

Staff Correspondence Vol. 2: Sereny

2003

SI832-155-1

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 23, 2003

Honorable Richard F. Colburn
P.O. Box 471
118 N. Main Street
Federalsburg, Maryland 21632-0471

Re: Proposed Legislation: Community Pier – Repeal of Prohibition on Private Piers

Dear Senator Colburn:

I am writing in regard to the draft bill you provided to Chairman Madden at the Critical Area Oversight Committee hearing last week. When you and I spoke the next day, you asked if I would provide you with some initial thoughts on the bill.

The bill proposes to amend Section 8-1808.5 of the Natural Resources Article. The General Assembly added this section to the Critical Area Act in 1994 when it codified similar provisions in the Critical Area Criteria (COMAR 27.01.03.07). The provisions apply to the operation of community owned boat-docking facilities, and also establish the maximum number of slips available for use at such facilities. Section 8-1808.5 requires minimization of impacts to water quality and wildlife habitats associated with the development and operation of these facilities. Under the law, minimizing impacts is accomplished by, among other factors, assuring that the facility:

- "Is community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;" and
- "Is associated with a residential development approved by the local jurisdiction for the Critical Area and is consistent with all criteria and local regulations for the Critical Area."

Further, development of a community pier must meet the following standards:

- "Disturbance to the buffer is the minimum necessary to provide a single point of access to the facility;" and

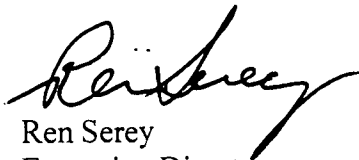
Honorable Richard F. Colburn
December 23, 2003
Page 2

- “When a community pier with slips is provided as part of a new development project, private piers are not permitted in the development area.”

The draft bill proposes to eliminate the restriction on private piers when a developer provides a community pier with boat slips. Two concerns come to mind. First, if a developer plats new lots across the entire length of a subdivision's shoreline, owners of interior lots and the public at large will be affected. Development of this nature appears contrary to the goal of the Critical Area Act to provide opportunities for the public to enjoy access to the shoreline. Second, the draft bill appears to undermine the provisions of the law set out above concerning minimization of development-related impacts to water quality and habitat. The bill seems to encourage more disturbance to the shoreline by allowing for individual piers in addition to community-use slips at a central facility.

I am not aware of problems that developers in Dorchester County, or County officials, have experienced under the existing law. If you have questions, or specific examples you would like me to review, I will be glad to meet at your convenience. You can reach me at (410) 260-3462 or by email at rserey@dnr.state.md.us

Sincerely,



Ren Serey
Executive Director

cc: Martin G. Madden, Chairman
Marianne D. Mason, Assistant Attorney General



Bill No.: _____
Requested: _____
Committee: _____

Drafted by: McHale
Typed by: cvs
Stored - 11/19/03
Proofread by _____
Checked by _____

By: **Senator Colburn**

A BILL ENTITLED

AN ACT concerning 1

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program - 2
Community Pier - Repeal of Prohibition on Private Piers 3

FOR the purpose of repealing a certain prohibition on private piers under the 4
Chesapeake and Atlantic Coastal Bays Critical Area Protection Program when a 5
community pier with slips is provided as part of a new development project. 6

BY repealing and reenacting, without amendments, 7

Article - Natural Resources 8
Section 8-1808.5(a) and (d) 9
Annotated Code of Maryland 10
(2000 Replacement Volume and 2003 Supplement) 11

BY repealing and reenacting, with amendments, 12

Article - Natural Resources 13
Section 8-1808.5(c) 14
Annotated Code of Maryland 15
(2000 Replacement Volume and 2003 Supplement) 16

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 17
MARYLAND, That the Laws of Maryland read as follows: 18

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

Article - Natural Resources

8-1808.5.	19
(a) (1) In this section the following words have the meanings indicated.	21
(2) "Buffer" means an existing, naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances.	22 23 24
(3) (i) "Community pier" means a boat docking facility associated with a subdivision or similar residential area, or with condominiums, apartments, or other multiple-family dwelling units.	25 26 27
(ii) "Community pier" does not include a private pier or a mooring.	28
(c) Subject to the requirements under subsection (d) of this section, a new or expanded community pier or other noncommercial boat docking or storage facility may be permitted in the buffer if:	29 30 31
(1) The facility:	32
(i) Is water dependent;	33
(ii) Meets a recognized private right or public need;	34
(iii) Is community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision; and	35 36
(iv) Is associated with a residential development approved by the local jurisdiction for the Critical Area and is consistent with all criteria and local regulations for the Critical Area;	37 38 39
(2) Adverse effects on water quality and fish, plant, and wildlife habitat are minimized;	40 41
(3) Insofar as possible, nonwater dependent structures or operations associated with water dependent projects or activities are located outside the buffer;	42 43

(4) Disturbance to the buffer is the minimum necessary to provide a single point of access to the facility; AND 44
45

(5) Food, fuel, or other goods and services are not offered for sale, and adequate and clean sanitary facilities are provided[; and 46
47

(6) When a community pier with slips is provided as part of a new development project, private piers are not permitted in the development area]. 48
49

(d) The number of slips permitted at a facility shall be the lesser of the following: 50
51

(1) One slip for each 50 feet of shoreline in a subdivision located in an intense or limited development area, and one slip for each 300 feet of shoreline in a subdivision located in a resource conservation area; or 52
53
54

(2) A density of slips to platted lots or dwellings within a subdivision in the Critical Area in accordance with the following schedule: 55
56

Platted Lots or Dwellings in the Critical Area	Slips	
Up to 15	1 for each lot	57 58 59 60
16 - 40	15 or 75%, whichever is greater	61
41 - 100	30 or 50%, whichever is greater	62
101 - 300	50 or 25%, whichever is greater	63
More than 300	75 or 15%, whichever is greater	64

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2004. 65
66

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

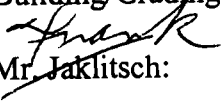
Ren Serey
Executive Director

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www.dnr.state.md.us/criticalarea/

December 4, 2003

Frank Jaklitsch
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, MD 20678

Re: Intra-family Transfer Properties
Building/Grading Permits – AP 39723 Joseph Gribble
Building/Grading Permits – AP 37779 Joseph Gribble

Dear Mr.  Jaklitsch:

Previously, we have discussed in detail the difficulty in tracking the status of lots created through intra-family transfer within the Calvert County Critical Area. As described in our letter of November 6, 2003, County staff and Commission staff agreed to amend the administrative process by which the intra-family transfer provisions of the Calvert County Critical Area Program (Article 4, Section 4-9.08) would be implemented in the future. We also agreed that an interim policy would be developed requiring approval by the Planning Commission for the creation of lots through intra-family transfer and requiring approval by the Planning Commission for the subsequent conveyance of lots to a third party.

The purpose of this letter is to address two recent cases sent by Calvert County Planning and Zoning staff (John Swartz) to the Commission for review (refer to attached documents). The cases consisted of requests for building and grading permits to develop two lots within the Resource Conservation Area portion of the County's Critical Area. Through a search of the current tax records and as noted on the survey plat submitted with the requests, the two lots were created through intra-family transfer during the subdivision process (October 23, 2000) and were sold to a third party (as of April 30, 2003). Commission staff contacted John Swartz, who confirmed the intra-family status of the properties and that the properties had been sold to a third party. Mr. Swartz indicated that the requests to obtain permits for these properties would be denied.

There remain several unanswered questions regarding this case. Who was the original owner of the property? Were the lots legally transferred to a family member of the original owner? To

Frank Jaklitsch
Intra-family Transfer Properties
December 4, 2003
Page 2

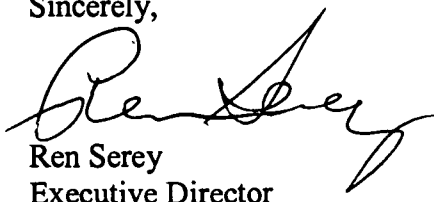
whom were the lots transferred? What documentation supports the 2003 sale of the lots outside the family? What legal status does the former owner have to apply for a building permits on a property that he/she does not own?

It is our opinion that the legal owner of Lot 22 and Lot 3, as established by intra-family transfer, must have submitted a valid affidavit establishing "change in circumstances" with the County before the lots were sold to a third party. If a valid affidavit was not filed before the sale of the lots, the current owner should not be permitted to develop the lots since the lot was not legally conveyed. After-the-fact-findings or retroactive affidavits should not be accepted in this case because the previous owner, and the current owner, clearly had knowledge that out-conveyance of these lots was not permitted, as stated on the record plat submitted with the permit requests.

This office is concerned that adequate safeguards do not exist in the County's administrative procedures to prevent the illegal sale of other lots created through intra-family transfer. We believe that these issues warrant further discussion, and that some action by the County, and perhaps by the Commission, is needed to correct the situation.

Please contact me at (410) 260-3460 to arrange for either a conference call or meeting to discuss these issues. I look forward to hearing from you.

Sincerely,



Ren Serey
Executive Director

cc: Greg Bowen (Calvert County Department of Planning and Zoning)
John Swartz (Calvert County Department of Planning and Zoning)
Marianne Mason (Office of the Attorney General)
Regina Esslinger (Critical Area Commission)
Mary Owens (Critical Area Commission)
Julie LaBranche (Critical Area Commission)

Robert L. Ehrlich, Jr.
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Michael S. Steele
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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) 974-5538
www.dnr.state.md.us/criticalarea/

November 24, 2003

John Swartz
Calvert County Planning and Zoning
150 Main Street
Prince Frederick, MD 20678

Re: Building/Grading Permits – AP 39723 Gribble

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permits. The applicant is requesting to develop Lot 22 (Tax Map 45, Parcel 86) with a single-family dwelling and associated facilities. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided and our search of the current tax records, we oppose the applicant's request to obtain permits to develop this property. As permitted by the Calvert County Zoning Ordinance (Article 4, Section 4-9.08), Lot 22 was created by intra-family transfer through the recordation of the Rousby Hall Woods subdivision plat (see attached record plat). The current tax records indicate that Joseph Gribble, the owner of Lot 22 as established through the intra-family transfer, sold the lot to RHW LLC on April 30, 2003 (see attached tax record). As required by the Calvert County Zoning Ordinance (Article 4, Section 4-9.08), a valid affidavit must be filed with the County before a lot created through intra-family transfer can be conveyed to a non-family member. At this time, we are not aware that such an affidavit has been filed with the County to allow the sale of Lot 22 to a third party.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have questions.

Sincerely,

Julie V. LaBranche
Natural Resources Planner

cc: Frank Jaklitsch (Calvert County Planning and Zoning)
Marianne Mason (Office of the Attorney General)
Ren Serey (Critical Area Commission)

CA 819-03

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Maryland Department of Assessments and Taxation
CALVERT COUNTY
 Real Property Data Search

[Go Back](#)
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[New Search](#)

Account Identifier: District - 01 Account Number - 240196

Owner Information

Owner Name: RHW LLC Use: RESIDENTIAL
 Principal Residence: NO
 Mailing Address: PO BOX 163 Deed Reference: 1) KPS/ 1836/ 563
 SUNDERLAND MD 20689-0163 2)

Location & Structure Information

Premises Address: 12506 ROUSBY HALL RD Zoning: R-1 Legal Description: LT 22
 LUSBY 20657 ROUSBY HALL WOODS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
45	2	86	01	1025			22	82	Plat Ref:

Special Tax Areas: Town Ad Valorem Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		1.48 AC	000000

Stories	Basement	Type	Exterior

Value Information

	Base Value	Phase-in Assessments		
		Value As Of	As Of	As Of
		01/01/2003	07/01/2003	07/01/2004
Land:	38,840	47,400		
Improvements:	0	0		
Total:	38,840	47,400	41,693	44,546
Preferential Land:	0	0	0	0

Transfer Information

Seller: GRIBBLE, JOSEPH H	Date: 04/30/2003	Price: \$450,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: KPS/ 1836/ 563	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
 Exempt Class:

Special Tax Recapture:

* NONE *

Robert L. Ehrlich, Jr.
Governor

Michael S. Steeie
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

November 24, 2003

John Swartz
Calvert County Planning and Zoning
150 Main Street
Prince Frederick, MD 20678

Re: Building/Grading Permits – AP 37779 Joseph Gribble

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permits. The applicant is requesting to develop Lot 3 (Tax Map 45, Parcel 86) with a single-family dwelling and associated facilities. The property is designated a Limited Development Area (~~LDA~~) and is currently undeveloped. We have the following revised comments regarding this request. **RCA**

Based on the information provided and our search of the current tax records, we oppose the applicant's request to obtain permits to develop this property. As permitted by the Calvert County Zoning Ordinance (Article 4, Section 4-9.08), Lot 3 was created by intra-family transfer through the recordation of the Rousby Hall Woods subdivision plat (see attached record plat). The current tax records indicate that Joseph Gribble, the owner of Lot 3 as established through the intra-family transfer, sold the lot to RHW LLC on April 30, 2003 (see attached tax record). As required by the Calvert County Zoning Ordinance (Article 4, Section 4-9.08), a valid affidavit must be filed with the County before a lot created through intra-family transfer can be conveyed to a non-family member. At this time, we are not aware that such an affidavit has been filed with the County to allow the sale of Lot 3 to a third party.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Julie V. LaBranche".

Julie V. LaBranche
Natural Resources Planner

cc: Frank Jaklitsch (Calvert County Planning and Zoning)
Marianne Mason (Office of the Attorney General)
Ren Serey (Critical Area Commission)

CA 625-03-03, revised

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Maryland Department of Assessments and Taxation
CALVERT COUNTY
 Real Property Data Search

[Go Back](#)
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[New Search](#)

Account Identifier: District - 01 Account Number - 240099

Owner Information

Owner Name: RHW LLC Use: RESIDENTIAL
 Principal Residence: NO
 Mailing Address: PO BOX 163 Deed Reference: 1) KPS/ 1836/ 563
 SUNDERLAND MD 20689-0163 2)

Location & Structure Information

Premises Address: 1820 ROBIN CT Zoning: R-1 Legal Description: LT 3
 LUSBY 20657 ROUSBY HALL WOODS

Map	Grld	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
45	2	86	01	1025			3	82	Plat Ref:

Special Tax Areas: Town Ad Valorem Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		1.44 AC	000000

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments	
			As Of 07/01/2003	As Of 07/01/2004
Land:	19,260	47,200		
Improvements:	0	0		
Total:	19,260	47,200	28,573	37,886
Preferential Land:	0	0	0	0

Transfer Information

Seller: GRIBBLE, JOSEPH H	Date: 04/30/2003	Price: \$450,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: KPS/ 1836/ 563	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

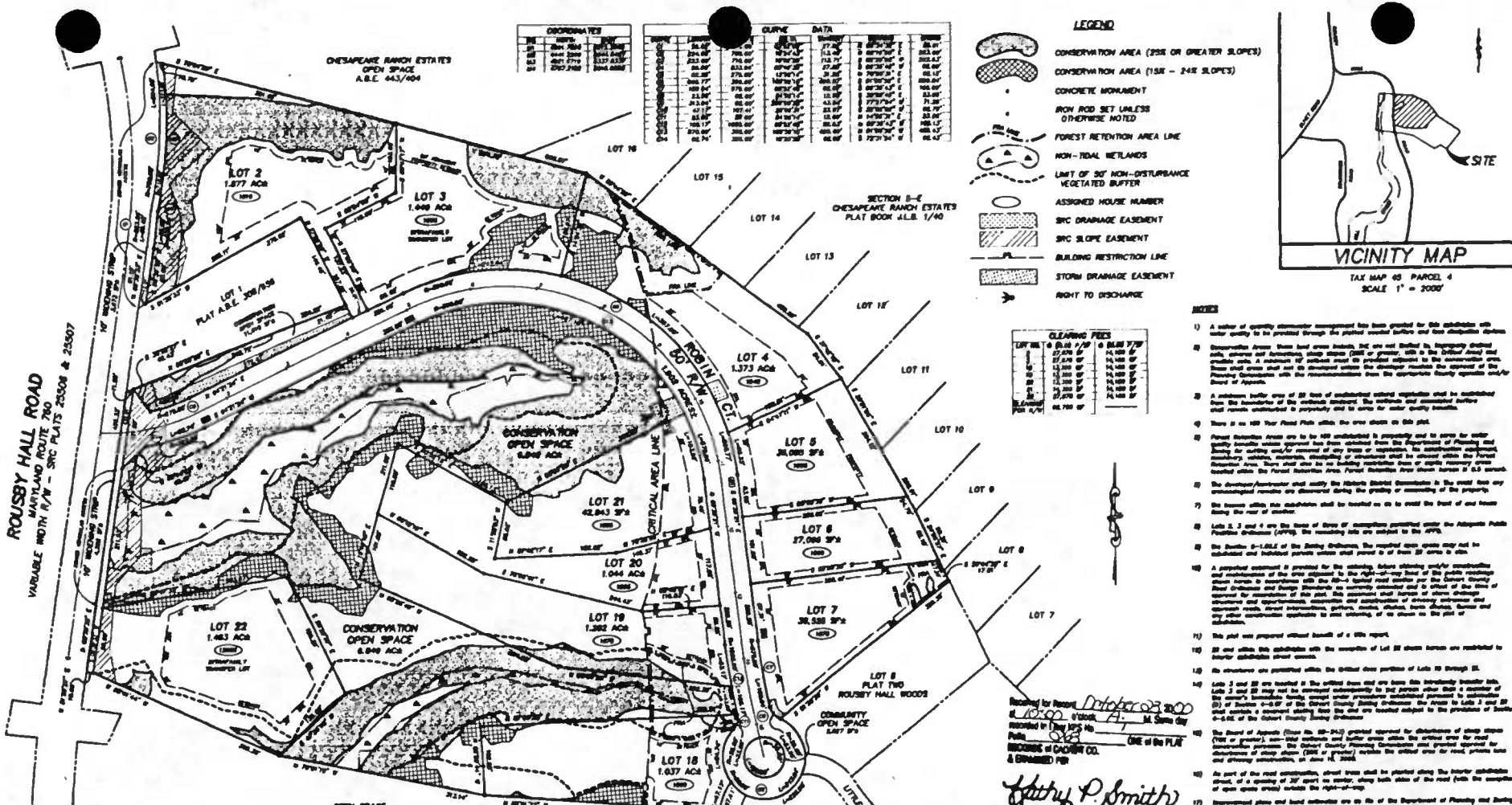
Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
 Exempt Class:

Special Tax Recapture:

* NONE *



COORDINATES		CURVE DATA			
STATION	ELEVATION	CHORD BEARING	CHORD DISTANCE	ARC BEARING	ARC DISTANCE
1+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
2+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
3+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
4+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
5+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
6+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
7+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
8+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
9+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
10+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
11+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
12+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
13+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
14+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
15+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
16+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
17+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
18+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
19+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
20+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
21+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00
22+00	225.00	S 89° 57' 00" W	17.72	89° 57' 00"	18.00

LEGEND

- CONSERVATION AREA (25% OR GREATER SLOPES)
- CONSERVATION AREA (15% - 24% SLOPES)
- CONCRETE MONUMENT
- IRON ROD SET UNLESS OTHERWISE NOTED
- FOREST RETENTION AREA LINE
- NON-TIDAL WETLANDS
- LIMIT OF 30' NON-DISTURBANCE VEGETATED BUFFER
- ASSIGNED HOUSE NUMBER
- SIC DRAINAGE EASEMENT
- SIC SLOPE EASEMENT
- BUILDING RESTRICTION LINE
- STORM DRAINAGE EASEMENT
- RIGHT TO DISCHARGE

VICINITY MAP
TAX MAP 05 PARCEL 4
SCALE 1" = 2000'

ROUSBY HALL ROAD
MAYLAND ROUTE 760
VARIABLE WIDTH R/W - SIC PLATS 25308 & 25307

CLEARING FEES

LOT	ACRES	FEET	FEET	FEET
1	1.877	1.877	1.877	1.877
2	1.440	1.440	1.440	1.440
3	1.877	1.877	1.877	1.877
4	1.373	1.373	1.373	1.373
5	26,000	26,000	26,000	26,000
6	17,000	17,000	17,000	17,000
7	26,500	26,500	26,500	26,500
8	1,633	1,633	1,633	1,633
9	1,382	1,382	1,382	1,382
10	1,044	1,044	1,044	1,044
11	1,044	1,044	1,044	1,044
12	1,044	1,044	1,044	1,044
13	1,044	1,044	1,044	1,044
14	1,044	1,044	1,044	1,044
15	1,044	1,044	1,044	1,044
16	1,044	1,044	1,044	1,044
17	1,044	1,044	1,044	1,044
18	1,044	1,044	1,044	1,044
19	1,044	1,044	1,044	1,044
20	1,044	1,044	1,044	1,044
21	1,044	1,044	1,044	1,044
22	1,044	1,044	1,044	1,044

- NOTES**
- 1) A color of quality site management has been granted for this subdivision with color quality to be provided through the proposed natural surface and tree distribution patterns.
 - 2) Conservation Areas have been shown herein and are not limited to topographic contour lines, contour and elevation lines shown (20% and 25% slopes) and are not limited to the conservation area. A minimum of 20% of the total area shall be provided for the conservation area. The conservation area shall be provided for the conservation area. The conservation area shall be provided for the conservation area.
 - 3) A minimum buffer strip of 20 feet of undisturbed natural vegetation shall be established from the immediate edge of the wetland boundary. The wetland boundary shall be established from the immediate edge of the wetland boundary. The wetland boundary shall be established from the immediate edge of the wetland boundary.
 - 4) There is no 100 Year Flood Plain within the area shown on this plat.
 - 5) Forest Retention Areas are to be established in perpetuity and to serve for water quality protection and to provide for the aesthetic and recreational value of the site. The Forest Retention Areas are to be established in perpetuity and to serve for water quality protection and to provide for the aesthetic and recreational value of the site.
 - 6) The developer/owner shall notify the appropriate local jurisdiction in the event that any environmental conditions are discovered during the construction of the project.
 - 7) The owner shall take all necessary steps to avoid the loss of any trees existing on the site.
 - 8) Lots 2, 3 and 4 are the sites of three (3) existing buildings which are the subject of a Pending Ordinance (PPO). The remaining lots are subject to the PPO.
 - 9) The Section 5-1.02 of the zoning Ordinance, the required open space may not be substituted and individual parcels must contain a minimum of 20% open space.
 - 10) A proposed easement is provided for the site, before showing and/or subdivision and maintenance of the easement to the right-of-way line of the public roadway. The easement shall be provided for the site, before showing and/or subdivision and maintenance of the easement to the right-of-way line of the public roadway.
 - 11) This plat was prepared without benefit of a site report.
 - 12) All utility lines within this subdivision with the exception of Lot 20 shown herein are established to locate utility lines within the subdivision.
 - 13) The structures are permitted within the indicated area portions of Lots 10 through 15.
 - 14) Lots 2 and 3 are located in the wetland area and are shown in the wetland area. Lots 2 and 3 are located in the wetland area and are shown in the wetland area.
 - 15) The portion of the road adjacent to the wetland area shall be provided with the wetland area. The portion of the road adjacent to the wetland area shall be provided with the wetland area.
 - 16) The portion of the road adjacent to the wetland area shall be provided with the wetland area. The portion of the road adjacent to the wetland area shall be provided with the wetland area.
 - 17) Improvement plans and land utilization are to be filed with the Department of Planning and Zoning for the required final plan stamp and shall be provided to the Department of Planning and Zoning for the required final plan stamp and shall be provided to the Department of Planning and Zoning.
 - 18) The portion of the road adjacent to the wetland area shall be provided with the wetland area. The portion of the road adjacent to the wetland area shall be provided with the wetland area.
 - 19) The portion of the road adjacent to the wetland area shall be provided with the wetland area. The portion of the road adjacent to the wetland area shall be provided with the wetland area.
 - 20) The portion of the road adjacent to the wetland area shall be provided with the wetland area. The portion of the road adjacent to the wetland area shall be provided with the wetland area.

RECORD CERTIFICATE
I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT, THAT IT IS THE SUPERSEDES THE LAST CERTIFICATE BY ME IN THE CITY OF CALVERT COUNTY, MARYLAND, BY ME DATED APRIL 24, 2000 AND RECORDED IN LOT 12, 13, 14 AT FOLIO 62, ON CALVERT COUNTY.

APPROVED FOR RECORDING FOR THE PLANNING COMMISSION
OCT 2 0 2000
TERRY A. JOHNSON, SECRETARY

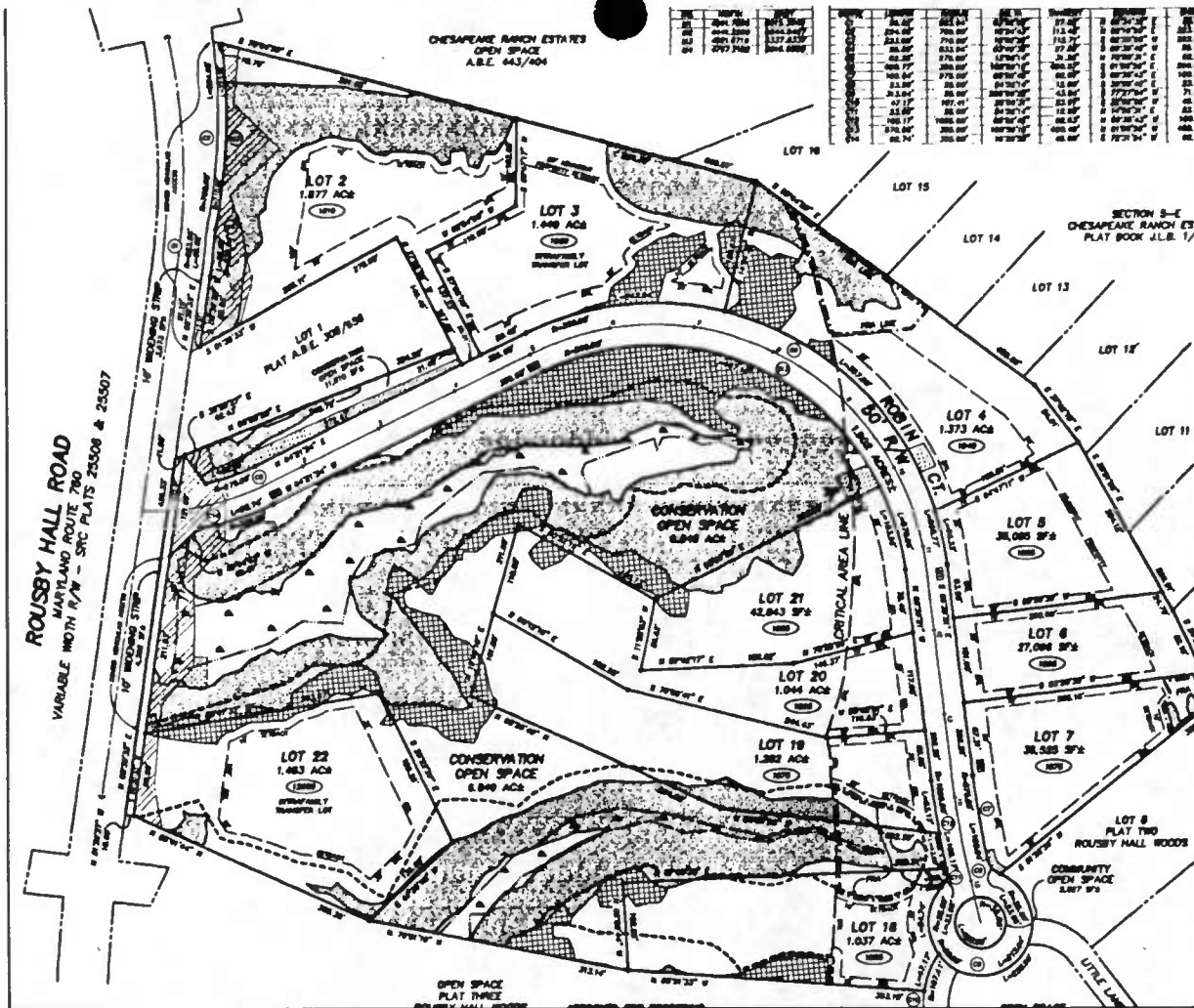
SEAL OFFICER'S CERTIFICATION
I HEREBY CERTIFY THAT THE SEAL IMPRINT AT THE ADDRESS OF SEALS SHOWN ABOVE CORRESPONDS TO THE SEALS SHOWN ON THIS PLAN AND THAT THE SEALS SHOWN ON THIS PLAN ARE THE SEALS OF THE OFFICERS OF THE CALVERT COUNTY PLANNING AND ZONING COMMISSION.

SEAL HEALTH DEPARTMENT
I HEREBY CERTIFY THAT THE SEALS SHOWN AT THE ADDRESS OF SEALS SHOWN ABOVE CORRESPOND TO THE SEALS SHOWN ON THIS PLAN AND THAT THE SEALS SHOWN ON THIS PLAN ARE THE SEALS OF THE OFFICERS OF THE CALVERT COUNTY HEALTH DEPARTMENT.

PLAT ONE
LOTS 2 THROUGH 7, 19 THROUGH 22
AND CONSERVATION OPEN SPACE
ROUSBY HALL WOODS
FIRST DISTRICT, CALVERT COUNTY, MARYLAND
PLANNING AND ZONING CASE NO. SD 98-06A

Received for Record, October 2, 2000
Recorded in Lot 12, 13, 14
Terry A. Johnson, Secretary
Terry A. Johnson, Secretary

J. P. Smith



LOT 8
 PLAT TWO
 ROUSBY HALL WOODS
 COMMUNITY OPEN SPACE
 2,817 SF

OPEN SPACE
 PLAT TWO
 ROUSBY HALL WOODS

LITTLE LANE

Recorded for Record *October 23, 2000*
 at *10:20 AM* at the *MD State Office*
 Recorder in the *SD* No. *98-06*
 Fee: *\$82*
 RECORDS OF CALVERT CO. & EXTENDED PER
Henry P. Smith

PLAT ONE
 LOTS 2 THROUGH 7, 19 THROUGH 22
 AND CONSERVATION OPEN SPACE
ROUSBY HALL WOODS
 FIRST DISTRICT, CALVERT COUNTY, MARYLAND
 Planning and Zoning Case No. SD 98-06A

- 11) This plat was prepared without benefit of a title report.
- 12) All lots within this subdivision with the exception of Lot 22 shown herein are restricted to interior subdivision street access.
- 13) No structures are permitted within the Critical Area portions of Lots 19 through 21.
- 14) Lots 3 and 22 are located in the critical area and are bona fide interfamily transfer lots. Lots 3 and 22 may not be conveyed subsequently to any person other than a member of the owner's immediate family, except under procedures established pursuant to subsection (D) of Section 4-8.08 of the Calvert County Zoning Ordinance. The deeds to Lots 3 and 22 shall contain a covenant stating that the lots are created subject to the provisions of Section 4-8.08 of the Calvert County Zoning Ordinance.
- 15) The Board of Appeals (Case No. 98-243) granted approval for disturbance of steep slopes (15% or greater), non-tidal wetlands and buffer areas within the critical area for road construction purposes. The Calvert County Planning Commission also granted approval for disturbance of steep slopes (25% or greater) outside the critical area for road, private lane and driveway construction, on June 18, 2000.

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/

November 10, 2003

The Honorable Thomas G. Duncan, President
Talbot County Council
142 N. Harrison Street
Easton, Maryland 21601

Re: Critical Area Bills

Dear Councilman Duncan:

On November 5, 2003 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved an extension until February 3, 2004 for Talbot County to submit legislation in regard to changes to the County's Critical Area Program. The Commission took this action pursuant to Natural Resources Article §8-1809(l).

At the meeting, I explained to the Commission that I met recently with you and the other members of the County Council to discuss the status of the County's local Critical Area bills. I said I believed the Council was moving forward in good faith and that, in my opinion, the additional time was reasonable and necessary to accommodate the Council's procedural requirements.

If you have questions or need additional information, please contact me at (410) 260-3467.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin G. Madden".

Martin G. Madden
Chairman

cc: Talbot County Council
Andrew Hollis, County Administrator
George Kinney, Planning Office

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

November 7, 2003

Mr. Dave Sisson
Fishing Creek Landings Marina
Chesapeake Beach, Maryland 20732

Re: Fishing Creek Landings Marina

Dear Mr. Sisson:

As you know, I met on November 4, 2003 with Mr. Reds Robey in regard to the redevelopment of the Fishing Creek Landings Marina in Chesapeake Beach. At your request, I am providing this update of the Critical Area Commission's review of the project. My understanding of the status of the project is as follows:

- You have submitted an application to the Maryland Department of the Environment (MDE) and the U.S. Army Corps of Engineers for authorization for impacts to State tidal wetlands and Waters of the U.S. I understand that the application is currently on Public Notice from November 3, 2003 to December 3, 2003.
- When you receive these authorizations from MDE and the Corps sometime after December 3rd, you will be able to finalize plans for reducing pollutant loadings on site by 10% below predevelopment levels, and for a Buffer Management Plan for impacts to the upland portion of the site. The 10% pollutant reduction plan is required by the Town of Chesapeake Beach Critical Area Program. The Buffer Management Plan is required by condition of the Critical Area Commission's approval on October 1, 2003 of a refinement to the Town's Critical Area Program requesting designation of certain areas as a Buffer Exemption Area. This approval permits development and redevelopment within the Town's 100-foot Critical Area Buffer.
- Our staff reviews of the preliminary 10% calculations indicate that you likely will be able to meet the requirement on-site, which will preclude the need for off-site mitigation for pollutant removal. We do, however, appear to disagree with your

TTY For the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



consultant in regard to the inclusion of open water areas in the calculations. We have tentatively scheduled a meeting on November 13, 2003 with you, the consultant and Town officials to discuss the matter. We remain available to assist you in preparation of a Buffer Management Plan.

- It does not appear at this time that the project will require variances from the Town's Critical Area Program. As above, a determination by the Town on this point will need to await the wetlands authorizations by MDE and the Corps, and final preparation of the 10% calculations and a Buffer Management Plan.
- We have requested for our review copies of the approved sediment and erosion control and stormwater management plans for the project. When these plans become available, please forward them to Ms. Regina Esslinger, the Commission's Chief of Project Evaluation.

This is the status of the various aspects of the project as I understand them. If you need clarification, or if I have failed to address any particular point, please let me know. I can be reached at (410) 260-3462 or by email at rserey@dnr.state.md.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Ren Serey", with a long horizontal flourish extending to the right.

Ren Serey
Executive Director

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 3, 2003

Mr. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: John Chisholm Property
MS 02-053

Dear Mr. Soldano:

At your request, this letter serves to clarify subdivision issues related to the Chisholm property referenced above. The parcel is an existing legal parcel with a split LDA and RCA Critical Area designation. The applicant proposes to subdivide the parcel into two lots, which will have the effect of creating a new lot in the RCA that is less than twenty acres.

The Code of Maryland Regulations at 27.01.02.05 C (4) and the County's Zoning Ordinance at 1A-103 (d) (2) limit the density of new lots in the RCA to one dwelling unit per 20 acres; therefore, the creation of a new lot in the RCA where the density would exceed one dwelling unit per 20 acres is not permitted.

I understand that you have questions concerning a previous letter from the Commission, dated August 22, 2001, also concerning a parcel with a split Critical Area designation. This letter, which I have enclosed, was signed by Lisa Hoerger. It was written in regard to a specific subdivision, Nantucket-on-the-Severn. That subdivision involved an unusual grandfathering, lot consolidation and reconfiguration situation. The August 22, 2001 letter is not, and was not intended to present, a general position on Anne Arundel County's subdivision practices. It should have no bearing on the Chisholm subdivision currently under review.

If you have any questions, please do not hesitate to contact me at (410) 260-3462.

Sincerely,

A handwritten signature in black ink, appearing to read "Ren Serey", written over a horizontal line.

Ren Serey
Executive Director

Judge John C. North, II
Chairman



Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460

Fax: (410) 974-5338

August 22, 2001

Mr. Ronald W. Johnson
2661 Riva Road
Building 400, Suite 420
Annapolis, Maryland 21401

Re: Allowable RCA Density on Split Designation Parcels

Dear Mr. Johnson:

This letter is in response to your inquiry as to whether a parcel with a split Critical Area designation that includes LDA and RCA can have a development right in the RCA portion. Provided the parcel is grandfathered, one development right is permitted in the RCA portion. The LDA portion would be permitted the density afforded either the LDA designation or the underlying zoning, whichever is more restrictive.

If you have any further questions, please do not hesitate to contact me at (410) 260-3460.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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VIA FAX

October 22, 2003

Mr. R. Andrew Hollis, County Manager
Talbot County Courthouse
11 N. Washington Street
Easton, Maryland 21601

Re: Critical Area Emergency Procedures in Response to Hurricane Isabel

Dear Mr. Hollis:

I am writing at the request of Councilman Peter Carroll. He asked us to provide you with our guidance regarding emergency procedures to help property owners deal with the effects of Hurricane Isabel. I have outlined below several measures Talbot County might use to streamline individual permit reviews while ensuring compliance with Critical Area regulations.

- Implement a streamlined permit application process to allow property owners to:
 - remove damaged structures in the Critical Area and rebuild them on the original footprints or foundations;
 - remove damaged trees and other damaged vegetation; restore previously vegetated areas; and restore areas disturbed as a result of complying with the emergency procedures;
 - provide the minimum access necessary to the shoreline to restore or repair damaged shore erosion protection devices.
- Should an applicant propose to relocate a structure, or to reconstruct a damaged structure to its original dimensions but in a different location, the County would need to determine whether the proposed location minimizes impacts to the Critical Area.

Mr. R. Andrew Hollis
October 22, 2003
Page 2

- Should an applicant propose to increase the dimensions of a damaged, relocated or rebuilt structure, the County would need to consider this a new application and require compliance with Critical Area regulations.
- There should be a reasonable time frame, such as one year, for property owners to apply for permits under the emergency procedures. After that period, the County should develop other measures to review storm related activities. In all situations the County should ensure that it has the right to inspect properties for compliance with the emergency procedures or other applicable County requirements.

I trust you will find that these measures accommodate the requirements of the Critical Area program while responding quickly to property owners who have suffered storm damage. We stand ready to assist your efforts in any way possible.

Please let me know if you have questions or need additional information.

Sincerely,



Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 6, 2003

The Honorable Gerald W. Donovan
Town of Chesapeake Beach
8200 Bayside Road
Chesapeake Beach, Maryland 20732

Re: Chesapeake Beach Railway Trail Project

Dear Mayor Donovan:

I am writing to bring you up-to-date on the Critical Area Commission's recent discussions concerning the Town's proposed trail on the old railroad right-of-way. When we met with you on June 11, 2003 at the Commission office in Annapolis to discuss the Town's water tower and the Richfield Station growth allocation, you mentioned plans to construct a trail through a portion of the site. In response to your request that the Commission become involved, I agreed that we would 1) visit the trail site; 2) invite whomever you recommended to discuss the proposal with the Commission's Subcommittees; and 3) keep you informed regarding our review.

We conducted a site visit on July 7, 2003. On September 3, 2003 the Commission's Project and Program Subcommittees met jointly to discuss the trail with Town Councilman Bruce Wahl and Mr. Chris Jakubiak. These meetings raised important issues, which I have outlined below, concerning the trail, and possibly, the Richfield Station growth allocation.

- At the September 3, 2003 meeting with the Commission's subcommittees, Councilman Wahl and Mr. Jakubiak said the portion of the trail passing through the Richfield Station property would be 10-foot wide with a paved surface. As you know from our discussion of the Richfield Station growth allocation and the water tower, this area is habitat to Forest Interior Dwelling Birds (FID) and much of it is in the Critical Area Buffer.
- The subcommittees expressed concerns that the trail as proposed would result in significant disturbance to the FIDs habitat and the Buffer. These are the same concerns the subcommittee raised two years earlier when Councilman Wahl first discussed the trail with the Project Subcommittee.

Honorable Gerald Donovan
Chesapeake Beach Railway Trail Project
October 6, 2003
Page 2

- Conservation of the FIDs habitat is an important component of the Richfield Station growth allocation. Our discussions with Mr. Mike Roepke and his representatives have been based on the assumption that this area would not be further disturbed or developed and would remain as a functioning FIDs habitat.
- The trail proposal as presented by Councilman Wahl and Mr. Jakubiak on September 3rd brings into question the Commission's assumptions on FIDs conservation and potentially alters our review of the Richfield Station growth allocation. This is a significant point because both the growth allocation and the trail will need Commission approval.

I think it would be prudent for us to meet to discuss these concerns. Please feel free to contact me or Ren Serey at 410-260-3460 at your earliest convenience.

Sincerely,



Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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www.dnr.state.md.us/criticalarea/

October 2, 2003

The Honorable Thomas G. Duncan, Council President
Talbot County Council
142 N. Harrison Street
Easton, Maryland 21601

Re: Critical Area Bills

Dear President Duncan:

At its meeting on October 1, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved an extension of the deadline for submitting approved legislation to the Commission subject to the actions taken by the Commission pursuant to Natural Resources Article §8-1809(l). The deadline was extended to November 4, 2003.

If you have questions or need additional information, please contact me at (410) 260-3460.

Sincerely,

A handwritten signature in cursive script that reads "Ren Serey".

Ren Serey
Executive Director

cc: Andrew Hollis, County Administrator
Dan Cowee, Planning Officer
Marianne Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 6, 2003

Ms. Karen S. Hilton, AICP
Department of Planning
City Of Baltimore
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 2102-3433

RE: Baltimore Offset Fee Projects – Middle Branch Wetlands Habitat Creation

Dear Ms. Hilton:

I am writing in response to your request for the City of Baltimore to use \$300,000 from the City's Critical Area Buffer Offset Fee-in-Lieu Program to create three acres (130,680 square feet) of wetlands in the Middle Branch of the Patapsco River. These funds were collected to provide mitigation for 120,000 square feet of impacts within the Buffer. The wetland creation project is proposed to be located in a cove adjacent to the Hanover Street Bridge and the proposed National Aquarium Animal Rescue Facility.

It is my understanding that the City is proposing to expend funds for this project in two phases: a preparation and design phase and a planting and maintenance phase. The preparation and design phase will include soil testing, development of grading plans and planting plans, and development of a 10-year monitoring program. The planting and maintenance phase will involve the actual construction and planting of the wetlands, subsequent maintenance to ensure the long-term survival of the plants, and maintenance and monitoring of the area. It is recommended that the design and specifications for the project include a work schedule, so that the installation of plant materials will take place during the appropriate planting season. The design and specifications should also include provisions for the replacement of plants that do not survive for a period of time after the project is completed. Two to three years is generally recommended.

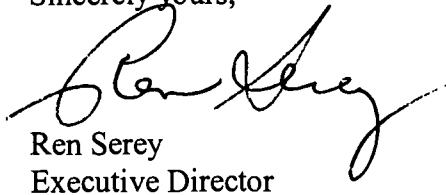
It is not clear from the information submitted whether the proposed wetlands will be created in a location that will facilitate the establishment or protection of a 100-foot Buffer adjacent to the new tidal wetlands. Additional information regarding the location of the wetlands and surrounding land use should be provided. It is my understanding that the City proposes to submit the grading and planting plans for the project to Critical Area Commission staff for review during the design phase. Additional comments will be provided after staff has the opportunity to review more detailed plans.

Ms. Hilton
October 6, 2003
Page 2

I have reviewed your proposal with Commission staff, and we believe that the expenditure of funds to for this project is appropriate. We feel that the use of these funds for the efforts set forth above meets the spirit and intent of the Critical Area Program and achieves the water quality and habitat protection objectives associated with Buffer mitigation fees.

I look forward to working with you on this large effort to mitigate for Buffer impacts in the City by constructing wetlands. Projects such as this one are essential to achieving the water quality and habitat protection goals of the Critical Area Program, and Commission staff is available to assist you in accomplishing this project in a timely and efficient manner. If you have any questions, please feel free to contact Mary Owens or me at (410) 260-3460.

Sincerely yours,



Ren Serey
Executive Director

cc: Ms. Regina Esslinger, CAC
Ms. Dawnn McCleary, CAC
Ms. Beth Strommen, Baltimore City Department of Planning
Mr. Duncan Stuart, Baltimore City Department of Planning
Ms. Sue Williams, Baltimore City Department of Planning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

October 2, 2003

The Honorable Thomas G. Duncan, Council President
Talbot County Council
142 N. Harrison Street
Easton, Maryland 21601

Re: Critical Area Bills

Dear President Duncan:

At its meeting on October 1, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved an extension of the deadline for submitting approved legislation to the Commission subject to the actions taken by the Commission pursuant to Natural Resources Article §8-1809(1). The deadline was extended to November 4, 2003.

If you have questions or need additional information, please contact me at (410) 260-3460.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ren Serey".

Ren Serey
Executive Director

cc: Andrew Hollis, County Administrator
Dan Cowee, Planning Officer
Marianne Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
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September 29, 2003

Mr. Gerald T. Mason, Chief Administrative Officer
Worcester County, Office of the County Commissioners
One West Market Street, Room 1103
Snow Hill, MD 21863

RE: Chesapeake Bay Critical Area Program and Maps

Dear Mr. Mason:

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays received your letter of September 10th, documenting the County Commissioners' approval of the County's updated Chesapeake Bay Critical Area maps, on September 15, 2003. We accept the maps and the previously submitted adopted legislation as a complete submittal and will initiate the review process.

