAGEMENT PLAN

For Removing Vegetation in the Critical Area Or within a Recorded Conservation Easement (County Code, Art. 17 86-3 and Art. 17 88-6)

Department of Inspections & Permits Forestry Program 2664 Riva Road, P.O. Box 6675 Annapolis, Maryland 21401 Ph:(410)222-7441 F:(410)222-7752

Mailing Address: <u>369 Dewey Drive</u> City: <u>Annapolis</u> State: MD Zip: <u>21401</u> Telephone: <u>40 268 2197</u> FAX: <u>410 573 1377</u>	Site Information (if same as mailing address list same) Site Address: Some City: State: Zip: Subdivision Name: Tax Map: , Block: , Parcel: Tax Account #:
Is the proposed work within 100 feet of a tidal waterway. Is the proposed work in the Critical Area but outside the 1s the proposed work outside the Critical Area but within Do any Subdivision Plat notes, community restrictions of No (If yes, please describe in the narrative description Active Permit Application Information (Note: Projects with Building Permit #: Grad	100-foot buffer? Yes X No na Forest Conservation Easement? Yes No_X r Utility Easements affect your property? Yes n section.)  nactive building and grading permits may be rejected)
PROPOSED WORK (Check and Complete Informat  This plan is for the removal of individual trees greate  Number of trees to be removed Hav	
This plan is for the pruning of individual trees NO	- 100
This plan is for the removal of woody vegetation and	d eradication of the following invasive vegetation:
This plan is to provide a non-structural access path (	less than 6' width) to the water/pier NO
This plan is to install a shore erosion protection devi	ice or living shoreline NO
This plan is to construct a water dependent facility  * Tree Caliper is the trunk d	NO iameter measured at ground level

#### REQUIREMENTS

<u>Plan</u>: Attach a copy of a survey of the site that accurately reflects where individual trees are to be removed or pruned. In lieu of a survey plan provide a sketch drawing in the space indicated and showing the above information. Be sure to include structures, utilities, 100-foot buffer, tidal and non-tidal wetlands, steep slopes, shoreline, woods line, limits of disturbance, replanting types and location and any other special features or sensitive areas.

<u>Narrative</u>: Describe the existing conditions and proposed work to be accomplished, amount of disturbed area, indicate mitigation measures, replanting or enhancement work, number and species of plants to be installed, when the work will be done. If the work is to be phased, indicate scheduling.

<u>Photographic Documentation</u>: Submit photos of the individual trees to be removed. Submit a panoramic view of the buffer area to be covered by this management plan in sufficient detail to **clearly distinguish** the canopy layer, understory layer and shrub layer. If vine control, diseased, dead or declining trees or other problems are an issue, include a representative photograph of those conditions.

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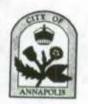
CRITICAL AREA COMMIChesapeake & Atlantic Coast

#### **STANDARDS**

- 1. Topping of trees is not permitted, only pruning using proper horticultural practices
- 2. Extraction of root systems, including root systems of invasive vines, is **not approved** by this Vegetation Management Plan. A **grading permit** must be applied for in cases requiring earth disturbance.
- 3. Access to the water/pier must be non-structural and shall be flagged in the field
- 4. Trees and vegetation removed must be replaced with native plants on an equal basis as may be required.
- 5. All other required County, State and Federal permits shall be obtained prior to approval of this Plan
- 6. Within the Critical Area, disturbance shall not exceed 1,000 square feet. Disturbance greater than 1,000 sq. ft. will require a planting plan and security to be posted.

<ul><li>will require a planting plan and security to be posted.</li><li>7. For inspection purposes, the approved Vegetation Manage approved work is being performed.</li></ul>	ement Plan must be available on-site when
INSPECTION NOTES (to be completed by County representation of Reviewer: Date of Factorial Date of Factorial Date of Factorial Date of Factorial Date of Part of Square feet reforested.  Number of other plants to be installed.  Last date for planting requirement to be met. Date Was a Standard Grading Plan provided to Applicant? Yes No Additional Notes:	esentative) Field Inspection (if required) / /
OWNER CERTIFICATION  I certify these statements to be true and accurate and that any trees or vege Anne Arundel County officials permission to enter my property for inspections hours and within six months of the expiration date below.  Landowner Signature  County  Date  Submit this application, plan, narrative description, and photographic doc Anne Arundel County  Department of Inspections and Permits  Forestry Program  P.O. Box 6675, MS 6201  Annapolis, MD 21401	ction of this Vegetation Management Plan during normal
For further information please call (410) 222-7441 or visit www.aacounty	/.org/IP
FOR OFFICE USE ONLY Approval information:	
This plan is approved as of Expiration Date	
Signature of authorized County official	
Revised 11/07	