Within 30 days of the date of this letter, Commission Chairman Martin G. Madden will make a determination of whether the proposed update can be considered a refinement or an amendment to the County's existing Program. We will promptly notify the County of his decision and take the necessary steps for Commission review and approval.

If you have any questions or concerns, please contact me at (410) 260-3462.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ren Serey".

Ren Serey
Executive Director

cc: Joe Jackson
Ed Tudor
Sandy Coyman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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September 26, 2003

Pursuant to COMAR 27.02.05.02, State agencies may seek a general approval from the Critical Area Commission for programs or classes of activities that result in development on State-owned lands in the Critical Area. A general approval requires that State agencies continue to adhere to all Critical Area regulations, but streamlines the review process for projects that are similar in nature and have relatively minor impacts on Critical Area resources. The Critical Area Commission is considering revising the current general approval for certain Department of Transportation projects which has been in effect since 1992. The enclosed draft Memorandum of Understanding and its appendices would replace the existing agreement upon approval by the Commission and the Department of Transportation.

Prior to considering this general approval, the Commission is seeking comments from affected local jurisdictions. We would appreciate receiving any comments you may have by October 21, 2003.

If you have any questions regarding the proposed agreement, please contact LeeAnne Chandler at (410) 260-3477. Thank you.

Sincerely,

Ren Serey
Executive Director

RS/jjd

Enclosure

Ms Fenda Whitlock
P O Box 81
Mardela Springs, MD 21837

Mr. Stanley W. Hearne
P O Box 330
Millington, MD 21651

The Honorable Mark Frazier
8916 Chesapeake Avenue
P O Box 99
North Beach, MD 20714

Ms. Melissa B. Cook-MacKenzie
P O Box 528, 106 S Main Street
North East, MD 21901-0528

Ms. Lillian Lord
100 North Morris Street,
P O Box 339
Oxford, MD 21654

Mr. Jesse Houston
Town of Ocean City
P O Box 158
Ocean City, MD 21843-0158

Mr. Eric Morsicato
P O Box 773
Perryville, MD 21903-0513

Mr. Eric Berry
64 S Main Street
Port Deposit, MD 21904

Mr. Rick Thompson
Dept. of Environmental Resources
9400 Peppercorn Place, 5th Floor
Largo, MD 20774

Ms. Sherry Conway-Appel
Dept. of Environmental Resources
9400 Peppercorn Place, 6th Floor
Largo, MD 20774

Mr. Robert Wink
Princess Anne Police Department
11780 Beckford Avenue
Princess Anne, MD 21853

Ms Juanita Kohn
P O Box 365
Queen Anne, MD 21657-0365

Mr. Steve Cohoon
Office of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

Ms. Amy Moore
P O Box 4
Queenstown, MD 21658

Ms. Pat Grussing
P O Box 367
Rock Hall, MD 21661

Ms. Sue Veith
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, MD 20650

Ms. Jean Weisman
P O Box 206
300 Mill Street
St. Michaels, MD 21663-0206

Ms. Yvonne Pritchett
P O Box 248
Secretary, MD 21664

Ms. Judy Schneider
P O Box 338
Sharptown, MD 21861

Ms. Kelly Brewington
Mayor and Council Office
Municipal Building
P O Box 348
Snow Hill, MD 21863

Ms. Joan Kean
Dept. of Technical & Comm.
Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Mr. Daniel Cowee
Office of Planning and Zoning
Courthouse
11 North Washington Street
Easton, MD 21601-3178

The Honorable Russell Brinsfield
P O Box 86
Vienna, MD 21869

Mr. Matt Hedger
P O Box 870
Salisbury, MD 21803

Mr. Ed Tudor
Development Review and Permitting
One W Market Street, Room 1201
Snow Hill, MD 21863

Mr. Jon Arason
Dept of Planning and Zoning
Municipal Building
50 Duke of Gloucester Street
Annapolis, MD 21401

Mr. Roy List
DEPRM
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Ms. Jacqui Tigner
705 Leonard Lane
Cambridge, MD 21613

Mr. Terrence Adams
101 Lawyers Row
P O Box 100
Centreville, MD 21617

Mr. William Watson
P O Box 400
8200 Bayside Road
Chesapeake Beach, MD 20732

Ms. Marie L. Rameika
Town Hall
324 Main Street, P O Box 85
Church Hill, MD 21837

Ms. Karen Houtman
Planning & Zoning Office
County Office Bldg, P O Box 107
Cambridge, MD 21613

Dr. Conway Gregory
P O Box 471, 118 Main Street
Federalsburg, MD 21632

Mr. Nick Walls
Department of Planning & Zoning
220 S Main Street
Bel Air, MD 21014-3865

Mr. Ronald Young
4195 Indian Head Highway
Indian Head, MD 20640

Ms. Elinor Gawel
Office of Planning and Zoning
2664 Riva Road, MS 6402
Annapolis, MD 21404

The Honorable Carolyn C. Sorge
P O Box 339, Third Avenue
Bertterton, MD 21610

Ms. Elizabeth Krempasky
Office of Planning
403 S Seventh Street, Suite 210
Denton, MD 21629

Ms. Karen Wiggen
Charles Co. Dept. of Planning &
Growth Management
P O Box 2150
La Plata, MD 20646

Ms. Patricia Garrett
P O Box 205, 109 Bohemia Avenue
Chesapeake City, MD 21651

Mr. Frederick B. Gerald, III
City Hall, Main Street
P O Box 270
Crisfield, MD 21817-0270

Mr. Matt Davis
P O Box 520, 14 S. Harrison St.
Easton, MD 21601

Mr. Richard M. Pollitt, Jr.
P O Box F, 401 E. Main Street
Fruitland, MD 21826-0120

Mr. Albert J. Henry
Department of Planning
711 Pennington Avenue
Havre de Grace, MD 21078

Ms. Gail Webb Owings
Department of Planning and Zoning
Kent Co. Government Center
400 High Street
Chestertown, MD 21620

Mr. Duncan Stuart
Department of Planning
417 E Fayette Street, 8th Floor
Baltimore, MD 21202-3416

Mr. Frank Jaklitsch
Dept. of Planning & Zoning
150 Main Street
Prince Frederick, MD 20678

Mr. Eric Sennstrom
Office of Planning & Zoning
129 E Main Street, Room 300
Cecil County Courthouse
Elkton, MD 21921

Mr. Stanley Hearne
P O Box 154, 241 Market Street
Charlestown, MD 21914

Mr. William Ingersoll
P O Box 38, 118 North Cross Street
Chestertown, MD 21620

Ms. Jennifer Shull
Housing & Community Development
13 N Third Street
Denton, Maryland 21629

Ms. Jeanne Minner
Office of Building, Inspections
Planning & Zoning
P O Box 157
Elkton, MD 21922-0157

Mr. David Kibler
Commissioners of Greensboro
P O Box 340, 118 N Main Street
Greensboro, MD 21639

Ms. Melinda Stafford
The Commissioners of Hillsboro
P O Box 128
Hillsboro, MD 21641

Ms. Colleen Bonnel
206 Tudor Place
Tudor Hill, P O Box 1
Leonardtown, MD 20650

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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 15, 2003

The Honorable Cathleen M. Vitale, Chairman
Anne Arundel County Council
44 Calvert Street
Annapolis, Maryland 21401

Re: Council Bill 49-03
Anne Arundel County Chesapeake Bay Critical Area Protection Program

Dear Chairman Vitale:

I am writing to propose two matters for your consideration as you and the County Council deliberate Council Bill 49-03. Neither item is required as part of a local jurisdiction's Critical Area Program by the State's Critical Area Act (Natural Resources Article 8-1801 et seq., Annotated Code of Maryland) or the Critical Area Commission's implementing Criteria (Code of Maryland Regulations 27.01 et seq.). Nevertheless, I propose them as practical measures to simplify and streamline the development review process for County officials and staff and for property owners in Anne Arundel County. I have outlined the proposals below.

Critical Area Buffer

The County's existing Critical Area ordinances properly require that new lots are platted to ensure enough room for development to be set back a minimum 100 feet from tidal waters and tidal wetlands. This minimum 100-foot area is the Critical Area Buffer. The Buffer must be expanded to include adjacent slopes 15% or greater and certain sensitive areas such as highly erodible soils. However, when a lot is sold to a builder who constructs a dwelling, the new owners frequently discover that they have been left no buildable area shoreward of their home for decks, patios, sheds or other accessories typical to a residential setting. This is because the homes have been located immediately adjacent to the Buffer line.

Although in most new subdivisions there is adequate space on each lot to allow for future accessory structures, my understanding is that the County cannot require it. Thus, when

the new homeowners are ready to build a deck or patio shoreward of the dwelling, they are forced into a variance procedure. The application and review process for a variance entails significant time and expense both for the applicants and the County. In addition, the applicants are at a significant disadvantage because they are asking for a variance on a lot recently approved as meeting County standards.

The same unfortunate situation often occurs on grandfathered lots. Many vacant lots grandfathered to allow development of a single-family dwelling are shallow and cannot accommodate a dwelling without a Buffer variance. But many other vacant grandfathered lots do contain sufficient room to locate a new dwelling outside of the 100-foot Buffer. When a builder constructs a home at the 100-foot Buffer line on one of these lots, the buyer will need a variance for any subsequent addition. Such a situation could be avoided if the County was authorized to require a setback for these additions at the building permit stage.

The County should consider requiring a reasonable setback from the edge of the Buffer to accommodate home additions, decks, patios and other accessory structures so that lot owners may proceed with their development plans without the need for Buffer variances.

Impervious Surfaces

As in the case of Buffer variances for accessory structures in new subdivisions, the impervious surface requirements of the Critical Area often surprise new homeowners. The County's ordinances limit new impervious surfaces in the Limited Development Area and Resource Conservation Area to 15% of a new subdivision. Impervious areas include the roads, parking lots, dwellings, accessory structures, driveways and walkways of the new project. New lots of one acre or less within the subdivision may have impervious coverage up to 25% as long as the overall coverage of the subdivision is no greater than 15%.

Responsible developers withhold some of the allowable impervious coverage and allocate a portion of it to each lot for future construction of impervious patios or sheds or to widen driveways. The County, however, is not authorized to require such accommodations for these homeowners. Similar to the Buffer situation outlined above, the unsuspecting lot owner then must seek a variance to exceed the impervious surface limits.

The County should consider requiring that developers of new subdivisions reserve a reasonable amount of impervious surface for each lot to provide for the future development of accessory structures.

The Honorable Cathleen M. Vitale
September 15, 2003
Page 3

Thank you for your consideration of these suggestions. If you have questions or need more information, please contact me at (410) 260-3462. I am available to meet at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Ren Serey". The signature is fluid and cursive, with the first name "Ren" and last name "Serey" clearly distinguishable.

Ren Serey
Executive Director

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2003

The Honorable Richard F. Colburn
Mid-Shore Office
5210 Heron Road
Cambridge, Maryland 21613

Dear Senator ~~Colburn~~ *Rich*,

I am writing in response to your inquiry regarding the Town of Church Creek.

I want to assure you that the Critical Area Commission is in complete agreement with you that the size and small population of the Town warrant special consideration in the implementation of Critical Area regulations. That is why the Commission supported the 1999 resolution of the Mayor and Town Commissioners to establish a streamlined procedure for the review of building permits.

Under an on-going agreement with the Town, Dorchester County reviews permits with the assistance of the Maryland Department of Planning's Circuit Riders, thereby freeing the Town from administrative costs and responsibilities.

All reports are that this process is working well in Church Creek and that it serves as a good model for other small towns if they choose to adopt it.

If you have further questions or need additional information, please do not hesitate to let me know.

Sincerely,

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Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Chairman

Ren Serey
Executive Director

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September 8, 2003

Mr. Steve Cohoon, Acting Co-Director
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Narrows Pointe Joint Venture

Dear Mr. Cohoon:

I am writing in regard to the piers and retaining walls constructed at the Narrows Pointe project. LeeAnne Chandler sent you a letter on July 21, 2003, inquiring as to how the County intended to handle these aspects of the project. We appreciate the copies of letters from McCrone and Michael Foster that you have provided. However, in order to respond appropriately to public inquiries concerning Narrows Pointe, we need to understand the County's official position on these matters. I look forward to your response. Thank you.

Sincerely,


Ren Serey
Executive Director

cc: Paul Comfort, County Administrator
Marianne D. Mason, Assistant Attorney General
Gary Setzer, MDE, Wetlands & Waterways
LeeAnne Chandler



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2003

The Honorable Thomas G. Duncan, Council President
Talbot County Council
142 N. Harrison Street
Easton, Maryland 21601

Re: Critical Area Bills

Dear Councilman Duncan:

Thank you for providing the Critical Area Commission with copies of the latest draft of the proposed legislation and the schedule for public hearing and adoption. At its meeting on August 6, 2003, the Commission unanimously approved an extension of the deadline for submitting approved local legislation subject to Natural Resources Article §8-1809(1). The deadline was extended to September 23, 2003.

Thank you again for your time and consideration of these matters. If I can provide you with assistance, please do not hesitate to me at (410) 260-3460.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ren Serey".

Ren Serey
Executive Director

cc: Andrew Hollis, County Administrator
Daniel Cowee, Planning Officer
Marianne Mason, Assistant Attorney General



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2003

Ms. Karen Smith, Director
Office of Intergovernmental Affairs
Office of the Governor
State House
Annapolis, Maryland 21401

Dear Ms. ~~Smith~~ *Steven*:

I am writing today in an effort to keep you informed of our latest information regarding the Court of Appeals' decision in the Lewis v. Department of Natural Resources case.

Although we have not yet completed our analysis of the case, we are continuing to work with the Attorney General's office. I anticipate being able to advise you more definitively about our plans by the end of next week. In the meantime, I have set out below some of the major points of the decision as we view them.

Facts of the Case

Although this case evolved from what should have been a simple zoning enforcement matter, we believe it has serious statewide consequences well beyond the Critical Area. In 1999 Mr. Edwin Lewis purchased two tracts in the broad marshes of the Nanticoke River in Wicomico County. Although most of his holdings are either marsh land or under water, approximately 7.23 acres are upland in the form of small hummocks. Without applying for or obtaining the required County, State or federal permits, Mr. Lewis began to erect a hunting compound on a 5.3 acre site called Phillips Island. As he neared completion of six buildings including a lodge, three cabins, a bathhouse and a storage building, County inspectors became aware of his activities and halted his progress for lack of building permits and Health Department approval for on-site waste disposal. Most of Mr. Lewis's compound is located within the Critical Area Buffer.

Rather than dismantle his work or agree to reconfigure it, Mr. Lewis applied for variances to allow the buildings to be completed in place and a septic system installed in the Buffer. The Wicomico County Board of Zoning Appeals turned him down. Mr. Lewis appealed the Board's decision to the Circuit Court and lost. He then appealed to

the Court of Special Appeals and lost again. Finally, he asked the Court of Appeals to hear his case, resulting in the current decision, which vacated the decisions of the lower courts upholding the Wicomico County Board's denial of Mr. Lewis's variances. The Court instructed the lower courts "to remand the case to the Wicomico County Board of Zoning Appeals for further proceedings consistent with" the Court's opinion.

Summary of the Lewis Decision

Among other cases cited, the Court's opinion primarily builds upon and extends the rulings in its three recent Critical Area variance decisions. These are the Belvoir, White, and Mastandrea decisions.

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White v. North, 356 Md. 31, 736 A.2d 1072 (1999)

Mastandrea v. North, 361 Md. 107, 760 A.2d 677 (2000)

- **The Court has greatly diminished local Boards of Appeals' discretion to prevent individual property owners from obtaining variances and setting conditions on them when granted.** Local governments implement the Critical Area law primarily through their zoning ordinances and subdivision regulations. Local Boards of Appeals grant variances when necessary to prevent the regulations from resulting in unwarranted hardship to individual property owners based on unique conditions. The Critical Area Commission comments on variance applications but has no approval authority in these instances. The Court, however, now says that local governments must grant the variance requests unless they can prove that harm will result.
- **The Court's opinion shifts the burden of proof to the local government when an applicant requests a variance for a use of land or location of a structure which the local government has expressly prohibited by regulation.** The Court says that the local government must produce hard data; i.e., empirical evidence, that a variance proposal will cause the harm a local regulation is intended to prevent: "In addition, the record contains little or no empirical data to support the Board's conclusions or to refute the studies and reports of petitioner's

experts. The Board's decision is thus arbitrary and capricious." Judge Wilner, writing for the three dissenting judges, says "[w]here that test came from is a mystery to me. The standard we have always applied (until today) is whether 'there is substantial evidence in the record as a whole to support the agency's findings and conclusions.'"

- **The Court says it is irrelevant when considering a variance whether the applicant has already undertaken the prohibited activity.** Mr. Lewis constructed his hunting compound without seeking local permits. If he had, the County, as is its practice, would have worked with him to minimize the impacts of his plans. Mr. Lewis still would have needed variances to build everything he desired, but he also would have seen that some of the buildings could be constructed without variances. This is the proper role of local governments. The Court announced that a local Board of Appeals' review of an after-the-fact variance must be considered as if no activity took place, and as if no environmental harm occurred. The Court calls the existing buildings being located where they are prohibited a "red herring."

The Dissent says that

"[i]t is not a "red herring" at all. The importance, which the Court blindly overlooks, is not just the illegality of what Lewis did, but in the uncontradicted evidence that, had he applied for the permits in advance, as the law required him to do, the project could have been revised at that point so that either a variance would not have been necessary or that the need for one could have been limited. There can be little doubt that, had Lewis applied initially for a variance for six buildings in the buffer, it would have been denied as unnecessary. Lewis built the structures and then demanded a right to retain them as a hardship. He should receive no reward for his unlawful behavior." Slip Opinion, Dissent, pages 22-23.

"One of those criteria (to obtain a variance) is that the variance request not be based on conditions or circumstances which are the result of actions by the applicant. That is the foundation for the self-created hardship provision found in most, if not all, of the local critical area ordinances. Perhaps it is a matter of semantics, in the sense that, if the hardship claimed by the applicant is self-created, it is, *ipso facto*, not unwarranted, but if not viewed that way, then the self-created hardship criterion necessarily must stand on its own as an independent basis for denying a variance. That, to me, has enormous significance, because once the Board, on substantial evidence, finds that the hardship claimed by the

applicant as a basis for the requested variance was self-created, the Board need do no more in order to deny the variance.”

- **The Court says it is impermissible for a local decision maker to consider alternative locations on the site when an applicant applies for a variance to construct within a restricted or environmentally sensitive area.** “In respect to variances in buffer areas, the correct standard is not whether the property owner retains a reasonable and significant use for the property outside the buffer, but whether he or she is being denied a reasonable use of property within the buffer. The facts used by the Board in finding that no unwarranted hardship existed were discussed in the context of whether petitioner could still have a viable, reasonable and productive use of his entire property without the variance. The Board’s reliance on facts suggesting alternative uses and possible construction outside of the Buffer is akin to asking whether denying petitioner’s variance request will result in denying him “all economically beneficial or productive use of land,” *i.e.*, the unconstitutional takings standard. Use of this standard is in *direct* opposition to our holding in *Belvoir Farms*. The Board’s decision clearly illustrates that it rested on this improper standard – whether the Board, in the language formulated by the Commission, says so or not.” Slip Opinion, pages 31-32.

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“Turning to the Court’s rationale in this case, the Court first holds that the Board used the wrong standard in determining that there was no unwarranted hardship. That, it seems, rests on the conclusion that the Board looked at the hardship question in terms of the property as a whole, rather than that part of the Phillips Island area within the buffer. There are two problems with that ground. First, it is factually incorrect. The Board found that Lewis would “continue to enjoy reasonable and significant use *of the island* and the property without the requested variance.” (Emphasis added in Dissent). Second, there is no basis in the State statute, the Commission’s regulations, or the local ordinance for limiting the Board’s focus only to the part of Phillips Island within the buffer. Section 125-36 of the county ordinance states that a variance request “shall not be granted” unless the decision is based on the stated criteria, the relevant one of which, in this context, is that “special conditions or circumstances exist that are unique *to the subject property* or structure and that a strict enforcement of the provisions of this chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use management areas.” (Emphasis added in Dissent). That criterion

speaks of the "subject property," not just the piece of it that is within the buffer area." Slip Opinion, Dissent, pages 19-20.

The Dissent then discusses the Mastandrea decision, which dealt with locating a brick walkway within the Buffer in order to provide access near the shoreline to a disabled woman in a wheelchair.

The Dissent says:

"It is impermissible, in my opinion, to stretch that statement, made in the context of the peculiar circumstances of Mastandrea, into a proposition that the focus in every case must be limited to the buffer area. One need only consider the implication of such a holding to understand its fallacy. If a lot contains ample non-buffer area on which to build the structure thought required to provide a reasonable and significant use of the property, the owner cannot demand the right to build that structure in a buffer area on the lot and insist that, in determining whether denial of a variance would constitute an unwarranted hardship, the Board look only at the buffer area. That is what the Court seems to hold, and that cannot be right."

- **The Court ignores the General Assembly's legislative findings on the cumulative impacts of overdeveloping the Bays' shorelines.** The General Assembly found, at Natural Resources Article 8-1801 (a) (8), that "The cumulative impact of current development is inimical to these purposes (protecting water quality and wildlife habitat)." The Court says that standard has no place in variance law: "Once the Board accepts that the cumulative impacts of further development within the Critical Area reaches a point where it would harm the environment, no variance could be granted in the future..."

As I know you are aware, this is a significant decision that undermines the effectiveness of the Critical Area Act. As Judge Wilner expressed for himself and Judges Raker and Battaglia:

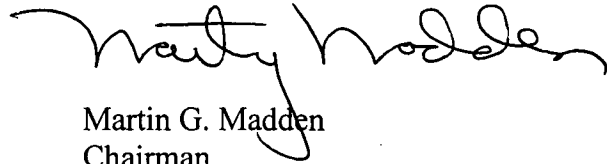
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Ms. Karen Smith
August 11, 2003
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I will continue to keep you informed as this matter proceeds. If you have any questions about the case, or if you would like more information, please contact me at (410) 260-3467.

Sincerely,

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Martin G. Madden
Chairman



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2003

Mr. Kenneth H. Masters
Chief Legislative Officer
Office of the Governor
State House
Annapolis, Maryland 21401

Dear Mr. *Masters*:

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Although we have not yet completed our analysis of the case, we are continuing to work with the Attorney General's office. I anticipate being able to advise you more definitively about our plans by the end of next week. In the meantime, I have set out below some of the major points of the decision as we view them.

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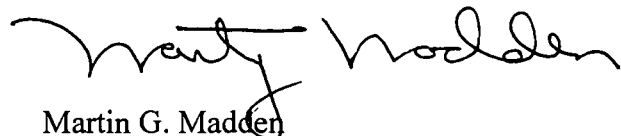
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Sincerely,

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Martin G. Madden
Chairman



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Chairman

Ren Serey
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August 11, 2003

The Honorable Barbara Frush, Co-Chair
Joint Legislative Oversight Committee on the Critical Area
Lowe House Office Building
Room 210
Annapolis, Maryland 21401

Dear Delegate *Barbara Frush*,

I am writing today in an effort to keep you informed of our latest information regarding the Court of Appeals' decision in the Lewis v. Department of Natural Resources case.

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Dear Mr. *Bernie* Marczyk:

I am writing today in an effort to keep you informed of our latest information regarding the Court of Appeals' decision in the Lewis v. Department of Natural Resources case.

Although we have not yet completed our analysis of the case, we are continuing to work with the Attorney General's office. I anticipate being able to advise you more definitively about our plans by the end of next week. In the meantime, I have set out below some of the major points of the decision as we view them.

Facts of the Case

Although this case evolved from what should have been a simple zoning enforcement matter, we believe it has serious statewide consequences well beyond the Critical Area. In 1999 Mr. Edwin Lewis purchased two tracts in the broad marshes of the Nanticoke River in Wicomico County. Although most of his holdings are either marsh land or under water, approximately 7.23 acres are upland in the form of small hummocks. Without applying for or obtaining the required County, State or federal permits, Mr. Lewis began to erect a hunting compound on a 5.3 acre site called Phillips Island. As he neared completion of six buildings including a lodge, three cabins, a bathhouse and a storage building, County inspectors became aware of his activities and halted his progress for lack of building permits and Health Department approval for on-site waste disposal. Most of Mr. Lewis's compound is located within the Critical Area Buffer.

Rather than dismantle his work or agree to reconfigure it, Mr. Lewis applied for variances to allow the buildings to be completed in place and a septic system installed in the Buffer. The Wicomico County Board of Zoning Appeals turned him down. Mr. Lewis appealed the Board's decision to the Circuit Court and lost. He then appealed to

Mr. Bernie Marczyk
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the Court of Special Appeals and lost again. Finally, he asked the Court of Appeals to hear his case, resulting in the current decision, which vacated the decisions of the lower courts upholding the Wicomico County Board's denial of Mr. Lewis's variances. The Court instructed the lower courts "to remand the case to the Wicomico County Board of Zoning Appeals for further proceedings consistent with" the Court's opinion.

Summary of the Lewis Decision

Among other cases cited, the Court's opinion primarily builds upon and extends the rulings in its three recent Critical Area variances decisions. These are the Belvoir, White, and Mastandrea decisions.

Belvoir Farms Homeowners Association, Inc. v. North, 355 Md. 259, 734 A.2d 227 (1999)

White v. North, 356 Md. 31, 736 A.2d 1072 (1999)

Mastandrea v. North, 361 Md. 107, 760 A.2d 677 (2000)

- **The Court has greatly diminished local Boards of Appeals' discretion to prevent individual property owners from obtaining variances and setting conditions on them when granted.** Local governments implement the Critical Area law primarily through their zoning ordinances and subdivision regulations. Local Boards of Appeals grant variances when necessary to prevent the regulations from resulting in unwarranted hardship to individual property owners based on unique conditions. The Critical Area Commission comments on variance applications but has no approval authority in these instances. The Court, however, now says that local governments must grant the variance requests unless they can prove that harm will result.
- **The Court's opinion shifts the burden of proof to the local government when an applicant requests a variance for a use of land or location of a structure which the local government has expressly prohibited by regulation.** The Court says that the local government must produce hard data; i.e., empirical evidence, that a variance proposal will cause the harm a local regulation is intended to prevent: "In addition, the record contains little or no empirical data to support the Board's conclusions or to refute the studies and reports of petitioner's

experts. The Board's decision is thus arbitrary and capricious." Judge Wilner, writing for the three dissenting judges, says "[w]here that test came from is a mystery to me. The standard we have always applied (until today) is whether 'there is substantial evidence in the record as a whole to support the agency's findings and conclusions.'"

- **The Court says it is irrelevant when considering a variance whether the applicant has already undertaken the prohibited activity.** Mr. Lewis constructed his hunting compound without seeking local permits. If he had, the County, as is its practice, would have worked with him to minimize the impacts of his plans. Mr. Lewis still would have needed variances to build everything he desired, but he also would have seen that some of the buildings could be constructed without variances. This is the proper role of local governments. The Court announced that a local Board of Appeals review of an after-the-fact variance must be considered as if no activity took place, and as if no environmental harm occurred. The Court calls the existing buildings being located where they are prohibited a "red herring."

The Dissent says that

"[i]t is not a "red herring" at all. The importance, which the Court blindly overlooks, is not just the illegality of what Lewis did, but in the uncontradicted evidence that, had he applied for the permits in advance, as the law required him to do, the project could have been revised at that point so that either a variance would not have been necessary or that the need for one could have been limited. There can be little doubt that, had Lewis applied initially for a variance for six buildings in the buffer, it would have been denied as unnecessary. Lewis built the structures and then demanded a right to retain them as a hardship. He should receive no reward for his unlawful behavior." Slip Opinion, Dissent, pages 22-23.

"One of those criteria (to obtain a variance) is that the variance request not be based on conditions or circumstances which are the result of actions by the applicant. That is the foundation for the self-created hardship provision found in most, if not all, of the local critical area ordinances. Perhaps it is a matter of semantics, in the sense that, if the hardship claimed by the applicant is self-created, it is, *ipso facto*, not unwarranted, but if not viewed that way, then the self-created hardship criterion necessarily must stand on its own as an independent basis for denying a variance. That, to me, has enormous significance, because once the Board, on substantial evidence, finds that the hardship claimed by the

applicant as a basis for the requested variance was self-created, the Board need do no more in order to deny the variance.”

- **The Court says it is impermissible for a local decision maker to consider alternative locations on the site when an applicant applies for a variance to construct within a restricted or environmentally sensitive area.** “In respect to variances in buffer areas, the correct standard is not whether the property owner retains a reasonable and significant use for the property outside the buffer, but whether he or she is being denied a reasonable use of property within the buffer. The facts used by the Board in finding that no unwarranted hardship existed were discussed in the context of whether petitioner could still have a viable, reasonable and productive use of his entire property without the variance. The Board’s reliance on facts suggesting alternative uses and possible construction outside of the Buffer is akin to asking whether denying petitioner’s variance request will result in denying him “all economically beneficial or productive use of land,” *i.e.*, the unconstitutional takings standard. Use of this standard is in *direct* opposition to our holding in *Belvoir Farms*. The Board’s decision clearly illustrates that it rested on this improper standard – whether the Board, in the language formulated by the Commission, says so or not.” Slip Opinion, pages 31-32.

The Dissent says:

“Turning to the Court’s rationale in this case, the Court first holds that the Board used the wrong standard in determining that there was no unwarranted hardship. That, it seems, rests on the conclusion that the Board looked at the hardship question in terms of the property as a whole, rather than that part of the Phillips Island area within the buffer. There are two problems with that ground. First, it is factually incorrect. The Board found that Lewis would “continue to enjoy reasonable and significant use of the island and the property without the requested variance.” (Emphasis added in Dissent). Second, there is no basis in the State statute, the Commission’s regulations, or the local ordinance for limiting the Board’s focus only to the part of Phillips Island within the buffer. Section 125-36 of the county ordinance states that a variance request “shall not be granted” unless the decision is based on the stated criteria, the relevant one of which, in this context, is that “special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions of this chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use management areas.” (Emphasis added in Dissent). That criterion

speaks of the "subject property," not just the piece of it that is within the buffer area." Slip Opinion, Dissent, pages 19-20.

The Dissent then discusses the Mastandrea decision, which dealt with locating a brick walkway within the Buffer in order to provide access near the shoreline to a disabled woman in a wheelchair.

The Dissent says:

"It is impermissible, in my opinion, to stretch that statement, made in the context of the peculiar circumstances of Mastandrea, into a proposition that the focus in every case must be limited to the buffer area. One need only consider the implication of such a holding to understand its fallacy. If a lot contains ample non-buffer area on which to build the structure thought required to provide a reasonable and significant use of the property, the owner cannot demand the right to build that structure in a buffer area on the lot and insist that, in determining whether denial of a variance would constitute an unwarranted hardship, the Board look only at the buffer area. That is what the Court seems to hold, and that cannot be right."

- **The Court ignores the General Assembly's legislative findings on the cumulative impacts of overdeveloping the Bays' shorelines.** The General Assembly found, at Natural Resources Article 8-1801 (a) (8), that "The cumulative impact of current development is inimical to these purposes (protecting water quality and wildlife habitat)" The Court says that standard has no place in variance law: "Once the Board accepts that the cumulative impacts of further development within the Critical Area reaches a point where it would harm the environment, no variance could be granted in the future..."

As I know you are aware, this is a significant decision that undermines the effectiveness of the Critical Area Act. As Judge Wilner expressed for himself and Judges Raker and Battaglia:

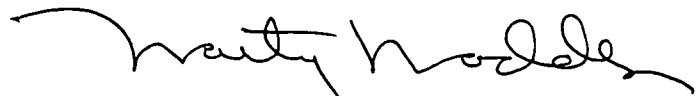
"In its inexplicable effort to allow property owners such as Lewis to do whatever they want on environmentally sensitive property, without regard to legal constraints or public policy, the Court throws established principles of administrative law to the wind, misconstrues the relevant

Mr. Bernie Marczyk
August 11, 2003
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statutes and regulations, and views the evidence not in a light most favorable to the agency but in a light most favorable to the losing applicant. It is not only wrong in this case but sets a most unfortunate precedent." Slip Opinion, Dissent, page 23.

I will continue to keep you informed as this matter proceeds. If you have any questions about the case, or if you would like more information, please contact me at (410) 260-3467.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin G. Madden". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Martin G. Madden
Chairman



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/

VIA FAX

July 17, 2003

Honorable Gerald W. Donovan, Mayor
Town of Chesapeake Beach
Town Hall
8200 Bayside Road
Chesapeake Beach, Maryland 20732

Re: Construction of Proposed Town Water Tower

Dear Mayor Donovan:

I am writing in regard to the construction of a new water tower for the Town of Chesapeake Beach proposed for the Richfield Station site. I was pleased to meet with you on June 11, 2003 to discuss the procedure for completing the Critical Area Commission's review of the proposal. As a follow-up to that meeting, my staff and I met for further discussion on July 2nd with Mr. Bill Watson. I believe we have reached an agreement with you and Mr. Watson that should allow the Town to proceed with confidence regarding selection of a site for the water tower and the method of forest mitigation for impacts associated with its construction.

The Town proposes to obtain two Forest Transfer Development Rights (TDR) through Calvert County's TDR program. As we discussed, if these TDRs provide identifiable benefits to the Critical Area, the Commission can make the required findings that the Town's water tower project is consistent with the Critical Area Criteria and the local Critical Area Program. I realize, however, that the Town may not be able to obtain qualifying TDRs before it must make related decisions on the exact location of the water tower. I propose that the Town continue to coordinate with Commission staff on the TDRs, but not delay other necessary decisions on the matter while the details are being finalized. I do request, however, that you contact me regarding the status of the TDRs by August 15, 2003.

Honorable Gerald W. Donovan

July 17, 2003

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If I can be of further assistance before then, please contact me or Mr. Ren Serey, the Commission's Executive Director, at (410) 260-3462.

Sincerely,

Martin G. Madden
RV

Martin G. Madden
Chairman

July 16, 2003

MEMORANDUM

TO: Critical Area Commission Members

FROM: Martin G. Madden

SUBJECT: Appeal of Cecil County Variance

On July 14, 2003 I filed an appeal to the Circuit Court of Cecil County stating the Commission's intent to appeal a variance granted to Brian F. Wruble and Kathleen W. Bratton.

Mr. Wruble and Ms. Bratton applied to the Cecil County Board of Appeals for a variance to construct a swimming pool and a pool house partially within the County's Critical Area Buffer and on steep slopes. The Cecil County Board of Appeals granted the variance on June 24, 2003. The granting of this variance is significant because of its size and location; the existence of alternative locations on the property for the desired construction; and the lack of findings in the Board's opinion to support its decision.

The subject property comprises approximately 10.6 acres located on the Sassafras River at 7400 Augustine Herman Highway in the Georgetown area of southern Cecil County. The site is improved with a dwelling, decks, garage, carport, pump house, shed, driveway and walkways. The applicants proposed 3,023 square feet of new impervious surface on steep slopes and within the Buffer for construction of an in-ground swimming pool, decking and a pool house. Although the site plan shows the Buffer running through the pool and pool house, the Buffer should have been expanded for the slopes, resulting in a request for more impact than shown. A portion of the house and its associated decks and the pump house exist in the Buffer.

In its decision, the Board took note of the fact that the "Applicant also presented testimony and maps showing that the properties to the west and east were buffer exempt. If [the] Applicant's property were also buffer exempt the proposed construction would be outside the buffer area." The adjacent properties are buffer exempt because they are relatively small, were initially approved with buffer exempt status by the County and ultimately approved by the Critical Area Commission as part of the County's Critical Area Program. The applicants' property is over 10

acres and has adequate room outside the Buffer for additional development. It is properly not buffer exempt.

Although our staff identified two areas on the property where the proposed pool and pool house could be sited outside of the Buffer and away from steep slopes, that is not the standard for granting a variance. The standard is whether, when considering the entire property, the applicants' would suffer unwarranted hardship if denied the variance. Another, related standard, is whether the applicants have reasonable and significant use of their property, again, when considering the entire property. These standards were reinforced by the General Assembly in 2002. As noted above, the property is already developed with, among other uses, a house, decks, garage and carport.

I believe that the Cecil County Board of Appeals improperly applied the law in the granting of this variance. In addition, the Board's decision is not supported by competent evidence.

In accordance with Natural Resources Article, §8-1812, Annotated Code of Maryland, if you disapprove of my action instituting an appeal in this case, please notify me in writing within 35 days after the date of this notice. As provided in §8-1812, if 13 members of the Commission indicate disapproval of my action in a timely manner, I shall withdraw the action initiated. Please note the other procedural safeguards set forth in §8-1812 (attached).

Thank you for your attention to this matter. The complete file is available at the Commission office for your review. Please contact Ren Serey, Regina Esslinger or me if you wish to view the file or have any questions.

cc: Marianne D. Mason, Esquire

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of July 2003, I mailed a copy of this §8-1812(a) Notice via first class mail, postage prepaid, to each member of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

Peggy Campbell

§ 8-1812. Commission chairman; authority regarding judicial proceedings.

(a) *In general.* — After the Commission has approved or adopted a program, the chairman of the Commission has standing and the right and authority to initiate or intervene in any administrative, judicial, or other original proceeding or appeal in this State concerning a project approval in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area. The chairman may exercise this intervention authority without first obtaining approval from the Commission, but the chairman shall send prompt written notice of any intervention or initiation of action under this section to each member of the Commission. The chairman shall withdraw the intervention or action initiated if, within 35 days after the date of the chairman's notice, at least 13 members indicate disapproval of the action, either in writing addressed to the chairman or by vote at a meeting of the Commission. A member representing the local jurisdiction affected by the chairman's intervention or action may request a meeting of the Commission to vote on the chairman's intervention or action.

(b) *Rules of procedure.* — Except as stated in this subtitle, the chairman is subject to general laws and rules of procedure that govern the time within and manner in which the authority granted in subsection (a) of this section may be exercised.

(c) *Appeal authorized.* — The chairman may appeal an action or decision even if the chairman was not a party to or is not specifically aggrieved by the action or decision. (1984, ch. 794; 1990, ch. 6, § 2; 2002, ch. 433.)

July 14, 2003

Ms. Laura Hilden
Budget Analyst
Department of Budget and Management
45 Calvert Street
Annapolis, Maryland 21401

Dear Ms. Hilden:

I enjoyed meeting you last week at the Critical Area Oversight Committee hearing. I'm glad you were able to attend. As you heard at that time, I hope to initiate certain changes to help the Critical Area Program operate more effectively, particularly regarding better enforcement of laws to protect shorelines.

I would like to reiterate my thanks to Secretary DiPaula for approving our request for a Natural Resources Planner position to coordinate our work in the Coastal Bays region. The General Assembly extended our jurisdiction to this part of the State in 2002, adding approximately 10% to the land area we monitor, but actually increasing our work load by 15-20% due to the tremendous development pressures there. The planner position will help us meet these new responsibilities.

As I also mentioned, another staffing matter is pending. Fourteen months ago Veronica Moulis, our Administrative Officer, was assigned by the previous Administration at the Department of Natural Resources to assume the same functions concurrently in the Department's Forest Service. Although the Critical Area Commission continues to pay 100% of her salary, we have the benefit of her services on a severely limited basis. DNR is in the process of reclassifying Ms. Moulis to a higher grade level reflecting additional responsibilities she has taken on, and making her assignment with the Forest Service permanent. If that happens as expected, the Commission will need a full-time replacement for this essential position. Assuming that DNR will pick up Ms. Moulis's salary, the Commission has sufficient funds for a full-time Administrative Officer. I anticipate, but am not certain, that the Commission will retain Ms. Moulis's PIN following her transfer, and the Department will assign her a new PIN. As you can see, we may need your guidance as this scenario unfolds.

Please let me know if you would like additional information about the Commission at this time, or if you're interested in attending one of our regular meetings on the first Wednesday of each month. I look forward to working with you as we move ahead.

Sincerely,

Martin G. Madden
Chairman

July 14, 2003

Mr. Bernie Marczyk
Office of the Governor
State House
Annapolis, Maryland 21401

Dear Mr. Marczyk:

Thank you for joining us on the Severn River last week. I greatly appreciate your making time for an inspection tour on your first day back in the office. As we clearly saw, the Critical Area Commission has a formidable challenge ahead assuring enforcement of the State's existing shoreline protection laws.

As I view the situation during my brief time with the Commission, the agency has relied exclusively on the local governments to enforce violations of Critical Area regulations. Whether this has been the best or most prudent approach, I'm not sure. Certainly, under the Critical Area Act, the 16 counties, Baltimore City and the other 46 municipalities with land within 1,000 feet of tidal waters have, and should have, the primary responsibility for enforcing the law. The Commission's role in overseeing implementation of local programs does not imply daily law enforcement. The statute, however, does provide the Chairman with express authority to act when it becomes apparent that local enforcement is lacking. That seems to be the case in several instances of which I have become aware. I think the law's and the Commission's credibility have suffered as a result.

The statute provides two methods of enforcement available to the Chairman. Section 8-1815 provides that

“Whenever the Chairman has reason to believe that a local jurisdiction is failing to enforce the requirements of the program applicable to a particular development, the chairman shall serve notice upon the local enforcement authorities. If within 30 days after service of the notice, the local authorities have failed to initiate an action to remedy or punish the violation, the chairman may refer the matter to the Attorney General.”

In such a situation the law establishes that the Attorney General may seek the same sanction or remedy available to local authorities. Particular to the site I showed you on the Severn River, this section further provides that the Chairman may seek restoration of lands illegally cleared, and file for an injunction when an action “threatens to immediately and irreparably degrade the quality of tidal waters or fish, wildlife, or plant habitat.”

Mr. Bernie Marczyk
July 14, 2003
Page 2

Additional enforcement authority is provided in Section 8-1815.1 of the Act. This section allows the Chairman or local officials to seek restoration without a 30-day notice period if "a person cuts or clears or plans to cut or clear trees within the Critical Area in violation of" the local Critical Area ordinance or the Commission's implementing Criteria. This section requires that a professional forester prepare a restoration plan for the site, and is designed specifically to cover the type of situation I believe is increasingly common along the State's tidal shorelines. Because local Critical Area programs are implemented under the jurisdictions' zoning regulations, violations are handled as zoning infractions. Local authorities, and unfortunately, local judges, often appear reluctant, and in some instances unable, to assure sanctions under the law sufficient to deter violators. Many local fines are no larger than a one-time penalty of \$500. You can appreciate that a \$500 fine is no deterrent to illegally clearing a forested section of the shoreline to open up a spectacular view for a million dollar house. Fred Kelly, the Severn Riverkeeper who hosted us on his boat, told us that in his role as watchdog for the river he frequently talks to people who readily admit that it is easier and more profitable to wipe out long stretches of the shoreline without a permit and simply pay a nominal fine later. I think Fred's message is clear. There is a strong appearance that the State doesn't care about its laws. I would like to take some calculated steps to change that.

I intend to talk to as many people as possible to see if my initial impressions about a lack of effective enforcement are correct. I have asked the Assistant Attorney General assigned to the Commission to investigate the authority local governments have to strengthen their role and impose fines on a daily basis. These penalties need to function as deterrents. And I think it is time for the Commission to step forward, use its authority under the law, and draw some needed attention to the situation. Unfortunately, there appear to be more than enough opportunities from which to select. I briefed the Commission's Joint Legislative Oversight Committee on these matters on July 9th and told the Committee that I intend to consult and work closely with the local governments in the area of enforcement. The Committee encouraged me to begin these consultations immediately and take initial actions quickly if warranted.

I would like your advice in these matters including your thoughts on the best way to coordinate with other State agencies such as the Departments of Environment, Natural Resources and Agriculture. We have some practical and well intentioned laws on the books. It's not right to see them ignored.

Sincerely,

Martin G. Madden
Chairman

July 14, 2003

Honorable C. Ronald Franks, Secretary
Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

Dear Secretary Franks:

I am writing to bring you up to date on the Critical Area Commission's budget and staffing situation since we met on May 20th following my appointment as Chairman. First, however, I want to thank you for the strong support you and your staff have provided during my brief tenure. Particularly helpful were Kristin Saunders, who outlined the Department's upcoming initiatives for me, and Mike Slattery, Gene Piotrowski and Butch Norden, who ably represented the Department while the Commission reviewed and then approved the NorthBay project at Elk Neck State Park. Frank Dawson, your new designee on the Critical Area Commission, appears to be a fine choice as well. I look forward to continuing a close relationship with you and your leadership team in the future.

Budget Matters

As you know, the Commission refocused its budget to achieve an initial 7½% reduction for FY 2004 and identified an additional cut of 2½% should it be necessary. Veronica Moulis, the Commission's Administrative Officer whom we share with the Department's Forest Service, performed an outstanding job preparing our budget to meet the Governor's requested savings.

Personnel Matters

I also greatly appreciate your efforts on the Commission's behalf in securing a Natural Resources Planner position from the Department of Budget and Management. Secretary DiPaula informed me last week that the position has been approved. I would like to move quickly to fill this position, and to assure both the Department and the Commission the expertise necessary to carry out our related missions. To accomplish this, I propose certain personnel actions for your consideration.

I understand that you are reviewing a possible reclassification for Veronica to reflect her expanded duties with the Forest Service. Veronica is an extremely capable individual and I, too,

Honorable C. Ronald Franks
July 14, 2003
Page 2

hold her in high regard. She served the Commission admirably for 18 years prior to the previous Administration's decision 14 months ago to assign her significant additional duties with the Forest Service. The Commission staff and I wish her the best if you decide to make her placement in the Forest Service permanent. If that is the case, I am certain you can understand it is essential to the Commission's function to once again have the services of a full-time Administrator.

Although the Commission is a relatively small unit, our staff of 14, including myself, oversees implementation of the Critical Area law in 16 counties, Baltimore City and 46 municipalities. In 2002 the General Assembly expanded our jurisdiction to include the Coastal Bays region at the same time the Department assigned Veronica double duty with the Forest Service. We have continued to pay 100% of her salary. If you decide to assign her permanently to the Forest Service, we would appreciate your assistance in selecting a capable Administrator to fill her vacant PIN at the Commission. A minimum requirement would appear to be current experience managing a budget and multiple contracts for a Unit or Division of State government.

As for filling the new PIN just authorized by Secretary DiPaula with a qualified Natural Resources Planner, we have identified Amber Widmayer, a former employee of the Commission who currently works in the Department's Resource Planning Division. With the agreement of former Secretary Fox, we anticipated hiring Amber more than a year ago to assume the Coastal Bays related duties. At that time we agreed to wait until Resource Planning found a qualified replacement. However, the hiring process took longer than expected and Resource Planning was unable to fill the position before the hiring freeze took effect. Now that we have an approved position, our pressing need is to bring Amber on board immediately to fill our unmet and still mounting Coastal Bays responsibilities. Her current PIN, of course, would remain with the Department.

If I can answer any questions, or provide you with additional information, please let me know. I am anxious to resolve our mutual needs, and although I will be out of the country from July 18th until August 1st, Ren Serey, my Executive Director, is available to meet at your convenience, or to answer any questions. Thank you again for your consideration of these matters and the assistance you have provided.

Sincerely,

Martin G. Madden
Chairman



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/

July 14, 2003

Honorable Thomas G. Duncan, Council President
Talbot County Council
142 N. Harrison Street
Easton, Maryland 21601

Re: Talbot County Council Bills: Critical Area

Dear Councilman Duncan:

At its meeting on July 2, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved an extension of the deadline for submitting legislation subject to the actions taken by the Commission pursuant to Natural Resources Article §8-1809(1). The deadline was extended to August 5, 2003.

As you may recall, the deadline for submission of approved legislation by the County Council was June 23, 2003. While Commission staff received a copy of the draft legislation, this did not fulfill the requirements of Natural Resources Article §8-1809(1)(2). This section of the law requires a local jurisdiction to submit to the Commission any proposed changes as program amendments or refinements (i.e. the legislation is approved at the local level).

In order to avoid any confusion, the Commission granted the County an extension to August 5, 2003. The Commission is aware that the proposed bills are being redrafted and that the likely schedule for their adoption may extend beyond August 5; however, the Commission's vote anticipated receipt of the following information from the County Council by August 5:

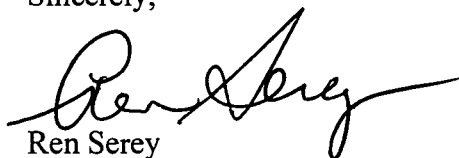
- 1) Copies of the re-drafted legislation;
- 2) Confirmation the legislation has been introduced;
- 3) The schedule for public hearing and adoption by the County Council.

Honorable Thomas G. Duncan
July 14, 2003
Page Two.

Commission staff informed the Commission of the good faith efforts on the part of the County Council to resolve these issues. The Commission acted to provide this extension to maintain a reasonable schedule for completion.

The Commission looks forward to receiving this legislation and continuing to maintain a good working relationship with the County and the County Council. If I can provide you with assistance, please do not hesitate to contact me at (410) 260-3462.

Sincerely,



Ren Serey
Executive Director

cc: Andrew Hollis, County Administrator
Daniel Cowee, Planning Officer
Marianne Mason, Assistant Attorney General



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 10, 2003

Ms. Sue Veith
Department of Land Use and
Growth Management
23150 Leonard Hall Drive
Leonardtown, MD 20650-0653

Re:

**SM 278-03: 03-132-004 Maryland Rock Industries Concept Mining & Reclamation
Plan: Medley's Neck Modification "A"**

**SM 504-03: 03-132-004 Maryland Rock Industries
Medley's Neck Modification "A" Variance Request**

Dear Ms. Veith:

I am writing in regard to the Conditional Use and Variance requests referenced above.

Conditional Use

I have received a set of updated plans for the Conditional Use request including detailed information on environmental features in the Critical Area. It appears that our previous comments on the plan have been addressed. The Wildlife and Heritage Service (WHS) has provided a determination that a bald eagle's nest occurs in the area. It is my understanding from staff at the consulting firm, McCarthy and Associates, that the eagle's nest is on the opposite side of the creek from the expansion area and the ¼ mile buffer zone around the nest tree is not located within the limits of disturbance. The nest location relative to the project area must be verified and buffer zones established according to the guidance provided by WHS.

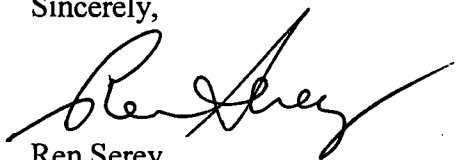
Variance

Thank you for providing the new information concerning the variance request, the site conditions and alternatives for transporting the dredged material. The Critical Area Commission does not oppose the requested variance. It appears that the Buffer intrusions have been minimized. The plans indicate that the intended time frame for use of the pipeline will be ten years. If the variance is granted, we support the conditions set out in your staff report, particularly the condition that any required mitigation be incorporated into the site restoration plan.

Ms. Sue Veith
July 10, 2003
Page 2

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3460.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ren Serey".

Ren Serey
Executive Director

cc: Wanda Cole
Regina Slinger
File: SM 278-03

Staff Correspondence Vol. 2: Mc Cleary

2003

S1832-155-2

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 23, 2003

Mr. Tom Smith
Senior Planner
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Truxton Park Consistency Report

Dear Mr. Smith:

Thank you for providing "Notification of Certification" that the above project is consistent with the City of Annapolis' Critical Area Program. This office understands that the City is proposing a 20' x 30' asphalt pad for mulch storage, an 18' x 12' building with restrooms and an office, and a 23' x 50' raingarden. Most of the park is in the Critical Area with 2,477 square feet in the Resource Conservation Area (RCA), 446,200 square feet in the Limited Development Area (LDA) and 61,260 square feet in the Intensely Developed Area (IDA). Portions of the park are in the 100-foot Buffer.

Critical Area Commission staff understands:

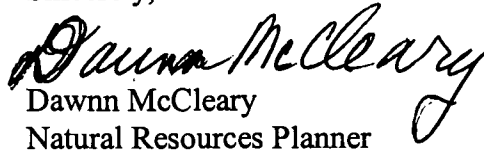
1. That none of proposed activity will be located in the IDA and LDA, therefore no increase in impervious surface will be in this area;
2. That there will be an increase of 1,518 square feet of imperviousness in the RCA. This activity complies with the impervious surface limits;
3. That the proposed project in the RCA will have erosion and sediment control measures to handle runoff;
4. That three Pin Oaks will be removed and mitigated at a 3:1 ratio and replaced with 9 native trees;

Continued, Page Two
Truxton Park Consistency Report
December 23, 2003

5. That none of the project will be in the 100-foot Buffer or in heavily forested areas. Therefore, there will be no negative impact to any Habitat Protection Areas.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located, 2) does not substantially affect the Critical Area program of the local jurisdiction, and 3) is not considered by the Commission as major development. (*See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs*). Therefore, approval of the above project by the Commission is not necessary. If there are any changes in development that may affect the habitat within the area on site, this office would like to be notified immediately at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
AN 901-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 23, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Dewar's Landing Project

Dear Mr. Stuart:

This office has reviewed the applicant's proposal to construct 10 townhomes. The site currently consists of gravel parking\storage areas for vehicles and existing commercial structures. The area is 0.31 acres in size, entirely in the Critical Area and in an Intensely Developed Area.

This office does not oppose the redevelopment on this site. In order to satisfy the 10 % calculations, the applicant has proposed biofilter planter areas. Please notify us if the City determines these biofilters are not feasible for this site.

This office has determined that the proposed redevelopment activity and the 10% calculations are correct and consistent with the local Critical Area Program. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 841-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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www.dnr.state.md.us/criticalarea/

December 23, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Hawkins Point Road Sewer Main Consistency Report

Dear Mr. Stuart:

This office received page 21 of Worksheet A for the 10 % pollutant calculations for the above project. Step 2 (A) and 3(A) are incorrect. In the formula for Steps 2 and 3, 8.16 was not multiplied in the calculations. Please revise Worksheet A, and replace 1.1602 lbs. P/year with 9.45 lbs.P/year. Therefore, the final removal requirement is 0.945 pounds.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 770-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 22, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: BGE Cherry Hill Line Addition Consistency Report

Dear Mr. Stuart:

Thank you for providing "Notification of Certification" that the above project is consistent with the City of Baltimore's Critical Area Program. This office understands that the City is proposing to upgrade the 4kv distribution line to a 13kv distribution line. Upgrade activities involve a slight modification to the timber framework on each pole and the stringing of new line. The existing BGE 4kv distribution line parallels the B & O Railroad on both the east and west side of the Patapsco River in the Brooklyn section of Baltimore City. The distribution poles parallel the north side of the B & O Railroad from Potee Street to the first pair of poles on the west side of the Patapsco River.

The proposed project will provide additional electrical capacity to the Cherry Hill community and a portion of the Brooklyn community in Baltimore City. No vegetation mitigation is proposed for this project because the proposed distribution is not permanent, does not create any additional impervious surface and the Phragmites will regenerate on its own. Therefore, the distribution line upgrade will not modify the existing drainage area to the Critical Area, add impervious surface or permanently impact any environmental resources.

Critical Area Commission staff understands:

1. That the distribution line upgrade project will temporarily affect the vegetation within the 100-foot Buffer. Since the area is comprised of 95 % Phragmites, the area will regenerate;
2. That there will be no impact to tidal or nontidal wetlands;

Continued, Page Two
BGE Cherry Hill Line Consistency Project
December 22, 2003

3. That there is no proposed in-stream work, therefore, there will be no impact to anadromous fish spawning waters;
4. That there will be no impact to submerged aquatic vegetation beds or tributary streams;
5. That there will be no impact to steep slopes, trees, and woodlands;
6. That there will be no impact to rare, threatened and endangered species;
7. That there will be timber mats placed on top of the Phragmites so that the construction equipment will be able to access each pole.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located, 2) does not substantially affect the Critical Area program of the local jurisdiction, and 3) is not considered by the Commission as major development. (See *COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs*). Therefore, approval of the above project by the Commission is not necessary. If there are any changes in development that may affect the habitat within the area on site, this office would like to be notified immediately at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 842-03

MEMORANDUM

TO: Project Subcommittee

FROM: Dawnn McCleary, Natural Resources Planner

DATE: December 18, 2003

RE: Maryland Port Administration (MPA) Critical Area Institutional Plan

The Maryland Port Administration has developed a plan to address the difficulty they have had in meeting the 10% phosphorus reduction requirements. They are providing us with their list of projected projects at five port sites, and showing the projected phosphorus removal requirements for each.

The Institutional Plan proposes mitigation for these five MPA properties where on-site mitigation is infeasible. MPA will provide offsite mitigation through structural or non-structural BMPs at a variety of locations. Attached is a list of possible offsite locations and BMPs.

Our subcommittee discussion will review the list of potential mitigation options the Port has explored to date, and provide feedback to move forward for Commission approval. Ultimately, the plan will include an official system for documenting phosphorus mitigation credits and debits.

MPA

POTENTIAL OFFSITE MITIGATION CONTACTS

STATE DEPARTMENTS/ORG.	STATUS
1. Agriculture Gary Felton (301) 405-8039	Identifying potential Research Farm projects for nutrient removal. Will get back to us
2. Martin Airport Robin Bowie (410) 859-7103	Completing Environmental Assessment by April 2003. Will identify potential MPA projects. Contact Robin in January 2004 for status.
3. Towson University Jack Nye (410) 704-3409	Met with Jack Nye on Oct 28, 2002. Initiating a planning project to identify storm water issues. Jack would like MPA to be a part of this process to help identify projects that would benefit both. The planning not complete, check 01/30/04
4. Coppin State University Damon Bridgeforth (410) 951-3775	Called 1/21/03 and left message
5. UMBC George Alinsod (410) 455-2281 Jim Donland (410) 455-3260 Mark Demshak (410) 455-3041	UMBC will comment on MPA potential projects from 8/26/03 meeting.
6. Morgan State University Peter Kiik (443) 885-3919	All paved areas are controlled. No projects available.
7. DNR Butch Norden (410) 260-8406	Pending meeting to discuss additional sites/projects
8. Balt. City Comm. College Theo Clark (410) 462-8539 Diane Moore (410) 462-8530 Bill Glenn	Met w/ BCCC and will submit to them alternative projects to be considered. Due 12/19/03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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www.dnr.state.md.us/criticalarea/

December 18, 2003

Mr. Tom Smith
Senior Planner
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Annapolis Performance Cruising Project
7364 Edgewood Road

Dear Ms. Owen:

Thank you for sending us additional information on the above project. After reviewing the information, this office recommends the removal of the "Buffer Enhancement Area Disturbance" note above the "Plantings Notes". The bioretention should be considered disturbance and mitigation should be provided in accordance with the City's program.

The efficiency removal in Worksheet A is also incorrect. Please revise Worksheet A, in Step 5 of the 10 % Rule and replace efficiency removal of 60 % to 50 %, which will result in 9.10 lbs. of phosphorus removal.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Megan Owens
Regina Esslinger
AN 126-01

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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www.dnr.state.md.us/criticalarea/

December 12, 2003

Ms. Jackie Rouse
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

**RE: Sigma Family Annexation
ANX2002-12-004**

Dear Ms. Rouse:

Thank you for providing information on the annexation of the Sigma Family Limited Partnership property, identified as Parcel 62 on Tax Map 51. It is my understanding that the City Council approved the annexation on September 8, 2003, and it is now being submitted to the Critical Area Commission for review a proposed change to the City's Critical Area Program. The annexed property totals 8.4 acres with 4.4 acres within the Critical Area and is designated as Resource Conservation Area (RCA).

In order for the Commission to review this Critical Area Program change, the following additional information is needed:

- 1) A written request for approval of the annexation by the Critical Area Commission;
- 2) A subdivision history of the property from August 1988 (date of adoption of Anne Arundel County's Critical Area Program) to ensure that the density of the RCA portion of the property has not already been utilized by development within the County;
- 3) The location of the sewage reserve area of the existing house on the property as this may affect the development potential of the RCA portion of the property;

In addition, Commission staff request the following information:

- 1) Clarification of how the development potential of the property was determined. On page ii of the letter from Westholm and Associates to Mr. Alan Hyatt dated March 20, 2003, it appears that the City proposes to allow the RCA portion of the property



Continued, Page Two
Sigma Family Annexation
December 12, 2003

to be developed with one dwelling unit **and** to allow the RCA portion of the property to generate density that will be used outside the Critical Area. It is not clear how this "density transfer" is addressed in the City Code. At present, this issue may be moot as the current proposal includes one dwelling unit in the Critical Area and six dwelling units outside the Critical Area. This does not exceed the 2 dwelling units per acres allowed by the R1A zoning on the 4.228 acres that are outside the Critical Area. However, the Commission is concerned that this information may be inaccurate or may not be supported by the City Code.

Please forward this information to our office. Upon receipt of this information, the request can be placed on the agenda for the next Commission meeting. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Dawnn McCleary
Natural Resources Planner

cc: Jon Arason
Megan Owen
Tom Smith
Regina Esslinger
Mary Owens

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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www.dnr.state.md.us/criticalarea/

December 9, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Key Highway Extension
Key Highway of Hull Street

Dear Mr. Stuart:

Thank you for providing "Notification of Certification" that the above project is consistent with the City of Baltimore's Critical Area Program. This office understands that the City is proposing to construct an extension of Key Highway east to the western terminus of Nicholson Street. The proposal includes demolishing and re-constructing the existing Key Highway East and Nicholson Street as well as a new carriageway from Haubert Street to Hull Street. The elimination of the grade crossing is intended to reduce potential conflicts between vehicular and train movements. The limit of disturbance for the project is 6.67 acres which is entirely in the Critical Area and in an Intensely Developed Area.

Critical Area Commission staff understands:

1. That the reconstruction of Nicholson Street will increase the width of the carriageway from approximately 20 feet to 36 feet to accommodate the inclusion of a turning lane;
2. That the project complies with the 10 % Pollution Reduction Requirements through removal of impervious surface. Additional treatment will occur with perimeter sandfilters;
3. That approximately 2.28 acres of the project consists of in-kind replacement of railroad facilities or replacement of impervious areas with a vegetated ditch;

A handwritten signature, possibly "J. S.", written in ink.



*Continued, Page Two
Locust Point Industrial Loop Road
Key Highway East Extension
December 9, 2003*

4. That this project complies with the Maryland Department of the Environment and Baltimore City stormwater management requirements;
5. That the project will include an upgrade of an existing outfall in the Northwest Harbor, tidal waters; and,
6. No Federal or State threatened or endangered plant or wildlife species are anticipated at the above industrial site.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located, 2) does not substantially affect the Critical Area program of the local jurisdiction, and 3) is not considered by the Commission as major development. (*See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs*). Therefore, approval of the above project by the Commission is not necessary. If there are any changes in development that may affect the habitat within the area on site, this office would like to be notified immediately at (410) 260-3483.

Sincerely,



Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 855-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

November 24, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Outback Steakhouse @ American Can Company
2400 Boston Street

Dear Mr. Stuart:

This office has reviewed the applicant's proposal for the Outback Steakhouse in the existing American Can complex. The minor site improvements include a new drop off circle, reconfiguration of the brick sidewalks and new utility connections. The site is in an Intensely Developed Area and is approximately 0.896 acres.

This office does not oppose the development activity. This office understands that the area is in a floodplain area. The applicant determined that water quality treatment using a Best Management Practice for runoff to meet the 10% Rule is not feasible. Therefore, the offset fee will be collected by the City. This office understands that the applicant was able to reduce impervious surface on site.

This office has determined that the proposed redevelopment activity and the 10% calculations are correct and consistent with the local Critical Area Program. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 751-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

November 21, 2003

Mr. Dirk Geratz
Planner
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Tile Support Services
427 Fourth Street

Dear Mr. Geratz:

This office received the 10 % pollutant calculations for the above project. The calculations are consistent with the City's program. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Regina Esslinger
AN 578-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

November 18, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Hawkins Point Road Sewer Main Consistency Report

Dear Mr. Stuart:

Thank you for providing "Notification of Certification" that the above project is consistent with the City's Critical Area program. This office understands that the City is constructing a sanitary force main from the Quarantine Road Sanitary Landfill leachate pond to an existing sanitary junction chamber an intersection of Curtis and Benhill Avenue. The overall length of the project is no greater than 1.98 miles. The proposed project will impact 1.22 acres in an Intensely Developed Area. The proposed project will connect with the Hawkins Point Road reconstruction project that was approved by the Critical Area Commission in June 2003.

This office understands:

1. The construction of the sewer project will disturb a minimal amount of land in the Critical Area because it is within the limit of disturbance for the road reconstruction project;
2. The disturbance in the Buffer near Curtis Creek and Cabin Branch occurs in a heavily industrial location where there is minimal vegetation; and
3. That the sanitary sewer force main will be constructed concurrently with other utility work associated with the roadwork.

Continued, Page Two
Hawkins Point Road Sewer Main Consistency Report
November 18, 2003

Please note, we are missing page 21 of Worksheet A. We need this page to verify that the 10 % calculations are correct. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 770 - 03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 17, 2003

Mr. Kevin Scott
Planner
City of Annapolis Planning and Zoning
Municipal Building
160 Duke of Gloucester Street
Annapolis, Maryland 21410

RE: Ugiansky Variance
404 Ridgely Avenue

Dear Mr. Scott:

Thank you for providing information on the above referenced variance. This office understands that the applicant is requesting a variance to permit a second floor addition and to modify an existing front entry canopy. The variance is to the 100-foot Buffer, yard setback, and the waterway yard setback. The second story will not change the current footprint of the house, the established setbacks or further disturb the lot.

This office understands that there will be no expansion of the impervious surface coverage in the 100-foot Buffer, and no change in stormwater management or water quality in the surrounding areas. The entire site is approximately 0.0844 acres, entirely in the 100-foot Buffer, and in a Limited Developed Area.

Based on the above information, this office has no comments regarding this variance requests since the applicant will not be disturbing the 100-foot Buffer nor increasing the impervious surface. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Regina Esslinger
AN 806-03



Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 17, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Washington Boulevard Reconstruction Consistency Report

Dear Mr. Stuart:

Thank you for providing "Notification of Certification" that the above project is consistent with the City's of Baltimore's Critical Area Program. This office understands that the City is proposing to reconstruct Washington Boulevard from I-95 to Monroe Street. The primary objective of this project is to widen two lanes in each direction as well as to create a center landscaped median or turn lane. A new greenway is being constructed adjacent to the roadway as part of the Gwynns Falls Trail Phase III. The widening will require the acquisition of approximately 9,340 square feet of property to widen the existing 60-foot right-of-way to 66-foot wide. No additional right-of-way is required from Carroll Park and no construction is to occur on Carroll Park property. The first 940-feet of the project is in the Critical Area. Within the Critical Area limits, the site is currently 90% impervious. The proposal will increase the site imperviousness to 92% in the Critical Area.

Critical Are Commission staff understands:

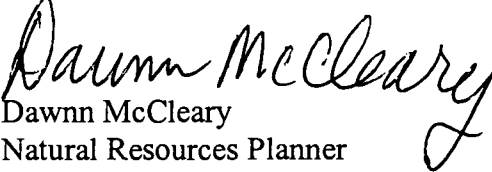
1. That there are no wetlands located within the project limits;
2. That the construction that will occur within the Buffer consists of milling and resurfacing the existing roadway;
3. That there are no records of Federal or State rare, threatened or endangered plants and animals within the project site;
4. That this project will not disturb any existing trees within the Critical Area. As part of the proposed landscaping, seven (7) trees will be planted within the Critical Area;

Continued, Page Two
Washington Boulevard Reconstruction Report
November 17, 2003

5. That all other disturbed areas that are not paved will be seeded and mulched; and,
6. That soil erosion and sediment control measures will be taken to preclude the discharge of sediment into the Critical Area during construction.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located, 2) does not substantially affect the Critical Area program of the local jurisdiction, and 3) is not considered by the Commission as major development. (*See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs*). Therefore, approval of the above project by the Commission is not necessary. If there are any changes in development that may affect the habitat within the area on site, this office would like to be notified immediately at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 771-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 12, 2003

Mr. Mark Kreadle
Assistant Chief of Engineering
Maryland Port Administration (MPA)
Maritime Center II
2310 Broening Highway
Baltimore, Maryland 21224-6621

RE: Shed 6B at Dundalk Marine Terminal

Dear Mr. Kreadle:

On November 5, 2003, the Critical Area Commission unanimously approved the proposal to construct a new cargo shed in Area 600. This project includes the new shed, loading dock with railroad tracks, and utility improvements and pavement resurfacing upon the condition that MPA receive approval from MDE for the stormwater management plans prior to construction. Any substantive changes must come back to the Commission for approval.

I would like to thank Jesse Lindsay for working with the Commission staff. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Jesse Lindsay
Regina Esslinger
State 06 - 03

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

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www.dnr.state.md.us/criticalarea/

November 12, 2003

Mr. Tom Smith
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Back Creek Nature Park

Dear Mr. Smith:

On November 5, 2003, the Critical Area Commission unanimously approved the elevated walkway and viewing platform that will be constructed in the 100-foot Buffer upon the condition that the Department of Natural Resources verify that there are no threatened and endangered species on site. If any are found, the City must follow the measures necessary to protect the species.

I would like to thank Megan Owen, Frank Biba, and Steve Carr for working with the Commission staff. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Frank Biba
Regina Esslinger
AN 737-03

Critical Area Commission

STAFF REPORT

November 5, 2003

APPLICANT: Maryland Port Administration (MPA)

PROPOSAL: Shed 6 B at Dundalk Marine Terminal

JURISDICTION: Baltimore City

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Dawnn McCleary

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05- State Agency Actions Resulting in
Development on State-Owned Lands

DISCUSSION:

The Maryland Port Administration plans to construct a new cargo shed, Shed 6 B in Area 600 at Dundalk Marine Terminal. Shed 6B will provide storage for paper products. This project includes the construction of the new shed, a loading dock with dual, parallel railroad tracks, utility improvements and pavement resurfacing.

Shed 6 B will be constructed on an existing parking lot that is 100% impervious. The developed conditions will also be 100% impervious. Due to the nature of the site, the improvements will not cause a decline in water quality. The site is located within the Critical Area boundary. No portion of this project lies within the 100 foot Buffer. The runoff from the site will be discharged into an existing storm drain system that outfalls to Colgate Creek.

Shed 4B and Shed 5B have both been recently constructed in Areas 400 and 500 to the north of this project site. A surcharge embankment has been placed on the site to pre-consolidate the sub-grade prior to construction. The surcharge will eventually be moved.

There are no threatened or endangered species present on this site. MPA has submitted plans to the Maryland Port Administration and is awaiting approval. We anticipate full approval by November 5, 2003.. MPA is proposing to bank 4.82 lbs of phosphorus to satisfy the pollutant reduction requirements. MPA will be searching for offset locations to address the 10 % Pollutant Reduction requirements for development activity at Dundalk Marine Terminal due to the due to the lack of onsite mitigation options.

Critical Area Commission

STAFF REPORT

November 5, 2003

APPLICANT: City of Annapolis Recreation and Parks

PROPOSAL: Back Creek River Nature Park

JURISDICTION: City of Annapolis

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with Approval

STAFF: Dawnn McCleary

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State or
Local Agency Programs in the Critical Area

DISCUSSION:

Back Creek River Nature Park is located on Edgewood Road, at the eastern edge of the City. The park sits on one parcel that is 8.65 acres. 8.11 acres is Resource Conservation Area (RCA), and 0.54 acres is Intensely Developed Area. In 1990, it was designated as a nature park with a floating dock, nature trails, public restrooms, several water view picnic areas, and a gazebo atop a sandstone bluff overlooking Back Creek.

The City is proposing several improvements to the park. Phase I will address erosion and compacted soils along the gazebo overlook. Improper usage and runoff from the impervious surfaces of the shelter has created considerable erosion along the shoreline. To remedy the erosion, the City plans to stabilize the slope by using a sprayed compost mulch with grasses. This technique has been successful elsewhere in the City.

To address the bare bluff face, the City is proposing to provide an elevated walkway and viewing platform in the 100-foot Buffer which will protect the soils at the top of the cliff from the heavy foot traffic it currently experiences. This disturbance in the Buffer will impact 470 square feet, along with the removal of two trees. The walkway and platform will be constructed to allow for adequate drainage as a pervious surface. The City will provide 3,250 square feet of mitigation for Buffer impacts, comprised of 2 trees, 61 shrubs, and 720 herbaceous plantings. The trees and shrubs will exceed the required mitigation by 1,440 square feet. No information is yet available as to any impacts to threatened and endangered species.

*Continued, Page Two
Back Creek River Nature Park
November 5, 2003*

Conditional Approval Process

In order to qualify for consideration by the Commission for conditional approval, it shall be shown by the proposing or sponsoring agency that the project or program has the following characteristics:

The following are the responses of the applicant:

(1) That there exist special features of a site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented.

Park-users are currently walking to the existing gazebo and then heading from there down the steep slope to get a better look at the water. This form of trail-blazing is creating an upland-erosion problem. The City is hoping to cease this trail-blazing by providing a formal pathway to an observation platform, and thereby containing the problem. A literal enforcement of the City's Critical Area Program would require a variance to place structures in the Buffer. Since the City cannot grant itself a variance, a conditional approval is needed.

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program.

This project will initially require disturbance to the Buffer; however, it is being provided in the hopes that it will lessen the area currently being disturbed and rectify the cause of the erosion problem. Mitigation is also being provided in excess of the required amount. All the mitigation plantings are native to Maryland. These factors should show that this project will provide substantial public benefit to the Critical Area Program.

(3) That the project or program is otherwise in conformance with this subtitle.

Besides the disturbance to the Buffer, this project is in conformance with all other requirements of the City's Critical Area Program. Sufficient mitigation is being provided; the impervious surface coverage have not been exceeded; and no other Habitat Protection Areas are being impacted.

*Continued, Page Three
Back Creek River Nature Park
November 5, 2003*

The Commission must find that the conditional approval request contains the following items:

(1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State or local agency program or project.

To not grant a conditional approval to disturb the Buffer would prevent the City from rectifying an erosion problem in an existing City park. The maintenance of this park is an authorized activity that multiple city departments are supporting. This project is also in the Department of Recreation and Parks Master Plan.

(2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area Program or, if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

Department of Planning & Zoning staff have reviewed this project for compliance with the City's Critical Area Program. Besides the disturbance to the Buffer, this project conforms with all requirements of any project conducted in the RCA. All disturbances will be mitigated in the form of native plantings.

(3) Measures proposed to mitigate any adverse effects of the project or program on an approved local Critical Area Program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05;

The scope of work for the proposed project includes the planting of 2 trees, 61 shrubs, and 720 herbaceous plantings, all Maryland-native species. These plantings exceed the required amount of mitigation.

The Commission is required to base its approval, denial or modification to this project on the following factors:

1. The extent to which the project or program is in compliance with the requirements of the relevant chapters of this subtitle;
2. The adequacy of any mitigation measures proposed to address the requirements of this subtitle that cannot be met by the project or program; and,
3. The extent to which the project or program, including any mitigation measures, provides substantial public benefits to the overall Chesapeake Bay Critical Area Program.

*Continued, Page Four
Back Creek River Nature Park
November 5, 2003*

Recommended Condition:

The City obtained verification from the Department of Natural Resources that there are no threatened or endangered species on site. If any are found, the City must follow the measures necessary to protect the species.

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

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/

November 4, 2003, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Flag House Redevelopment
Local Case No. - 000181-01

Dear Mr. Stuart:

Thank you for submitting a revised site plan showing that the previous proposed sandfilter system for the above project will not be feasible due to the high water table. Critical Area staff understands that the developer will pay into the City's Stormwater offset fee-in-lieu of treating the stormwater on-site.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 281-02

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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November 3, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Waterview Wine House
3030 Waterview Avenue

Dear Mr. Stuart:

This office has reviewed the applicant's proposal to construct a new 34,000 square foot office building and a 93 space parking lot. The proposed development includes areas of the existing parking lot that will be redeveloped to provide access for tractor trailers and accommodate parking for the new building. The entire site is located on 3.87 acres and is in an Intensely Developed Area. The current site is an open grassed area beside an existing office building and warehouse.

This office does not oppose the redevelopment of this site. This office understands that the existing stormwater management facility (SWM) currently on site is outdated. Therefore, the SWM will be updated and converted to a multiple pond system to comply with the Maryland Department of the Environment's 2000 Stormwater Manual. This pond will provide adequate water quality to meet the Critical Area requirements for pollution reduction onsite.

The proposed redevelopment activity, landscaping plans and 10% calculations are correct and consistent with the local Critical Area Program. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 765-03

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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www.dnr.state.md.us/criticalarea/

November 3, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Lancaster\South Caroline Condominiums
720-722 South Caroline Street

Dear Mr. Stuart:

This office has reviewed the applicant's proposal to construct a condominium and parking garage. The entire site is approximately 0.586 acres and is in an Intensely Developed Area.

This office does not oppose the redevelopment of this site. This office understands that that the proposal includes an above ground sandfilter to meet the 10% rule. If the Department of Public Works determines the sandfilter will not work on this site, the applicant consider using above ground planters to provide treatment or porous pavers to reduce the impervious surface on site. This office also understands that this project will impact the City's 100-foot Buffer. Since the current Buffer is impervious, the applicant proposes to pay a Buffer offset fee.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 740-03

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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November 3, 2003

Mr. Jesse Lindsay
Project Manager
Marine/Industrial Division
Whitney, Bailey, Cox and Magnani
849 Fairmount Avenue, Suite 100
Baltimore, Maryland 21286

RE: Dundalk Marine Terminal
Storm Drain Pipe Relief/Repair
WBC No. 20010602.20.0

Dear Mr. Lindsay:

Thank you for informing us about the proposed storm drain pipe load relief and repair. The proposal involves the construction of a load relief trench adjacent to an existing 96-inch diameter RCCP storm drain that is being crushed by chrome ore fill. The paved area will be replaced in-kind after work is done and the surface hydrology and will not be altered by this project. Therefore this project falls under the Memorandum of Understanding (MOU) between the Chesapeake Bay Critical Area Commission and the Maryland Department of Transportation, Appendix A(6). If there are any changes in development activity within the area on site, this office would like to be notified immediately.

We understand that the Maryland Department of the Environment's stormwater approval letter will be sent to us once it has been approved. Thank you for the opportunity to comment. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Mark Kreifler
Regina Esslinger
State 48-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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www.dnr.state.md.us/criticalarea/

October 28, 2003

Ms. Megan Owen
Department of Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: 1 Ridout Street Variance

Dear Ms. Owen:

I have received the above referenced variance application for an after-the-fact retaining wall in the 100-foot Buffer. The applicant states that the retaining wall was constructed to protect the site from runoff coming off of Ridout Street.

This office opposes the granting of this variance. Regardless of the source of the erosion, we cannot support a structure in the Buffer when there appear to be other less intrusive solutions to the problem. Generally, vegetative measures are the preferred means of dissipating flow and stopping erosion. Vegetation takes up runoff, helps hold the soil in place, filters pollutants, and provides habitat. A retaining wall redirects the runoff around the wall without reducing the flow or pollutants and eliminates habitat.

We recommend that the retaining wall be removed and the area densely planted with a mix of native ground cover, shrubs, and trees.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary

cc: AN589-03



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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www.dnr.state.md.us/criticalarea/

October 8, 2003

Mr. Tom Smith
City of Annapolis Planning and Zoning
Municipal Building
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Newman Playground Improvement Consistency

Dear Mr. Smith:

Thank you for providing "Notification of Certification" that the above project is consistent with the City of Annapolis Critical Area Program. This office understands that the City is installing new playground equipment, picnic tables and benches, a bioretention area and landscaping. The playground sits on 0.65 acres and in an Intensely Developed Area. There are no impacts to the 100-foot Buffer or Habitat Protection Areas.

This office understands:

1. That there will be a reduction of imperviousness on site;
2. That one stormwater management facility in the form of a bioretention rain-garden area will address the 10 % pollutant reduction requirements;
3. That the pollution reduction will exceed the stormwater management requirements; and,
4. That four trees will be removed and replaced with 11 trees.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located, 2) does not substantially affect the Critical Area program of the local jurisdiction, and 3) is not considered by the Commission as major development.

Continued, Page Two
Newman Street Playground Improvements
October 8, 2003

(See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs). Therefore, approval of the above project by the Commission is not necessary.

Sincerely,



Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Regina Esslinger
AN 693-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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www.dnr.state.md.us/criticalarea/

October 2, 2003

Ms. Cynthia D. Simpson
Deputy Director
Office of Planning and Preliminary
Engineering
707 North Calvert Street
Baltimore, Maryland 21202

RE: MD 70 (Rowe Boulevard)
Weems Creek and College Creek
Bridge Replacement and Rehabilitation

Dear Ms. Simpson:

On October 1, 2003, the Critical Area Commission unanimously approved the I-70 replacement of Weems Creek bridge and rehabilitation of the College Creek bridge in Anne Arundel County and City of Annapolis. If any changes take place within the Critical Area, it must come back to the Critical Area Commission for approval.

I would like to thank Donna Buscemi, Gary Green, John Schultz, and Jeff Robert from SHA and Susan Bittner from KCI, Inc. for working with the Commission staff. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Donna Buscemi
Gary Green
Kevin Scott
Elinor Grawel
Regina Esslinger
State 46- 02

Critical Area Commission

STAFF REPORT

October 1, 2003

APPLICANT: State Highway Administration

PROPOSAL: Weems Creek and College Creek
Bridge Replacement and Rehabilitation

JURISDICTION: Anne Arundel County and City of Annapolis

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Dawnn McCleary

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State or
Local Agency Programs in the Critical Area

DISCUSSION:

State Highway Administration is proposing improvements to the Weems Creek and College Creek bridges at MD 70/Rowe Boulevard. The Weems Creek bridge straddles Anne Arundel County and Annapolis; all of the College Creek bridge is located in Annapolis. The proposed project will consist of the replacement of the Weems Creek bridge and the rehabilitation of the College Creek bridge. The replacement and rehabilitation of both bridges will improve the operation, safety and attractiveness of MD 70 where it enters Annapolis. With the exception of drainage improvements and a sidewalk that extends west along MD 70 past the US 50\301 interchange, the project is within the Critical Area. Both bridge projects are designated as Areas of Intense Development. Total disturbance within the Critical Area is 6.68 acres.

The Weems Creek Bridge will include new pier construction and new sidewalks. Disturbance will be 5.6 acres. Disturbance to the Buffer will be 2.9 acres. The College Creek Bridge will be 4.7 feet wider than the existing bridge. It will also include the construction of new curb and gutters and the construction of city gateway entrance structures and vista areas at the bridge limits. Disturbance will be 1.07 acres. Disturbances to the Buffer will be 0.74 acres.

There will be a slight increase in impervious area over the existing conditions when both bridges are combined.

*Continued, Page Two
Weems Creek and College Creek Bridge
October 1, 2003*

There will be less impervious surface on the Weems Creek bridge due to a shift in roadway design, the removal of several medians and wide paved shoulder areas, and replacement of areas with wider permeable planted medians and narrow shoulders. For the College Creek bridge, there is a slight increase in imperviousness by 0.12 acres due to a slightly wider superstructure.

SHA is proposing to clear a total of 1.8 acres of forest and streetscape plantings as well as to clear for the construction of several water quality treatment facilities. SHA is proposing to clear 1.32 acres in the Buffer. Mitigation will take the form of reforestation and streetscape plantings along the roadside in new wider medians, within the 50\301 interchange and the bridge approaches. The proposed bioretention area will also include trees and shrubs. SHA will use native species for the mitigation. This location will provide approximately 5 acres for replanting. SHA is proposing to plant 3.84 acres in the 100-foot Buffer for Weems Creek and College Creek. Outside the Buffer but within the Critical Area, 0.48 acres will be cleared. This will be replaced at a 1:1 ratio. The total mitigation for impacts in the Buffer and Critical Area are ~ 4.44 acres.

Stormwater will be handled by five (5) bioretention facilities and one pond upgrade, which will treat 12.9 acres of new and previously untreated impervious surface. The 10% Rule requires that 4.25 pounds of phosphorus be removed; 34.69 pounds will be removed.

For the Weems Creek bridge, there will be three bioretention facilities within the 100-foot Buffer. Bioretention facility 1 is located between MD 70 and Kirkey Road west of the southbound land and will remove 1.5 lbs of phosphorus annually. Bioretention facilities 2 and 3 are located on the Annapolis side of Weems Creek Bridge and will be treating the northbound and southbound lanes. Each facility will remove 0.9 lbs. of phosphorus.

An existing stormwater management pond in the Critical Area that treats drainage outside the Critical Area will be updated to an extended detention wetland facility. Finally, the required removal rate for Weems Creek portion of the project is 1.9 lbs. of phosphorus. The three proposed bioretention facilities and the pond upgrade will provide a total removal rate of 30.8 lbs. of phosphorus.

There will be two bioretention facilities on the College Creek portion of the site within the 100-foot Buffer. Bioretention facility 4 will treat a portion of the bridge deck runoff and some of the approach. Bioretention facility 4 will remove 0.76 lbs. of phosphorus from impervious surface area on site. This facility will also treat 2.69 lbs of phosphorus from the approach roadway. The Bioretention facility 5 will remove 0.44 lbs of phosphorus. The required removal rate for College Creek portion of the project is 2.35 lbs. of phosphorus. The two proposed facilities will remove 3.89 lbs of phosphorus annually over the required removal.

Continued, Page Three
Weems Creek and College Creek Bridge
October 1, 2003

Weems Creek and College Creek are documented anadromous fish spawning areas, therefore no work will take place from February 15th - June 15th. There are also no federal proposed or listed endangered or threatened species that exist within the project impact area.

Conditional Approval Process

In order to qualify for consideration by the Commission for conditional approval, it shall be shown by the proposing or sponsoring agency that the project or program has the following characteristics:

The following are the responses of the applicant:

(1) That there exist special features of the site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;

The MD 70 roadway and bridges over Weems and College Creeks were constructed prior to the enactment of the Critical Area regulations. SHA is required to maintain its roadways and bridges in a safe operating condition. Both bridges are in need of repair/replacement and literal enforcement of these regulations would prevent SHA from implementing improvements that would ensure continued and safe use of the bridges leading to and from Annapolis.

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

The project would provide substantial public benefits to the Program including recreational and educational opportunities and improved water quality in both Weems and College Creeks. The proposed bridges will be wider to provide better access for pedestrians and bicyclists. By providing a safe and attractive facility, people will be more likely to walk and bike to get to their destination, which in turn would promote greater awareness of the resources of the Chesapeake Bay and reduce pollution caused by the use of automobiles. Also, local organizations may be more willing to conduct educational tours across the bridges. Furthermore, the project includes the construction of five bioretention facilities and the upgrading of an existing stormwater management pond. These facilities will treat roadway runoff in excess of what is required by MDE. The roadway runoff, including runoff from the bridge decks, will be filtered by these facilities before being released into the creeks. Currently, runoff from the bridge decks goes directly into the creeks.

(3) That the project or program is otherwise in conformance with this subtitle;

The project has minimized encroachment into the Buffer by providing nearly in-kind replacement of the Weems Creek bridge. A slightly new alignment of the bridge is necessary to allow for uninterrupted maintenance of four lanes of traffic to and from Annapolis. In addition, there will be a net reduction in impervious area as a result of the replacement of the Weems Creek bridge, which may help improve water quality. At the College Creek bridge, there will be an increase in impervious surface area to provide better bicycle/pedestrian access, however it will be less than 10 %. Overall, the proposed five (5) bioretention facilities and upgraded stormwater management pond will treat roadway runoff in excess of what is required.

The Commission must find that the conditional approval request contains the following items:

(1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State of local agency program or project;

SHA is required to maintain its roadways and bridges in a safe operating condition. Both bridges are in need of repair/replacement and literal enforcement of these regulations would prevent SHA from implementing improvements that would ensure continued and safe use of the bridges leading to and from Annapolis.

(2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

This project has minimized impacts to the Buffer and sensitive areas, such as the adjacent tidal wetlands. The proposed footprint overlaps the existing footprint to the greatest extent possible while still allowing for uninterrupted maintenance of four lanes of traffic. The impacts to tidal wetlands are from shading effects of the new Weems Creek bridge, which will be approximately 9 feet wider than the existing bridge to allow for better bicycle/pedestrian access. On the other hand, the new bridge will have fewer piers penetrating to the streambed. A net reduction of 60 cubic yards of fill/structure in the floodplain will result from this project, which may have a positive impact on water quality.

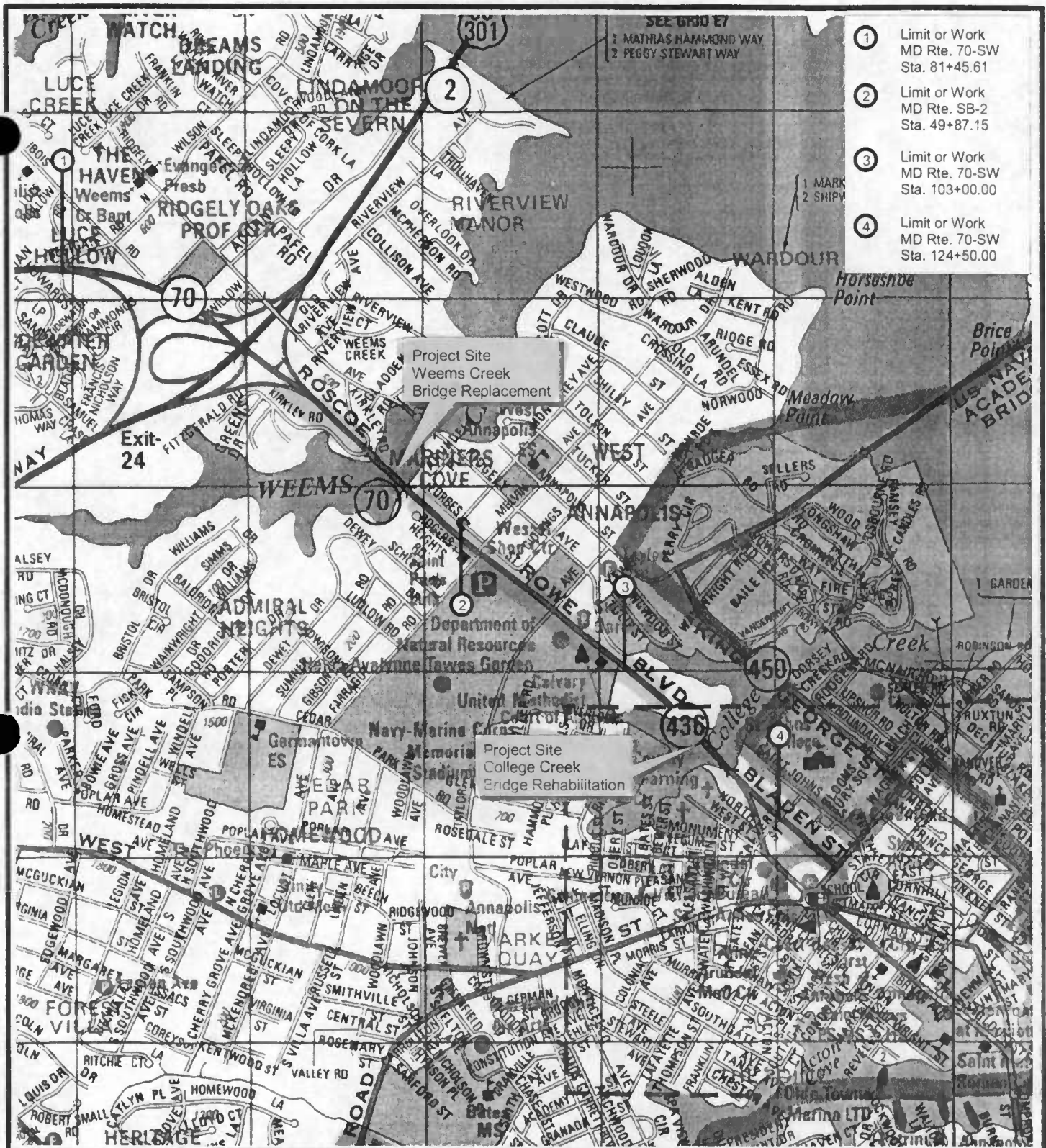
*Continued, Page Five
Weems Creek and College Creek Bridge
October 1, 2003*

(3) Measures proposed to mitigate adverse effects of the project or program or an approved local Critical Area program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05.