# City of Annapolis Planning and Zoning Department 145 Gorman Street, 3rd Fl Annapolis, Maryland 21401-2535

FOR CITY USE ONLY	
DATE RECEIVED	
PERMIT#	

Phone 410-263-7961

Fax 410-263-1129 •

TDD 410-263-7943

www.annapolis.gov

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

		Critical Area B	uffer Manag	gement Pla	an			
Property informat	tion							
Owner	Cour	they S. P.	almer					
Address	369 I	Dewey Driv		andis	, MD	214	)/	
Phone number	410.5	07.4199				2110		
Other contact	Marci	a mcheil						
Address	369 Do	ewey Driv	e. Anno	anolis,	MD	21401		
Phone number(s)	410.26	68.2197		1		2. 101		
Project address (if	different)							
Critical Area design	nation			Zoning				
Proposed Buffer d	isturbance							
New develop	ment/redevelop	ment (e.g. new build	ling, addition to	home, replace	ement of st	ructures)		
☐ Shore erosio						,		
☐ Shore access	S							
Other, please	explain:							
is the property in a	designated Buffe	er Exemption Area (E	BEA)?	Yes	₩ No			<del></del>
Note: If the property	is BEA, a public	c notice sign must be	posted on the	property for 15	11	ore work ca	n begin.	
	cial plat notes	or restrictions con-						as,
☐ Yes ☐	No If yes,	, please explain:						
Please provide a bri leared as well as the	ef explanation of equipment	of your proposed pro	oject in the spa d. Two example	ce below. Ind	clude area	and/or nu	mber of tre	es
1. 600 square feet	t partially cleare	ed for shore access veral shrubs; and pat	with hand tools	canony will l	be maintai	ined; distur	bance will	be
2. Removal of pois pulling and che	son ivy from 2,0 mical spraying	000 square feet area of individual plants and to prevent re-e	a along shore a with an approv stablishment of	access path; r red herbicide; invasives. Tr	any room	Iting have	0 = 0 =	4
roposed project			8E:6 V 1	- JUL POOS	RK	CID		
			88 % A 1	5HH: 17	490.			
			V 4 1 4 4 7 1			SEP	8 2008	

-	4.00		
J	UStiti	cation	

2.

What are the long-term management plans for this area?

## Calculation of Mitigation

Area of Buffer cleared or disturbed

The following three-step process is used to compute the amount of mitigation needed for impacts to the Buffer. For the purposes of this Buffer Management Plan, mitigation is defined as plantings or similar offsets that will help to negate the effect of the Buffer disturbance. To determine the amount of mitigation for your Buffer disturbance you need to determine the following:

1. Amount of Buffer disturbed for clearing, grading, and placement of new structures, etc.

There are two ways to calculate the amount of disturbance in the Buffer. Buffer disturbance is based on either the area disturbed or the number of individual trees that will be cut. It is recommended that when an area to be disturbed more closely resembles a natural forest (i.e. canopy cover with multi-layer understory) or when structures or other impervious surfaces are placed within the Buffer or a BEA, even if no trees are cleared, you should quantify the disturbance amount in area cleared. On the other hand, if your site more closely resembles a park setting (i.e. scattered trees with little or no understory), it is recommended that you count the number of trees removed.

square feet

OR	
Number of trees cleared	trees
Mitigation ratio for the type of Buffer impact.	
Different types of Buffer management activities ro	Quiro different mitiration anti-

uffer management activities require different mitigation ratios. Higher ratios are used for activities that have a greater impact upon the Buffer. The purpose of the mitigation is to improve the Buffer functions where possible. The table below provides the mitigation ratio for different types of Buffer management activities.