Compliance with the 10 % Rule for removal of phosphorus pollutant loadings will be exceeded by the construction of five (5) bioretention facilities and upgrade of an existing stormwater management pond. Reforestation as mitigation for tree clearing will be accomplished almost entirely onsite within the Critical Area. Only 0.5 acre (out of the total 4.5 acre needed for mitigation) of plantings will occur outside the Critical Area, but on the project site. Tidal wetland impacts of 0.04 acre will be mitigated by planting wetland plants along Weems Creek near Kirkley Road. In addition to the above stated mitigation, SHA is attempting to incorporate enhancement projects that the community task force suggested including removal of invasive species and planting native ones in their place, repair of a collapsed end wall, and trash removal along the creeks and roadways.

The Commission is required to base its approval, denial or modification to this project on the following factors:

1. The extent to which the project or program is in compliance with the requirements of the relevant chapters of this subtitle;
2. The adequacy of any mitigation measure proposed to address the requirements of this subtitle that cannot be met by the project or program; and
3. The extent to which the project or program, including any mitigation measures, provides substantial public benefits to the overall Chesapeake Bay Critical Area Program.



- ① Limit or Work
MD Rte. 70-SW
Sta. 81+45.61
- ② Limit or Work
MD Rte. SB-2
Sta. 49+87.15
- ③ Limit or Work
MD Rte. 70-SW
Sta. 103+00.00
- ④ Limit or Work
MD Rte. 70-SW
Sta. 124+50.00

MD 70 (Rowe Boulevard):
 Bridge Replacement and Rehabilitation
 Figure 1- Project Location Map



Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

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 29, 2003

Ms. Dianne Klair
City of Havre de Grace
Department of Economic Development and Planning
711 Pennington Avenue
Havre de Grace, Maryland 21078 ,

RE: Havre de Grace Maritime Museum
Shoreline Restoration Project

Dear Ms. Klair:

This office understands that the Maritime Museum is proposing to remove invasive species within the 100-foot Buffer. The Museum will remove 2,350 square feet of Japanese Knotweed under their building and replace it on a 1:1 ratio with 90 native shrubs and two native trees. The entire area sprayed to control the invasive species removal will be restored and stabilized by the Department of Natural Resources. The slashed areas on the site plan are the areas that will be sprayed. The boundary lines on the site plan also show the existing tree line which will be retained.

This office does not oppose the removal of Japanese Knotweed. This office has determined that the activity is consistent with the City's Critical Area Program. If there are any questions, please feel free to call at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
HG 675-03

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 29, 2003

Mr. Greg Huntley
Moffatt and Nichol Engineers
2700 Lighthouse Point East, Suite 501
Baltimore, Maryland 21224

RE: Masonville Marine Terminal
Emergency 42-inch Storm Drain Replacement

Dear Mr. Huntley:

Critical Area staff understands that MPA is planning on replacing a 42 inch storm drain pipe that is draining a stormwater management pond at Masonville Marine Terminal. We understand that the pipe collapsed and the pond is currently being pumped to avoid flooding of a nearby parking lot and road. The pipe is approximately 40 years old and runs directly beneath Masonville Cell # 5. This site is entirely within the Critical Area and will impact only 530 feet for replacement.

The Maryland Port Administration is proposing to excavate the existing 530-foot pipe, remove and replace it with a new 42-inch storm drain pipe. This office does not oppose the emergency work. We understand that the site will be stabilized and returned to the existing condition after the repairs.

Thank you for providing this information concerning the emergency repair of the pipe. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Duncan Stuart
Mark Kreifler
Regina Esslinger





Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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www.dnr.state.md.us/criticalarea/

September 25, 2003

Mr. Tom Smith
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Boland Property Variance

Dear Mr. Smith:

Thank you for providing information on the above variance. The applicant is proposing to replace stairs and add boulders for erosion control within 25- feet of the water. A retaining wall will be removed. The current wall and steps are rotting, causing erosion on steep slopes. The property is 6,190 square feet, is designated an Intensely Developed Area and is Buffer Exempt.

This office does not oppose the variance. The buffer management plan shows that the applicant will be mitigating for impacts at a 2:1 ratio using native plantings, on site. The applicant is proposing to plant 37 native shrubs as mitigation in the Buffer.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance application. Please notify the Commission in writing of the Board's decision in this application.

Sincerely,

Dawnn McCleary
Natural Resources Planner

cc: Megan Owens
Regina Esslinger
AN 681-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

September 22, 2003

Mr. Donald Sparklin
Assistant Division Chief
Project Planning Division
State Highway Administration (SHA)
Maryland Department of Transportation
707 North Calvert Street
Baltimore, Maryland 21202

RE: MD 436 at Weems Creek
Emergency Pipe Replacement
Anne Arundel County
Project No. AA 319A21

Dear Mr. Sparklin:

Critical Area staff understands that SHA conducted an emergency storm drain repair work back in September 2002 after previous attempts to stabilize a sinkhole that formed at a 24-inch pipe between two private residential properties. The emergency repair was on MD 436 south of Weems Creek. The work took place within the 100-foot Buffer on private property and City right-of-way in an area designated a Limited Development Area (LDA). The emergency repairs required approximately 4,525 square feet of clearing in the 100-foot Buffer. Mitigation at a 3:1 ratio will be provided.

Critical Area Commission staff understands:

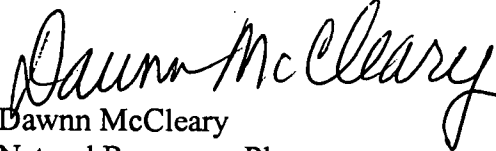
1. That a combined total of 15 trees and shrubs were removed. The area that was cleared was replanted with forty-five combined trees and shrub;
2. That a grassed seed mix were used to stabilize areas that had been cleared;
3. That sediment and erosion control plans were not filed with MDE due to the project's emergency status;
4. That no state or federal listed rare, threatened and endangered species exist in area; and,

Continued, Page Two
MD 436 at Weems Creek
Emergency Pipe Repair
September 22, 2003

5. That Weems Creek is classified as Use 1, therefore no work was done during the month of March 1 and June 15.

Thank you for providing this information; this project appears to address all Critical Area requirements. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Donna Buscemi
Megan Owen
Regina Esslinger
State 30-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 16, 2003

Mr. Alan Will, P.E.
Project Manager
Washington Suburban Sanitary Commission
1450 Sweitzer Lane
Laurel, Maryland 20707

RE: Piscataway Wasterwater Treatment Plant
Sludge Dewatering Upgrade
Contract No. CD9855A93

Dear Mr. Will:

This office has reviewed the applicant's proposal to demolish and replace some equipment inside several of the existing buildings. This office does not oppose the proposed upgrading of equipment inside several buildings. Because there is no land disturbance, this proposal does not need formal Critical Area Commission approval.

It has come to my attention that we have not received information on the site selected for forest mitigation resulting from the emergency roadwork in the spring of 2003. Please provide this information so we can close out this project.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Terrance Valentine
Lisa Hoerger
Regina Esslinger
WSSC 43-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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www.dnr.state.md.us/criticalarea/

September 12, 2003

Mr. Nick Walls
Environmental Planner
Harford County Department of Planning
and Zoning
220 South Main Street
Bel Air, Maryland 21014

RE: 4624 Mercedes Drive Project
Riverside Business Park

Dear Mr. Walls:


Thank you for sending us the Riverside Business Park proposal to expand the existing warehouse. The applicant is proposing an addition, a stormwater management facility and a future dock. It is difficult to determine how much of the road and parking currently exists. The proposed development activity is in an Intensely Developed Area (IDA). It appears that the Resources Conservation Area (RCA) line is wrong and that some of the proposed development will occur in the RCA. Growth allocation will be needed for any development in the RCA. In order to complete my review, the following information is needed:

1. An existing conditions site plan;
2. The corresponding acreage for the RCA and area outside the Critical Area;
3. The existing impervious surfaces in the IDA;
4. The 10 % pollutant reduction calculations for development in the IDA;
5. The total amount of forest on site and, the amount to be removed; and,
6. Information on any Forest Interior Dwelling Bird habitat.

Continued, Page Two
4624 Mercedes Drive Project
Riverside Business Park
September 12, 2003

I will provide additional comments once we receive this information. Thank you for the opportunity to comment. If you have any questions, please free feel to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Pat Pudelkewicz
Regina Esslinger
HC 652-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

September 8, 2003

Ms. Cynthia D. Simpson
Deputy Director
Office of Planning and
Preliminary Engineering
Maryland Department of Transportation
State Highway Administration
P.O. Box 717
Baltimore, Maryland 21203-0717

RE: Project No. HA223A21
MD 7A: US 40 to Union Avenue
Harford County

Dear Ms. Simpson:

Thank you for the opportunity to review the proposed project. The State Highway Administration is planning a remedial pavement repair project on MD 7A from US 40 to Union Avenue in Havre de Grace. Approximately two blocks of work will take place in the Critical Area. This project includes grinding and resurfacing the roadway, relocation of signs and inlets, and repair or replacement of curb, gutter, sidewalk and driveway aprons.

This office understands:

1. That this project is entirely in an Intensely Developed Area;
2. That there appears to be no State or Federally listed threatened or endangered species in the project area; and,
3. That there will be no net increase to the existing impervious surface within the Critical Area.

The Critical Area Commission staff has determined that this project is consistent with Appendix B, Numbers 2 and 4 of the Maryland Department of Transportation and the Chesapeake Bay Critical Area Commission's Memorandum of Understanding. Therefore, formal approval of the project by the Commission is not necessary.

Continued, Page Two
MD 7A, US 40 to Union Avenue
Harford County
September 8, 2003

If there are any changes in development activity that may affect the habitat within the area on site, this office would like to be notified immediately. Thank you for the opportunity to comment. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Karen Arnold
Regina Esslinger
General File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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www.dnr.state.md.us/criticalarea/

September 8, 2003

Ms. Lori Schmick
Environmental Planner
Caroline County Dept. of Planning and Zoning
403 South 7th Street, Suite 210
Denton, Maryland 21629

RE: Michael and Edith Councilman
Variance 03-25 V

Dear Ms. Schmick:

Thank you for providing information on the above variance application. The applicant is proposing to remove part of the existing dwelling, carport, breezeway, and garage, and replace it with a new addition. The existing dwelling and proposed addition are entirely within the 100-foot Buffer. They also propose to replace a garage outside the Buffer. The property is 0.444 acres (19,352 square feet) in size and is designated a Limited Development Area.

After reviewing the site plan, this office does not oppose the variance for the addition. We recommend mitigation for all Buffer disturbance at a 3:1 ratio, using native plantings, on site if possible.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance application. Please notify the Commission in writing of the Board's decision in this application.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
CR 634-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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www.dnr.state.md.us/criticalarea/

September 8, 2003

Mr. Bill Gluck
Chief of Project Management and Design
Department of General Services
State Office Building, Suite 1405
301 West Preston Street
Baltimore, Maryland 21201

RE: Bloomsbury Square Demolition\New Parking Lot

Dear Mr. Gluck:

On September 3, 2003, the Critical Area Commission unanimously approved the proposal to demolish the current Bloomsbury Square Apartments and create a new parking lot upon the condition that if any changes to the stormwater concept plan are required by the Maryland Department of the Environment, it must come back to the Critical Area Commission for approval.

I would like to thank Phil Carroll and Dominic Jenkins from Whitney, Bailey, Cox, and Magnani for working with the Commission staff. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Phil Carroll
Regina Esslinger
State 42-03

TTY For the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



Critical Area Commission

STAFF REPORT September 3, 2003

APPLICANT: Department of General Services

PROPOSAL: Bloomsbury Square Demolition and New Parking Lot

JURISDICTION: City of Annapolis

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

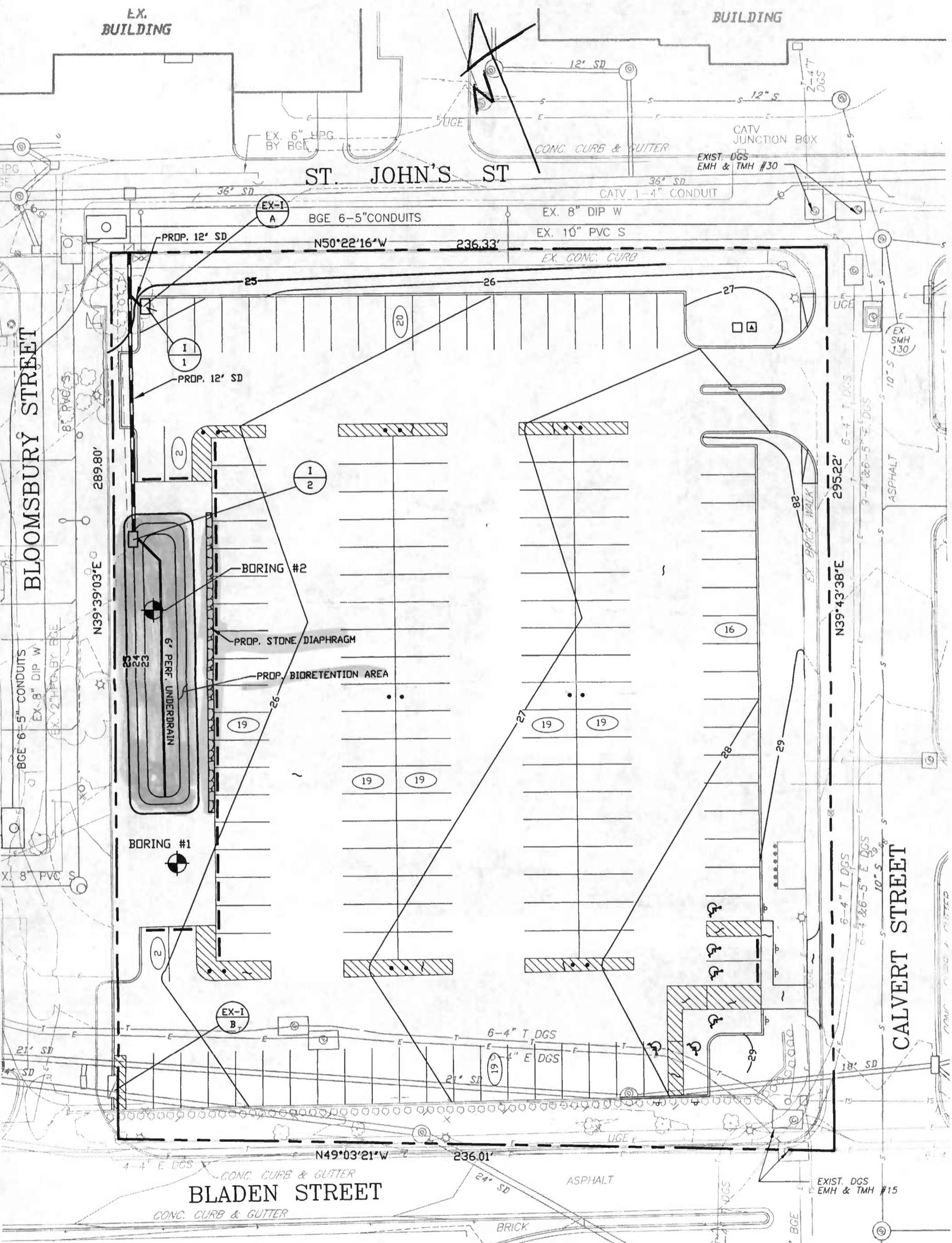
STAFF: Dawnn McCleary

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05 - State Agency Actions Resulting in
Development on State-Owned Lands

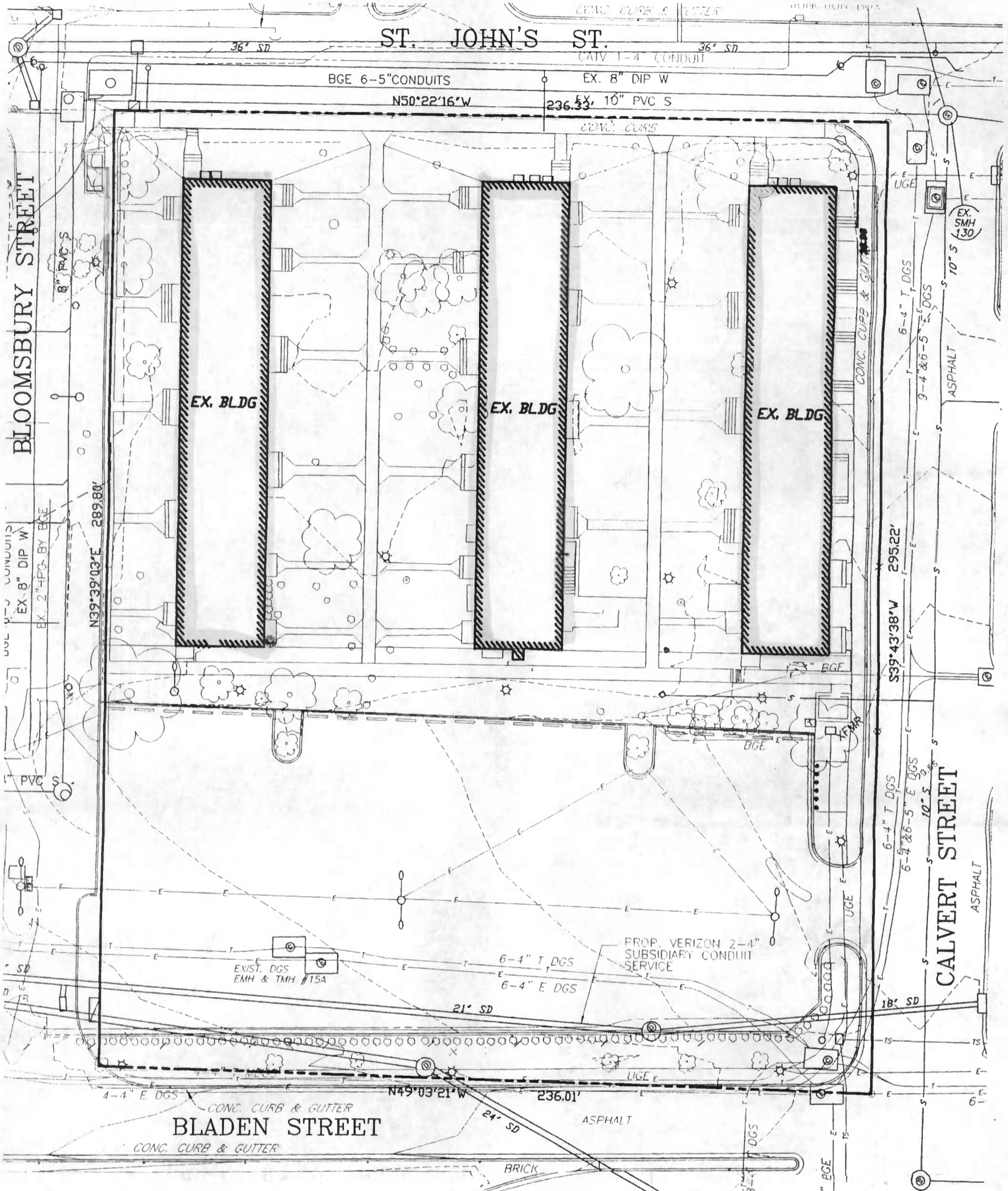
DISCUSSION:

The Department of General Services (DGS) is proposing to demolish, grade, and pave the current site of the Bloomsbury Square apartments. The property is located off of Calvert Street in Annapolis. The site is in an Intensely Developed Area and totals 1.59 acres. It is entirely in the Critical Area but outside the 100-foot Buffer. The existing site has a pervious area of 0.62 acres of grass with 0.97 acres impervious area. The proposed site will consist of 0.35 acres pervious area with 1.24 acres of impervious area.

DGS is proposing to install a bioretention facility along Bloomsbury Street to reduce pollutant loadings. Stormwater runoff will sheet flow directly into the facility from the proposed parking lot. The 10 % pollutant reduction requirement will be met on site. DGS is anticipating full approval by the Maryland Department of the Environment by September 3, 2003.



SWM LAYOUT
OF New Parking Lot
 Scale = 1" = 30'



Bloomsburg Square

PHASE 2
 SCALE: 1"=30'

Existing Conditions
 For New Parking Lot

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/

August 28, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Aliceanna Street Townhouses
1605 Aliceanna Street

Dear Mr. Stuart:

This office has reviewed the applicant's proposal to construct six new townhouse units with driveway and decks. The site is currently a vacant one story industrial building that will be demolished. This project is 0.2232 acres in size and is in an Intensely Developed Area. After reviewing the site plan, this office does not oppose the proposed development activity.

It appears that in order to satisfy the 10 % calculations, the applicant proposes six individual planters which will serve as modified bioretention facilities. After talking with the consultant today, I understand that the proposed planters have been modified to comply with the design standards in the Maryland Department of the Environment's Stormwater Manual, and is currently being reviewed by the City's Department of Public Works. If they find the planters acceptable, this office has no objections.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".
Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 506-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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www.dnr.state.md.us/criticalarea/

August 28, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 22102

RE: Union Wharf Promenade Consistency
901-933 South Wolf Street

Dear Mr. Stuart:

Thank you for providing "Notification of Certification" that the above project is consistent with Baltimore City's Critical Area Program. Critical Area staff understands that the Dept. of Transportation is proposing to construct an extension of the pedestrian waterfront promenade in Fells Point. The construction and the limit of disturbance surrounds the proposed Union Wharf mixed-use development. The proposed project will impact 0.56 acres and is within an Intensely Developed Area. The proposed construction will result in a net increase in impervious area and 0.034 pounds of phosphorus removal. This office understands that the developer has agreed to treat the phosphorus in an on-site BMP or through the reduction of impervious surface.

This office understands:

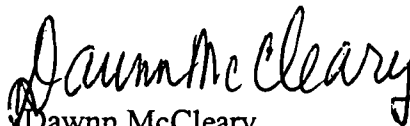
1. That landscaping will be installed along most of the promenade. The landscaping will include planting areas and benches;
2. That a pedestrian bridge will be installed across the end of Thames Street. The bridge will have a porous timber surface, and will be constructed by the City; and,
3. That along the waterfront, a new bulkhead structure will be installed to support the proposed promenade.

Continued, Page Two
Union Wharf Promenade Consistency Report
August 28, 2003

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located; 2) does not substantially affect the Critical Area program of the jurisdiction, and 3) is not considered by the Commission as major development. (See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs) Therefore, formal approval of the above project by the Commission is not necessary.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 515-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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www.dnr.state.md.us/criticalarea/

August 27, 2003

Mr. Dirk Geratz
Senior Planner
City of Annapolis Planning and Zoning
Municipal Building
160 Duke of Gloucester Street
Annapolis, Maryland 21410

RE: Title Support Services
427 Fourth Street

Dear Mr. Geratz:

This office has reviewed the applicant's proposal to demolish an existing building and build a new building. This project is 0.189 acres in size and is in an Intensely Developed Area. After reviewing the site plan, this office does not oppose the proposed new building; however, the 10 % pollutant reduction calculations must be submitted for this project.

If there are any questions, please free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
AN 578-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460 Fax: (410) 974-5338

www.dnr.state.md.us/criticalarea/

August 27, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Mikulski Center Project
802 South Caroline Street

Dear Mr. Stuart:

This office has reviewed the applicant's proposal to construct a small school and a gravel parking area at the Living Classrooms Foundation site. This property is 2.45 acres and is in an Intensely Developed Area. The Critical Area Report is confusing regarding the Buffer fees. There is reference to dredging and fees paid in the past. Were these Buffer fees? Why were these fees paid for dredging? Please clarify what has occurred in the past, what fees have been paid, and exactly what is being requested. We will provide additional comments once we receive this information.

Sincerely,

A handwritten signature in cursive script that reads "Dawn McCleary".
Dawn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 549-03





Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

August 20, 2003

Mr. Roby Hurley
Circuit Rider
Maryland Office of Planning
27490 West Point Road
Easton, Maryland 21601

RE: Wothers Acres Subdivision

Dear Mr. Hurley:

Thank you for opportunity to review the above revised subdivision. The subdivision is 5.66 acres in size, is designated an Intensely Developed Area (IDA) and is partially in the 100-foot Buffer. There are no other Habitat Protection Areas on site. The current site already has buildings and gravel areas which are to remain. Future proposed development will include the construction of roads, sidewalks, and additional homes. The original 12 lots and configuration will remain the same.

The 10 % calculations for pollutant reduction has been met by the use of a dry swale combined with an infiltration area. Three of the lots are partially in the 100-foot Buffer with 0.05 acres of forest cover which will be removed for a stormwater outfall conveyance. The removal of forest cover will require 3:1 mitigation with native species. This office understands that the only changes will be the addition of stormwater management and road dimension. Therefore, this office does not oppose changes in the subdivision.

If there are any questions, please feel free to call me (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Bruce Calloway

Regina Esslinger
GR 576-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 12, 2003

Mr. Mark Kreadle
Engineering Division
Maryland Port Administration
2310 Broening Highway
Baltimore, Maryland 21224

RE: Gunpowder Falls State Park-Hammerman Area

Dear Mr. Kreadle:

On August 6, 2003, the Chesapeake Bay Critical Area Commission unanimously approved the five sites for the Best Management Practices at the Hammerman Area. The proposed BMPs will be at the Dogwood Lot, Gum Lot, Beach Lot A, Beach Lot B and Chestnut Lot.

I would like to thank you and Jesse Lindsey from Whitney, Bailey, Cox and Magnani for working with the Commission staff. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Mike Hild
Jesse Lindsey
Regina Esslinger
State 52-02

Critical Area Commission

STAFF REPORT

August 6, 2003

APPLICANT: Department of General Services

PROPOSAL: Bloomsbury Square Path Easement

JURISDICTION: City of Annapolis

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Pending Subcommittee Review

STAFF: Ren Serey

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05: Approval of State or Local Agency Programs in the Critical Area

DISCUSSION:

In May 2002 the Critical Area Commission approved as a State project the Bloomsbury Square Townhouses located on Rowe Boulevard and College Creek in the City of Annapolis. The project, which is being constructed over an existing parking lot, is nearing completion. It includes 51 townhouses and associated roads and parking areas. The Department of General Services (DGS) intends to transfer the property to the Annapolis Housing Authority, an entity created by the General Assembly.

DGS seeks Commission approval of a permanent easement that will be dedicated to the City of Annapolis when the property transfers to the Housing Authority. The easement is 20 feet wide and approximately 400 feet in length. At some time in the future the City intends to construct a pedestrian path within the easement. The path will be part of and will tie into the City's planned walkway along College Creek. The easement will connect on the South to Rowe Boulevard and on the North with an existing easement that forms the extension of St. John's Street. The Bloomsbury Square project is located in an area of intense development; the Commission previously designated the site as Buffer Exempt.

At its meeting in June 2002 the Project Subcommittee discussed an easement and pathway for this site with representatives from DGS and the City. The discussion focused on possible locations of the easement, various surface types and the necessity for the Housing Authority and the City to obtain Commission approval for construction of the path. The Subcommittee did not

resolve the location of the easement at that time. The easement is proposed near the top of a steep bank along College Creek in the Buffer Exempt Area; the townhouses are located outside of the Buffer.

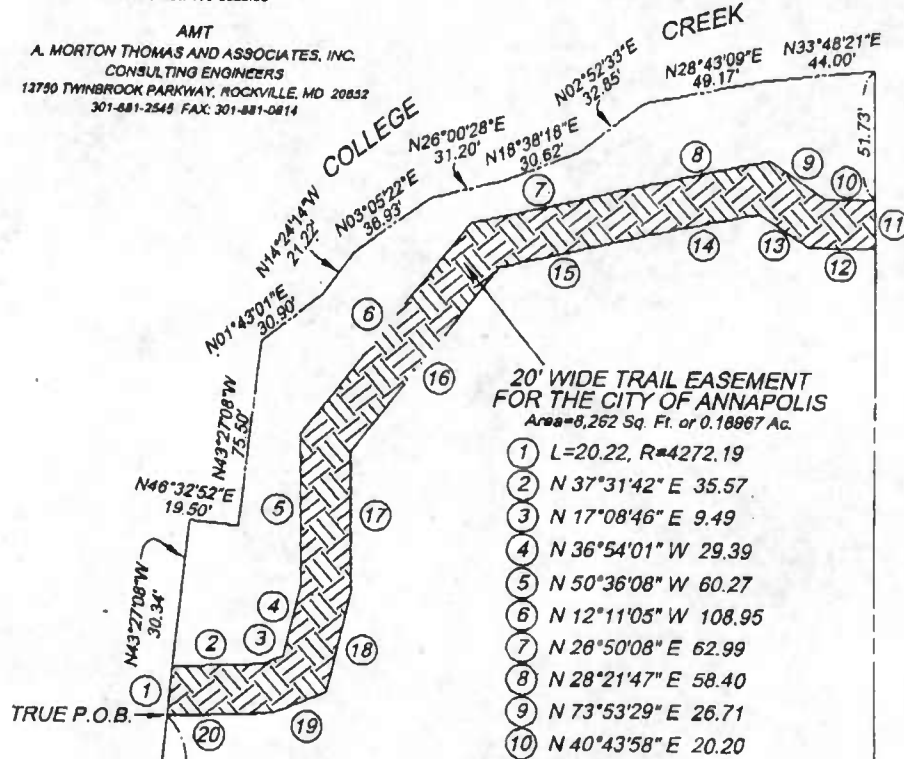
DGS contacted the Commission last week and requested an expedited review of the easement. The Department intends to transfer the property to the Housing Authority in the near future.

SKETCH OF
20' WIDE TRAIL EASEMENT FOR
THE CITY OF ANNAPOLIS
THROUGH
THE LANDS OF THE STATE OF MARYLAND

LIBER 3205 FOLIO 863
SIXTH (8TH) ELECTION DISTRICT
CITY OF ANNAPOLIS, MARYLAND
JULY, 2003 SCALE: 1"=60'
AMT. NO.: 100-0323.00



AMT
A. MORTON THOMAS AND ASSOCIATES, INC.
CONSULTING ENGINEERS
13750 TWINBROOK PARKWAY, ROCKVILLE, MD 20852
301-881-2545 FAX: 301-881-0814



20' WIDE TRAIL EASEMENT
FOR THE CITY OF ANNAPOLIS
Area=8,262 Sq. Ft. or 0.18967 Ac.

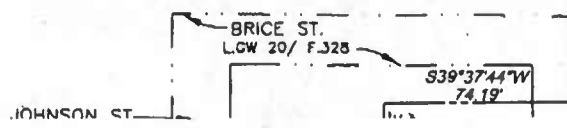
- ① L=20.22, R=4272.19
- ② N 37°31'42" E 35.57
- ③ N 17°08'46" E 9.49
- ④ N 36°54'01" W 29.39
- ⑤ N 50°36'08" W 60.27
- ⑥ N 12°11'05" W 108.95
- ⑦ N 26°50'08" E 62.99
- ⑧ N 28°21'47" E 58.40
- ⑨ N 73°53'29" E 26.71
- ⑩ N 40°43'58" E 20.20
- ⑪ S 50°22'16" E 20.00
- ⑫ S 40°43'58" W 26.54
- ⑬ S 73°53'29" W 24.28
- ⑭ S 28°21'47" W 49.74
- ⑮ S 26°50'08" W 55.64
- ⑯ S 12°11'05" E 94.90
- ⑰ S 50°36'08" E 55.71
- ⑱ S 36°54'01" E 41.99
- ⑳ S 17°08'46" W 23.28
- ㉑ S 37°31'42" W 42.15

SURVEY NOTES

The property lines shown hereon are based upon a boundary survey performed by A. Morton Thomas and Associates, Inc. dated November 15, 2001 and revised February 4, 2003
The property is subject to any and all easements and matters of record.

ROWE BOULEVARD
MARYLAND ROUTE 70
MARYLAND STATE HIGHWAY ADMINISTRATION
PLAT NO. 11222 & 10516
A=358.60' R=4272.19' (1st dead line)
A=309.71'

THE STATE OF MARYLAND
LIBER 3205 / FOLIO 863
TAX PARCEL 186
Total Area=146,791 Sq. Ft. or 3.36986 Ac.



SAINT JOHN'S COLLEGE
PATENTED FEBRUARY 24, 1796
LIBER JC/FOLIO 96

S50°22'16" E 548.91'

2/6/03

Dave Borden

had concern that

the Trail ~~was~~ not

be 20' wide. just

the easement be ^{20'} wide.

The hallway Paper

Paper by used when

the Trail eventually

goes in the future

Mayor's
representative

Also that the surface
of the proposed Trail
not be a paved
surface.

CRITICAL AREA COMMISSION

STAFF REPORT

August 6, 2003

APPLICANT: Maryland Port Administration (MPA)

PROPOSAL: Gunpowder Falls State Park - Hammerman Area

JURISDICTION: Baltimore County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Dawnn McCleary

**APPLICABLE LAW
REGULATIONS:** COMAR 27.02.05 - State Agency Actions Resulting in
Development on State-Owned Lands

DISCUSSION:

At the December 4, 2002 meeting, the Critical Area Commission approved a conceptual plan for five stormwater management areas in the Hammerman area at Gunpowder Falls State Park to address the Port's inability to treat phosphorus on site. The area is intensely developed with parking lots, roads, pavilions, restrooms, and a beach facility building. Best Management Practices are proposed for five of the currently untreated parking lots. The majority of the site is located within the Critical Area. The site drains to the surrounding forest and beach areas that are adjacent to the Gunpowder River and wetlands. A portion of the Hammerman area is located within the Critical Area Buffer, however, none of the proposed BMPs will be located in the Critical Area Buffer.

The proposed BMPs include one surface sandfilter at Dogwood Lot, two bioretention facilities at Gum Lot, one surface sandfilter at Beach Lot A, two bioretention facilities and one dry swale at Beach Lot B and one dry swale at Chestnut Lot. MPA has submitted plans for each best management practice to the Maryland Department of the Environment and is awaiting approval for all five areas. We anticipate full approval by MDE by August 6, 2003.

The Port currently owes 32.85 pounds of phosphorus treatment based on past projects. This plan proposes to treat 29.61 pounds. The MPA will still owe us 3.24 pounds of phosphorus. MPA is working with Commission staff to develop a long-range plan to address their phosphorus treatment issues and to develop a treatment bank for future projects. This plan will come to the Commission for approval.



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/

August 4, 2003

Mr. Dirk Geratz
Senior Planner
City of Annapolis
Department of Planning and Zoning
Municipal Building
160 Duke of Gloucester Street
Annapolis, Maryland 21410

RE: Farmer's Bank Project
Local Case Number: S.E. 2003-G-515

Dear Mr. Smith:

This office has reviewed the applicant's proposal to convert two existing houses into a commercial bank. The property is 0.58 acres in size and is designated an Intensely Developed Area. After reviewing the site plan, this office does not oppose the proposed development. This office determined that the proposed development activity and 10% pollution reduction calculations are correct and consistent with the local Critical Area Program. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Naturals Resources Planner

cc: Megan Owen
Regina Esslinger
AN 568-02



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 4, 2003

Mr. Tom Smith
Senior Planner
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Porter Drive Stream Valley Restoration
Consistency Project

Dear Mr. Smith:

Thank you for providing "Notification of Certification" that the above project is consistent with the City of Annapolis' Critical Area Program. Critical Area staff understands that the project includes restoration work at three outfalls located near Porter Drive, Dewey Drive and Williams Drive. This project is located along the southern shores of Weems Creek adjacent to the Route 70 bridge within the development known as Admiral Heights.

The purpose of this project is to reduce the ongoing sedimentation of portions of Weems Creek by halting the erosion and degradation of the subject stream channels. The limit of disturbance is 1.150 acres or 50,102 square feet and it located in portions of Limited Development Area, Resource Conservation Area and in the 100-foot Buffer. Currently, there is no existing impervious surface.

This office understands that:

1. That there will be 1,019 square feet of impervious surface added to the Williams Drive and Porter Drive outfalls to cover new stilling basins being rock lined;
2. That 3,719 square feet of the Porter Drive outfall is in the 100-foot Buffer;
3. That 55 trees will be removed and 199 trees will be replanted including 10,551 square feet in the 100-foot Buffer;
4. That 34,800 square feet of invasive species will be removed throughout the stream valley;

Continued, Page Two
Porter Drive Stream Valley Restoration
August 4, 2003

5. That no impervious surface is proposed in the Dewey Drive outfall; and,
6. That the Maryland Department of the Environment is currently reviewing the proposed stream restoration project.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located, 2) does not substantially affect the Critical Area program of the local jurisdiction, and 3) is not considered by the Commission as major development. (*See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs*). Therefore, approval of the above project by the Commission is not necessary.

Sincerely,



Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Regina Esslinger
AN 528-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 4, 2003

Mr. Jesse Lindsay
Project Manager
Whitney, Bailey, Cox and Magnani
849 Fairmount Avenue, Suite 100
Baltimore, Maryland 21286

RE: Fairfield Marine Terminal
New Bulkhead


Dear Mr. Lindsay,

Thank you for submitting the Maryland Port Administration's (MPA) proposal to replace an existing timber bulkhead with a new steel sheet pile. This office understands that the timber bulkhead is deteriorating and in need of immediate replacement. The extent of the disturbance is confined to the limit of the trench along the sheet pile alignment. The area is currently paved and will be replaced in-kind following installation of the new bulkhead. The surface hydrology will not be altered by this project. The 10 % Rule and Buffer mitigation for this project is not required because it is consisted a bulkhead repair and rehabilitation.

Critical Area Commission staff has determined that this project is consistent with Appendix A, (A)(6) of the Maryland Department of Transportation and the Critical Area Commission's Memorandum of Understanding (MOU). Therefore, formal approval of the project by the Commission is not necessary.

If there are any changes in development activity that may affect the habitat within the area on site, this office would like to be notified immediately. Thank you for the opportunity to comment. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Mark Kreifle
Regina Esslinger
State 37-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 4, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Southern High School Renovation
1100 Covington Street

Dear Mr. Stuart:

Thank you for providing "Notification of Certification" that the above project is consistent with Baltimore City's Critical Area Program. Critical Area staff understands that the City is proposing to renovate the existing Southern High. The Critical Area portion of the site includes 6.84 acres in an Intensely Developed Area.

The purpose of this project is to renovate the interior and to do some limited landscaping/repaving of the plaza areas in the front and rear of the building. Approximately 0.16 acres of impervious surface will be removed resulting in a net reduction of impervious surface. However, the pollutant removal requirements will not be met using a Best Management Practice. Therefore, a stormwater-offset fee will be paid to the City.

Critical Area Commission staff understands:

1. That there are no habitats within or adjacent to the limit of disturbance;
2. That most of the area is paved with the drainage from the project area discharging into the City's storm sewer system;
3. That there are no tidal or non-tidal wetlands or streams within or immediately adjacent to the project area;
4. That the area contains little vegetation except grass and spotty landscaping. No trees or shrubs will be removed but 11 new Pin Oaks will be planted ;

Continued, Page Two
Southern High School
August 4, 2003

5. That no federally threatened or endangered species are known to exist within the project area; and,
6. That excavation will be limited to the repaving of the front and rear plazas.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located; 2) does not substantially affect the Critical Area program of the jurisdiction, and 3) is not consistent by the Commission as major development. (See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs). Therefore, formal approval of the above project by the Commission is not necessary.

If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Dawnn McCleary
Natural Resource Planner

cc: Regina Esslinger
BA 22-03



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
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July 24, 2003

Mr. Jesse Lindsay
Project Manager
Marine\Industrial Division
Whitney, Bailey, Cox and Magnani
849 Fairmount Avenue, Suite 100
Baltimore, Maryland 21286

RE: Kurt Iron and Metal Facility
Additional Mitigation Credit

Dear Mr. Lindsay:

The Critical Area Commission staff has reviewed your request for additional mitigation credit for the above project based on the presence of pollutants in existing debris piles on the site. As you are aware, the Critical Area Commission utilizes a simple method to calculate pollutant loadings using phosphorus as the surrogate keystone pollutant. As stated in the 10% Rule Guidance, due to the sheer number and variability of pollutants present in urban run-off, it is not feasible or practical to compute pre and post-development loads for each of them to determine if an overall pollutant reduction of 10% has been achieved at a single development site. Commission staff believes that is also not practical to base pollutant reduction on soil testing or similar methods because the "simple method" calculations promulgated in the Commission's guidance are based on assumptions that are generally true for most development sites not on specific data collected from individual sites.

Our office has consulted with the Maryland Department of the Environment (MDE) on your request, and we are in agreement that additional mitigation credit can not be established with this project. It is important to note that some forms of clean-up and restorations projects may qualify as offsets for compliance with the pollutant reduction requirements. However, this is best accomplished through their inclusion in some sort of formal stormwater institutional management plan that would be reviewed and approved by MDE and the Critical Area Commission. I am aware that you are in the process of developing this, and I look forward to working with you on it.

Continued, Page Two
Kurt Iron and Metal Facility
Additional Mitigation Credit
July 24, 2003

If there are any additional questions, please feel free to call me at (410) 260-3483.

Sincerely,



Dawnn McCleary
Natural Resources Planner

cc: Mark Kreadle
Ren Serey
Mary Owens
Regina Esslinger
State 33-03



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
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July 22, 2003

Mr. Tom Smith
Senior Planner
City of Annapolis Planning and Zoning
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: Mark Lindley Variance
398 Ridgley Avenue

Dear Mr. Smith:

Thank you for providing information on the above variance application. The applicant is proposing to reroute and redesign an existing path, build a privacy fence, add a 6' x 15' stone flagstone terrace and timber retaining wall and redo a basement stairway in the 100 -foot Buffer. The property is 0.27 acres and is designated a Limited Development Area. After reviewing the site plan and application, Buffer Management Plan and variance application, this office does not oppose the variance.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance application. Please notify the Commission in writing of the Board's decision on this application.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Regina Esslinger
AN 469-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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July 16, 2003

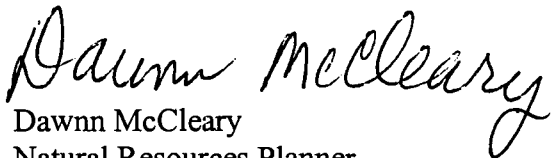
Mr. David Marc, P.E.
Bridge Project Engineer
Baltimore City Department of Transportation
417 East Fayette Street, Room 730
Baltimore, Maryland 21202

RE: Central Avenue Reconstruction Project
Draft Section 4(f) Evaluation

Dear Mr. Marc:

The Critical Area Commission has reviewed and made comments on the above project. On August 23, 2002, our office submitted comments to Duncan Stuart at the Department of Planning on impacts of the above project in the Critical Area. If there are additional questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Duncan Stuart
Regina Esslinger
BA 495-02



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 16, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Rehabilitation of Bulkhead, Promenade, and Pier
1417 Thames Street, Living Classrooms Foundation
City Contract No. TR 02368

Dear Mr. Stuart:

This office has received your request concerning payment into the City's Stormwater offset fund instead of treating the phosphorous off-site. We understand that the City wanted to remove the impervious surface offsite to meet the mitigation requirements. However, because the offsite mitigation process and mechanism is still being developed, it appears that collecting the offset fee and administering the fees in-house by the City is more feasible at this time.

Collecting the Stormwater offset fee will satisfy the City's Critical Area requirements. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 294-02



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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July 14, 2003

Mr. Duncan Stuart
Environmental Planner
Baltimore Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Hawkins Point Road Reconstruction

Dear Mr. Stuart:

Thank you for providing "Notification of Certification" that the above project is consistent with the City of Baltimore's Critical Area Program. Critical Area staff understands that the City is proposing to replace and repair the road as well as to clean the stormwater flowing off the impervious surface. The proposed roadway improvements will provide two 13-foot lanes and an 8-foot shoulder (face of curb to face of curb) and sidewalk in each direction with a 12-foot wide raised median and a concrete pavement section. Hawkins Point Road will be widened on both the north and south sides. The proposed project will impact 5.230 acres and in an Intensely Developed Area.