Type of Buffer disturbance	Mitlgation Ratio	
New development/redevelopment		
Non-BEA	3:1	
BEA	2:1	
Shore erosion control	1:1	
Shore access	2:1	
Other: Please contact Planning & Zoning.		

BEA		2:1	
Shore erosion control		1:1	
Shore access		2:1	
Other: Please contact Pl	anning & Zoning.		
Mitigation amount calcula	ted by multiplying the area d	isturbed or number of trees b	v the mitigation ratio
Square feet	by ratio above		square feet
OR			
Trees	by ratio above	=	trees

## Buffer planting plan

This section is to help you provide more specific details on your mitigation location and plantings.

Planting Location

All mitigation should be located within the Critical Area in the following order of preference:

- 1. On-site within the Buffer
- 2. On-site adjacent to the Buffer
- 3. On-site within the Critical Area
- 4. Off-site (follow order of preference 1-3 above)
- 5. Fee-in-lieu payment (only if options 1-4 cannot be met)

Plant Spacings and Mitigation Credits for Various Size Trees and Shrubs

Credit square feet	Plant Size	and the second	
100 sq. ft.	HARMON COME.	Plant spacing	
	1 tree (2-inch caliper): ornamental or flowering trees	10 foot center	
400 sq. ft.	1 large tree (2-inch caliper) and understory vegetation (minimum: 2 small trees or 3 shrubs)	Tree: 20-foot center Understory: 10-foot center	
50 sq. ft.	1 tree (seedlings)		
50 sq. ft.	1 shrub	7 foot center	
		3-7 foot center	
2 sq. ft.	1 quart-sized perennial	3-7 foot center	

Other Methods To Obtain Mitigation Credit

- 1. Porous pavers: Approved products can be used for 40% pervious credit for certain projects
- 2. Living shoreline: Credit received depends on staff review

# **Schematic Drawing**

All Buffer Management Plans must include a schematic drawing identifying areas of impact to the Buffer and vegetation that will be removed. On the plan, indicate existing trees and shrubs and the proposed location for replanting. Show the location of the Critical Area Buffer. Include the specific types of vegetation that will be used for mitigation and the amount of mitigation credit for each type.

#### Authorization

I certify these statements to be true and accurate and that any trees to be removed are on my property. I hereby grant City of Annapolis officials permission to enter my property for inspections of this Buffer Management Plan.

Owner signature

6-23-08

Date

April 2008

ZOON JUL - I A 9:38





# Annapolis

### OFFICE OF LAW

145 GORMAN STREET, 3rd Floor ANNAPOLIS, MARYLAND 21401

October 20, 2009

Telephone 410-263-7954 Facsimile 410-268-3916

TDD 410-263-7943

Courtney Palmer 369 Dewey Drive Annapolis, MD 21401

STEPHEN P. KLING

City Attorney

email: skling@annapolis.gov

Re:

Citation #2z34045482 - 369 Dewey Drive

OFN: L50-06

Dear Dr. Palmer:

This is to acknowledge receipt of and to thank you for your check in the amount of \$1,000.00 to pay the court imposed fine for the above referenced citation.

The City would like to inspect your property at 369 Dewey Drive to determine the status of abatement of critical area violations, which the District Court has ordered. Inspection will occur on November 2, 2009 at 10:00 a.m. Please reply to indicate your availability at that time, or if you are not available, your consent that the City may have its inspectors enter onto your property for the purpose of inspection.

Please note that, pursuant to Section 8-1815 of the Natural Resources Article of the Annotated Code of Maryland, with respect to properties in the critical area district, the City is required to make reasonable efforts to contact you before entering the property and that, if entry is denied, the City may seek an injunction to enter the property to pursue enforcement action.

Thank you.