This office understands that:

1. That one stormwater management facility located north of Hawkins Point Road opposite Cove Avenue will address the 10 % pollutant reduction requirements;
2. That the widening of Hawkins Point Road will be offset by the removal of pavement on old Hawkins Point Road;
3. That a grass channel along Pittman Road extension is proposed to provide a measure of pollutant reduction;

Continued, Page Two
Hawkins Point Road
July 14, 2003

4. That improvements in the 100-foot Buffer include pavement removal and reforestation west Old Hawkins Point Road; and,
5. That 0.71 acres of woody vegetation will be cleared; 2.0 acres will be planted in the Critical Area, with 1.6 acres in the City's designated Hawkins Point \Quarantine Road\ Thoms Road Habitat Protection Area.

The Commission staff has determined that the above proposed development: 1) has environmental or economic consequences that will largely be confined to the immediate area of the site on which the development is located, 2) does not substantially affect the Critical Area program of the local jurisdiction, and 3) is not considered by the Commission as major development. (See COMAR: Chapter Two, Regulations for Development in the Critical Area Resulting from State and Local Agency Programs). Therefore, approval of the above project by the Commission is not necessary.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Regina Esslinger
BA 360-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

July 7, 2003

Mr. Mark Kreafler
Assistant Chief Engineer
Maryland Port Administration
Maritime Center II
2310 Broening Highway
Baltimore, Maryland 21224

RE: Former Kurt Iron and Metal Facility
Fairfield Marine Terminal

Dear Mr. Kreafler:

On July 2, 2003, the Critical Area Commission granted a conditional approval for the surface sand filter, partially paved parking lot and security fence in the 100-foot Buffer. Any changes to the site plan must be sent to this office.

I would like to thank you and Jesse Lindsay from Whitney, Bailey, Cox and Magnani for working with the Commission staff. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Dawnn McCleary".

Dawnn McCleary
Natural Resources Planner

cc: Jesse Lindsay
Mark Shaefer
Regina Esslinger
State File: 33-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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July 7, 2003

*send to
all CA
Counties*

Mr. Jon Arason
Department of Planning and Zoning
Municipal Building
160 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: Accounting of Dwelling Units in the Resource Conservation Area

Dear Mr Arason:

In a continuing effort to ensure the Critical Area Law is administered consistently throughout the State, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays is researching the manner in which accessory uses and structures that are used for residential purposes and would qualify as a dwelling unit, are accounted for in the Resource Conservation Area (RCA).

In that regard, the Commission kindly requests the following information:

1. Please advise the Commission of any accessory uses and structures that may be used for residential purposes and meet the definition of a dwelling unit, but are not counted towards the one dwelling unit per twenty-acre density requirement in the RCA. The uses and structures include tenant houses, in-law apartments, guesthouses, and caretaker's houses.
2. What types of limitations on these uses and structures are used (i.e. are they approved through a special exception process)?
3. How frequently are these uses and structures inspected for compliance with what was permitted?
4. Is a record kept of these uses and structures (i.e. through building permits or some other means)?
5. Have these uses and structures been permitted to be subdivided or sold separately from the primary residence on the site?

July 7, 2003
Page Two

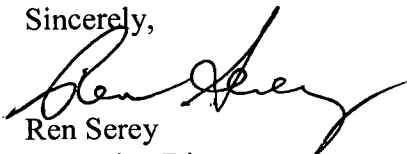
6. Approximately how many of these types of structures that are not counted towards the RCA density requirement are permitted per year?

The Program Subcommittee of the Commission intends to discuss this information at its next meeting on August 6, 2003; therefore, we kindly request this information prior to that date so that Commission staff can compile this information for the meeting.

You are welcome to attend the Program Subcommittee's meeting. Please contact the Critical Area Commission office for the location and time. Please remit your responses no later than Friday, August 1, 2003. This information can be mailed or sent via electronic mail to lhoerger@dnr.state.md.us.

Thank you for your assistance with this matter. If you have any questions, please do not hesitate to contact Commission staff at (410) 260-3460.

Sincerely,



Ren Serey
Executive Director



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 7, 2003

Mr. Dirk Geratz
Senior Planner
City of Annapolis
Department of Planning and Zoning
Municipal Building
160 Duke of Gloucester Street
Annapolis, Maryland 21401

RE: 114 Annapolis Street Project
SDP 2003-6-97

Dear Mr. Geratz:

This office has reviewed the applicant's proposal to construct a new mixed use building on Lot 13. The property is 0.098 acres and in an Intensely Developed Area. Lot 15 should be included in the 10 % Rule calculations since the driveway on Lot 15 is part of the redevelopment activity. Please revised Worksheet A to include all existing and proposed impervious area for Lot 15 and Lot 13. Once we have received this information, we will provide comments. If there are any questions, please feel free to call me at (410) 260-3483.

Sincerely,


Dawnn McCleary
Natural Resources Planner

cc: Megan Owen
Regina Esslinger
AN 449-03

Critical Area Commission

STAFF REPORT

July 2, 2003

APPLICANT: Maryland Port Administration

PROPOSAL: Former Kurt Iron and Metal Facility
Fairfield Marine Terminal

JURISDICTION: Baltimore City

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Dawnn McCleary

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.06 Conditional Approval of State
or Local Agency Programs in the Critical Area

DISCUSSION:

The Maryland Port Administration (MPA) is proposing to clean up the Kurt Iron and Metal site, an old ship scrap metal facility covered with large piles of solid waste including tires, wood chips, steel, concrete, metal sheds and containers. MPA has entered into a Voluntary Clean-up Plan (VCP) with MDE. The solid waste clean up phase of the project will begin this year, and will require approximately nine months to complete. Because of the contamination, VCP mandates that the site be capped immediately following the solid waste removal to prevent further contamination of the waters through polluted runoff or leachate. The parcel is bordered by the Toyota Terminal to the South and east and by the Patapsco River to the north and west. The 11.42 acre site is completely impervious and an area of intense development.

MPA is proposing to remove solid waste material from the 100-foot Buffer and put a surface sand filter, a portion of a paved parking lot and, a security fence within the 100-foot Buffer. The new pervious areas in the 100-foot Buffer will be vegetated with groundcover. The shoreline will have riprap installed.

Conditional Approval Process

Conditional approval is required under the Commission's regulations for State and local agency projects when proposed development activities do not satisfy all regulations in full. The conditional approval process is set out in COMAR 27.02.06. In order to qualify for consideration by the Commission for conditional approval, the proposing agency must show that the project or program has the following characteristics:

(1) That there exist special features of a site or there are other special circumstances such that literal enforcement of these regulations would prevent a project or program from being implemented;

There exist special features and special circumstances of the site in which a former ship scrapping facility, which was bought by MPA, is being cleaned up. To prevent contamination from running off the site into the Patapsco River, MPA must cap the site with fill material and elevate it approximately four feet. The site will consist of a stormwater management facility, a shoreline stabilization using rip rap, a chain linked fence for security and a portion of a proposed paved parking lot all within the 100-foot Buffer.

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

The project provides a significant improvement to the environment by providing water quality management on a site that is currently contaminated and unmanaged. MPA has reduced the area of impervious cover by providing vegetation, stormwater management and shoreline stabilization.

(3) That the project and program is otherwise in conformance with this subtitle.

The project is otherwise in conformance with the State Criteria and Baltimore City's Critical Area Program.

Commission must find that the conditional approval request contains the following:

(1) That a literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State or local agency program or project;

A literal enforcement of the Buffer provisions would prevent the Port from utilizing a significant portion of the site for Port-related activities.

Continued, Page Three
Kurt Iron and Metal Facility
July 2, 2003

(2) There is a process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or, if the development is to occur on State-Owned lands, with the Criteria set forth in COMAR 27.02.05; and

The stormwater management facility, security fence and paving in the 100-foot Buffer are not consistent with the Criteria; however, the Buffer impacts will be minimized. Only a portion of the paved parking lot will affect the Buffer. The Buffer is currently completely impervious.

(3) Measures proposed to mitigate any adverse effects of the project or program on an approved local Critical Area program, or, if on State Owned lands, on the criteria set forth in COMAR 27.02.05.

The proposed impacts to the 100-foot Buffer will be mitigated by treating stormwater on site using a surface sandfilter and planting the pervious areas in groundcover. Impervious surface will be reduced and contamination contained.

Staff Correspondence Vol. 2: Hoerger

2003

S1832-155-3

Robert I. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

December 31, 2003

Mr. Kevin Shaver
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Walnut Lake Reserve Parcel
S 75-045, P 03-184

Dear Mr. Shaver:

I have received the development plans and plat for the above-referenced subdivision request. It is clear from the information contained in the environmental report that this property contains sensitive areas whose disturbance will result in negative impacts to water quality and wildlife habitat. Nevertheless, the Anne Arundel County Board of Appeals was able to make findings to support their decision that a variance for a dwelling could be granted on this sensitive site. We note the Board's conditions that a minimum of nine acres be set aside in a perpetual conservation easement, and the site is limited to the structures shown on the variance site plan.

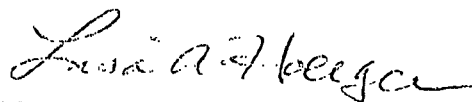
Generally this office has objected to the creation of new lots that will require variances in that it is the Commission's position that newly created lots should meet all requirements of local codes, including the Critical Area requirements. In fact, this office commented on the first variance request whereby the Commission objected to the request for the reasons mentioned. What we have been told since that time by the Department of Planning and Zoning is that the County no longer plats reserve parcels on new subdivisions. This may have the affect of eliminating the present situation, which creates an unfortunate situation for both the landowner and the public interest in that an area that was set aside in the past because it was deemed unbuildable is now seeking to be developed. This intent to develop is based on the ability to connect to public sewer, notwithstanding the environmental degradation that may take place for the development of that lot. I have outlined my remaining comments below.

Mr. Shaver
December 31, 2003
Page Two

1. We recommend the same information contained in note #7 on plat one of two be added to the deed to alert future lot owners of these restrictions.
2. How will the conservation easement be distinguished from the usable lot area?
3. The stormwater notes on the plat indicate that six trees and thirty woody shrubs will be planted to offset the 2,230 square feet of impervious area. We recommend the planting plan be completed prior to the release of the occupancy permit.
4. The noted planting should all be woody vegetation as noted on the plat in order to qualify for credit.
5. We recommend 3:1 mitigation since the impervious surfaces are in the expanded Buffer for hydric soils. Therefore, additional mitigation will be required.
6. Why do the notes on the plat indicate bonding at .40 per square foot?

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 883-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 30, 2003

Mr. Tom Hamilton, Town Planner
Town of Easton
P. O. Box 520
Easton, Maryland 21601

Re: Town of Easton, Ordinance #461; Talbot County Council Bill #925
Ratcliffe Farm Subdivision, Easton Village PUD Growth Allocation Requests

Dear Mr. Hamilton:

Thank you for providing information on the referenced Town and County legislation. Town Ordinance #461 permits growth allocation on the Easton Village Planned Unit Development project and the Ratcliffe Farm Subdivision project. Talbot County Council Bill # 925 provided supplemental growth allocation to the Town of Easton for these purposes. The information you have submitted has been determined to be a complete submittal. It is my understanding that the Town Commissioners approved Ordinance #461 on September 15, 2003, and the Talbot County Council approved Bill #925 on December 16, 2003.

Chairman Madden has confirmed that Ordinance #461 will be handled as an amendment. He has appointed a panel of Commission members to hold a public hearing on the matter, and the hearing has been scheduled for January 5, 2004 at 4:00 p.m. at the Talbot County Free Library in Easton. Following the hearing, the issue will be placed on the agenda for review by the full Critical Area Commission on January 7, 2004. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. George Kinney
Ms. Mary Kay Verdery

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 30, 2003

Mr. James W. Price, Director
Program Open Space
Tawes State office Building
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Riggelman Property Acquisition, Anne Arundel County
POS # 4523-2-210

Dear Mr. Price:

Thank you for forwarding the above-referenced acquisition notice for review. This office understands the property is currently under review for acquisition; however, we would like to provide comments concerning future development plans.

Since the property adjoins the Patuxent River a portion of it lies within the Critical Area. This portion of the property has a Resource Conservation Area overlay, which means that it is restricted to passive recreational uses and density that is limited to one dwelling unit per twenty acres. Any future uses of this property shall be restricted to these types of uses. In addition, the Critical Area overlay also limits the amount of clearing to a maximum of 30% and impervious surfaces to a maximum of 15%.

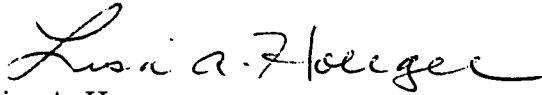
The MERLIN system indicates the property also contains wetlands and forested areas that are afforded special protections under the Natural Resources Article and the Department of Environment Article. Any contiguous forest areas either within the property or that may connect on adjoining properties may contain Forest Interior Dwelling Bird (FID) habitat that require additional protections in order to maintain interior habitat. In the case of FID habitat, clearing should be avoided and any development activities that may be proposed should be directed to existing cleared areas on the property.

Mr. Price
December 30, 2003
Page Two

The 100-foot Buffer and any areas of expansion for hydric soils are an area of no new disturbance except for water-dependent uses or facilities. Public walkways are permitted; however, they are limited to meandering in and out of the Buffer, and any disturbance to the Buffer requires 3:1 mitigation.

Thank you again for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA Clearinghouse File

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 29, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Phelps Property Revised Sketch
S 98-073, P 98-165-1

Dear Ms. Allen;

I have received a second revised sketch plan and written responses from DFI, Inc. for the above-referenced subdivision request. I have outlined my remaining comments below.

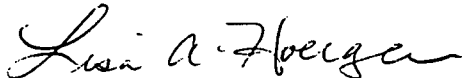
1. The total permitted clearing appears incorrect. I calculate 30% of 8.99 acres to be 2.70 acres, rather than 3.05 acres. Please have the applicant check this figure.
2. The total clearing provided also appears incorrect. I calculate 2.51 acres to be 28% clearing based on 8.99 acres. Please have the applicant check this figure.
3. The information on the plan indicates that 15% impervious area equals 1.61 acres. I calculate 15% of 16.36 acres (total Critical Area acreage minus State-owned wetlands) equals 2.45 acres. Please have the applicant check this figure.
4. I checked the note on sheet 2 of 3 that includes an impervious surface breakdown on a lot-by-lot basis and the figures appear correct.
5. There still appears to be some impacts to nontidal wetlands buffers for portions of Dixon Drive. This may require a variance unless the County deems this a public road, and it is demonstrated to the County's satisfaction that impacts have been minimized and the applicant has secured a permit from the Maryland Department of the Environment.

Ms. Allen
December 29, 2003
Page Two

6. I cannot locate a proposed driveway for lot 10. Will this driveway have impacts to the adjoining nontidal wetlands or its 25-foot Buffer? If so, a variance may be necessary.
7. The outfalls located in the Buffer will not require variances. The Commission views outfalls as water-dependent facilities.

Thank you for the opportunity to comment. If you have any questions please contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Philip C. Jimeno
The Honorable Joan Cadden
Mr. Frederick W. Hager, Citizen
Ms. Katherine McCarthy, DNR
Ms. Judy Cole, MDE
AA 394-98

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 23, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Osprey Landing (formerly Carolstown Landing)
S 97-095, P 00-214

Dear Ms. Allen:

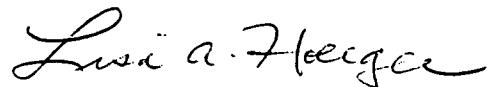
I have received the resubmittal of the final development plans for the above-referenced subdivision request. I have outlined my remaining comments below.

1. It appears the Critical Area Calculations table is correct. We continue to recommend a plat note to accompany this table that informs the future community association and individual lot owners that the maximum impervious surface includes any impervious surface already created by the developer. This information should also be included in the individual deeds.
2. A second plat note should state that no clearing by homeowners is permitted on their lots, and that the homeowners association is not permitted to clear in any forested areas. This information should also be contained in the individual deeds for those lots that abut forest conservation areas.
3. The comment letter from the applicant indicates signage will be used to delineate the limits of the conservation area rather than a fence. I was unable to locate any notes on the plat or development plans that show a sample of the signage.
4. Did the County receive confirmation regarding whether this site supports FID habitat, given the letter from DNR indicating it could support FID habitat?

Ms. Allen
December 23, 2003
Page Two

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 651-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 22, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: E.S. Whelan & Company
Special Exception #1309

Dear Ms. Verdery:

Thank you for forwarding the above-referenced special exception to this office for review and comment. The applicant proposes to construct a 225-foot long pier with a 10 x 20 "L" head, three mooring piles, and a boatlift for a total encroachment of 245 feet channelward. This office has no comment regarding the encroachment issue provided no Habitat Protection Areas are impacted.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 900-03



Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 18, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: William C. Forlifer
L 937

Dear Ms. Verdery:

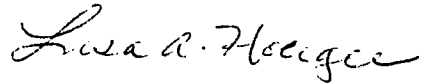
I have received the above-referenced lot line revision for review and comment. The applicant proposes to adjust the lot line between two lots. Provided the lot line revision is consistent with the Talbot County Critical Area program, this office has no objections; however, I have outlined some comments concerning the site plan below.

1. The impervious surface calculations provided on the plan appear to be confused. For example, the area in the Critical Area reported for parcel one appears incorrect. Should it be 7,572 square feet instead of 31,085 square feet? If so, this would change the 15% allotment figure to 1,135.8 square feet.
2. Also, there does not appear to be any existing impervious areas shown on the plan for parcel one; however, the impervious surface calculations information suggests this parcel has 5,257 square feet of impervious area. Please have the applicant clarify these numbers.
3. The information listed for parcel 2 also appears to be incorrect. It reports only 7,572 square feet of area in the Critical Area. It should be 33,102 square feet in the Critical Area. Based on this figure, the total impervious allotment for this lot should be 4,965.3 square feet. Also, there should be a figure reported for existing impervious area. Again, please have the applicant reconcile these numbers.

Ms. Verdery
December 18, 2003
Page Two

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 896-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 18, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Hostetter Residence
A 019

Dear Ms. Verdery:

I have received the above-referenced administrative variance to permit a residential addition in the 100-foot Buffer. I have outlined my comments below.

1. Provided this lot was existing prior to the County's Critical Area program, and the proposed addition will be no further waterward than the existing structure this office has no objection to the request.
2. The applicant should perform mitigation at a 2:1 ratio in the form of native Buffer plantings.

Thank you for the opportunity to comment. Please include this letter in your file and notify the Commission of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 898-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 18, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Robert & Desne Roe
Appeal #1307

Dear Ms. Verdery:

I have received the above-referenced variance request to permit a residential addition in the 100-foot Buffer. It is my understanding that except for the side-yard setback issue, this variance could have qualified for the administrative variance process, but out of convenience and consideration to the applicants, both variance issues will be heard by the Board of Appeals. I have outlined my comments below.

1. Since the proposed additions will be no further waterward than the existing structure, this office has no objection to the request.
2. The applicant should perform mitigation at a 2:1 ratio in the form of native Buffer plantings.

Thank you for the opportunity to comment. Please include this letter in your file and notify the Commission of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 895-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 18, 2003

Mr. Chris Soldano
Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Wilmer Smith
S 82-143, P 02-216

Dear Mr. Soldano:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to create four lots, with one lot having a split Critical Area designation of Intensely Developed Area (IDA) and Limited Development Area (LDA). I have outlined my comments below.

The applicant should provide the County with a letter from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.

The impervious surface figures are not correct. The Natural Resources Article 8-1808.3 (d) (4) states that for lots less than one acre and greater than one half acre that are part of an approved subdivision after December 1, 1985, impervious surfaces are limited to 15%. Proposed lots 3R and 4 exceed 15% coverage. Please have the applicant correct these figures.

We recommend siting the dwelling on proposed lot 2R outside the existing woods line to minimize the amount of clearing on this lot.

We recommend notes be added to the final plat which address the allowable width of the riparian paths. This office recommends residential paths be no wider than three feet, and their location should avoid or minimize clearing. Any clearing for these paths must be mitigated at a 2:1 ratio.

Any required plantings for mitigation should be first directed to those areas of the 100-foot Buffer that are currently not vegetated.

The 10% Pollutant Reduction Calculations should be provided to the County and this office for those portions of the IDA that will be developed. Please have the applicant forward that information when it becomes available.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,

Handwritten signature of Lisa A. Hoerger in cursive script.

Lisa A. Hoerger
Natural Resources Planner

LAH/jjd

cc: AA 899-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 16, 2003

Ms. Adaora "Zora" Lathan, Town Manager
Town of Highland Beach
P.O. Box 4206
Annapolis, Maryland 21403

Re: Beachfront Stabilization Project

Dear Ms. Lathan:

I have received your letter requesting Critical Area Commission approval to permit the Town of Highland Beach to utilize sand deposited by Hurricane Isabel along the Highland Beach beachfront to stabilize the existing shoreline. Ms. Claudia Jones, the Commission's Science Advisor, performed a site visit with Town officials and a representative from the Department of Natural Resources. We also have a copy of the site plan for the project.

It is our understanding the Town intends to rework sand deposited by the hurricane to create beach dunes to protect against erosion. Based on the plan, dated November 17, 2003, it appears the project is consistent with the Critical Area Law and Criteria and can proceed without formal approval by the Critical Area Commission. Any significant changes to the amount of sand or proposed planting being utilized must be forwarded to this office for review. Please inform this office when the work is to begin.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Crystal R. Chissell, Mayor
The Honorable Raymond L. Langston, Vice Mayor
Mr. Mitch Keiler, DNR
Ms. Claudia Jones, CAC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 16, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Nantucket on the Severn- Resubdivision of Lots 1 & 2
S 01-074, P 03-157

Dear Ms. Allen;

I received the request for resubdivision of lots 1 & 2 at the above-referenced subdivision. The applicants propose this resubdivision subsequent to the granting of a variance by the Anne Arundel County Board of Appeals to permit a private access easement; therefore, the plat requires some modification. I have outlined by comments below.

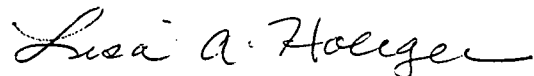
1. The Buffer Management Plan enclosed with the Critical Area Report does not mention replanting in the area of the existing driveway on proposed lot 2. If this area was not included as an area to be replanted, we recommend the Buffer Management Plan be amended to include the area of the driveway to be removed.
2. The Buffer Management Plan also mentions the access points to the shoreline; however, all plans submitted to this office do not show a riparian access path for proposed lot 1. We recommend the applicant locate a path to the shoreline that will cause the least disturbance to the Buffer.
3. The Critical Area and Development plans appear to show an accessory use on lot 2. This should be removed from the plans since the Board of Appeals, in their conditions of their May 2003 decision, only permitted a dwelling and its limits of disturbance to be no further waterward than as shown on the plan before them. Any accessory structures in the Buffer are prohibited. This office would oppose a request for a variance for an accessory structure in the Buffer.



Ms. Allen
December 16, 2003
Page Two

Thank you for the opportunity to comment. If you have any questions regarding the comments above, please do not hesitate to contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Doug Musser, County Forester
AA 491-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 15, 2003

Ms. Gwen Meyer
Civil Project Development Branch
Planning Division
U.S. Army Corps of Engineers, Baltimore District
P. O. Box 1715
Baltimore, Maryland 21203-1715

Re: Poplar Island Expansion Study (PIES)
Chesapeake Bay, Talbot County, Maryland

Dear Ms. Meyer:

Thank you for forwarding the Study Information and Coordination Notice to this office. The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays will be responsible for approving any changes to the Poplar Island project, since the Maryland Natural Resources Article at §8-1807 (a)(1) defines the initial planning area for the Chesapeake Bay Critical Area as, "All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article."

In April 1996, the Critical Area Commission approved the Poplar Island project which included the restoration of the island to its original footprint of 1847. The restoration of the island would provide an area to receive dredge disposal from the Baltimore shipping channels, and to provide habitat for numerous species.

In light of your recent notice of the investigation to potentially expand the island, this office requests a copy of the Supplemental Environmental Impact Statement for review. If an expansion is requested, Critical Area Commission review and approval is required.

TTY For the Deaf

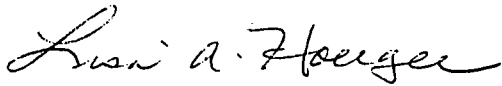
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



Ms. Meyer
December 15, 2003
Page Two

Thank you again for providing the Commission notice of this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Mr. George Kinney, Planning Officer, Talbot County, MD
Mr. Ray Dintaman, Jr., Director, Environmental Review Unit – MD DNR
Poplar Island File

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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December 12, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road
MS 6303
Annapolis, Maryland 21401

Re: The Villas at Deep Creek - S 96-039, P 02-136
Sketch Plan

Dear Ms. Allen:

I have received the sketch plan for the above-referenced project. This is the first revision we have reviewed since the Administrative Hearing Officer heard the reclassification requests. According to our files the three requests were granted; however the request to reclassify 1.64 acres of a Resource Conservation Area (RCA) to a Limited Development Area (LDA) along the western edge of the site was denied. I have outlined our comments below.

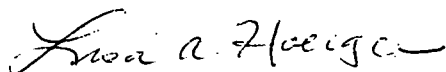
1. The above-referenced map changes were not submitted to the Critical Area Commission for approval. I have contacted Ms. Elinor Gawel of the Environmental and Cultural Resources Office to inform her of this issue. The map changes must be approved by the Commission prior to final plat approval.
2. The LDA/RCA boundary along the western edge of the property appears incorrect. My understanding of the Hearing Officer's decision would effectively make this entire area of the site RCA.
3. This same area of the site has a house sited on it, and it appears there is not enough RCA acres to met the 1 per 20-density requirement. Please provide an explanation concerning this density issue. Are there currently three parcels?

Ms. Allen
December 12, 2003
Page Two

4. The new LDA/RCA line on the eastern edge of the property is not clearly shown on the site plan submitted. Please have the applicant clearly show this line.
5. The end of Pennington Lane that is proposed for widening is still in the RCA. The widened portions of this road should not be permitted in the RCA.
6. The grading in the RCA that is associated with the bioretention area #1 and the roadway should be minimized or avoided.
7. The extent of the expanded Buffer becomes unclear on the eastern edge of the property. Please have the applicant clearly show the expanded Buffer in this location.
8. A six-foot wide mulch path is shown on the current plan, but it has no clear starting point outside of the wooded portion of the passive recreation area. Please have the applicant show the entire length of any proposed path. In addition, we recommend these paths be no wider than three feet in width.
9. The rear yards of all lots that abut RCA should be clearly delineated before, during, and after construction to avoid disturbance to these areas. We recommend some type of fencing.
10. The impervious surface information should be provided on a lot by lot basis so that future homeowners are aware of their total allowable impervious area. We recommend the developer provide some reserve impervious area for each lot to accommodate future homeowner needs (i.e. sheds, patios, etc.).
11. What is the proposed clearing figure? Where will reforestation take place?

Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 422-02

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
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www.dnr.state.md.us/criticalarea/

December 11, 2003

Ms. Deborah A. Renshaw
Zoning Inspector
St. Michaels Planning Office
P.O. Box 206
St. Michaels, Maryland 21663-0206

Re: Preliminary Plat and Environmental Assessment Review
Strausburg Property

Dear Ms. Renshaw:

I have received the above-referenced documents for review and comment. As you are aware, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays granted approval for growth allocation to this property in the amount of 20.1 acres. The approval was granted based on the following conditions:

1. Prior to recordation of the subdivision plat for the Strausburg property, the Town Planning Commission shall approve a Buffer Management Plan for the property. Implementation of the plan shall take place prior to issuance of any building permits.
2. Prior to recordation of the subdivision plat for the Strausburg property, the Town shall submit to the Commission staff, a conservation easement that will ensure that 76 acres adjacent to the subject growth allocation shall be maintained in uses appropriate to the Resource Conservation Area as those uses set forth in the Town Ordinance. The easement shall remain in perpetuity and recorded.
3. The amount of growth allocation shall be 20.1 acres.

As you can see from the above conditions, this office will need to review the Buffer Management Plan and conservation easement prior to recordation of the plat. In regard to the preliminary plat and Environmental Assessment, I have outlined my comments below.

Ms. Renshaw
December 11, 2003
Page Two

Preliminary Plat

1. We recommend that the hydric soil and floodplain information provided on the Sensitive Areas Plan be overlaid on the plat. This will help better define the buildable areas on each lot.
2. The total remaining allowable impervious area in the table provided on sheet one of two appears to be incorrect. Please have the applicant total the column again. I get 531,762 square feet.
3. We recommend that certain environmental notes be added to the final plat. These notes should include that the Buffer is an area of no disturbance, including clearing and grading.

Environmental Assessment

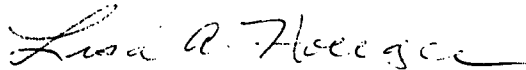
1. The information regarding the Buffer Management Plan contained in the Environmental Assessment must contain more detail. The Commission will expect to see, at a minimum, a sample of a planting area that will occur in the Buffer.
2. The Commission has instructed local governments, that when reestablishing the Buffer, natural vegetation should include a mix of canopy, understory and herbaceous layers of woody vegetation.
3. A mix of woody vegetation will be required on each lot. Shading concerns can be addressed on a case by case basis; however, the three tiers of forest vegetation will be required on each lot.
4. The Environmental Assessment notes this site supports FIDs habitat, although the letter from the Department of Natural Resources dated December 27, 2002 does not indicate the presence of FIDs habitat. I assume that the adjoining parcel may contain FID habitat. In any case, it appears little or no clearing will be required of the area that may be closest to off-site FID habitat.
5. Individual piers will require review by the Department of Natural Resources due to the presence of Historic Waterfowl Staging Areas and review by the Department of the Environment for a pier permit. This permit is not guaranteed since pier location is dependent on sufficient water depths and the presence or absence of aquatic resources.

Ms. Renshaw
December 11, 2003
Page Three

6. We recommend the applicant supply the Town with updated SAV information to determine the best location for future piers.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Roby Hurley, Circuit Rider
ST 884-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 11, 2003

Ms. Kelly Krinetz
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Turnbull Estates, Part 2, Section 2 Lots 11-32; 34-38
S 90-174, P 03-176

Dear Ms. Krinetz:

I have received the above referenced subdivision request for review and comment. The applicant has provided updated information, and it is my understanding that I am supposed to comment on those lots west of Kenny Lane. I have outlined my comments below.

1. The plat provided shows the lots east of Kenney Lane. Please have the applicant provide the plat for lots west of Kenny Lane.
2. The plan indicates that 270,770 square feet of impervious surface is permitted on sheet one of three of the Critical Area Information/Natural Resource Inventory site plan. I calculate 15% of 1,353,848 square feet to be 203,077 square feet. Please have the applicant correct this figure.
3. When I totaled the Impervious Surface column in the Lot Tabulation table I got 98,171 square feet of proposed impervious surface; however, the total impervious surface indicated in the Critical Area calculation numbers listed as 97,976 square feet. Please have the applicant correct this figure.
4. When I receive a copy of the plat and site plan for the lots west of Kenney Lane, I will provide further comments.

Ms. Krinetz
December 11, 2003
Page Two

Thank you for the opportunity to comment. Please telephone me if you have any questions.

Sincerely,



Lisa A. Hoeger
Natural Resources Planner

cc: AA 843-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 8, 2003

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: 03-WL-1988, Mandrin Homes, LTC

Dear Mr. Cuthbertson:

I have received the above-referenced request to create a 44-slip community marina. According to the Natural Resources Article §8-1808.5, the number of slips is based on each 50 feet of shoreline in a Limited Development Area or according to a lot to slip ratio, whichever is less. In this case, the allowable number of slips is 44, notwithstanding proper location and design. This office will defer to your agency with regard to the proper location and design of this pier.

The requirements for a new community pier and boat docking facility are enumerated in the Natural Resources Article §8-1808.5(C) 1-6 and include the following:

The facility:

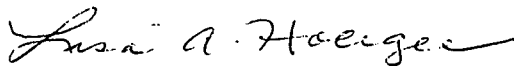
1. Is water dependent;
Meets a recognized private right or public need;
Is community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision; and
Is associated with a residential development approved by the local jurisdiction for the Critical Area and is consistent with all criteria and local regulations for the Critical Area;

Mr. Cuthbertson
December 8, 2003
Page Two

2. Adverse effects on water quality and fish, plant, and wildlife habitat are minimized;
3. Insofar as possible, nonwater dependent structures or operations associated with water dependent projects or activities are located outside the buffer;
4. Disturbance to the buffer is in the minimum necessary to provide a single point of access to the facility;
5. Food, fuel, or other goods and services are not offered for sale, and adequate and clean sanitary facilities are provided; and
6. When a community pier and slips is provided as part of a new development project, private piers are not permitted in the development area.

Thank you for the opportunity to comment. If you have any questions, please call me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Lori Allen, Anne Arundel County Planning and Zoning
AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 4, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21610

Re: Tilghman Volunteer Fire Department
366

Dear Ms. Verdery:

I would like to comment on the above-referenced site plan. Based on the your telephone message from yesterday, it is my understanding this entity is not a local government agency, but a private fire company; therefore, it will not require approval by the Critical Area Commission as I had originally indicated in previous conversations. I am providing preliminary comments for the Technical Advisory Committee meeting since we will not be able to perform a site visit until after that meeting.

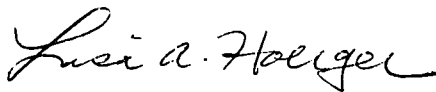
1. The impervious surface information needs to more accurately reflect existing conditions on the applicant's property. The total existing impervious area appears to exceed the total site area. Please have the applicant clarify the numbers reported and provide impervious figures for all surfaces, including structures.
2. It appears the applicant is treating these sites as one. Is the County considering the two site areas one site?
3. I would like to perform a site visit with County staff to determine whether the off-site impervious surface on adjacent properties should be included in the applicant's existing impervious figures.

Ms. Verdery
December 4, 2003
Page Two

4. Since the total site area reported is smaller than the existing impervious area reported please have the applicant provide the site area and indicate whether that area is for both parcels or one, and whether that area includes the two parcels that will require the lot line abandonment.
5. The site plan shows pavers as the surface for a portion of the parking lot. Does the County view the pavers proposed as pervious or impervious? Generally, the Commission does not consider pavers as pervious, particularly for parking lot use. These systems require maintenance and it is difficult for local governments to monitor on a long-term basis whether the pavers are functioning as pervious. The applicant needs to provide the County with the design information concerning the pavers in order to make a determination as to whether they would qualify as pervious.
6. How has afforestation been addressed for this site?
7. Since this application will require a variance to the impervious surface limitations, mitigation will likely be required.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 747-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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December 2, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6403
Annapolis, Maryland 21401

Re: Bar Harbor - S #01-030, P #03-059

Dear Ms. Allen:

I have received the second submission of the final development plans and plat for the above-referenced subdivision request. I have outlined my comments below.

1. The site tabulations on the final plan sheet does not match the numbers provided on the tables on the plat. Please have the applicant clarify why the Critical Area figures are different.
2. There is a column on the impervious surface calculations table titled, "Off-site LDA clearing proposed." Where is this area located?
3. We continue to strongly recommend that some type of fencing or visible boundary exist (i.e. bluebird boxes) on the back of each lot to prevent future homeowners from clearing portions of the conservation area. Absent these devices how will the property owners know where the limits are located and how would the County or an HOA enforce it?
4. We still recommend that the plat and the individual deeds state that clearing is prohibited in the conservation easement area. These documents should provide the distance from the front property line to the edge of the conservation area so a property owner, HOA, or county inspector could measure where the conservation area begins.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 393-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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December 2, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Thomas White
Appeal # 1305

Dear Ms. Verdery:

I have received a revised copy of the above-referenced variance request. As in the last submittal, the impervious surface information on the plan is inconsistent. The total impervious area does not equal the figures provided for existing and proposed impervious surface area. Please have the applicant clarify these figures.

As stated in my last letter, this office does not oppose the requested variances since they appear to be reasonable expansions in the 100-foot Buffer. The applicant has minimized Buffer intrusion by siting the pool decking and addition no further waterward. We recommend the following conditions:

1. Mitigation for the new area of any grading, footprint and clearing inside the 100-foot Buffer is mitigated at a 3:1 ratio with native Buffer plantings.
2. The applicants are made aware of the remaining allowable impervious area on this lot.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 669-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 1, 2003

Mr. Kevin Shaver
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Cherry Blossom View - MS 03-061

Dear Mr. Shaver:

I have received the resubmittal for forwarding the above-referenced subdivision. The applicant has addressed the comments in my previous letter; however, there appears to be some outstanding issues that I have outlined below.

1. According to the information provided, the total site area is 41,615 square feet; therefore, the allowable 15% impervious surface limitation for the entire subdivision is equal to 6,242.25 square feet. The table should be revised to reflect this limit and the allowable impervious surface per lot should be adjusted accordingly.
2. The plat notes should clearly indicate that two existing sheds be removed since the shed on proposed lot 2 is not included in the impervious surface calculations.
3. A plat note should also reflect the removal of impervious area on lot 3.
4. The plat notes should indicate that all plantings for the required afforestation and stormwater management be native species.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 571-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 25, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Robert L. Ewing

Dear Ms. Verdery:

I have received the above-referenced subdivision request. Based on the maps in this office, it appears this property is not located within the Critical Area; therefore, we have no further comments.

Please telephone me if you have any questions or if I can provide you with additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 845-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 25, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

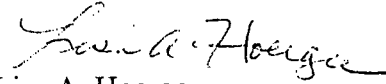
Re: Robert & Teresa Higgins
L 936

Dear Ms. Verdery:

I have received the proposed lot line revision for the above-referenced subdivision. The resulting change is minor and does not appear to conflict with the County's Critical Area Program; therefore, we have no further comment.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,


Lisa A. Hoerger
Natural Resources Planner

cc: TC 826-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 25, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Daniel and Molly Nalls

Dear Ms. Verdery:

I have received the proposed lot line revision for the above-referenced subdivision. The resulting change is minor and does not appear to conflict with the County's Critical Area Program; however, we have noted one comment on the plat below.

- There appears to be a calculation error for parcel 165 regarding the allowable and remaining impervious surface. I calculate 15% of 3.558 to be 23,248 square feet; therefore, the remaining allowable impervious would be 18,687 square feet (23,248 - 4,561).

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 826-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 25, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Kenneth and Nancy Malm - M 1047

Dear Ms. Verdery:

I have received the above-referenced subdivision request. The applicant proposes to create two lots in the Resource Conservation Area. I have outlined our comments below.

1. The County should receive a comment letter from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.
2. The allowable impervious surface and remaining allowable impervious surface for proposed lot 2 appears incorrect. I calculate that 15% of 20.173 acres is 131,810 square feet.
3. It appears the environmental notes indicate that the 100-foot Buffer shall be established in three-tier vegetation. We recommend the County insert language that clarifies when submittal of the Forest Preservation Plan is required.

Thank you for the opportunity to comment. Please telephone me if you have any questions or if I can provide you with additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 830-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 24, 2003

Mr. Roby Hurley
Critical Area Circuit Rider
Lower Eastern Shore Regional Office
Salisbury District Court/Multi-Service Center
201 Baptist Street, Suite 24
Salisbury, Maryland 21801-4974

Re: Town of St. Michaels – Police Station
Consistency Report

Dear Mr. Hurley:

Thank you for sending the consistency report for the Town of St. Michaels Police Station project. I have reviewed this project per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report, and the accompanying documentation, this office agrees that the project is consistent with the Town of St. Michael's Critical Area Program. The only item that remains to be addressed is the requirement in the Town's Zoning Ordinance at Section 5, 10e 1(e) where those site areas not covered by impervious surfaces are to be established in vegetation.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Debbie Renshaw
ST 832-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 25, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: John C. Brooks
M 1035

Dear Ms. Verdery:

I have received the above-referenced subdivision request. The applicant proposes to create three lots that will be partially inside the Critical Area. I have outlined our comments below.

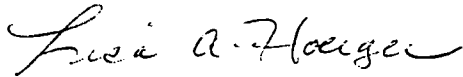
1. Those areas of the lots in the Resource Conservation Area should not have any development activities. Development activities include dwellings, structures, septic reserve areas, wells, etc. We recommend this development restriction be listed on the plat and in the individual deeds.
2. There appears to be no note on proposed lot 4 indicating that the Critical Area portion of the lots is restricted from development activities.
3. It appears the Critical Area portion of the lots is being used to convey density elsewhere using the reservation of development rights. Please provide clarification on this issue.
4. The private road that will access these lots is partially located in the Critical Area. It should be located so it does not impact any Habitat Protection Areas in order to avoid the need for a variance.
5. The County should receive a comment letter from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.

Ms. Verdery
November 25, 2003
Page Two

6. The environmental notes should also state that the portion of the stream inside the Critical Area is subject to a 100-foot Buffer where new development activities are prohibited.

Thank you for the opportunity to comment. Please telephone me if you have any questions or if I can provide you with additional information.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 829-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 25, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Donald D. Foster
M 1046

Dear Ms. Verdery:

I have received the sketch plan for the above-referenced subdivision request. The applicant proposes to create six lots in the Resource Conservation Area. I have outlined our comments below.

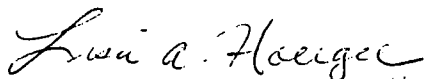
- 1) The County must receive comments from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.
- 2) The applicant has shown two intermittent streams with the appropriate 100-foot Buffer on the plan; however, the note indicates the streams do not exist on the site. The County must verify this information since the presence of either stream and its buffer would require the applicant to seek a variance for the proposed private road to access the lots. If the streams do not exist, they can be removed from the plat.
- 3) Are lots labeled existing lots 1 and 2 part of this subdivision request? If they are part of an earlier subdivision of this parcel, the County needs to ensure there is enough RCA density remaining to plat proposed lots 3-8. Also, the Buffer should be shown on these lots if they are part of this subdivision request. Are there wetlands or streams on these lots?
- 4) Please have the applicant indicate the area of proposed afforestation on the plan.

Ms. Verdery
November 25, 2003
Page Two

- 5) Please have the applicant provide a list of each lot with the allowable impervious surface figures. The overall impervious area for the site should include the existing and proposed roads.
- 6) The nontidal wetlands inventory maps show two pockets of wetlands on the site in the vicinity of proposed lots 4 and 8. This information should be field verified to ensure the Buffer is delineated correctly and, if the wetlands do exist, to determine whether they are State-owned or privately-owned wetlands for purpose of calculating density and impervious surface figures.
- 7) All appropriate environmental notes should be put on the plat prior to final recordation.
- 8) The 100-foot Buffer must be reestablished on those lots were the Buffer is not fully forested for that portion of the property that is converting from an agricultural use to a residential use.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions or if I can provide you with additional information.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 828-03

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
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www.dnr.state.md.us/criticalarea/

November 25, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Tilghman on the Chesapeake, Phase 4 & 5
M 1022 – Preliminary Plat

Dear Ms. Verdery:

Thank you for forwarding the preliminary plat for the above-referenced subdivision request. It appears the applicant has not addressed the comments of my previous letter dated July 14, 2003. That letter raised the following issues on Phase IV. I have no comments regarding Phase V as it is completely outside the Critical Area.

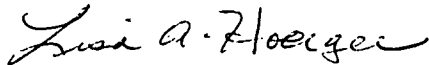
1. As stated in my previous letter, the location of lot 12 will likely require a variance for new development activities to occur within the 25-foot nontidal wetland buffer. We recommend lot 12 be reconfigured to avoid the need for a variance. This office will not support a variance for new development activities to a designated Habitat Protection Area in the County's program regardless of whether the applicant can secure permits from the Maryland Department of the Environment.
2. This office still recommends a table be added to the plat stating the total allowable impervious surface figures for each lot in the Critical Area (see July 14, 2003 letter).
3. The separate parcel labeled "Remaining Lands" cannot be used to generate allowable impervious surface or be used for the clearing calculation since it is a noncontiguous parcel. If it is not permitted in the County's ordinance, then it is not permitted.

Ms. Verdery
November 25, 2003
Page Two

4. Please have the applicant update the forest clearing information based on the forest on site that will be cleared and how or where reforestation will occur.
5. Has your office received a letter from the Department of Natural Resources, Heritage and Biodiversity Division?

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Amanda Sigillito, MDE
Mr. Alan Kampmeyer, MDE
TC 235-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 24, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Bellavista, LLC - Appeal #1300

Dear Ms. Verdery:

I have received the special exception and variance request to expand an existing special exception. From the site plan provided, it appears the proposed additions will extend no further waterward than the existing structure. Provided the Board of Appeals finds the applicant has met all five variance standards, this office recommends the following conditions of approval:

1. Mitigation is performed at a 2:1 ratio for the area of new impervious surface with native Buffer plantings.
2. The County works with the applicant to identify a means for treating the resulting stormwater that will be generated from the additional impervious area.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 833-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 20, 2003

Mr. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Ruth Nutwell - MS 03-008
Resubmittal

Dear Mr. Soldano:

I have received the second resubmittal for the above-referenced subdivision request. It appears the applicant has addressed the comments of my last letter dated September 10, 2003; therefore, I have no further comments.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 85-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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November 19, 2003

Mr. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Slattery Property
S 02-041, P 02-088

Dear Mr. Soldano:

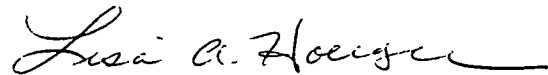
I have received another sketch plan submittal for the above-referenced property. The applicant has made some modifications since the last submittal due to Buffer issues, and has addressed some of the issues from my last comment letter dated March 7, 2003. I have outlined my comments below.

1. We recommend some additional impervious surface allowance be made for lots 1-3 so that future homeowners will have some reasonable expansion of impervious on their lots.
2. The applicant indicated that there will be tree protection fencing adjacent to the steep slopes. While this may address tree protection during the construction phase, it does not address how the area of the expanded Buffer or forest easement on each lot, whichever is more restrictive, will be protected over the long term. We recommend some type of permanent fencing.
3. There is no stormwater management measure shown on lot 6 as is with the other lots. How will stormwater be handled on this lot?
4. Two totals in the impervious surface calculations table on sheet one of three of the Critical Area Plan Title Sheet appear incorrect. They are the proposed coverage total and the total coverage total. I get 35,083 square feet and 39,768 square feet respectively. Please have the applicant check these figures.

Mr. Soldano
November 19, 2003
Page Two

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger". The signature is written in black ink and includes a long horizontal flourish at the end.

Lisa A. Hoerger
Natural Resources Planner

cc: AA 282-02

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

Michael S. Steele
Lt. Governor

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November 18, 2003

Mr. Kevin Shaver
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Shelley Muffley Property
S 01-003, P 03-160

Dear Mr. Shaver:

I have received the above-referenced subdivision request to create six lots on a parcel with a split Critical Area designation of Limited Development Area and Resource Conservation Area. I have outlined my comments below.

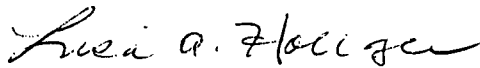
1. The application indicates the parcel has a split LDA/RCA designation. It appears three dwellings are proposed in the RCA portion of the parcel. I will assume these lots are proposed as intrafamily transfer lots; therefore, they shall be subject to the requirements of the Zoning Ordinance at Article 28, 1A-108.
2. Included in this section of the zoning ordinance is the provision that three lots are permitted provided the parcel is 12 acres or more and less than 60 acres in size. The size of the RCA as reported in the Critical Area Report is 14.68 acres. Before this number of acres can be considered for determining the allowable number of intrafamily transfer lots, the applicant must provide information concerning the ownership of the tidal wetlands on this property. If the wetlands or a portion of the wetlands are State-owned, then that amount of acreage cannot be counted for density purposes.
3. Note #12 on sheet 1 of 3 of the Sketch Plan indicates no wetlands exist on this site. This is not correct according to the plan.

Mr. Shaver
November 18, 2003
Page Two

4. Why is there a discrepancy between notes #6 and #7? There is approximately 1.5 acres of difference between what the applicant indicates is the total site area versus the total lot area.
5. The limits of the Buffer on proposed lot 5 are difficult to follow. Please have the applicant clearly draw and label the limits of the Buffer on this lot.
6. Provided all appropriate reviewing agencies agree on the soils analysis performed on this property, please have the applicant show the area of hydric soils on the property with appropriate Buffers.
7. Please provide information on what is referred to as the existing forest conservation easement. Why and when was this area set aside?
8. It appears proposed lot 6 will be a riparian lot. How will this lot owner access the water since it appears the forest conservation easement may preclude crossing from the dwelling location to the water?
9. The final plan should include information on the allowable impervious surface area for each lot. This can be in the form of a table and should include existing, proposed, proposed for removal, and totals.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 772-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 20, 2003

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: 04-WL-0504, Robert Klein

Dear Mr. Cuthbertson:

I have received the above-referenced project to construct a stone revetment and a pier with an irregular platform. This office defers to your expertise with regard to the sizing and location of the proposed revetment and pier. In regard to the irregular platform, we recommend the wetlands license prohibit any structures on the pier.

Thank you for the opportunity to comment. If you have any questions, please call me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

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Lt. Governor

Ren Serey
Executive Director

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November 20, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Timothy E. Wyman – Wye Town Point
M 1034

Dear Ms. Verdery:

I have received a final plat for the above-referenced subdivision request. I have outlined our comments below.

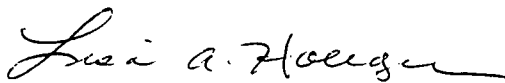
- 1) As indicated in my last comment letter, the County must receive comments from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.
- 2) The applicant has indicated the pond as undetermined. It appears from the plan submitted that the pond is tidal; therefore, it would be considered State wetlands and the area of the pond cannot be counted in the total site area when calculating the density.
- 3) In regard to calculating the density, how many existing grandfathered lots existed on this parcel prior to the current plan?
- 4) The afforestation area is still split by the proposed access road. We recommend the smaller portion be credited in a portion of the 100-foot Buffer that is required to be reestablished or along one of the three stream corridors on the property.

Ms. Verdery
November 20, 2003
Page Two

- 5) It appears the applicant has included the area of the new roadways in the proposed impervious figures. What about Shaw Bay Lane? Is that part of the existing parcel?
- 6) The impervious surface calculation for lot 8 cannot use the area of tidal wetlands owned by the State to determine allowable impervious. Please have the applicant correct this calculation.
- 7) It appears the applicant still proposes to create a six-slip community pier and the allowance of an individual pier for lot 1. As stated in my previous letter the Natural Resources Article 8-1808.5 9(c)(6) does not permit individual piers in a subdivision where a community pier with slips is provided. If lot 1 is considered part of this subdivision request, then it must comply with the provisions of the Natural Resources Article.
- 8) No path is shown on the plan at the community pier. Please have the applicant locate a path and indicate in the plat notes the maximum width. We recommend three feet.
- 9) The delineation of the 100-foot Buffer disappears around the tidal pond on lot 8. Please have the applicant draw the Buffer in this location.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions or if I can provide you with additional information.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 514-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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November 18, 2003

Ms. Kelly Krinetz
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Hardesty Property – Resubmittal of the Final Plan and Final Plat
S 02-089, P 02-191

Dear Ms. Krinetz;

I have received the latest resubmittal for the above-referenced subdivision request. It appears the applicant has addressed the comments of my last comment letter dated September 9, 2003. I have outlined my remaining comments below.

1. I have read the soils report submitted to this office. Please confirm if your office has determined whether an expanded Buffer will be required.
2. It appears the applicant has identified 1.02 acres of allowable impervious area for proposed lot 2 and is reporting .23 acres is being used for the portion of lot 2 being commercially developed. The remaining allowable impervious area for lot 2 is .79 acres. This acreage must be sufficient to support what may become three residential lots in the future on lot 2.

Thank you for the opportunity to comment. If you have any questions regarding the comments above, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 557-02

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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November 17, 2003

Ms. Penny Chalkley
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Stotz Subdivision
99-016

Dear Ms. Chalkley:

I have received the resubmittal for the above-referenced subdivision request. I have outlined my comments below.

1. Note #8 does not appear completely correct. If disturbance is proposed in the expanded Buffer, then the applicant must apply for a variance.
2. The impervious surface information in note #10 is not clear. Please have the applicant indicate existing and proposed impervious area for each lot with an overall total of existing and proposed impervious area.
3. Note #15 mentions road expansion. What would be the purpose of road expansion on this parcel?
4. As indicated in previous correspondence, this office will not support variances for new development activities as suggested in note #17.
5. Note #19 mentions the Critical Area portion of the parcel is within the expanded Buffer for hydric soils except for lot 2. The plan indicates what appears to be a septic line that may run through the expanded Buffer. This office will not support a variance for a septic line in the Buffer for new development activities.

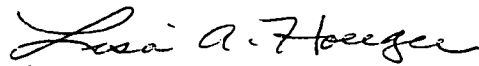


Ms. Chalkley
November 17, 2003
Page Two

6. Note #20 suggests Forest Interior Dwelling Bird (FID) restrictions. This office sent a letter to your office dated May 7, 2002 indicating that it was the opinion of this office that the site did not qualify as FID habitat; therefore, the FID protection measures were not necessary.
7. Note #22 is confusing. Please have the applicant clarify this note since it appears the density in the RCA is used after this subdivision.
8. On plat two of two there are two septic reserve areas labeled for lot 2. Is one of these septic reserve areas for lot 4 since that seems to be the one lot not accounted for?

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

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 67-99

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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November 7, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Spriggs Cove, Curtis Payne
P 03-153

Dear Ms. Allen:

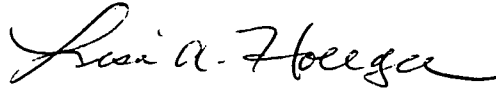
I have received the above-referenced resubdivision request for review and comment. The applicant is reconfiguring three parcels. I have outlined my comments below.

1. This office has no objection to the resubdivision request provided it will not create any nonconforming issues.
2. Since the site is in an Intensely Developed Area, the applicant must address the 10% Pollutant Reduction rule when applying for a building permit for proposed lot 1.
3. It appears the existing driveway will now serve lot 1, and lot 2 will be accessed from a different location. Can lot 1 share the new driveway created for lot 2, and restore those areas of the nontidal buffer that have been impacted by the driveway?
4. Has a letter from the Department of Natural Resources Heritage and Biodiversity Division been submitted?
5. We recommend a smaller footprint in order to accommodate future accessory uses outside the required buffers on this lot.

Ms. Allen
November 7, 2003
Page Two

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 756-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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November 7, 2003

Mr. James W. Price, Director
Program Open Space, E-4
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

Re: DNR Clearinghouse Review of Local POS Project #4503-2-208
White Pond Park Acquisition, Anne Arundel County

Dear Mr. Price:

Thank you for forwarding this project to our office for review and comment. According to the Critical Area maps, it appears the majority of the acquisition area is within the Critical Area (see enclosed map). Also, it appears the site has a split Critical Area designation of Limited Development Area (LDA) and Resource Conservation Area (RCA). Therefore, any future development activities are subject to the Critical Area requirements for LDAs and RCAs.

LDA and RCA Requirements

All new or redevelopment activities are limited to specific clearing and impervious surface restrictions. Clearing below 20% requires 1:1 mitigation; clearing between 20% and 30% requires replacement at a 1.5:1 ratio for the entire area cleared; and clearing above 30% requires replacement at a 3:1 ratio for the entire area cleared. Impervious surfaces are limited to 15% of the site. This includes existing impervious areas.

The County's Critical Area Program restricts certain types of uses from the RCA. Public parks are generally restricted to passive types of recreation. For further information on this issue, contact Ms. Elinor Gawel with the Anne Arundel County Department of Planning and Zoning at (410) 222-7441.

Mr. Price
November 7, 2003
Page Two

Habitat Protection Areas

In addition, the site likely supports several Habitat Protection Areas (HPAs) as defined in the Code of Maryland Regulations (COMAR) 27.01.09 including the 100-foot Buffer from tidal waters, streams and the edge of tidal wetlands. It appears this parcel could support Forest Interior Dwelling Birds (FIDs) given its size, location and forest cover. Habitat Protections Areas are protected in the LDA and RCA. Any required buffers or habitat management guidelines must be observed.

The information provided mentions this site could provide water access for citizens. This office supports public access; however, it must be accomplished in compliance with the County's Critical Area regulations and COMAR. Any future development activities on this site will require review and approval by the Critical Area Commission.

Thank you again for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Elinor Gawel, AA Co.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 6, 2003

The Honorable Russell Brinsfield, Mayor
Town of Vienna
Commissioners of Vienna
P O Box 86
Vienna, Maryland 21869

Re: Approval of New Critical Area Maps

Dear Mayor Brinsfield:

At its meeting on November 5, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination that the Town of Vienna's new Critical Area maps are a refinement to the Town's Critical Area program and it was approved. This refinement should be incorporated into your Critical Area Program within 120 days from the date of this letter by ensuring that the maps are signed and dated. The Commission has a set of maps, so you do not need to provide a set to us.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Tracey Gordy

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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1804 West Street, Suite 100, Annapolis, Maryland 21401
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November 3, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Colledge Family Limited Partnership
S 964

Dear Ms. Verdery:

I have received the revised plat for the above-referenced intrafamily transfer request for review and comment. I have outlined our comments below.

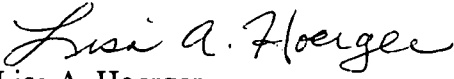
1. It appears the property is now deeded to three individuals rather than a limited partnership. The three individuals listed on the deed must jointly own the parent parcel in order to qualify for an intrafamily transfer. The lot being created by the intrafamily transfer, proposed lot 1, can only be transferred to a mother, father, son, daughter, grandfather, grandmother, grandson, or granddaughter of one of the three individuals listed on the current deed.
2. The Department of Natural Resources, Heritage and Biodiversity Division has indicated this parcel may support Forest Interior Dwelling Bird (FID) habitat. The applicant has indicated a 300-foot setback from the existing forest edge, Edgar Cove, and the tidal wetlands to the north. The Commission's Science Advisor, Claudia Jones, reviewed this plan and she indicated that the 300-foot setback should only be drawn from the existing forest edge. The FIDs will utilize the 300-foot riparian zone that borders Edgar Cove and the tidal wetlands; therefore, those areas should be included in the FID protection area.

Ms. Verdery
November 3, 2003
Page Two

3. Provided the new dwelling location is located within 300-feet of the existing forest edge along the existing driveway, mitigation for clearing would be at a 1:1 ratio. Any other location beyond the 300-foot setback from the existing forest edge along the driveway would disturb FID habitat and would require mitigation at a 1:1 ratio and additional mitigation for the area of interior forest lost. If your office requires more specific information regarding the protection and conservation of these species, please contact our office for further assistance.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,


Lisa A. Hoerger
Natural Resources Planner

cc: TC 423-02

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

Michael S. Steele
Lt. Governor

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
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October 29, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Robert Porter
Special Exception #1304

Dear Ms. Verdery:

Thank you for forwarding the above-referenced special exception to this office for review and comment. The applicant proposes to extend an existing pier for a total encroachment of 195 feet channelward. This office has no comment regarding the encroachment issue provided no Habitat Protection Areas are impacted.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 760-03



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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October 27, 2003

Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Fred Zell – Knapps Narrows Farm
M-1031

Dear Ms. Verdery:

I have received the final plat for the above-referenced subdivision request. It appears the applicant has addressed most of the comments in my March 17, 2003 letter. I have outlined my remaining comments below.

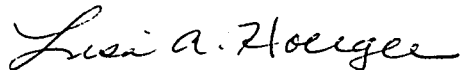
1. The applicant has shifted the lots and is proposing a right-of-way through lot 2 for access to lot 1 in what appears to be an attempt to avoid impacts to the 100-foot Buffer for new lots. Will the portion of the road that passes the existing nontidal wetlands require expansion? If so, will the County require a variance for disturbance to the nontidal wetland buffer?
2. According to the note on sheet one of two, the information regarding tidal and nontidal wetlands has not been field verified. In addition to the density issue outlined in my previous letter, field verification would also help identify small pockets of nontidal wetlands that may exist on the proposed lots. We mention this issue because we have recently been notified of a request to fill nontidal wetlands on a lot in Talbot County that was created in 1997.
3. The letter from the Department of Natural Resources (DNR), Heritage and Biodiversity Division indicates the potential presence of Forest Interior Dwelling Bird (FID) habitat. From the information provided, it appears the creation and development of these lots will not require forest removal. If this is the case, then the guidelines provided in the letter are not applicable to this proposal.

Ms. Verdery
October 27, 2003
Page Two

4. The letter from DNR also indicated this site is adjacent to historic waterfowl concentration areas. Any future piers should require coordination with DNR as indicated in their letter. We recommend this be a note on the plat.

Thank you for the opportunity to comment. Please contact me if you have any questions at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 201-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 24, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Chuck Mangold, Jr.
A019

Dear Ms. Verdery:

Thank you for forwarding the above-referenced administrative variance request to this office for review and comment. The applicant proposes to construct a residential addition that appears to be no closer to the water than the existing residential structure. This office has no objection to reasonably sized additions when the only location is in the 100-foot Buffer; therefore, we recommend the applicant consider reducing the proposed 1,428 square foot addition to minimize permanent disturbance to the Buffer.

Provided the Planning Officer finds the applicant has met the variance standards, we recommend the following conditions:

1. Mitigation is performed at a 2:1 ratio for all new impervious area inside the Buffer.
2. The mitigation is located within the Buffer using native Buffer plantings.
3. The County works with the applicant to design some form of stormwater management for the new addition given its proximity to the water.

Ms. Verdery
October 24, 2003
Page Two

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 742-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 24, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Bette S. Kenzie
M 1028A

Dear Ms. Verdery:

Thank you for forwarding the above-referenced subdivision request. This office provided comments on the sketch plan in an August 23, 2002 letter. Those comments are still applicable.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 503-02

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 24, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Richard Slaten & Katarine Latimer
Appeal # 1287-R

Dear Ms. Verdery:

Thank you for forwarding the above-referenced special exception request. This application appears to be a revision based on recommendations by the Planning Commission. As stated in our previous letter, this office has no comment provided the pier request will not impact any Habitat Protection Areas.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410)260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 556-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 24, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Kenneth D. & Mary B. Hoff, Trustees
L 933

Dear Ms. Verdery:

Thank you for forwarding the above-referenced lot line revision to this office for review and comment. The applicants propose a lot line adjustment. This action should not create the need for future variances for either lot. Note number 17 on the plat should eliminate the reference to "trees greater than 4" caliper" and instead simply state that clearing requires review by the Talbot County Planning Office.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 745-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 24, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Bradley Sharp - Appeal 1295

Dear Ms. Verdery:

Thank you for forwarding the above-referenced variance request. The applicant proposes to construct a deck within the 100-foot Buffer. This office has no objection to the deck expansion provided the Board of Appeals is able to find that the applicant's request is the minimum necessary given the expansion is further waterward than the existing dwelling and deck area. We recommend 3:1 mitigation for the new area of disturbance by the proposed deck.

We would like to take this opportunity to mention that the allowable impervious area on this lot is 31.25%, and that deck is generally not considered impervious provided adequate spacing exists between the boards to allow water to infiltrate into the ground below. If the applicant were proposing a roof over the deck, then it would be considered impervious. The information provided did not address the construction of the deck or whether it would include any enclosures.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 741-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 24, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Robert J. Allen, III
L 934

Dear Ms. Verdery:

Thank you for forwarding the above-referenced lot line revision to this office for review and comment. The applicant proposes a lot line adjustment. Provided this action will not create the need for future variances for either lot, this office has no further comment.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 746-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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October 23, 2003

Mr. Steve Callahan
MS 6302
Anne Arundel County Department of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Alvin W. Lentz et al
MS #03-079

Dear Mr. Callahan:

I have received the above-referenced subdivision request to create two lots from one parcel. Provided the creation of the two lots will be consistent with the County's Critical Area program, this office has no further comment.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 748-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 23, 2003

Mr. Russell Brinsfield, Mayor
Town of Vienna
Commissioners of Vienna
P.O. Box 86
Vienna, Maryland 21869

Re: Approval of New Critical Area Maps

Dear Mayor Brinsfield:

This office is in receipt of the new Critical Area maps and notification of local approval. Chairman Madden will review this request to adopt the Town's new Critical Area maps into the Town's Critical Area Program and will make a refinement determination within 30 days. The Critical Area Commission will review his determination at its November meeting. I will notify you of its decision.

Please telephone me at (410) 260-3478 if you have questions or comments regarding this process.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Tracey Gordy

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 22, 2003

Ms. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Burton Property, Resubmittal - MS 03-017

Dear Mr. Soldano;

I have received the written response from Bay Engineering that addresses the comments from my July 16, 2003 letter. This office has no further comments at this time.

Thank you for the opportunity to comment. If you have any questions please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 137-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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October 21, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Bryan Capital Group
Appeal # 1294

Dear Ms. Verdery:

I have received the above-referenced variance to permit greater impervious area than permitted. It appears the variance was prompted by the request for a minor lot line revision. Since the lot line revision will result in a smaller lot area, and the lot is already nonconforming in regard to greater impervious surface than permitted, the resulting lot would create a greater nonconforming situation. We recommend the applicant attempt to adjust the lot lines so there is an equal swap of land between the two parcels.

Thank you for the opportunity to comment. If I can provide you with further assistance, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 709-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 20, 2003

Mr. Vivian C. Marsh
Anne Arundel County Office of Planning and Zoning
2664 Riva Road, MS 6403
Annapolis, Maryland 21401

Re: Lake Shore Small Area Plan

Dear Mr. Marsh:

Thank you for forwarding the Lake Shore Small Area Plan to this office for review and comment. As you pointed out in your letter, it appears there will be some changes to the Greenways Master Plan and the proposed Land Use map that will affect properties in the Critical Area. In general, the changes should not be in conflict with the County's existing Critical Area Program and Bog Protection Program.

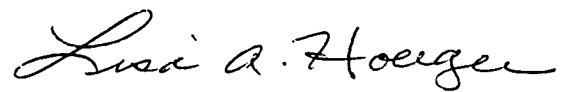
I have reviewed the critical connections proposed for the Greenways Master Plan. It appears that none of the proposed critical connections are within the Critical Area; however, there are several critical connections 2, 3, 7, and 8 that are in or nearby a Bog Protection Area. Any proposed connections that may be within a Bog Protection Area must comply with the County's newly adopted Bog Protection regulations. Since these ecosystems are highly sensitive to human disturbance, we recommend these connections be limited for use by wildlife. Any proposed trails for use by humans should be carefully evaluated using the expertise of the County's Environmental and Cultural Resources Office and the expertise of the Maryland Departments of Environment and Natural Resources, and the various citizen experts that participate on the Bog Task Force Committee.

The proposed zoning changes do not appear to conflict with the underlying Critical Area designations on those properties inside the Critical Area. The majority of the changes in the Critical Area appear consistent with the existing land uses and Critical Area overlays. Any properties with an Resource Conservation Area (RCA) overlay will still be required to maintain one dwelling unit per twenty acres and are still subject to the list of uses permitted in the RCA.

Mr. Marsh
October 20, 2003
Page Two

Thank you for the opportunity to comment on the Lake Shore Small Area Plan. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Elinor Gawel, Environmental and Cultural Resources
Judy Cole, MDE
Katharine McCarthy, DNR
Ren Serey, CAC
Mary Owens, CAC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 16, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Virginia Berliner
A017

Dear Ms. Verdery:

Thank you for forwarding the above-referenced variance request to construct dwelling additions in the 100-foot Buffer. From the information provided it appears the additions will not encroach any further waterward than the existing setback.

It appears the applicants have no other area for this proposed expansion to the dwelling. This office does not oppose the requested variance however, we recommend the following conditions:

1. Mitigation for the new area of any grading, footprint and clearing inside the 100-foot Buffer is mitigated at a 2:1 ratio with native Buffer plantings.
2. The County works with the applicant to address stormwater that will be generated from the new additions.
3. The applicants are made aware of the remaining allowable impervious area on this lot.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 707-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 16, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Eugene & Jill Pfeifer - A018

Dear Ms. Verdery:

Thank you for forwarding the above-referenced variance request to construct a dwelling addition in the 100-foot Buffer. From the information provided it appears the addition will not encroach any further waterward than the existing setback. The information provided does not include the size of the proposed addition in the Buffer or the existing and proposed impervious figures. This information should be provided to your office to ensure compliance with the impervious surface limitations.

It appears the applicants have no other area for this proposed expansion to the dwelling. This office does not oppose the requested variance however, we recommend the following conditions:

1. Mitigation for the new area of any grading, footprint and clearing inside the 100-foot Buffer is mitigated at a 2:1 ratio with native Buffer plantings.
2. The County works with the applicant to address stormwater that will be generated from the area of the new addition.
3. The applicants are made aware of the remaining allowable impervious area on this lot if the two additions are approved.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 708-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 3, 2003

Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Fred Zell
M1041

Dear Ms. Verdery:

I have received the major lot line revision for the Fred Zell property. The applicant proposes to create five lots with ten density rights that are almost entirely in the RC portion of the property. I have outlined my comments below.

1. It appears the total allowable dwelling units in the RC portion of the property are limited to seven. All lots will be considered new; therefore, there are no grandfathered development rights associated with the existing parcels if they will be changed, as appears to be the case with the subdivision request.
2. When the area of State tidal wetlands is deducted from 160 acres the resulting acreage is 158 acres, which allows seven dwelling units.
3. Will the County allow more than one dwelling unit per parcel? If so, will one be considered a primary structure and the other an accessory?
4. The County should receive a letter from the Department of Natural Resources, Heritage and Biodiversity Division prior to final recordation to ensure all habitat areas are identified and adequately protected.
5. The 100-foot Buffer shall be reestablished on those lots that will convert to a residential use. Reestablishing the Buffer includes planting the various layers of forest with native species.

Ms. Verdery
October 3, 2003
Page Two

6. The impervious surface information on the plan appears correct; however, the County must ensure it includes existing roads as well as other impervious areas.
7. Please have the applicant provide the clearing acreage that will be required for the proposed private road. How wide will the pavement be? We recommend minimizing the width of pavement to reduce forest clearing.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 664-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 3, 2003

Mr. Ray C. Dintaman, Jr., Director
Environmental Review Unit
Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue, B-3
Annapolis, Maryland 21401

Re: USACE Paint Branch Stream Restoration Project
Prince George's County

Dear Mr. Dintaman:

Thank you for forwarding the above-referenced project to this office for review and comment. This office provided comments to the Army Corps of Engineers pursuant to their public notice and I have enclosed that letter for your information.

Thank you for the opportunity to provide comments. If you need additional information, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

Enclosure

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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October 3, 2003

Mr. Donald Sparklin
State Highway Administration
707 N. Calvert Street, 3rd Floor
Planning Division
Baltimore, Maryland 21202

Mr. John Gerner
Federal Highway Administration
Woodrow Wilson Bridge Center
1800 Duke Street, Suite 200
Alexandria, Virginia 22314

Re: Woodrow Wilson Bridge Project
Maryland Approach (BR-3C)
Construction Staging Area for Contract

Dear Sirs:

I have received a cover letter and site plan that was submitted to the Maryland State Highway Administration from Potomac Constructors, LLC indicating the proposed layout of their construction staging area. It is my understanding there will be no impacts to the 100-foot Buffer except as a laydown/storage area for concrete segments and for access to the proposed bulkhead and piers.

The Critical Area Commission permitted these types of activities when the Commission reviewed the site plan for the first contractor. In addition, the approval letter dated June 7, 2001 covers the activities of any subsequent contractor unless the contractor proposes new disturbances, other than the two listed above, inside the 100-foot Buffer. I have attached a copy of that letter for your information.

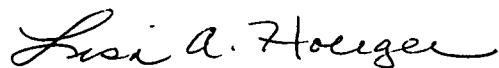
October 3, 2003

Page Two

Therefore, the activities proposed on this site by SHA and its contractor, Potomac Constructors, LLC, are consistent with the existing approval of uses permitted in the construction staging area. Unless the plan changes, it does not require further review by this office, notwithstanding any other Federal, State or local permits that may be required.

Thank you for your cooperation. If you have any questions, please contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Michael S. Baker, PCC
Susan Jacobs, SHA
Sherry Conway Appel, Prince George's Co. DER
Richard Thompson, Prince George's Co. DER

Judge John C. North, II
Chairman



Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION
1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

June 7, 2001

Mr. Donald Sparklin
State Highway Administration
707 N. Calvert Street, 3rd Floor
Planning Division
Baltimore, Maryland 21202

Mr. John Gerner
Federal Highway Administration
Woodrow Wilson Bridge Center
1800 Duke Street, Suite 200
Alexandria, Virginia 22314

Dear Sirs:

At its meeting on June 6, 2001, the Chesapeake Bay Critical Area Commission approved the proposed construction staging area as a conditional approval. The project was approved based on the following conditions:

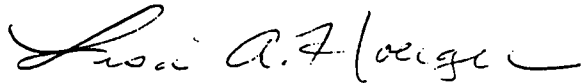
1. All structures and associated facilities, including gravel, sediment and erosion control measures, stormwater measures, the proposed bulkhead and barge, must be removed from the site, and the site shall be restored to its pre-construction conditions at the conclusion of use by State Highway Administration and its contractors.
2. Mitigation shall be performed at a 3:1 ratio for all disturbances to the 100-foot Buffer. This mitigation may be in the form of plantings off-site.
3. Prince George's County Department of Environmental Resources will assist in the selection of the off-site Buffer mitigation.
4. The Buffer shall be clearly marked in the field using fencing, signs, or some other means in order to clearly delineate the extent of the 100-foot Buffer.

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

5. State Highway Administration shall report to Commission staff every 30 days.
6. All required federal, State and local permits be obtained.

Thank you for your cooperation. If you have any questions, please contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Tom Heil, PCC
Susan Jacobs, SHA
Samuel E. Wynkoop, Jr., Prince George's Co. DER
Sherry Conway Appel, Prince George's Co. DER
Richard Thompson, Prince George's Co. DER

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 2, 2003

Ms. Elinor Gawel
Anne Arundel County
Environmental and Cultural Resources Office
2664 Riva Road, MS 6402
Annapolis, Maryland 21401

Re: Pasadena at Lake Waterford
Department of Public Works Project # H474400

Dear Ms. Gawel:

Thank you for forwarding the above-referenced consistency report to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report and the accompanying site plan this office agrees that the project is consistent with the Anne Arundel County Critical Area Program; therefore, this project will not require formal approval by the Chesapeake Bay Critical Area Commission. This letter does not satisfy any other State or local approvals.

Thank you again for the opportunity to review and comment on this project. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Dennis Fretz, A.A. Co. DPW



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 2, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: James Handlon
A015

Dear Ms. Verdery:

Thank you for forwarding the above-referenced administrative variance request to construct a dwelling addition and garage addition in the 100-foot Buffer. From the information provided, it appears both additions will be no further waterward than the existing structures. This office does not oppose the variance provided mitigation is performed for the area of new impervious surface at a 2:1 ratio as prescribed in the County's ordinance and stormwater management be provided given the proximity of the new additions to the water if none currently exists on this site.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 662-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 2, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Darrell Doupnik
Appeal #1298

Dear Ms. Verdery:

I have received more clarification on the above-referenced variance request to construct a dwelling addition in the 100-foot Buffer. It is my understanding that the applicant meets the requirements to qualify for an administrative variance, except for the allowable impervious area in the 100-foot Buffer; therefore, he is required to seek a variance from the Talbot County Board of Appeals.

My last letter did not support the increase in impervious area because at that time it was my understanding the impervious area was being exceeded for the entire site. However, you have indicated that the impervious area is only being exceeded inside the Buffer, although the impervious surface limit over the entire lot is being met. I concur with the Planning Office's recommendation that the variance may be supported subject to conditions. If the Board finds the applicant has met his burden of proof in this case, this office recommends the following conditions:

1. The Board determines that the conditions of its last approval for this site have been met (Appeal No. 1132 – i.e. mitigation plantings waterward of the dwelling).
2. Mitigation for the new area of impervious surface inside the 100-foot Buffer is mitigated at a 3:1 ratio.
3. The applicant work with the County to design a stormwater management plan given the proximity of the addition to the water and the increase in impervious area.

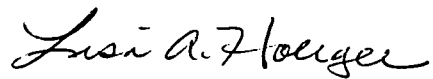


Ms. Verdery
October 2, 2003
Page Two

4. The applicant explores the removal of what appears to be excess impervious parking area.

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

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 629-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 2, 2003

Mr. Roby Hurley
Maryland Department of Planning
Lower Eastern Shore Regional Office
Salisbury Multi-Service Center
201 Baptist Street, Suite 24
Salisbury, Maryland 21801-4974

Re: Strausburg Farm Annexation and Growth Allocation

Dear Mr. Hurley:

At its meeting on October 1, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination that the Strausburg Farm annexation and growth allocation request is a refinement to the St. Michael's Critical Area program and it was approved. The refinement included the following three conditions:

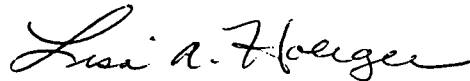
1. Prior to recordation of the subdivision plat for the Strausburg property, the Town Planning Commission shall approve a Buffer Management Plan for the property. Implementation of the plan shall take place prior to issuance of any building permits.
2. Prior to recordation of the subdivision plat for the Strausburg property, the Town shall submit to the Commission staff, a conservation easement that will ensure that 76 acres adjacent to the subject growth allocation shall be maintained in uses appropriate to the Resource Conservation Area as those uses set forth in the Town Ordinance. The easement shall remain in perpetuity and recorded.
3. The amount of growth allocation shall be 20.1 acres.

This refinement should be incorporated into your Critical Area Program within 120 days from the date of this letter. Please send a copy of the Town's amended Critical Area map to the Commission when it is available.

Mr. Hurley
October 2, 2003
Page Two

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

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Jean Weisman
Ms. Deborah Renshaw

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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October 2, 2003

Mr. Wes Johnson, Assistant Secretary
Capital Grants and Loans
Tawes State Office Building, C-4
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Black Walnut Point Lease Area
Replacement and Addition of Rental Cottages

Dear Mr. Johnson:

At its meeting on October 1, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the replacement of three cottages in the 100-foot Buffer, and to place four additional cottages and one addition to an existing office outside the 100-foot Buffer. The approval was subject to the following conditions:

1. The tenant shall provide mitigation at a 3:1 ratio for all disturbances to the 100-foot Buffer and 1:1 mitigation for clearing outside the Buffer.
2. If the tenant fails to provide the proposed mitigation for unforeseen reasons, the Department of Natural Resources agrees to fulfill the mitigation obligation on this site.
3. The final site plan will be reviewed and approved by the Critical Area Commission staff and any substantial changes to the concept plan will require approval by the Commission.

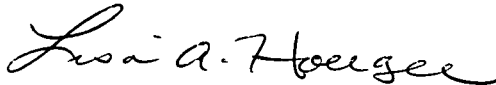
It is the Commission's understanding that the tenants will remove two existing cottages, the summer kitchen and a portion of an existing garage which totals 2,774 square feet. The three replacement structures will total 1,692 square feet of impervious area and will provide the same number of accommodations as the existing structures. Overall, there will be a net reduction in impervious area of 1,082 square feet in the Buffer.

Mr. Johnson
October 2, 2003
Page Two

I have enclosed a Plantings Agreement Form, which should be returned to this office within 30 days. The Commission determined the total mitigation required would equate to 5,076 square feet of plantings based on the new impervious area in the Buffer at a 3:1 ratio ($1692 \times 3 = 5,076$). A description of plantings is on the reverse side of the Plantings Agreement Form.

Thank you and your staff for your cooperation. If I can assist you with any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Chip Price
Mr. John Wilson
Mr. Frank Dawson
Mr. & Mrs. Ward

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 2, 2003

Mr. Joseph Rutter
Planning and Zoning Officer
Anne Arundel County Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Homeport Farm – Growth Allocation

Dear Mr. Rutter:

At its meeting on October 1, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the deed for the 25.15 acre parcel on the Homeport Farm property that will be deeded over to the County for use as a public park. This approval satisfies the second and final condition of the Commission's original approval of the Homeport Farm growth allocation granted on November 2, 2000.

The proposed deed document approved at the meeting is enclosed for your records. One change was made to the document with the agreement of the property owner. That change was to strike the words "NO TITLE EXAMINATION" from the top of page one.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

Enclosure

cc: Ms. Elinor Gawel

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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September 30, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Phelps Property Revised Sketch
S 98-073, P 98-165-1

Dear Ms. Allen;

I have received the latest revised sketch plan and written responses from DFI, Inc. for the above-referenced subdivision request. I have outlined my comments below.

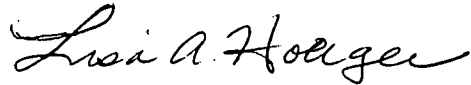
1. The plans dated September 15, 2003 provide the various Critical Area acreage figures. Why did the applicant subtract the floodplain and mean high water from the total acreage figure for the Critical Area?
2. The applicant needs to distinguish between State and private tidal wetlands. Any tidal wetlands that are State tidal wetlands must be subtracted from the total Critical Area acreage figure for purposes of calculating allowable density and allocable impervious surface area.
3. If the total Critical Area acreage is 17.02, notwithstanding any State tidal wetlands, the total allowable impervious area is 2.55 acres. However, for new lots under one acre, the allowable impervious area is limited to 25% provided the overall subdivision does not exceed 15% impervious cover.
4. The table provided on sheet two of three needs additional columns that show the proposed lot area, the allowable 25% coverage based on the each lot area, and remaining area. We recommend the applicant provide some remaining impervious area for each lot so future lot owners will have some flexibility.

5. The table includes decks as impervious. It is our understanding that Anne Arundel County does not consider decks to be impervious provided there is spacing between the boards to allow infiltration into the ground below. Provided this is still the case, the column in the impervious surface table that lists decks can be deleted.
6. The impervious surface table shows a column that provides for 120 square foot sheds. Will there be covenants that limit sheds to a maximum of 120 square feet per lot?
7. Without the calculating sheds or decks, lots 11, 12, 17 and 19 will exceed their allowable impervious surface limits. The applicant needs to reduce the proposed impervious area on these lots or adjust the lots so that all lots will support proposed impervious and future impervious areas.
8. The area inside the Critical Area for lot 10 was not provided. Please have the applicant provide this figure and the proposed impervious area on this lot inside the Critical Area to determine if it is consistent with the County's Zoning Ordinance.
9. The waiver notes on sheet one of one include a note for waivers to steep slopes. This should only apply to slopes outside the Critical Area. We recommend the waiver include language to clarify that any waiver to steep slopes is for steep slopes outside the Critical Area. Any steep slope disturbance inside the Critical Area is not permitted without a variance.
10. Since the proposed Forest Conservation Area adjoins several lots, we recommend the applicant provide some type of permanent fencing to delineate the edge of the lots from this area. This will help to avoid and minimize clearing into this area by future lot owners. We would still encourage signs also be posted.
11. We recommend a permanent fence be installed along the back property lines of those lots that adjoin the 100-foot or expanded Buffer to avoid disturbance to these buffers by future lot owners.
12. This office agrees that it appears the Buffer may not be expanded properly at the end of Norman Drive. Please have the applicant adjust the Buffer according to your office's satisfaction.
13. Will the applicant be paying a fee-in-lieu of for clearing?

Ms. Allen
September 30, 2003
Page Two

Thank you for the opportunity to comment. If you have any questions please contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Philip C. Jimeno
The Honorable Joan Cadden
Mr. Frederick W. Hager, Citizen
Ms. Harriet Cavey, Citizen
Ms. Katherine McCarthy, DNR
Ms. Judy Cole, MDE
AA 394-98

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2003

Ms. Mary Kay Vedery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Merchant Marine Memorial Park

Dear Ms. Verdery:

Thank you for forwarding the above-referenced site plan to this office for review and comment. I have outlined our comments below.

1. This property was the subject of a special exception to permit a 31,289 square foot two story addition in 1999/2000. We recommend the County verify the conditions in the Board of Appeals decision were satisfied prior to issuing a grading permit.
2. In regard to the previous special exception request, did the applicant provide reforestation on-site? If so, which portion(s) of the site were planted, and can this information be verified?
3. It appears a portion of the project site in the Critical Area is proposed on hydric soils. Will the County require expansion of the adjoining stream Buffer?
4. The plan shows an agricultural ditch on the west side of the project site. If this is a tributary stream, it would require a minimum 100-foot Buffer which may overlap with the proposed pond. If this is the case, we recommend reconfiguring the pond to avoid any overlap with the Buffer.

Ms. Verdery
September 29, 2003
Page Two

5. We recommend the applicant attempt to use native species for this planting project. For example, there is a native trumpet vine (*Campsis radicans*).
6. The information provided indicates some clearing is proposed within two existing swales around the garden area. The County should confirm these areas are not streams before clearing is permitted. If these features are identified as streams, a Buffer Management Plan should be initiated between the County and the applicant.
7. County staff should carefully evaluate the clearing in these areas since it appears the intention is to accelerate the rate of runoff from this site. This may be contradictory to the County's sediment and erosion control and stormwater management regulations.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 663-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 29, 2003

Mr. Steve Callahan
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6302
Annapolis, Maryland 21401

Re: Richard Little
MS 03-074

Dear Mr. Callahan:

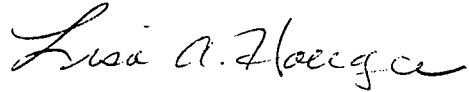
I have received the above-referenced subdivision request. The applicant proposes to create two lots from one parcel. I have outlined our comments below.

1. The creation of both lots should not require the need for variances.
2. The narrative explains that the septic fields will be located outside the Buffer; however, it appears a portion of both septic reserve areas may be within the expanded Buffer for steep slopes (measuring 50 feet from the top of steep slopes). Please have the applicant verify this information.
3. The septic area on the proposed residue lot is partially inside the 100-foot Buffer. Please have the applicant verify this information.
4. Please have the applicant provide the existing and remaining allowable impervious surface area for each lot on the plat and individual deeds.
5. Where is the dwelling on proposed lot 1? The plan shows buildings but no house or dwelling.

Mr. Callahan
September 29, 2003
Page Two

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 694-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 29, 2003

Ms. Jo Ann Grundy
Civil Project Development Branch
U.S. Army Corps of Engineers, Baltimore District
P.O. Box 1715
Baltimore, Maryland 21203-1715

Re: Paint Branch Stream Restoration Project
Prince George's County, Maryland

Dear Ms. Grundy:

Our office received the above-referenced project for review and comment. Based on the map provided, it appears the project is outside of the Critical Area in Prince George's County; therefore, this office has no commenting authority on this project. In any case, we support the removal of fish blockages in streams provided the riparian buffer is restored with native plantings when the project is completed.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Richard Thompson, Prince George's County DER
Ms. Sherry Conway Appel, Prince George's County DER

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

September 26, 2003

Mr. Roby Hurley
Maryland Department of Planning
Lower Eastern Shore Regional Office
Salisbury Multi-Service Center
201 Baptist Street, Suite 24
Salisbury, Maryland 21801-4974

Re: Town of St. Michaels, Strausburg Growth Allocation and Annexation

Dear Mr. Hurley:

This office is in receipt of the above-referenced growth allocation and annexation request. Chairman Madden will review this request and will make a refinement determination within 30 days. The Critical Area Commission will review his determination at its October 1, 2003 meeting. I will notify you of its decision.

Please telephone me at (410) 260-3478 if you have questions or comments regarding this process.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Jean Weisman
Ms. Deborah Renshaw

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 26, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Thomas Cohee
Special Exception #1293

Dear Ms. Verdery:

Thank you for forwarding the above-referenced special exception to this office for review and comment. The applicant proposes to install two, three-pile clusters with a total encroachment of 185 feet channelward. This office has no comment regarding the encroachment issue or the pilings request provided no Habitat Protection Areas are impacted.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 689-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 16, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Timothy E. Wyman – Wye Town Point
M 1034

Dear Ms. Verdery:

I have received a revised preliminary plat for the above-referenced subdivision request. I have outlined our comments below.

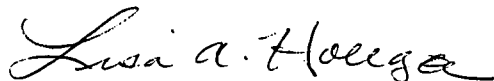
- 1) The County should receive comments from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.
- 2) It appears the wetlands have not been field delineated. Of particular concern is the area labeled as a tidal pond. As stated in my last letter, the status of whether the tidal pond is a State wetland or private wetland should be determined since State wetlands may not be counted in the total acreage figure to calculate density or allowable impervious surface area. This could affect the allowable density.
- 3) The afforestation area is still split by the proposed access road. We recommend the afforestation area not be split by development activities, and suggest this area be located around the existing stream corridors and placed in perpetual easements.
- 4) The area of the new roadways must be counted towards the allowable impervious area for the site; therefore, we recommend the total allowable impervious area be provided along with the total proposed impervious area for the site.

Ms. Verdery
September 16, 2003
Page Two

- 5) I detected one minor calculation error for the impervious area calculations for lot 1. I calculated 32,082 square feet of allowable impervious area, which results in 27,010 square feet to remain.
 - 6) The environmental note describing how the 100-foot Buffer shall be established should include lots 1-7 instead of lots 1-4.
 - 7) The applicant proposes to create a six-slip community pier and has included a note to allow a single pier for lot one. The Natural Resources Article 8-1808.5 9(c)(6) does not permit individual piers in a subdivision where a community pier with slips is provided. Therefore, the applicant must decide whether a community pier will handle lots 1-7, or whether each lot will have an individual pier. The existing pier on proposed lot 8 can remain.
 - 8) If the applicant chooses a community pier, the proposed location may be problematic. It appears clearing would be required. The path is currently not shown on the plan. Approximately how wide would it be? Would the County also permit a boat ramp in this location? If so, this would require more clearing? Please clarify this issue.
 - 9) No topography was provided. Please ensure there are not steep slopes within or beyond the 100-foot Buffer, otherwise the Buffer may require expansion.
- 10) What is the soil type on this parcel?

Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions or if I can provide you with additional information.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 514-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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September 16, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Clint Wadsworth
M 1044

Dear Ms. Verdery:

Thank you for forwarding the above-referenced subdivision to this office for review and comment. The request is to create 26 lots, the majority of which are in the VC zoning district inside the Critical Area. I have outlined our comments below.