Very truly,

Gary M. Elson

Assistant City Attorney

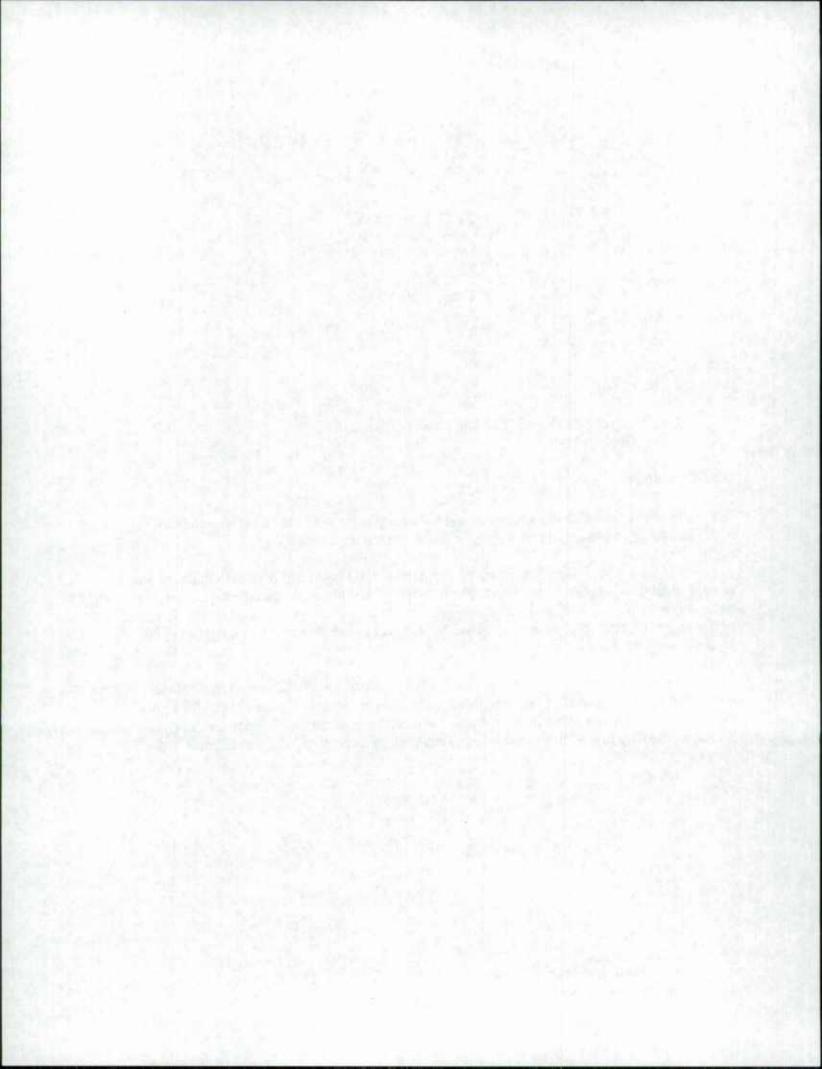
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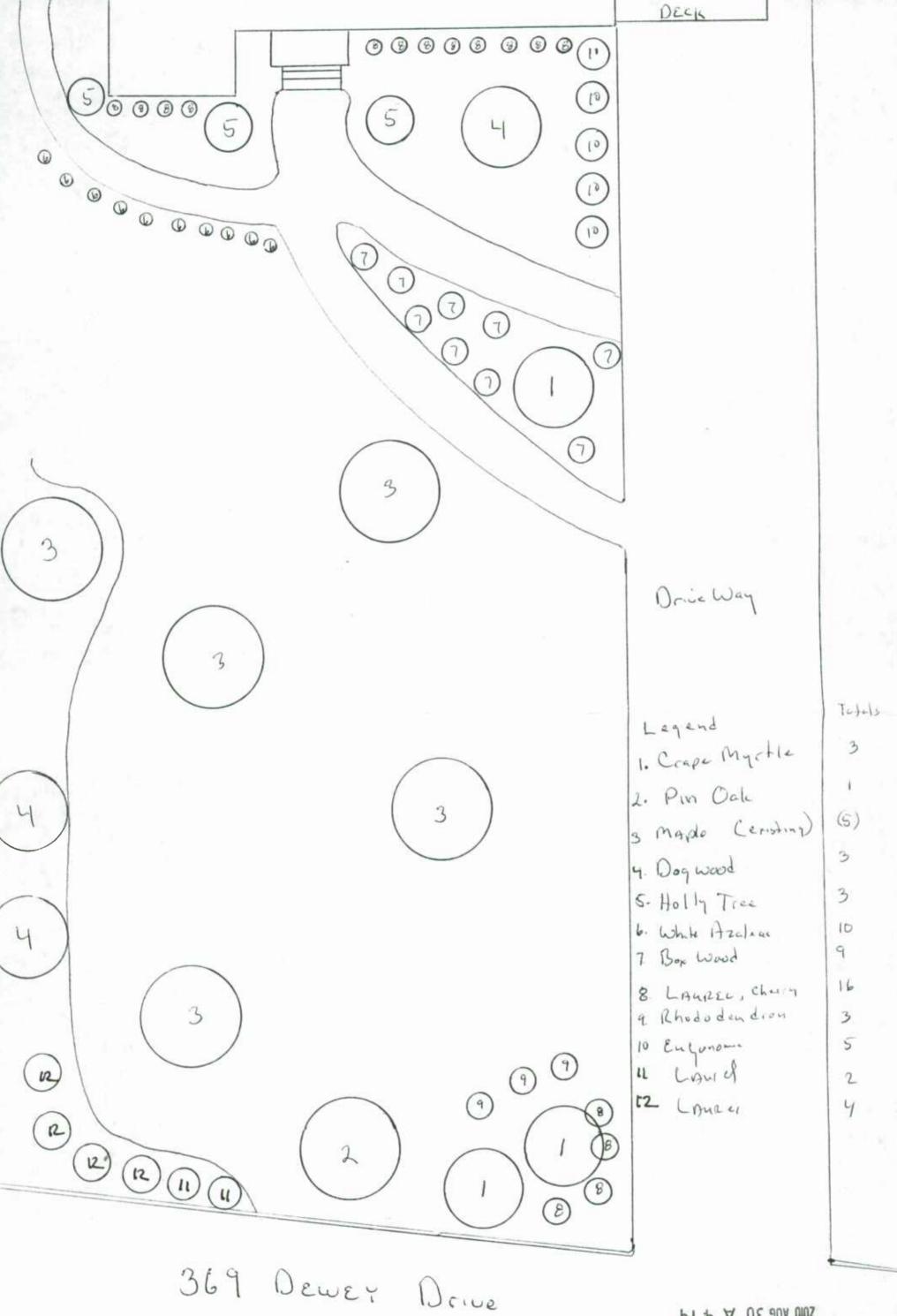
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cc:

Kevin Scott, Planning & Zoning

Tom Swontek, DNEP





PLANNING & ZONING

VICINITY MAP SCALE: 1" = 2000' + / - SOURCE: ADC MAPS

Switchgrass, Goldenrod, Boneset, Aster & Phragmities RIVERS, KRISTINA B. Proposed
Retaining WallSee SITE PLANS PLAT BK. #20 PG.8 ASSOCIATES. ADMIRAL HEIGHTS EX. OPEN LAWN AREA DEED REF. #15030/175 9 Ex. Em. Gaiety Euonymus 18" 8 Ex. Globe Arborvitoe 15" (4 poor) 12 Ex. Em. Goiety Euonymus 18" 12 Crimson Pygmy Barberry EX. RESIDENCE GELCKEL, JOAN A. LOT I BLK. 12 PLAT BK. #20 0, PLAT REF. #858 0 ADMIRAL HEÏGHTS AA CO. MD DEED REF. #10370/450 PALMER, COURTNEY
LOTS 2 & 3 BK. 12 STATE BK. #20 PG. 8
PLAT FER. #858 12 Ex 26"+ 1- dbh S. Red Opk ADMIRAL HEIGHTS A.A.CO, MD/ DEED REF. #10370/450

RIVERS, JOHN B.

LOT 4 BK. 12

PLAT REF. #858

A.A.CO. MD

<u>@</u>

DENEY DRIVE

2 Ex Crope Myrtie 8 stem

CRITICAL AREA BUFFER MANAGEMENT NOTES.