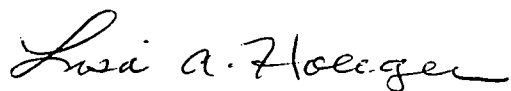
- 1) The proposed lots should not require the need for any variances to the County's Critical Area regulations. Several of the proposed lots coincide with an existing nontidal wetland and its 25-foot buffer. We recommend these lots be reconfigured to avoid any of the wetland or its buffer from being on these lots to avoid future variance requests. This office will not support variances on lots that are not grandfathered.
- 2) Absent reconfiguring the subdivision, we recommend the developer erect a permanent fence to delineate the nontidal wetland and its 25-foot buffer on the lots to avoid disturbance by future homeowners.
- 3) A note should be added to the final plat that indicates total allowable impervious area per lot. A percentage of the allowable area per lot should not be used at the time of initial development, but reserved for future use by the homeowner.
- 4) Please ensure that the impervious area is not exceeded on those lots where existing dwellings will remain.

Ms. Verdery
April 16, 2003
Page Two

- 5) Please check the exiting forested area within the Critical Area figure. Based on the site plan submitted, it does not appear that 153,592 square feet of forest is inside the Critical Area. It appears to be less.
- 6) The County must receive comments from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.
- 7) How will stormwater be handled for this subdivision?
- 8) What is the soil type on this parcel?

Thank you for the opportunity to comment. Please telephone me if you have any questions or if I can provide you with additional information.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 668-03

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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September 16, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Clint Wadsworth
363

Dear Ms. Verdery:

Thank you for forwarding the above-referenced site plan to this office for review and comment. The applicant proposes to create a used car lot. Although it appears the proposal is outside the Critical Area boundary, it seems this use will require some supporting structures that are not shown on the plan. Our concern is that these structures would be sited on the Critical Area portion of the site, which is a Resource Conservation Area (RCA). Since commercial uses are not permitted in the RCA, we recommend the applicant provide ample space outside the Critical Area to support the proposed use.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 667-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 16, 2003

Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Sally Pingree - L 932

Dear Ms. Verdery:

Thank you for forwarding the above-referenced subdivision request. The applicant proposes to create three parcels and assign the remaining two development rights to two of those parcels. I have outlined my comments below.

1. A note should be added to the final plat indicating the allowable impervious area for each parcel.
2. What is the total forested area? Please have the applicant provide these figures to determine whether afforestation is required.
3. If any afforestation is required we recommend it be located within the 100-foot Buffer before other areas on the lots are considered.
4. We recommend a note be added to the final plat that states clearing in the 100-foot Buffer is not permitted unless it is pursuant to a plan approved by the Office of Planning and Zoning.
5. A letter from the Department of Natural Resources Heritage and Biodiversity Division must be received prior to final plat approval.

Thank you for the opportunity to comment. Please contact me if you need additional information or assistance from this office.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

CC: TC 665-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 15, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Goose Point Acquisitions, LLC
365

Dear Ms. Verdery:

Thank you for forwarding the above-referenced request to relocate an existing pole barn. Provided the new location will not impact any Habitat Protection Areas and is in conformance with the allowable impervious area for this parcel, this office has no further comments.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 666-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Bill Magrath
Appeal A013

Dear Ms. Verdery:

Thank you for forwarding the above-referenced variance request to construct a second story addition over an existing dwelling in the 100-foot Buffer. Since the addition will not create additional impervious area, grading, or clearing, this office does not oppose this request.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 661-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2003

Robert F. Karge, Town Clerk
Town of Easton
P.O. Box 520
Easton, Maryland 21601

Re: Resolution No. 5801

Dear Mr. Karge:

I have received the above-referenced annexation request that annexes approximately 26.866 acres of land into the Town of Easton. Based on the site plan submitted, it appears the lands that were subject to the annexation are not inside the Chesapeake Bay Critical Area; therefore, no further action is required by this office.

Thank you for the opportunity to review and comment on this annexation. If you have any questions, please feel free to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Thomas Hamilton



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 12, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Thomas White
Administrative Variance

Dear Ms. Verdery:

Thank you for forwarding the above-referenced administrative variance request to expand existing pool decking inside the 100-foot Buffer. From the information provided it appears the additional 380 square feet of pool decking does not encroach any further waterward than the existing pool decking. However, it appears this application may not be processed through the County's administrative variance procedure. County Council Bill 891 specifically states that only legal nonconforming structures in existence as of August 13, 1989 qualify for the administrative variance process. The application for this project states the structure was constructed in 1990.

The existing and proposed impervious areas on the plan are confusing. The total impervious area does not equal the figures provided for existing and proposed impervious surface area. Please have the applicant clarify the total existing impervious versus the total proposed impervious for the entire lot.

In any case, this office does not oppose reasonable expansions in the 100-foot Buffer. In this case, it appears the applicant has minimized intrusion by keeping the new area of the pool decking no further waterward, and has sited two other additions completely outside the 100-foot Buffer. We recommend the following conditions:

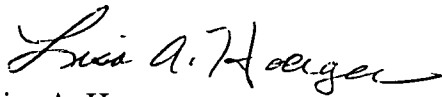
1. Mitigation for the new area of any grading, footprint and clearing inside the 100-foot Buffer is mitigated at a 3:1 ratio with native Buffer plantings.
2. The applicants are made aware that the remaining allowable impervious area on this lot.



Ms. Verdery
September 12, 2003
Page Two

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

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 669-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 12, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Darrell Douppnik
Appeal # 1298

Dear Ms. Verdery:

I have received the updated information concerning the above-referenced variance request to construct a dwelling addition in the 100-foot Buffer. The applicant proposes to remove an existing enclosed porch area and reconstruct and enlarge the area by ten feet. While the proposed addition will be no further waterward than the existing principal dwelling, the resulting impervious surface area will exceed the allowable limits. From the information provided by your office, 844 square feet will exceed the impervious area or the site will be at 17% impervious cover.

This office cannot support the requested variance to exceed the impervious surface limitations. The applicant should have been aware of this limitation when he applied for his last variance request and should have set aside some impervious area in reserve for future projects.

We recommend the applicant have no net increase in impervious area on this site. The applicant should explore any opportunities to remove some existing impervious area elsewhere on this site to avoid an increase in impervious area.

In regard to the addition this office does not oppose reasonably sized additions in the 100-foot Buffer particularly when they will be no further waterward than an existing grandfathered dwelling; however, this site has already used its allowable impervious surface allotment. The reason for the limitation is based on scientific data that a watershed begins to show signs of degradation once it has reached 10% impervious cover. The Critical Area law allows up to 15% for lots over one acre to provide homeowners with some flexibility.

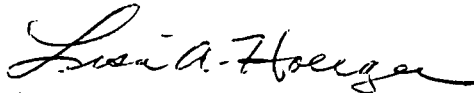
Ms. Verdery
September 12, 2003
Page Two

If the Board finds the applicant has met his burden of proof in this case, this office recommends the following conditions:

1. The Board determines that the conditions of its last approval for this site have been met (Appeal No.1132 – i.e. mitigation plantings waterward of the dwelling).
2. Mitigation for the new area of impervious surface inside the 100-foot Buffer is mitigated at a 3:1 ratio.
3. The applicant work with the County to design a stormwater management plan given the proximity of the addition to the water and the increase in impervious area.

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

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 629-03

Robert L. Ebrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 12, 2003

Ms. Mary Kay Verdery
Talbot County Planning and Zoning Office
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Greg Haley – Appeal #1292

Dear Ms. Verdery:

I have received the above-referenced special exception request to construct a 150' x 6' timber pier extension with two additional boatlifts for a total of four boatlifts and two mooring piles. The total encroachment will be 300' from mean high water. We have no objection to the request provided there will be no impacts to any Habitat Protection Areas (HPAs) in the Miles River.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 670-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
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September 10, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6403
Annapolis, Maryland 21401

Re: Marvista - Creekside at Osprey Landing
S # 01-017, P # 02-194

Dear Ms. Allen:

I have received the resubmittal of the final development plans and plat for the above-referenced project. I have outlined my comments below.

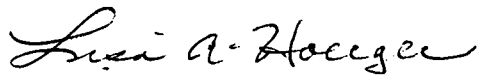
1. The total site area figure on the plat is not consistent. It states the total site area as 2,410,218 square feet, but the acreage figure listed is 5.331 acres. It should state 55.33 acres.
2. The woodlands area cleared figures are also inconsistent. The square feet listed is 116,301. If 16.44 acres are proposed for clearing, then the figure should be 716,301 square feet.
3. It appears the applicant will install a permanent fence to delineate the edge of the Buffer. The symbol used for the fence appears to wrap around the water's edge. Is this intended or will the fence only be installed on the landward side?
4. Will the grass paver parking areas be counted as pervious, impervious or semi-pervious? If impervious, have the paver parking areas been included in the proposed impervious surface calculations?
5. The infiltration drywell for unit 27 must be located outside the expanded Buffer.

Ms. Allen
September 10, 2003
Page Two

6. It appears certain sections of the Buffer may not be properly expanded. In the case of steep slopes ending within the 100-foot Buffer, a fifty foot extension is required. For steep slopes that extend beyond the 100-foot Buffer, the Buffer is expanded four feet for every one percent of slope. The method of expansion on the plans does not appear to be consistent with this method as found in the County's Critical Area program. Please clarify.
7. The allowable impervious surface area for each limited common element should be established on the plat and the individual deeds. This will ensure that each homeowner is aware of their total allowable impervious area, minus what the developer used for the footprint, driveway and sidewalks.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 144-01

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 10, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6403
Annapolis, Maryland 21401

Re: Carolstown - Osprey Landing
S # 97-095, P # 00-214

Dear Ms. Allen:

I have received the resubmittal of the final development plans and plat for the above-referenced project. I have outlined my comments below.

1. There appear to be several calculation errors in the Critical Area Calculations table. The total square footage in the Critical Area should equal 817,091 based on the figures provided in the column.
2. The total impervious area should be 117,434 square feet. The actual allowable impervious surface area should be 122,577.84 square feet.
3. The last column should be labeled proposed impervious area. Its total, based on the figures provided in the column, is 100,752 square feet. This means 21,825.84 square feet of allowable impervious area remains across the entire subdivision.
4. It appears some lots will use all their allotted impervious area at the time of initial development. This leaves no flexibility for future additions or accessory structures. We recommend the developer not utilize the entire allotment per lot otherwise an enforcement problem will result.

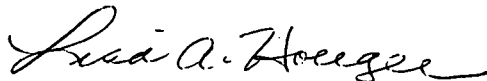


Ms. Allen
September 10, 2003
Page Two

5. Lots 7-39 have forested area proposed to remain. According to the proposed forest clearing figures the site will be close to 30% clearing at the time of initial development. We recommend the forested portions of these lots be delineated so the homeowner is aware that clearing is not permitted. The plat and the individual deeds should reflect the restriction on clearing on the back portion of these lots.
6. The area set aside as a conservation area should be permanently delineated with a fence to avoid any infringement by the homeowners whose lots will abut these areas.
7. The proposed dwelling on lot 20 appears to disturb some isolated steep slopes. Please confirm.
8. We recommend the title Forest Conservation Easement be changed to Critical Area Forest Conservation Easement to avoid confusing the Forest Conservation Act with the Critical Area requirements.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA423-97

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
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September 10, 2003

Mr. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Ruth Nutwell - MS 03-008

Dear Mr. Soldano:

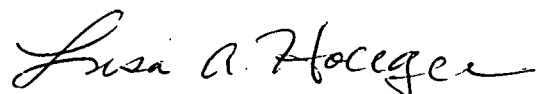
I have received the resubmittal for the above-referenced subdivision request. I have outlined my comments below.

1. The acreage figures on the plat do not match the acreage figures on the development plan. Please have the applicant correct the acreage figures so they agree on both documents.
2. The impervious surface information is not clear. Once the acreage figures are reconciled, we recommend the applicant provide a table that shows the acreage figure for each lot, minus the area of State-owned tidal wetlands. The table should also include the existing, proposed and remaining allowable impervious area.
3. The tidal wetland figure has changed from the last submission. Was this area resurveyed?
4. It is still unclear whether the County will require the soils analysis be confirmed by the Soil Conservation District. Has that occurred, and if so, what was their determination?
5. The area of the 100-foot Buffer should be placed in a conservation easement in perpetuity.

Mr. Soldano
September 10, 2003
Page Two

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 85-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 10, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6403
Annapolis, Maryland 21401

Re: Bar Harbor
S #01-030, P #03-059

Dear Ms. Allen:

I have received the final development plans and plat for the above-referenced subdivision request. I have outlined my comments below.

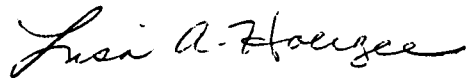
1. The impervious surface figures per lot appear too high. For lots under one acre, impervious surfaces are limited to 25%, and the overall subdivision cannot exceed 15% impervious cover. Please have the applicant adjust these figures.
2. The maximum clearing figure of 73,179 square feet appears to be 1,000 square feet over the allowable 30% limit. We recommend the applicant reduce clearing, otherwise a variance may be necessary.
3. Since a portion of the forest area to remain is on the back portion of the lots, we still recommend a permanent fence be placed to delineate the conservation easement area so future homeowners will be aware of the easement area.
4. We recommend the plat and individual deeds state that clearing is prohibited in the conservation easement area.
5. The applicant provided the 10% Pollutant Reduction calculations and they appear correct, provided the swale listed as one of the Best Management Practices is a dry swale since they have assigned it a 65% removal efficiency. If it is a wet swale the removal efficiency would change to 40%.

Ms. Allen
September 10, 2003
Page Two

6. The proposed landscaping along the front of the lots includes a non-native tree species. This should be changed to a native species utilizing the County's booklet on native species.

Thank you for the opportunity to comment. If you have any questions concerning the above comments, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 393-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 9, 2003

Ms. Kelly Krinetz
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Hardesty Property – Second Resubmittal of the Final Plan and Final Plat
S 02-089, P 02-191

Dear Ms. Krinetz;

I have received the second resubmittal for the above-referenced subdivision request. I have outlined my comments below.

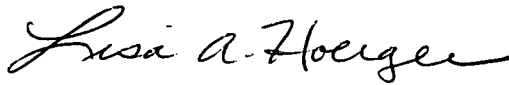
1. Has the County made a determination as to whether an expanded Buffer for highly erodible soils will be required?
2. The plat should include the area set aside as a forest conservation area, and the limits of the Buffer should be shown on the plat.
3. The 100-foot Buffer and expanded Buffer for hydric soils does not appear to be shown on all areas of the plan and plat. The wetland on part of proposed lot 2 does not appear to have a buffer shown around it. Also, the expanded Buffer near the stormwater management pond is not clearly shown on the plan or final plat.
4. The total remaining allowable impervious surface information should be included on the plan and final plat for clarity.
5. It appears there is approximately .55 acres of remaining allowable impervious area for proposed lot 1. We understand a portion of lot 1 may be further subdivided into three residential lots in the future; therefore, we recommend the applicant ensure there will be sufficient impervious area remaining for these proposed lots since they will be located in the Limited Development Area of the site.

Ms. Krinetz
September 9, 2003
Page Two

6. The 10% Pollutant Reduction Rule calculations were forwarded to this office and it appears the applicant has met the removal requirement using on-site and off-site bioretention and sand filters as Best Management Practices.

Thank you for the opportunity to comment. If you have any questions regarding the comments above, please do not hesitate to contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 557-02

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 9, 2003

Mr. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Homeport Farm - Final Plans

Dear Mr. Soldano:

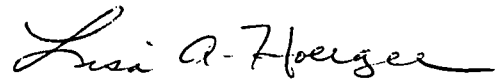
I have received updated copies of the final plat and development plan from the applicant since the writing of my last letter to you dated August 27, 2003. I have my outlined my remaining comments below.

1. The conservation easement was reviewed and approved by the Critical Area Commission. A copy of the approval letter is enclosed.
2. The deed for the 25.15-acre park will also require review and approval by the Commission; however, this can occur either prior to or after final recordation, and the deed does not need to be executed prior to Commission approval.
3. It appears the impervious surface figures were corrected and appropriate notes added to ensure the lots do not exceed their prescribed impervious surface limitations.
4. After final recordation, if the County finds that the entire 18.75 acres of growth allocation were not utilized for this project, the County may credit its growth allocation reserve. Commission staff will notify the Commission.
5. It appears the remaining comments in my August 27, 2003 letter were addressed.

Mr. Soldano
September 9, 2003
Page Two

Thank you for the opportunity to comment. Please telephone me if you have any questions, or require additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger". The signature is written in black ink and is positioned above the printed name.

Lisa A. Hoerger
Natural Resources Planner

Enclosure

cc: Elinor Gawel, Planning and Zoning
AA 524-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 8, 2003

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: 03-WL-1791, Cape Anne Citizens Association

Dear Mr. Cuthbertson:

I have received the above-referenced request to remove a timber bulkhead and emplace 330 feet of stone armor, 168 linear feet of stone revetment, 214 linear feet of stone groin and 175 cubic yards of clean sand for shore erosion protection. We defer to your office concerning the type of erosion control method required for this site.

From the site plan provided it appears the installation of the stone revetment may require some vegetation removal from the shoreline. We recommend 1:1 replacement for any clearing associated with the installation of shore erosion control measures.

Thank you for the opportunity to comment. If you have any questions, please call me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Jim Johnson, Anne Arundel County Forester
AA Co. Tidal Wetlands File



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Chairman

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September 5, 2003

Mr. Joseph Rutter
Planning and Zoning Officer
Anne Arundel County Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: - Homeport Farm – Growth Allocation

Dear Mr. Rutter:

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays received your letter regarding conditions of approval for the Homeport Farm growth allocation on September 2, 2003. At its meeting on the following day, the Commission approved the conservation easement for 5.82 acres of land adjoining the Homeport Farm property. This approval satisfies the first condition of the Commission's original approval of November 2, 2000. Those conditions included the following:

1. Prior to recordation of the subdivision plat for Homeport Farms, the County shall submit to the Commission for its approval a conservation easement that will ensure that the 7.73 +/- acres of land adjacent to the Homeport Farm property shall be maintained in uses appropriate to the Resource Conservation Area (RCA), as those uses are set forth in the County Critical Area ordinance. The 7.73 +/- acres shall be contiguous to the 12.27 +/- acre area to remain RCA, which is located at the southern portion of the property. The easement shall ensure that a total area of 20 contiguous acres of land at the southern portion of the project will retain the character and uses of RCA. After Commission approval, and prior to recordation of the subdivision plat for Homeport Farm, the conservation easement shall be recorded.

TTY For the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

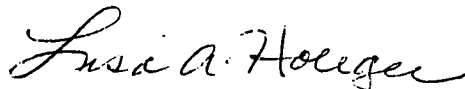
Mr. Rutter
September 5, 2003
Page Two

2. The County shall submit to the Chesapeake Bay Critical Area Commission for approval proposed transfer documents for the 25.15-acre tract proposed for a County park. These transfer documents shall ensure that there are appropriate deed restrictions to ensure that 13.51+/- acres of this tract shall be maintained after transfer to the County in uses appropriate to privately-owned land in the Resource Conservation Area (RCA) as those uses are set forth in the County Critical Area ordinance. The 13.51+/- acres shall be contiguous to the 6.49+/- acre portion of the Homeport Farms Subdivision that is s to remain RCA (and is to be used for a reforestation area by the County). The deed restrictions shall be written to ensure that there is a total area of 20 acres at the northern portion of the Homeport property that will retain the character of Resource Conservation Area in the Critical Area. Any plans for development of the property as a park shall be submitted for review by the Critical Area Commission in order to ensure that the condition for protection a minimum of 20 acres to maintain RCA character is met or that appropriate growth allocation is deducted.

The conservation easement approved at the meeting is enclosed for your records. Due to the timing of the requests, the Commission was not able to consider the document concerning the second condition. We anticipate being able to place the matter on the Commission's agenda for its next meeting on October 1, 2003.

Thank you and your staff for your cooperation. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

Enclosure

LAH/jjd

cc: Ms. Elinor Gawel

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 5, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Roger Baldwin
Appeal # 1290

Dear Ms. Verdery:

Thank you for forwarding the above-referenced variance request to construct a dwelling addition in the 100-foot Buffer. From the information provided it appears the 674 square foot addition will encroach an additional six feet in the 100-foot Buffer.

The photographs submitted with the application show this area as a grass lawn with some existing foundations plantings around the existing dwelling. Due to the existing location and configuration of the dwelling in relation to the location of the 100-foot Buffer, the applicants appear to have no other area for a reasonable expansion to the dwelling. This office does not oppose the requested variance however, we recommend the following conditions:

1. Mitigation for the new area of any grading, footprint and clearing inside the 100-foot Buffer is mitigated at a 3:1 ratio with native Buffer plantings.
2. The County works with the applicant to address stormwater that will be generated from the area of the new addition.
3. The applicants are made aware that the remaining allowable impervious area on this lot is 91 square feet.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 650-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 4, 2003

Mr. Dennis J. Fretz, Project Manager
Roads & Bridges, Bureau of Engineering
Department of Public Works
2662 Riva Road, MS 7301
Annapolis, Maryland 21401-7374

Re: Riva Road Widening and Geometric Improvements

Dear Mr. Fretz:

At its meeting on September 3, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved Anne Arundel County's conditional approval request to perform the proposed widening and geometric improvements to Riva Road from the South River to Perch Drive. The approval was granted with the following condition:

Anne Arundel County Department of Public Works shall provide mitigation at a 2:1 ratio for all new grading and impervious areas in the 100-foot Buffer and 1:1 mitigation for clearing and steep slope disturbance outside of the expanded Buffer.

The total mitigation required is 70,770 square feet of plantings. I have enclosed a Plantings Agreement Form for completion. Please return this form to me within 30 days.

Thank you, Ms. Gawel and the consultant team, for your cooperation. If you have any questions, or if I can provide you with any assistance, please contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

LAH/jjd

cc: Ms. Elinor Gawel

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 29, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Charles Lea
Appeal # A010

Dear Ms. Verdery:

Thank you for forwarding the above-referenced administrative variance request to construct a second story on to an existing garage inside the 100-foot Buffer. Since no new impervious area will result from the second story addition, this office does not oppose the requested variance. No mitigation is required provided there will be no new permanent disturbances to the Buffer.

In regard to the impervious surface information, it appears that the applicant is proposing to remove a portion of the driveway to offset new impervious areas that will result outside of the Buffer. We recommend that the County requires that this removal occur prior to construction of the additions outside of the Buffer to ensure compliance with the County's impervious surface limitations for this lot.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

LAH/jjd
cc: TC 627-03



Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

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Executive Director

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August 29, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Bob Potter
Appeal # A011

Dear Ms. Verdery:

Thank you for forwarding the above-referenced administrative variance request to construct a dwelling addition in the 100-foot Buffer. From the information provided, it appears the addition will be no further waterward than the existing dwelling. This office does not oppose the variance provided mitigation is performed for the area of new impervious surface at a 2:1 ratio as prescribed in the County's ordinance. No existing or proposed total impervious surface information was provided. The County should ensure the applicant is still within the allowable impervious surface limits for this lot.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 628-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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August 29, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Bryan Group Capital
Appeal # A008

Dear Ms. Verdery:

Thank you for forwarding the above-referenced administrative variance request to construct three dwelling additions in the 100-foot Buffer. From the information provided, it appears all three additions will be no further waterward than the existing dwelling. This office does not oppose the variance provided mitigation is performed for the area of new impervious surface at a 2:1 ratio as prescribed in the County's ordinance, and stormwater management be provided given the proximity of the new additions to the water.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 626-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 29, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning & Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Darrell Douppnik
Appeal # A009

Dear Ms. Verdery:

Thank you for forwarding the above-referenced variance request to construct a dwelling addition in the 100-foot Buffer. The applicant proposes to remove an existing enclosed porch area and reconstruct and enlarge the area by ten feet.

I have visited this site due to a previous variance application. The majority of this lot is within the 100-foot Buffer as it is surrounded by water on three sides. Setbacks, septic drain fields, underground electrical lines and a well encumber the remainder of the lot outside of the 100-foot Buffer. This office does not oppose the requested variance based on the following conditions:

1. The Board determines that the conditions of its last approval for this site have been met (Appeal No.1132 – i.e. mitigation plantings waterward of the dwelling).
2. Mitigation for the new area of impervious surface inside the 100-foot Buffer is mitigated.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 629-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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August 29, 2003

Mr. Ray Dintaman, Jr., Program Manager
Environmental Review
Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue, B-3
Annapolis, Maryland 21401

Re: U.S. Army Corps of Engineers Public Notice NN-03-03; Maintenance Dredging
Knapp's Narrows and Tilghman Island Harbor; Talbot County

Dear-Mr. Dintaman:

Thank you for forwarding the above-referenced project to this office for review and comment. The project proposes to maintenance dredge the Knapp's Narrows and place 90,000 cubic yards of material on the western shore of Harris Creek to create a tidal wetland. In regard to the maintenance dredging, this office has no comment.

In regard to the placement site and the creation of a tidal wetland, this office is not familiar with, nor was provided details concerning the placement site. In any case, the Code of Maryland Regulations at 27.03.04 B 7 restricts the placement of dredged material in the Buffer or any other Habitat Protection Area in the Critical Area except for the following purposes:


- (a) Backfill for permitted shore erosion protection measures,
- (b) Use in approved vegetative shore erosion projects,
- (c) Placement on previously approved channel maintenance spoil disposal areas, and
- (d) Beach nourishment

If the creation of the tidal wetland fulfills one of the above purposes, then this office has no further comments regarding the proposal. However, any portion of the 100-foot Buffer to the Harris Creek that may be cleared or graded for this project will require mitigation.

Mr. Dintaman
August 29, 2003
Page Two

If I can provide you with additional assistance, please do not hesitate to contact me at
(410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Mary Kay Verdery, Talbot County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 28, 2003

Mr. Jesse Fearins
Talbot County Department of Public Works
605 Port Street
Easton, Maryland 21601

Re: Bruceville Road Bridge Replacement

Dear Ms. Verdery:

Thank you for forwarding the above-referenced project to this office for review and comment. Based on the information provided, it appears this project is consistent with the Talbot County Critical Area Program; therefore, no further review is required by this office notwithstanding any other required permits. If the scope of this project changes, please resubmit the project to this office for review.

If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Mary Kay Verdery, Zoning Administrator

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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August 27, 2003

Mr. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Homeport Farm - Final Plans

Dear Mr. Soldano:

I have received copies of the final development plan and final plat for the Homeport Farm subdivision request. I have outlined my comments below.

1. It appears that the development envelope is 18.67 acres. Since the amount of growth allocation approved by the Commission and the County Council was 18.75 acres, the County may credit its growth allocation reserves by .08 acres. This information can be presented to the Critical Area Commission in order to ensure that the proper amount of growth allocation is deducted from the County's growth allocation reserves.
2. The conservation easement on the adjacent property that will ensure a twenty-acre residue of Resource Conservation Area (RCA) on the southern portion of the property, and the deed that will transfer the 25.15 acre tract to Anne Arundel County, should be executed prior to final recordation of the subdivision. Please provide the Commission with copies of the executed documents.
3. These documents will need to be presented to the Critical Area Commission to demonstrate the conditions of the approval of this growth allocation have been fulfilled.
4. The 5.82 acres on the adjacent property contains an area of tidal wetlands. The applicant must determine whether these wetlands are State or private wetlands. If they are State wetlands, then the area within the wetland cannot be counted as part of the acreage required to ensure that there is a 20-acre residue of RCA.
5. The boundary line on Sheet 5 of 10 that appears to show the area of the 5.82 acres seems to extend over tidal waters. Areas of open water cannot be included in the project site area.

Mr. Soldano
August 27, 2003
Page Two

6. The impervious surface figures listed in the table are not correct. For those lots that will be one acre or more in size, impervious surfaces are limited to 15%. Lots under one acre are permitted to have up to 25% impervious cover provided the overall subdivision does not exceed 15%.
7. The 25.15 acres that will be deeded over to Anne Arundel County should be separated from the total allowable impervious surface area for this site. We strongly recommend that a separate table describes this area and its total allowable impervious area.
8. The total impervious surface for the subdivision portion (minus the 25.15-acre future County park) appears to be the maximum allowed. We recommend that the impervious surface table includes a column that provides for additional allowable impervious area for each lot, or includes an additional note on the final plat that indicates that the figure provided in the table is the maximum allowable impervious area in perpetuity and that variances for additional impervious area would not be permitted.
9. Each lot should be allocated sufficient impervious area for future development. Without reserving impervious area for each lot, future homeowners may not be able to accommodate future home additions, or accessory structures. It should not be utilized at the time of initial development. This has been and continues to be a significant problem for the County.
10. Do the impervious surface calculations include the sidewalks? The sidewalks do not appear to be listed in the table.
11. Open Space #1 appears to be set aside for reforestation purposes. Note 9 references the Forest Conservation Agreement. How much of Open Space #1 will accommodate FCA requirements and how much will accommodate Critical Area reforestation requirements? Please ensure that there is sufficient area to handle any required reforestation that will result from clearing in the Critical Area.

Thank you for the opportunity to comment. Please telephone me if you have any questions, or require additional information.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner
LAH/jjd

cc: Elinor Gawel, Planning and Zoning
AA 524-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 25, 2003

Mr. Kevin Shaver
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Londontown Marina – S 03-062, P 03-127

Dear Mr. Shaver:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to subdivide an existing parcel into two separate parcels along the existing zoning line. One parcel will have R5 zoning and the other will have MB zoning. It appears no development activity is proposed at this time; therefore, we have no comment, as it appears the applicant is aware of the requirements for the Limited Development Area and Intensely Developed Areas for any future development activities on either parcel.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 590-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 20, 2003

Mr. Greg Fox
Highway Hydraulics Division, C-201
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: MD 177 Drainage Improvement

Dear Mr. Fox:

I have reviewed the site plan and information submitted by your office for the above-referenced project. From the information provided it appears this project meets the Memorandum of Understanding and meets the requirements for General Approval under Appendix A, Section B activity number 4. No further review by this office necessary notwithstanding any other required State or federal permits.

If the scope of this project changes, please notify us and we will be happy to review and comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Scott Pomento, SHA



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

August 20, 2003

Ms. Cynthia D. Simpson, Deputy Director
Office of Planning and Preliminary Engineering
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: Project No. 2380202-B07900 - MD 258 over Rockhold Creek
Bridge Remedial Repairs, Anne Arundel County

Dear Ms. Simpson:

I have received the above-referenced project for review. Based on the information provided, it appears the proposed bridge remedial repairs are consistent with the Memorandum of Understanding and meets the requirements for General Approval under Appendix A, Section A, activity number 6. No further review by this office necessary notwithstanding any other required State or federal permits. Your office should contact the Department of Natural Resources to determine whether any time of year restrictions would apply to the proposed activities.

If the scope of this project changes, please notify us and we will be happy to review and comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Donna Buscemi, SHA



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/

August 20, 2003

Ms. Cynthia D. Simpson, Deputy Director
Office of Planning and Preliminary Engineering
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: Project No. PG435B21 – U.S. 1 Alternate over Anacostia River
Rehabilitation of Bridge No. 16008, Prince George's County

Dear Ms. Simpson:

I have received the above-referenced project for review. Based on the information provided, it appears the proposed bridge rehabilitation is consistent with the Memorandum of Understanding and meets the requirements for General Approval under Appendix A, Section A, activity number 6. No further review by this office necessary notwithstanding any other required State or federal permits.

If the scope of this project changes, please notify us and we will be happy to review and comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Allison Townshend, SHA

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 14, 2003

Mr. Douglas Stayton
Zoning Inspector
Talbot County Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Property Located at Tax Map 14, Parcel 21

Dear Mr. Stayton:

Staff has informed me that the above-referenced property was the subject of an alleged Buffer infraction within the past few weeks. The infraction concerns an herbicide application which was the subject of a previous incident last summer. In an effort to document the history of spraying activities within the 100-foot Buffer on this property, I have outlined this office's involvement below.

October 2002 - We received a citizen's complaint concerning the above-referenced property. A contractor was hired and trees were cut and herbicide applied along the banks of the creek. Your office sent a follow-up letter to the property owners notifying that spraying within the 100-foot Buffer was not permitted; however, targeted application to prevent noxious weeds was permitted. We visited the site and have photographs documenting that action.

August 2003 - We received a citizen's complaint concerning the above-referenced property for the second time. We telephoned your office and you indicated that the contractor had contacted you for verbal permission to spray at the subject property outside the Buffer. The same day you called to report to us that you had spoken with the contractor who admitted visiting the site approximately three weeks ago. You agreed to meet the contractor on the site the next day (August 8) to agree on which areas could be sprayed. You informed the contractor that any spraying within the 100-foot Buffer would not be permitted.

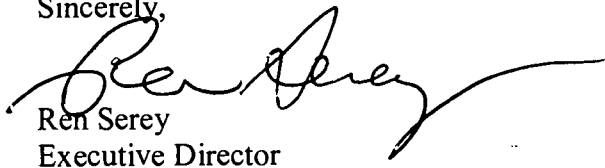
Mr. Stayton
August 14, 2003
Page Two

Since it is our understanding that the clearing and herbicide application inside the 100-foot Buffer was performed in an effort to remove noxious species, and while herbicide application is not expressly prohibited by the County's Critical Area Program or the State's Critical Area Regulations, it seems to follow that in order to prevent future noxious or invasive species from reoccurring, a replanting plan consisting of native species should be devised for this site. In that regard, we recommend the County take the following steps to resolve the immediate and future issues on this property.

1. Your office writes a letter to both the contractor and the property owners explaining that spraying herbicides in the 100-foot Buffer is no longer permitted on this property, as it appears the exercise of removing the offending species is completed.
2. The County requires a Buffer Management Plan be filed with the Office of Planning and Zoning. This plan should show the re-establishment of those areas of the 100-foot Buffer that were treated with herbicides to remove invasive or nonnative species. We recommend mitigation be performed at a 1:1 ratio with native species.

By instituting the above actions, this issue should be resolved. Thank you for your attention to the matter. Please copy me on any correspondence. If necessary, we will provide assistance to the County and the applicant with the reforestation plan. If you have any questions, I can be reached at (410) 260-3460.

Sincerely,



Ren Serey
Executive Director

cc: Mr. Andrew Hollis
Mr. Dan Cowee

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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August 14, 2003

Mr. Kevin Shaver
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Cherry Blossom View - MS 03-061

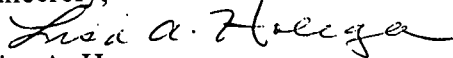
Dear Mr. Shaver:

Thank you for forwarding the above-referenced subdivision request for review and comment. The applicant proposes to create a total of three lots from an existing, one-acre parcel. I have outlined my comments below.

1. The site plan provided shows a table listing the existing, proposed and remaining allowable impervious area. There are no proposed sidewalks, patios, sheds or other accessory structures accounted for on the plan. The remaining 64 square feet of allowable impervious surface for lots 1 and 2 and the remaining 66 square feet for lot 3 seems inadequate for future uses.
2. We recommend the applicant allow for more impervious area since 64 square feet would only accommodate a modest 8' x 8' patio or shed, notwithstanding the homeowner's presumed intention to install sidewalks. If the subdivision is recorded as proposed, there is the potential for future violation issues. This situation currently exists in previously approved subdivisions and remains unresolved and has utilized a great deal of County staff time.
3. We recommend that both plat notes and deed restrictions be written that clearly designates the remaining allowable impervious area on each lot.
4. The 15% afforestation requirement appears to be applicable on this site, absent information to the contrary that 15% of the site is currently forested.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,

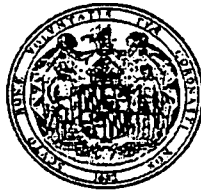

Lisa A. Hoerger
Natural Resources Planner

LAH/jjd

cc: AA 571-03

TTY For the Deaf
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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August 14, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Brent & Elke Kirk - Appeal # 1289

Dear Ms. Verdery:


Thank you for forwarding the above-referenced variance request. The applicants propose to construct a porch addition that will extend an additional six feet in the 100-foot Buffer to Oak Creek. I have outlined my comments below.

This office does not oppose the requested variance since this is a grandfathered lot and the location of the dwelling likely existed prior to the adoption of Talbot County's Critical Area Program. Provided your office and the Board of Appeals find the applicants have met the variance standards, we recommend the following as a condition of granting the variance:

- mitigation at a 3:1 ratio in the form of native Buffer plantings for new disturbance to the 100-foot Buffer. (The Buffer Management Area status mentioned in the application has not yet approved by the County Council);
- some form of stormwater management be installed to minimize impacts from the additional impervious surface in the Buffer.

Thank you for the opportunity to comment. Please submit this letter as part of the record for variance and notify this office in writing of the decision made in this case.

Sincerely,


Lisa A. Hoerger
Natural Resources Planner

LAH/jjd

cc: TC 579-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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August 14, 2003

Ms. Eileen Powers, Esquire
Blumenthal, Delavan & Williams, PA
170 Jennifer Road, Suite 240
Annapolis, Maryland 21401-0484

Re: Sally Stotz Subdivision
Anne Arundel County M.S. 1999-016
(Tax Map 65, Block 14, Parcel 247)

Dear Ms. Powers:

I have received your letter concerning the recent changes to the above-referenced subdivision plans. Our office was concerned about the density of the overall parcel inside the Critical Area and whether the 100-foot Buffer required expansion due to the presence or absence of hydric soils. From the information provided in your letter and the attached site plan (dated September, 2001, Plat Two of Two) it appears the density issue and the expanded Buffer issue may be resolved. In regard to the hydric soils study, it is my understanding that the finding that hydric soils are absent on this property will need further confirmation and approval by the Natural Resources Conservation Service (NRCS).

Nonetheless, this office will provide a final review letter to Anne Arundel County Department of Planning and Zoning at their request and subject to duplicate copy of a site plan and accompanying information that is submitted to the County for final review purposes.

If you have questions or need additional information from this office, I can be reached at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads 'Lisa A. Hoerger'.

Lisa A. Hoerger
Natural Resources Planner

LAH/jjd

cc: Mr. Steve Callahan
Ms. Penny Chalkley

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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August 14, 2003

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: 04-WL-0034, Charles R. Wanner

Dear Mr. Cuthbertson:

I have received the above-referenced project to mechanically maintenance dredge a 4,500 square foot channel and slip area to an 8-foot depth. The applicant proposes to place 600 cubic yards of the dredged material to a site on the applicant's property. From the site plan submitted, it appears the placement area may be within the 100-foot Buffer to Stoney Creek. The Code of Maryland Regulations at 27.01.03.06.B (7) does not permit dredge material to be placed in the 100-foot Buffer except for the following reasons:

Backfill for permitted shore erosion protection measures;
Use in approved vegetative shore erosion projects;
Placement on previously approved channel maintenance spoil disposal areas; and
Beach nourishment.

Unless the dredge material is proposed for use in one of the above circumstances, it must be placed outside the Buffer.

Thank you for the opportunity to comment. If you have any questions, please call me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Lisa A. Hoerger
Natural Resources Planner
LAH/jjd

cc: AA Co. Tidal Wetlands File



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Back Creek Landing/Seawright Corporation
Appeal #1286

Dear Ms. Verdery:

Thank you for forwarding the above-referenced special exception request for review and comment. The applicant proposes to construct a community pier measuring 30' x 3' over marsh and 41' x 6' over water, with a 10' x 20' "L" head, extending a maximum 41' channelward of mean high water.

We have no objection to the requested pier provided the pier will not impact any Habitat Protection Areas (HPAs) in San Domingo Creek. The access point should be the one that causes the least disturbance to the wetland and its Buffer. Any disturbance or clearing associated with the walkway that is above mean high water should be mitigated at a 2:1 ratio.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 555-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2003

Mr. Andrew Hanas
Department of Natural Resources
Engineering and Construction, D-3
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Jonas Green State Park Improvements

Dear Mr. Hanas:

At its meeting on August 6, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the Jonas Green State Park Improvements as a conditional approval with the following conditions:

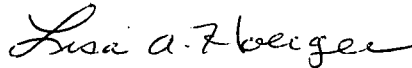
1. The applicants will work with Commission staff to ensure that mitigation in the form of native plantings occur on-site to address the impacts associated with clearing for the septic drain fields, disturbance to isolated steep slopes, and new grading and impervious surfaces in the 100-foot Buffer.
2. The mitigation for clearing and slope disturbance outside of the 100-foot Buffer shall be at a 1:1 ratio. The mitigation for new grading and impervious surfaces in the 100-foot Buffer shall be at a 3:1 ratio.
3. There will be a 3:1 mitigation ratio assigned for removal of individual trees in the 100-foot Buffer and a 1:1 mitigation ratio for removal of individual trees outside of the Buffer.
4. If the plans for the project are altered before, during or after construction, the applicants shall re-submit these plans to the Commission for review and approval.

Mr. Hanas
August 11, 2003
Page Two

The County and its landscape consultant will continue to work with Commission staff to finalize the required mitigation of 102,500 square feet or 2.35 acres. If this requirement cannot be fully met on-site, then we will seek an off-site location until the total mitigation requirement is met. I will forward a copy of the Plantings Agreement to the landscape consultant for completion.

Thank you, the County representatives and the consultant teams for their assistance with this project. By copy of this letter, I am informing Mr. John T. Keene of Recreation and Parks and Mr. Ronald A. Etzel of Public Works of this approval. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Mr. John T. Keene
Mr. Ronald A. Etzel
Mr. Christopher Goettge



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 7, 2003

Ms. Cheril Thomas
P.O. Box 206
300 Mill Street
St. Michaels, Maryland 21663-0206

Re: Zoning Text Amendments-Chapters 292 & 293
Growth Allocation Section

Dear Ms. Thomas:

At its meeting on August 6, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination that the text amendments to chapters 292 and 293 of the Town's Zoning Ordinance were refinements to the St. Michaels Critical Area Program, and they were approved.

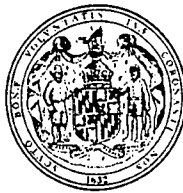
The Town is required to finalize these text changes within 120 days of this notice. If you have any questions, please call me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Roby Hurley, Circuit Rider
SM Refinement File



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 7, 2003

Ms. Lorraine Strow
State Highway Administration
Project Planning Department
707 N. Calvert Street
Baltimore, Maryland 21202

Re: MD 450 /CSXT Railroad Grade Separation - Mitigation
Amending the Commission's April 2, 2003 Approval

Dear Ms. Strow:

At its meeting on August 6, 2003 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays amended the original approval of the MD 450 Grade Separation project. The Commission granted an extension of time to the State Highway Administration to complete the site search for the remaining 2.87 acres of required reforestation mitigation. The new deadline will end with the commencement of construction for the grade separation project.

As before, SHA may choose to satisfy the remaining reforestation obligation by converting the 2.87 acres of clearing to pounds of phosphorus and installing a retrofit measure. The 2.87 acres would convert to 5.74 pounds of phosphorus (2.87 / .5).

Please continue to keep Commission staff apprised on the search and the anticipated start of construction. Thank you for your assistance with this project. If you have any questions, please contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural resources Planner

cc: Jason Cosler, Whitman, Requardt & Associates, LLP



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 7, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Richard Slaten & Katharine Latimer
Special Exception #1287

Dear Ms. Verdery:

Thank you for forwarding the above-referenced special exception to this office for review and comment. The applicant proposes to replace an existing pier with a 225-foot pier with a 10' x 20' "L" head, a boatlift and two mooring piles. This office has no comment regarding the encroachment issue or the pier request provided no Habitat Protection Areas are impacted.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 556-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 4, 2003

Al Kampmeyer
MDE, Nontidal Wetlands and Waterways Division
District Court/Multi Service Center
201 Baptist Street, Suite 22
Salisbury, Maryland 21801

Re: Avalon Limited Partnership
Tracking Number - 200160795/00-NT-2233

Dear Mr. Kampmeyer:

I have received the Public Notice for the above-referenced project. The applicant proposes to fill 12,504 square feet of farmed nontidal wetland with a total cumulative impact of 88,835 square feet. This office recommends denial of this permit request based on our comments below.

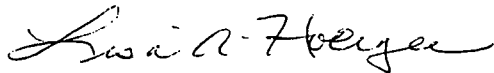
1. The Talbot County Critical Area Program recognizes nontidal wetlands as a Habitat Protection Area (HPA). Therefore, any disturbance to a nontidal wetland or its 25-foot buffer would require a variance to the local program. This office would not support such a variance for new development activities.
2. If this portion of the property is considered an Resource Conservation Area (RCA), then active recreational activities may not be an appropriate use according to the County's Zoning Ordinance. The Critical Area Commission has consistently advised local governments that these types of uses are not compatible within an RCA. The RCA supports nature-dominated environments and resource-utilization activities. These activities do not include tennis courts.

Mr. Kampmeyer
August 4, 2003
Page Two

3. This office cannot support this request to disturb a total of 88,835 square feet or two acres of nontidal wetlands for a recreational amenity. If the disturbance were the only effective way to access the only developable portion of a parcel or lot, this office would not oppose the request. However, amenities that are not necessary for the realization of use of a property should not be sited on HPAs, such as a nontidal wetland, but on other less sensitive areas of the site.
4. Last week while I was in Tilghman Island performing other site visits, I rode past this site. I have enclosed a photograph of the site that announces tennis courts will be coming soon.