## **PLANTING:**

- 1. At the completion of construction, by others and after stie has been stabilized anderosison control devices removed, plant property as shown.
- 2. No woody vegetation shall be removed to install this planting except for Poison Ivy or any invasive vines that may exist, such as Japanese Honeysuckle. Consult with Landscpae Architect before any plant removal takes
- 3. Plant locations may be filed adjusted to allow for existing tree roots. Do not sever tree roots over 1" dia in order to plant.
- 4. In existing lawn area, existing trees shall be planted in tree pits within lawn. Shrub and perennial planting areas in existing lawn shall have the lawn removed, a planting bed created and then be mulched. No soil from this operation shall be allowed into the creek. USe temporary erosion control, if necessary, for erosion protection. Leave an undisturbed natural area between the shoreline planting bed and the mean high water line.

# **MANAGEMENT:**

Slope area— This area shall remain in a 'natural' state. Leaf litter shall be allowed to remain except for the first three feet along the top edge abutting the pool area, which may be mulched. Ongoing removal of any Poison Ivy or invasive vines may occur, using hand methods.

Shoreline beds — These areas shall be lightly mulched for the first 2-3 years, as needed, to prevent erosion until plants fill in. Along the shoreline, leaflitter shall be allowed to remain and build up as natural erosion protection. These areas shall be weeded of any invasive species that occur. Any seedlings or saplings of the plants that have been planted shall be allowed to remain.

Upland beds and tree pits — These areas shall be maintained as landscaped areas, weeded and mulched as necessary. Total mulch depth shall never exceed 3" depth.

# CRITICAL AREA BUFFER MITIGATION PLANTING

Total Area of Lot 28,530 sf or 0.655 ac Total Area of Lot disturbed 1,720 sf or 0.04 ac

Area of Lot disturbed

for wall construction

within 100ft Critical Area Buffer: 1,720 sf or 0.04 ac Mitigation Required: 3:1; 3 x 1,720 sf = 5,160 sf or 0.12 ac

**PLANTING PROVIDED:** 12 2" large trees = 2,400sf(1 = 200sf)8 1" understory trees = 600sf(1 = 75sf)40 lg. shrubs = 2,000sf(1 = 50sf)8 sm. shrubs = 200sf(1 = 25sf)68 grasses & perennials
(1 = 2sf) = 136sf

NOTE: No trees area to be removed.

TOTAL

# **NOTES**

1. THESE PLANS ARE FOR LANDSCAPE PURPOSES ONLY AND ARE TO ACCOMPANY SITE PLANS PREPARED BY ED BROWN ASSOCIATES FOR THE CONSTRUCTION OF A RETAINING WALL, AS SHOWN.

5,336sf

2.SURVEY AND SITE PLAN PROVIDED BY ED BROWN ASSOCIATES WITH ADDITIONAL VEGETATION PROVIDED BY THE LANDSCAPE ARCHITECT.

3. SEE SHEET 2 of 2 for DETAILS, PLANT LISTS and NOTES.

MISS UTILITY NOTE

OWNER/CONTRACTOR TO CONTACT "MISS UTILITY" AT 1-800-257-7777 MINIMUM 72 HOURS PRIOR TO THE START OF CONSTRUCTION FOR LOCATION OF EXISTING UNDERGROUND UTILITIES.

SHEET NO.

CRITICAL AREA BUFFER LANDSCAPE PLAN PALMER PROPERTY

01384613 TAX ACCOUNT

369 Dewey Drive Annapolis, MD 21401 TAX MAP 2Z, BLOCK 14, PARCEL 495, ASSESSMENT DISTRICT 6th, ANNE ARUNDEL COUNTY, MARYLAND OF **TWO** SHEETS

DEBORAH M. SCHWAB Landscape Architecture

CRITICAL AREA BUFFER LANDSCAPE PLAN

BY DATE

SCALE: 1"=20'

REVISIONS

RECEIVED

MAR 9 2011

Chesapeake & Atlantic Coastal Bays

NO.

409 Washington Street Annapolis, MD 21403 Phone:410-268-5291Email:dschwabla@comcast.net Fax:410-267-7809

DRAWN BY: Imm, ds, jac DATE: Jan. 2011 SCALE: As Shown CHECKED BY: dms

Courtney Palmer

168 West Street Annapolis, MD 21401 (410) 573-1111