Thank you for the opportunity to comment. If you have any questions, concerning the above-referenced request, please do not hesitate to contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

Enclosure

cc: Ms. Mary Kay Verdery, Zoning Administrator, Talbot County

Avalon Limited Partnership

Tracking # 200160795 / 00-NT-2233

photograph taken 7/30/03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 28, 2003

Mr. David G. Nutter, AICP
Nutter Associates
Community Planners & Development Feasibility Consultants
507C South Boulevard
Salisbury, MD 21801-5753

Re: Town of Vienna's Draft Comprehensive Plan

Dear Mr. Nutter:

Thank you for forwarding the draft Comprehensive Plan for the Town of Vienna. The plan appears consistent with our knowledge of the Town's current and future projects with regard to the Critical Area. As you may know, our office works closely with the Town's Critical Area Circuit Rider, Tracey Greene Gordy, who provides us with up-to-date information on the Town's projects.

This office reviewed those elements of the draft Comprehensive Plan that pertain to land use and planned development in the Critical Area. I have outlined our comments below.

1. Page 21 A visitor's center is proposed for location at the north end of the waterfront area. It would include parking and walkways. Where is the visitor center proposed and where is the parking area proposed? Are there any other development activities (such as walkways or a picnic area) proposed?
2. Page 23 The plan mentions a proposed restaurant and parking area at the north end of the waterfront area. Is the restaurant proposed to go in the existing structure? What parking area is the plan referring to? Does parking exist now, but just not open to the general public that might be using the waterfront area?

Mr. Nutter
July 28, 2003
Page Two

3. Page 23 The plan mentions moving the Ferry Tenders Office to the boat ramp. The relocation of the Ferry Tenders Office will require mitigation in accordance with Vienna's Buffer Exemption Area Program.
4. Page 26 The Town proposes to rezone from M-1 to B-2, the western edge of Route 331 from north of the Town line to the waterfront. Any required Buffers would still apply in the Critical Area.
5. Page 28 The plan states that growth allocation will allot additional density to IDA or LDAs. This should be corrected since growth allocation is not needed for parcels or lots that are already designated as IDAs, and growth allocation may be used to permit more intense types of development as well as additional residential density.
6. Page 33 The plan states that public restrooms are proposed for the Waterfront Park area. Where are the public restrooms proposed?
7. Page 33 The Town completed a Bayscapes project on June 1, 2003 in the waterfront area. This project should be submitted to Commission staff for review.
8. Page 40 When discussing the waterfront area, a Discovery Center is mentioned. Where is the proposed location of this center?
9. Page 40 Under "I. Improve and interpret the natural environment", the Town should add something about enhancing the Buffer function and habitat value with plantings and improving stormwater quality by installing BMPs and retrofitting existing storm drain systems.
10. Page 44 The Town is considering creating a special zone or use district to allow a Visitors Center and supporting uses at the waterfront. Again, where is the intended location of these uses? New structures in the 100-foot Buffer must meet the provisions of the Town's Buffer Exemption Area Program.
11. Pages 45 & 50 The plan mentions the Nanticoke Region Gateway and Discovery Center. On Page 53, the plans indicates the proposed site for this structure would be at the site of the former Town Sewage Treatment Plant. Where is this site located?

12. Page 50 The plan mentions a seasonal outdoor outfitter on the waterfront. This use must meet the Town's Buffer Exemption Area Program.
13. Page 52 In Part L in the second paragraph, it should be clarified that, "Other sensitive areas of concern include nontidal wetlands and the Chesapeake Bay Critical Area. The Town's Critical Area Ordinance(s) regulates all land use and development within 1,000 feet of tidal waters and tidal wetlands. These regulations include specific performance standards for minimizing environmental impacts associated with development activities including specific provisions for the 100-foot Buffer.
14. Page 53 The third paragraph is very confusing with regard to mitigation measures and plantings in setbacks. In the case of development or redevelopment in Buffer Exempt Areas, mitigation in the setback from the water is mandatory.
15. Page 54 It should be stated that a minimum 100-foot Buffer is required for all tributary streams in the Critical Area.
16. Page 54 The plan mentions changing the area between Water and Middle Streets from LDA to IDA. The Commission staff is aware of this issue and supports the Town's intentions to change this area from LDA to IDA. Is this going to be through the use of growth allocation? If so, this should be mentioned.
17. Page 56 The plan states, "Apply special waterfront buffer provisions and/or setbacks in zones along the Nanticoke and tributary creeks, using variable setback distances from the shoreline depending on site and use characteristics." What is meant by this provision? Is this like a Buffer Exemption Area program? If so, then the Town's Critical Area Program and ordinance will need to be amended, and the amendments approved by the Critical Area Commission.
18. Pages 57 and 62 The plan recommends creating a floating commercial recreation floating zone for specific waterfront properties and a riverfront and greenbelt trail loop that would traverse across various waterfront properties. Any future development activities that could result from this proposed floating zone and any future trails that would be inside the 100-

Mr. Nutter
July 28, 2003
Page Four

foot Buffer will need to be consistent with the Town's Buffer Exemption Area provisions and the Commission's policy regarding public walkways. This should be stated in the plan.

Thank you again for the opportunity to comment on the draft Comprehensive Plan. If you have any questions about the above comments, please do not hesitate to contact me at (410) 260-3480.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

LAH/jjd

cc: The Honorable Russell Brinsfield
Ms. Tracey Green Gordy, Critical Area Circuit Rider
Ms. Mary Owens, Chief Program Implementation



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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July 24, 2003

Ms. Lori Allen
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Geis Property, Lots 4 & 5
S# 78-056, P# 01-037

Dear Ms. Allen:

I have received the revised plat and site plan for the above-referenced subdivision request. Since lot 5R is being re-platted since 1985, and it will be over one half acre, but less than one acre, its total impervious area is limited to 15%. The applicant addressed the remaining issues raised by this office and this office has no further comment.

Thank you for the opportunity to comment. If you have any questions, or require additional information please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: AA 110-01



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
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July 16, 2003

Ms. Chris Soldano
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Burton Property, Resubmittal - MS 03-017

Dear Mr. Soldano;

I have received the resubmittal and written response from Bay Engineering for the above-referenced subdivision request. I have outlined my comments below.

1. The plan indicates an off-site mitigation easement. If this area is being set aside for other projects in the Critical Area, that should be included in the notes on the final plan.
2. We recommend that fencing be used to delineate the RCA portion of the lots from the non Critical Area portion of the lots to avoid future development activities from occurring in the RCA.
3. General Note 7 states "Limited Disturbance Area." It should state "Limited Development Area."
4. What is meant by the statement in General Note 12 that the site is further subdividable?

Thank you for the opportunity to comment. If you have any questions regarding the comments above, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 137-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 16, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601-3178

Re: Timothy E. Wyman – Wye Town Point
M 1034

Dear Ms. Verdery:

Thank you for forwarding the above-referenced subdivision to this office for review and comment. The request is to create three new lots and perform five lot line revisions in the RC. I have outlined our comments below.

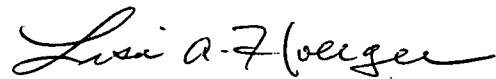
- 1) For any parcel that will be converting from an agricultural use to a residential use, the 100-foot Buffer shall be reestablished. This means that the Buffer must be planted with native vegetation.
- 2) All proposed lots and future development activities associated with those lots should not require the need for any variances to the County's Critical Area regulations. This office will not support variances on lots that are not grandfathered.
- 3) A note should be added to the final plat that indicates total proposed and total allowable impervious area for each lot, open space area and roads. We recommend a percentage of the total allowable impervious area per lot be set aside for future lot owners needs (i.e. accessory structures, additions).
- 4) We recommend adding the usual environmental notes that accompany all subdivisions in Talbot County. These notes would include, but are not limited to, permitted clearing activities, habitat protection areas, etc.

- 5) The County should receive comments from the Department of Natural Resources, Heritage and Biodiversity Division prior to final plat approval.
- 6) A jurisdictional determination should be completed prior to final plat approval due to the various wetlands shown by the maps used for this site plan.
- 7) A portion of the proposed "Reservation of Development Rights" on parcel A appears to be over open waters which has not yet been classified as State or private wetlands. This issue needs to be resolved before this area is permitted to count towards the "Reservation of Development Rights" agreement.
- 8) We recommend the afforestation areas not be split by development activities, as is the afforestation area that is proposed on either side of the proposed road. These areas should be designed to provide a wildlife corridor when possible. Afforestation might instead occur along the stream corridors or provide a wildlife corridor to the tidal pond area.
- 9) The two afforestation areas should be placed in perpetual easements to ensure their long-term protection.
- 10) The status of whether the tidal pond is a State wetland or private wetland should be determined since State wetlands may not be counted in the total acreage figure to calculate density or allowable impervious surface area. The history of the creation of the tidal pond must be documented in order to determine whether it is considered State or private wetlands.
- 11) The note about the development rights remaining appears incorrect. Assuming the applicant has a minimum of 210 acres inside the Critical Area, not counting any State wetlands, the total allowable units is ten. The plan shows eight lots with lot 8 showing three dwellings; therefore, it appears ten development rights will be used if one counts the seven new lots and the three existing dwellings on proposed lot 8.
- 12) The acreage figure provided for "Total Area in Critical Area" under the "Critical Area Development Rights Calculations" states 201.547 acres; however, the acreage figure provided above state 210.547 acres. It appears the numbers may be transposed. Please have the applicant indicate which acreage figure is correct.

Ms. Verdery
July 16, 2003
Page Three

Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions or if I can provide you with additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 514-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 14, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Tilghman on the Chesapeake, Phase 4 & 5
M 1022 – Revision of the revised Sketch Plan

Dear Ms. Verdery:

Thank you for forwarding the revision to the revised sketch plan for the above-referenced subdivision request. I have outlined my comments below for Phase 4 since Phase 5 is outside the Critical Area.

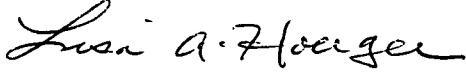
1. The location of lot 12 is still problematic since most of the lot contains a nontidal wetland or its 25-foot buffer. It needs to be reconfigured to avoid the need for a variance to the Talbot County Critical Area program. This office will not support any variances for lots created after the adoption of the County's Critical Area Program.
2. As stated in previous comment letters, the total impervious surface for the entire subdivision may not exceed 15%, and the total allowable impervious area per lot may not exceed 25% per Natural Resources Article 8-1808.3 (d)(4). The final plan should include a table that lists each lot, any open space areas and public roads and their proposed and allowable impervious areas. We recommend some percentage afforded to each lot be set aside so that future lot owners may expand (i.e. accessory structure, additions).
3. This plans shows a separate parcel labeled "Remaining Lands". The Critical Area portion of this parcel is labeled "Restricted Development" with an accompanying note stating this 1.157 acre area is being used for calculating the allowable impervious areas on lots 6 through 16 of Phase 4. This has the appearance of a transfer of impervious area from one parcel to another. Unless the current Talbot County Critical Area program specifically provides for this type of transfer, and the Critical Area Commission approved this, this exchange is not permitted.

Ms. Verdery
July 14, 2003
Page Two

4. There is still no information from the Department of Natural Resources, Heritage and Biodiversity Division. This should be received prior to final approval.
5. We still request the forest clearing information be provided, and where reforestation will take place.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 235-02



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 14, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Shultz Webb
L 922

Dear Ms. Verdery:

I have received the proposed lot line revision to this office for review. Provided the request is consistent with the Talbot County Critical Area Program, this office has no further comment.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 512-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 14, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: George & Lynda Carlson
L 921

Dear Ms. Verdery:

I have received the proposed lot line revision to this office for review. Provided the request is consistent with the Talbot County Critical Area Program, this office has no further comment.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: TC 511-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 11, 2003

Mr. Stanley Causey
Maryland Department of the Environment
Water Management Administration
407 Race Street
Cambridge, Maryland 21613

Re: Mark G. Holowesko
03-WL-1564

Dear Mr. Causey:

Thank you for forwarding the above-referenced request to emplace 698 feet of stone revetment within a maximum of eight feet channelward of the mean high water, 100 feet of low profile stone revetment within a maximum of six feet channelward of an eroding marsh, and to construct a timber pier, two mooring piles and a boat lift. I have outlined my comments below.

- 1) We defer to your office regarding the need for the proposed stone revetments; however, we generally recommend less structural means in order to preserve the intertidal zone that may be used by several native species.
- 2) All vegetation that is removed above mean high water for the installation of any shore erosion protection device must be mitigated for at a 1:1 ratio with native species within the 100-foot Buffer.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record. If you have questions, please telephone me at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 8, 2003

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Leon Turner
Appeal # 1285

Dear Ms. Verdery:

Thank you for forwarding the above-referenced variance request to the 100-foot Buffer. The applicant proposes to construct a dwelling in the 100-foot Buffer to Tar Creek. I have outlined my comments below.

This office does not oppose this request since this is a grandfathered lot and the size of the lot precludes the applicant from locating the dwelling entirely outside the 100-foot Buffer. We recommend that the dwelling be located as far as possible outside the Buffer. In any case, all new disturbance to the 100-foot Buffer must be mitigated with native Buffer plantings.

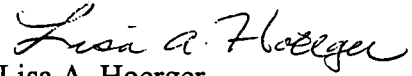
Provided your office and the Board of Appeals find the applicant has met the variance standards, we recommend the following as a condition of granting the variance.

1. This office recommends mitigation at a 3:1 ratio in the form of native Buffer plantings for new disturbance to the 100-foot Buffer. We recommend the mitigation plantings first be performed inside the 100-foot Buffer.
2. We recommend the County consider some form of stormwater management be installed to minimize impacts (i.e. disconnect spouts, rain garden, etc.) to the Buffer.

Ms. Verdery
July 8, 2003
Page Two

Thank you for the opportunity to comment. Please submit this letter as part of the record for variance and notify this office in writing of the decision made in this case.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: TC 497-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 3, 2003

Ms. Kelly Krinetz
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: West River Pines
S 02-026, P 03-110

Dear Ms. Krinetz:

This office has received the above-referenced subdivision request for review and comment. I have outlined our comments below.

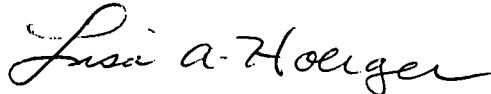
1. The information provided indicates the entire parcel has Othello silt loam soils. Since these soils are considered hydric, the 100-foot Buffer should be expanded for inclusion of these soils. Otherwise, the applicant must demonstrate to the County that the development on these soils will not impact streams, wetlands and other aquatic environments.
2. This office will not support variances for the creation of new lots. The creation of new lots must meet the County's Critical Area requirements, which include expansion of the Buffer for hydric soils.
3. The chart on sheet two of two does not include a column showing the total impervious area for the subdivision. It should include existing and proposed impervious surface figures, which should total 19,782 square feet or 7% of the entire parcel.

Ms. Krintez
July 3, 2003
Page Two

4. Is the proposed stormwater management facility necessary for this scale of development activity? Its location has necessitated clearing and disturbance to the Buffer. Please clarify.
5. Assuming the creation of these lots will not impact streams, wetlands or other aquatic environments, how will future lot owners be made aware of the extent of the stream and nontidal wetland buffers? We recommend fencing or signs.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 470-03

Staff Correspondence Vol. 2: Chandler

703

SI832-155-4



LeeAnne - Reader

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 18, 2003

Mr. Rodger Weese, Chairman
Queen Anne's County Planning Commission
160 Coursevall Drive
Centreville, MD 21617

RE: Title 18 – Planning Commission Public Review Draft

Dear Chairman Weese:

This office has reviewed a copy of the Planning Commission Draft of Title 18 dated May 28, 2003. We recognize that the County's Critical Area Program is implemented under Title 14 though there are many aspects of Title 18 which affect development within the Critical Area. Per §18-1-5, Relation to other laws, when there is conflict between Title 18 and any other law, ordinance or regulation, the more restrictive shall prevail. While this is clearly stated at the beginning of Title 18, there have been instances where the conflicting language between Title 18 and Title 14 has been problematic. The comments below highlight the areas of concern in regard to the revisions to Title 18:

1. In some zoning districts that may include land that is designated Resource Conservation Area (RCA), the permitted and conditional uses lists include uses that are not permitted in the RCA. For example, in §18-1-15 (Countryside district), one conditional use is marinas. New marinas are not permitted in the RCA. Although we acknowledge that this language is not new, it is recommended that some reference to the need for growth allocation be provided when certain uses are proposed in the RCA.
2. In §18-1-43, Community Piers, the provisions refer to §14-143 of the County Code. In Title 14, such facilities are referred to as "Community Marinas." These terms should be consistent.
3. Sections 18-1-43, 18-1-48, and 18-1-55 contain provisions for accessory caretaker dwellings, accessory apartments and farm employee dwelling units that appear to allow dwellings without counting them toward density. Within the RCA, density is limited to one dwelling unit per twenty acres. Any structure that meets the BOCA definition of a dwelling unit counts toward RCA density.

Chairman Weese

June 18, 2003

Page 2

4. Section 18-1-67 contains provisions for a "shore buffer" of 300 feet with potential reduction down to a minimum of 100 feet. It is not clear how this will work in the County's mapped Buffer Exemption Areas. Would the shore buffer be automatically reduced to 50 feet as permitted in Buffer Exemption Areas? This should be clarified and appropriate reference provided to Title 14. It is also not clear how the reduction in the "shore buffer" would be implemented on sites where the 100-foot Buffer would need to be expanded for contiguous sensitive areas. This should be clarified and appropriate reference to Title 14 provided.
5. Part (d) of §18-1-67 discusses forest management of the shore buffer and refers to the shore buffer being subject to the Buffer standards in §14-151. However, §14-151 does not include specific provisions for replacement of any vegetation removed, planting of vegetation to ensure the Buffer functions, or the establishment of the Buffer when land is developed. These are provisions in the Critical Area criteria under COMAR 27.01.09.01. While §14-151 states that Buffer Management Plans will be required when individual trees are cut in the Buffer, the County does not routinely require Buffer Management Plans to be submitted. Commission staff believes that both part (d) of §18-1-67 and §14-151 should be amended to include specific provisions addressing the replacement of any vegetation removed from the Buffer, including individual trees and brush, and provisions addressing the establishment of the Buffer when land is developed. Appropriate language should be included that specifies when Buffer Management Plans are required and under what conditions (for example, the removal of one or two trees) a Buffer Management Plan would not be required.
6. Commission staff believes that because several subsections have been amended that specifically and directly affect the County's Critical Area, changes to these sections should be reviewed and approved by the Critical Area Commission. Commission staff can prepare a list of the changes determined to be substantive.

Thank you for the opportunity to provide comments. If you have any questions, please feel free to contact Mary Owens or me at (410) 260-3460.

Sincerely,



LeeAnne Chandler

Natural Resources Planner



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 1, 2003

Ms. Stacey Weisner
Worcester Co. Development Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

RE: Seaside Village PCD – Comments for Planning Commission Meeting of 7/3/2003

Dear Ms. Weisner:

Thank you for providing information on the major site plan referenced above. The applicant proposes the construction of five buildings (one restaurant, one bank and three retail buildings), associated parking and other related facilities on a five-acre parcel designated as an Intensely Developed Area. The site is currently undeveloped. Commission staff has reviewed the information provided and we have the following comments:

1. Total proposed impervious cover on the site is 71.5%. The 10% calculations indicate a removal requirement of 5.12 pounds of Phosphorus. The proposed multiple pond system will remove 4.80 pounds if a 65% efficiency rating is used. A deficiency of 0.32 pounds remains. The applicant proposes to use additional landscaping plantings to make up the difference. (The 10% guidelines list various offsets that can be used including planting of half an acre of riparian forest per pound of Phosphorus to be removed.) The plantings proposed here are not within the Buffer and will not achieve the water quality benefits needed. However, the stormwater plan shows three stormwater inlets on the adjacent property (Hooper's) that drain to the on-site system. Credit can be given for providing treatment to runoff coming from off-site. Pages 23 to 25 of the "Applicant's Guide to 10% Rule Compliance" and pages 20 through 27 of the "Plan Reviewer's Guide for 10% Compliance" contain worksheets and an example of calculating removal from offsite drainage areas. It is likely that treatment of offsite drainage areas will make up the small deficiency of 0.32 pounds. Please have the applicant forward completed worksheets on the removal of pollutants from the offsite drainage area for our files.
2. In regard to the proposed stormwater management, this office defers to the County stormwater reviewers in regard to design and sizing of the facilities. The proposed BMP does not strictly meet the specifications found in the MDE manual but we

Ms. Stacey Weisner
July 1, 2003
Page 2

recognize the unique site constraints in the Coastal Bays watershed. A 65% efficiency rating is the highest of all the BMPs and County staff should be confident that the BMP will perform to this standard.

3. We recommend that any approval of the stormwater BMP include a requirement for long-term maintenance of the vegetation within the swales. New England aster is proposed in the bottom of the swales (as this species is water tolerant) and a mix of black-eyed susan and purple coneflower are proposed at a slightly higher elevation. The latter two species are very drought tolerant but if precipitation is higher than normal, these species may not survive long periods of inundation. At some point they may need to be replaced.
4. Please forward documentation received from the Department of Natural Resources in regard to the absence of any Habitat Protection Areas when it is received.

Thank you for the opportunity to review and provide comments on these plans. Please send the information requested above for our files. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: WC302-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 3, 2003

Mr. Charlie Klotzbucher
Castle Harbor Marina
PO Box 248
Chester, MD 21619

RE: Mitigation for new pavilion


Dear Mr. Klotzbucher:

I have reviewed the information you have submitted on the required mitigation for the picnic pavilion recently approved by the Queen Anne's County Board of Appeals. The County's Critical Area ordinance requires mitigation at a 2:1 ratio for new development within the Buffer in Buffer Exemption Areas. The pavilion is proposed to be 800 square feet and required mitigation is therefore 1600 square feet.

The areas identified in packet of information you have provided will address the mitigation requirement through the removal of 1734 square feet of existing impervious surfaces. These areas should be replanted to ensure they are pervious and provide water quality benefits by allowing infiltration. If possible, removal of the impervious surface should occur concurrently with the construction of the pavilion.

Through a copy of this letter and a copy of the information you submitted directly to this office, I am notifying the Queen Anne's County Board of Appeals and the County's permit office that the condition of the variance has been met. If you have any questions or if you would like to change the areas to be removed, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: Cathy Maxwell, Clerk to the Board of Appeals (w/att)
Vivian Swinson, Permit office (w/att)
QC299-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 3, 2003

Mr. Jesse C. Houston, Director
Town of Ocean City, Planning & Community Development
PO Box 158
Ocean City, MD 21843-0158

RE: Approval of Ocean City's Critical Area Program

Dear Mr. Houston:

At its meeting of July 2, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the Town's proposed Atlantic Coastal Bays Critical Area Program (version dated June 10, 2003). The Town should begin its legislative procedure to ensure that the Program is in effect by September 29, 2003 as required under the Natural Resources Article §8-1809(f)(2).

Commission staff is available to answer questions and attend Council meetings as necessary through the legislative process. If you have any questions or concerns, please contact me or Ren Serey, the Commission's Executive Director, at (410) 260-3460.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 8, 2003

Mr. Keith Lackie
Worcester Co. Development Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

RE: Ayers Creek Estates – Sketch Plan
Comments for TRC meeting of July 9, 2003

Dear Mr. Lackie:

Thank you for providing the sketch plan of the subdivision referenced above. The applicant proposes to combine and re-subdivide four parcels into 37 single-family residential lots with four outlots. Commission staff has reviewed the information provided and we have the following comments:

1. A plan should be provided which shows the existing property lines and their corresponding tax map and parcel numbers. Acreages (including a breakdown of upland, private tidal wetlands and State tidal wetlands) and number of existing dwellings of each parcel should be provided. Some of the tax map (TM) and parcel numbers listed in the notes do not appear to be correct. For example, TM 33, parcel 32 appears in the tax records as Eagles Landing golf course. TM 33, parcel 12 does not exist in the Department of Assessments and Taxation database at all. These references should be checked.
2. Similarly, the plan shows an island of upland in the midst of tidal wetlands in the northwestern corner of the property. On the County's Critical Area maps, this island appears to the west of the adjacent TM 33, parcel 112 rather than any of the referenced parcels. (According to the State tax records, Ayres Creek Farm LLC also owns parcel 112.) It seems that at least portions of parcel 112 are included in this subdivision but this is not clear from the information provided. Also, the road frontage of the proposed subdivision is approximately 1800 linear feet while the road frontage on the tax maps of the referenced parcels is 600 linear feet. We recognize the inherent inaccuracies of the tax maps but this discrepancy should be investigated.

3. Historical (back to June 1, 2002) subdivision information should be provided on each of the parcels involved in the subdivision. Existing dwellings should be identified. (Aerial photos of the property dated 1989 show buildings on several of the parcels.)
4. State tidal wetlands cannot be included in the gross acreage of the subdivision (nor "privately reserved" in an outlot) unless the property owner holds a valid land patent (dated 1862 or earlier) or King's grant. The patent or King's grant had to be carried in the chain of title for the land involved. Evidence must be provided to the Maryland State Archives' Commissioner of Land Patents for verification prior to including State wetlands within the subdivision for any purpose.
5. The applicant should provide an explanation for the terms "state tidal wetlands line" and "jurisdictional tidal wetlands line" and a description of how these lines were determined. A legend should be provided on the plan. The topographical lines that appear on the plan do not appear to be tied to any benchmark. An elevation survey should be conducted and it should be tied to a NOAA benchmark. Changes in vegetation should also be surveyed to further refine the data and determine the boundary between State and private tidal wetlands.
6. Additional information is needed on some of the linear depressions and areas of non-tidal wetlands. The presence/absence of streams needs to be verified. Please note that the County Critical Area map shows a stream between TM 33, parcel 112 and TM 42, parcel 10.
7. Identification of Habitat Protection Areas and all of the other information identified in §NR 3-109(d) should be provided on an Atlantic Coastal Bays Critical Area site plan and Critical Area report. We strongly recommend that the applicant submit an information request with the Heritage Program at the Department of Natural Resources as early as possible in the review process (recognizing their 30 to 45 day turnaround time).
8. A plat note or table should be provided which clearly indicates the impervious surface limits for each of the lots within the Critical Area. Each lot (one acre or larger) is limited to 15% impervious cover. The driveway lengths may be a consideration in the layout of the subdivision.
9. Access to Lots CA-3 and CA-5 impacts the Buffer. The subdivision should be re-designed to avoid Buffer impacts. Otherwise, variances for the two driveways would be required. It is doubtful that such variance requests could meet the strict Critical Area variance standards.

Mr. Keith Lackie
July 8, 2003
Page 3

10. As noted above, the subdivision includes the creation of four separate "outlots." A recent Court of Appeals decision (*Nancy R. Stansbury v. Randy Q. Jones, et al.*, September Term, 2002) has essentially provided an avenue for any piece of land with lot lines around it to eventually be developed (even if it was not meant for development at the time of subdivision). The parcel does not contain adequate RCA acreage to support development of the six proposed lots and the four outlots. Legally binding plat notes should be included which prohibit any development on the outlots unless growth allocation is awarded. Given the proposed layout, it is likely that growth allocation would be necessary for the entire Critical Area portion of the property. The status of the upland island (if it is an island) should also be documented. If its acreage is included in the approximately 128 acres generating the six lots, the island could not be developed.
11. The plan does not show any proposed piers, either individual or community owned. If such facilities are planned for the future, we recommend that they be included on the subdivision plat.
12. We request that a site visit be arranged that would include County and State personnel (Commission staff, MDE staff and Mr. Doldon Moore, the State Wetlands Administrator) to ensure coordination through the review process. Please contact us with potential dates for such a site visit.

Thank you for the opportunity to review and comment on these plans. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: Mr. Doldon Moore, Wetlands Administrator, Board of Public Works
WC465-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 9, 2003

Mr. Steve Cohoon
Queen Anne's County Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: Development activity at 816 Monroe Manor Road

Dear Mr. Cohoon:

Recently, Chairman Madden has instructed Commission staff to collect and keep track of information on enforcement complaints throughout the State's Critical Area. This includes calls or correspondence received by Commission staff directly from a complainant. On Wednesday, July 2, 2003, I received an e-mail from a Queen Anne's County resident which asked several questions about development activity at 816 Monroe Manor Road. An in-ground swimming pool was being constructed in close proximity to the water.

After reviewing the County's Critical Area maps, I noted that the property was within a mapped Buffer Exemption Area and therefore a modified Buffer applies. The description of the activity implied that the pool may be closer than fifty feet from the water. To my knowledge, an administrative or regular variance has not been approved. In accordance with the County's Buffer Exemption Area provisions §14-153(d), please provide a copy of your findings in regard to least intrusion necessary in the Buffer for construction of the pool. Please also provide a copy of the permit application, site plan and other documentation for our files. On July 3rd, I spoke with Barb in the Permits office and she indicated that the property owner did have a permit to install the pool. For further information I was referred to the inspector but have not heard back from him. According to the information I received in the original e-mail and the two received since then, the permit application indicated it was a replacement pool though the complainant contends there was never a pool on the property. The hole for the pool was dug over the weekend and by the end of the day, Monday, July 7th, the concrete was poured.

Please send the information requested above as soon as possible to ensure a timely response is given to the concerned citizen. If you have any questions or would like to discuss this matter further, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: Ren Serey, Executive Director
Queen Anne's Enforcement File



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 9, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Kevin & Karyn Ayala

Dear Mr. Keeley:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to relocate an existing lot line between two parcels owned by the same people. The purpose of the adjustment is to eliminate a non-conformity created when a barn was constructed over the existing line.

Because there are no proposed impacts to any Critical Area resources (and because the location of the line being adjusted is outside of the Critical Area), this office has no concerns regarding this subdivision.

Thank you for the opportunity to review this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC471-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 14, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: MASP#05-03-03-0006©, 7-Eleven Store, Winchester Creek, LLC – Revision #2

Dear Ms. Scozzari:

This office has received information on the above referenced major site plan. The applicant proposes to construct a 3,050 square foot 7-Eleven store with fuel pumps on a portion of an approximately 5-acre waterfront parcel. The parcel is proposed to be subdivided into two lots, with the 7-Eleven located on a 1.02-acre lot. The parcel is currently designated as Buffer Exempt and is designated IDA with an underlying Urban Commercial zoning classification. Commission staff has reviewed the information provided and we have the following comments:

1. Please refer to our letter of July 14, 2003 on the proposed Motel 6 in regard to errors or questions related to the revised Critical Area report and the letter to the Corps of Engineers.
2. As we have discussed, there is a provision in the BEA section that establishes a 15% impervious cover limit, even in the IDA (see §14-153(d)(5)). The application of this provision should be clarified. Please provide the Commission with a written explanation of the County's interpretation of this section.
3. When available, please forward a copy of the Planning Director's findings that the intrusion in the Buffer is the minimum necessary. The Planning Director must find that there is no feasible alternative to developing in the Buffer. In order to make such a finding, the status of the northernmost portion of the parcel and its possible future development should be addressed. As you know, the Critical Area Commission has expressed particular concern in the past in regard to subdivision of BEA lots without a demonstrated improvement of water quality and habitat as a result of the subdivision and subsequent development activity.
4. We recommend that a greater variety of species be used to landscape in and around the stormwater management pond. *Spartina alterniflora* is proposed between elevations 3 and 4 of the stormwater pond. *Spartina alterniflora*, as the dominant plant of the lower salt marsh zone, needs brackish water and regular flooding. Other species such as Marsh Hibiscus, Blue flag, New York Ironweed, Cardinal Flower, and Swamp Milkweed are more suitable alternatives.

Ms. Nancy Scozzari
July 14, 2003
Page 2

5. In the stormwater management report, part III includes a worksheet with a site name of Safeway. Also, it indicates that underdrains are provided underneath the two swales, with one swale having a bottom width of eight feet. Such underdrains do not appear in the detail and cross section of the swales and both swales have a bottom width of three feet. These discrepancies should be clarified.
6. The 10% calculations indicate that the two swales and the pocket pond combine to remove 0.84 pounds of Phosphorus, less than the 0.99 removal requirement. Treatment of offsite drainage is proposed to make up the difference. The drainage area map shows drainage from the Thuman property entering the swale on the western boundary of the site as well as some drainage from Winchester Creek Service Road entering the site via the driveway and into the pocket pond. Worksheet B (showing treatment of runoff from offsite drainage areas) was provided and indicates that 0.16 acres of offsite drainage, all of which is impervious, is being treated by the on-site BMP. Based on a review of the drainage area map, it does not appear that the offsite drainage area is 100% impervious (e.g., while the area of the road is obviously impervious, there is an area of State Highway right-of-way that is not). We recommend that the drainage area map provide more detail (total area and total impervious) on each offsite area entering the on-site BMP. While it does appear that the removal requirement can be met, Worksheet B calculations should be re-done with the more accurate information. (Also, please note that the constant "C" used in Step 2 should be 1.08 instead of 0.26 if impervious exceeds 20%.)
7. Mitigation for the impervious surface within the Buffer is proposed on Lot 1, the Motel 6 property. While offsite mitigation is possible, some guarantee should be provided in case the 7-Eleven is developed without the Motel 6 for some reason.
8. The landscape plan utilizes Leyland Cypress and Fraser's Photinia along the western boundary of the property. Both are relatively fast growing evergreen shrubs. In several areas, the Photinias, a plant for full sun, are proposed between the fence and the Leyland Cypress. They may not survive in this location due to shading.

Thank you for the opportunity to comment on this site plan. Please forward revised plans to this office for further review when they become available. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC188-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 14, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: MASP#05-03-03-0005©, MOTEL 6, RPM Investments, LLC – Revision #2

Dear Ms. Scozzari:

This office has received Revision #2 of the above referenced major site plan. The applicant proposes to construct a 63-room Motel 6 on a portion of an approximately 5-acre waterfront parcel. The parcel is now proposed to be subdivided into two lots, with the motel on Lot 1. The proposed lot is 3.837 acres in size, of which 0.391 acres are State tidal wetlands. The base site area is therefore 3.446 acres of IDA, designated Buffer Exempt. Commission staff has reviewed the information provided and we have the following comments:

1. The Critical Area Environmental assessment (as well as the letter to the Corps of Engineers) states that there are two concrete boat ramps on the property. Only one 10-foot wide boat ramp is shown on the plans. This should be clarified and corrected as necessary. Also, the report states that Motel 6 will be located on a 3.8-acre lot. The area of State tidal wetlands must be subtracted from the total lot acreage.
2. The third paragraph of the letter to the Corps of Engineers indicates the property is proposed for subdivision into three lots while other documents state that the property will be subdivided into two lots. This should be clarified.
3. Please note that the justification for Buffer intrusion (page 3, No. 1) states that access to the boat ramp has been eliminated and the fire lane behind the building has been eliminated. The site plan shows that access to the boat ramp and a structural fire lane actually are still part of the proposal. This should be corrected.
4. On Sheet 3, there is a label referencing Lot 1 as 3.025 acres. This does not match the site statistics on the cover sheet. Also, there is still a label on what was going to be Lot 3 that states "other lands of Winchester Creek LLC" with the use as listed as vacant.
5. The correct base site area for all aspects of the project is 3.446 acres. The metes and bounds of the property should not include the State tidal wetlands.

6. The applicant now proposes to subdivide the parcel into two lots. However, most of the area that was previously designated Lot 3 has not been incorporated into the project (i.e., little development is proposed on what was Lot 3). Evaluating what constitutes least intrusion necessary should include all proposed plans for the property. This includes amenities such as a swimming pool (which was removed from the plan) as well as plans for the area that was formerly Lot 3. If a pool or additional development is contemplated, it should be shown on the plans now.
7. The justification for Buffer intrusion states that 0.712 acres of shore buffer afforestation is proposed to meet the requirements of Title 14 and Title 18 for both Motel 6 and 7-Eleven. Title 14 requires the extent of the lot or parcel shoreward of the new development or redevelopment to remain or to be established and maintained in natural vegetation. The total area within the 100-foot Buffer is 2.024 acres; of which 0.266 acres is proposed to be impervious. This leaves 1.76 acres that could be planted. Subtracting the area to the east of the fire lane (for underground utilities), the stormwater pond and the two areas for the stormwater outfalls, there remains a large area to be planted. Density of plantings is also an area of concern. Planting density equates to each tree or shrub occupying 272 square feet. A typical credit for a large shrub is 50 square feet. Additional plantings are necessary to ensure that the use of the site contributes to water quality enhancement and fish, plant and wildlife conservation.
8. The Stormwater Management Report uses a site acreage of 3.84 as the basis for the calculations. As stated above, 3.446 acres is the correct base site area. Also, the stormwater analysis (both the 10% and TR-55 calculations) uses 0.948 acres as the total of post-development impervious. According to the site plan, 1.379 acres is the total proposed impervious cover. The calculations need to be revised.
9. When the 10% calculations are corrected, it appears that the load removed by the proposed dry swale totals 0.82 pounds, less than the 1.69-pound removal requirement. Options for increasing the load removed or decreasing the removal requirement include: 1) reducing impervious cover (perhaps through a re-design of the parking layout), 2) increasing the amount of the site that is being treated by the dry swale (as proposed it is just 42% of the site), or 3) providing treatment for offsite drainage. Offsets should be provided if the requirement cannot be met.
10. If credit is to be given for treating offsite drainage in the on-site BMP, Worksheet B of the 10% Guidebook should be used. The site and drainage plan should demonstrate through topographical information that the runoff will reach the BMP.
11. In the Stormwater Management report, the second page in Part III refers to 7-Eleven rather than the Motel 6. Also, it states that an underdrain is provided under the dry swale

Ms. Nancy Scozzari
July 14, 2003
Page 3

to ensure a maximum ponding time of 48 hours in accordance with the MDE manual. However, the detail of the dry swale shown on Sheet 8 does not show an underdrain. This should be clarified. Also, the landscaping plan appears to show significant plantings within the swale. All plantings should be tolerant of the wide range of moisture availability in and near the swale.

12. Please provide information on the status of the proposed re-zoning of the third lot. Has the applicant formally retracted his rezoning request?
13. As we have discussed, there is a provision in the BEA section that establishes a 15% impervious cover limit, even in the IDA (see §14-153(d)(5)). The application of this provision should be clarified (how does the County interpret this section?).
14. When available, please forward a copy of the Planning Director's findings that the intrusion in the Buffer is the minimum necessary. The Planning Director must find that there is no feasible alternative to developing in the Buffer. In order to make such a finding, the status of the northernmost portion of the parent parcel and its possible future development should be addressed. As you know the Critical Area Commission has expressed particular concern in the past in regard to subdivision of BEA lots without a demonstrated improvement of water quality and habitat as a result of the subdivision and subsequent development activity.
15. We recommend that the site plan contain appropriate enforceable notes pertaining to future plans for the pier and the protection of the aquatic resources in nearby Winchester Creek.

Thank you for the opportunity to comment on this site plan. Please forward revised plans to this office for further review when they become available. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC187-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 9, 2003

Mr. Steve Cohoon
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Eastern Shore Land Genesis, LLC

Dear Mr. Cohoon:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to remove a lot line and combine two parcels into one. The property is designated LDA but is not waterfront.

Because there are no proposed impacts to any Critical Area resources and because no new lots are being created, this office has no concerns regarding this subdivision.

Thank you for the opportunity to review this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC513-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 17, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Site Plan, Piney Neck Point, LLC

Dear Mr. Keeley:

Thank you for providing information on the above referenced minor site plan. The applicant proposes to convert an existing residence into a commercial office building. A small portion of the site is within the Critical Area designated IDA. Commission staff has reviewed the information provided and would like to submit the following comments:

1. The Critical Area line must be shown on the site plan.
2. The 10% pollutant reduction calculations (based on the area of IDA on site) are required on all projects involving more than 250 square feet of impervious surface. The applicant should complete the calculations and determine if the proposed "shallow swale" provides adequate pollutant removal.
3. The swale or any other BMP must be shown on the site plan.

Thank you for the opportunity to review this site plan. Please forward the information/revisions requested above when submitted. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: QC499-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 21, 2003

Mr. Steve Cohoon, Acting Planning Director
Queen Anne's County Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Narrows Point Condominiums

Dear Mr. Cohoon:

This letter is a follow up to the June 6, 2003 site visit to the Narrows Point site. At that time, the developer indicated that as-built plans of building pads and retaining walls would be provided and permits for the piers would be applied for within two weeks of the site visit. While the developer's attorney has provided a copy of a letter he sent to the engineer that asked for a status report, no site plans have been provided and the piers remain. Over six weeks have passed since our site visit. We continue to receive questions about the Narrows Point development, the duplexes continue to be constructed and the violations remain unresolved.

Title 14, section 197 of the County Code addresses Enforcement of the Critical Area Program. Its provisions describe civil violations, criminal misdemeanors and the remedies available to the County in addressing such violations. If necessary, civil penalties can be charged at up to \$500 per violation, with each day that the violation continues constituting a separate violation.

Please provide an update on the actions the County has taken to address this situation. Also, please provide us with information on how the County is interpreting §14-143 (Community marinas), in terms of the three piers on this property.

Thank you for your prompt attention to this matter.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: Dave Danmeyer, MDE Compliance



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 21, 2003

Mr. Keith Lackie
Worcester County – Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Variance Case No. 82899, Lot 394, Mystic Harbour

Dear Mr. Lackie:

Thank you for providing information on the above referenced variance request. It is our understanding that the applicant is requesting a variance from the Critical Area BMA Group B 50-foot Buffer requirements for construction of a dwelling on a properly grandfathered lot. The lot is designated IDA and is currently undeveloped.

We do not oppose the siting of a dwelling on this grandfathered lot. Impacts should be minimized and the variance requested should be the minimum to provide relief. In accordance with §NR3-111 (e)(2) of the County's Critical Area Program, new structures must be located the greatest possible distance from the landward edge of tidal wetlands. With the 50-foot Buffer requirement and other building restriction lines (BRL), a building pad of approximately 70 feet wide by 45 feet deep remains. If the proposed house were reoriented, with some modification in the layout, it appears that it could be accommodated in the building pad available with minimal impacts to the 50-foot Buffer. As proposed, the development of the lot stretches from BRL to BRL, appearing not to recognize the existence of the 50-foot Buffer. We recommend that the applicant redesign the proposal to avoid or minimize impacts to the Buffer. Approved impacts to the 50-foot Buffer should be mitigated at a 3:1 ratio (in addition to the standard BMA mitigation requirement).

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record in this case. Also, please notify the Commission in writing of the Board's decision. If you have any questions regarding these comments, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: WC476-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 28, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Subdivision, Atchafalaya Holdings, LLP
File #04-03-07-0003-C

Dear Mr. Keeley:

Thank you for providing information on the above referenced minor subdivision. The applicant proposes to create an additional lot using a TDR on this 23-acre RCA parcel. After visiting the site with you and reviewing the information provided, we have the following comments:

1. The wetlands on-site should be field delineated. Also, the plat should specify whether the tidal wetlands on the property are private tidal wetlands or State tidal wetlands, as well as an explanation on how it was determined. The determination can be made based on elevation as compared to a NOAA benchmark, vegetation type, or a combination of both. Areas of State tidal wetlands must be deducted from the gross site area and waterward boundaries of the property should reflect current conditions.
2. Note #14 indicates that the contours are field run, yet no contours are shown on the site plan. The areas adjacent to the wetlands and water contain slopes that may require Buffer expansion. Slopes of 15% or greater should be specifically identified. This information should be shown on the plat.
3. The plat should show the revetment that already exists along some of the shoreline.
4. COMAR 27.01.09.01(C)(6) states, "Where agricultural use of lands within the area of the Buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide forest vegetation that assures the Buffer functions set forth in the policies of this chapter" (which includes providing for the removal of sediments and nutrients from entering the Bay; minimizing adverse effects of human activity on wetlands, shorelines, tidal waters and aquatic resources; maintain an area of

Mr. Mark Keeley

July 28, 2003

Page 2

transitional habitat between upland and aquatic communities; and protecting riparian wildlife habitat.). A Buffer Management Plan should be provided demonstrating that the Buffer will be adequately established. We recommend that a note be added to the plat, stating that the Buffer must be revegetated in woody vegetation.

5. Any further subdivision on the property can occur only with additional Critical Area TDRs.

Thank you for the opportunity to review this site plan. Please forward the information/revisions requested above when submitted. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler

Natural Resources Planner

cc: QC493-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 29, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: MASP#05-03-03-0006©, 7-Eleven Store, Winchester Creek, LLC – Revision #3

Dear Ms. Scozzari:

Thank you for providing Revision #3 of the above referenced site plan. The applicant proposes to construct a 3,050 square foot 7-Eleven store with fuel pumps on a portion of an approximately 5-acre waterfront parcel. The parcel is proposed to be subdivided into two lots, with the 7-Eleven located on a 1.02-acre lot. The parcel is currently designated as Buffer Exempt and is designated IDA with an underlying Urban Commercial zoning classification. Commission staff has reviewed the information provided and we have the following comments:

1. The revised 10% calculations contain some minor errors that should be addressed. Worksheet A, Step 5 uses site acreage (1.128) instead of L_{post} (1.66) in calculating the load removed. The actual load removed is 0.92 pounds. Also, on Worksheet B, under Step 1, a note states that 0.05 acres drains to the pond while 0.11 acres drains to the dry swale. The actual acreages should be 0.073 to the swale and 0.083 to the pond. Corrected calculations should be provided.
2. The dry swale detail at the top right hand corner of sheet 5 shows that an underdrain has been added along with check dams. The section C-C on the plan still shows no underdrain and no check dams. These details should be provided. A soil boring in the swale's proposed location may be necessary to accurately design the dry swale. The site plan states that the underdrain will be capped at the property line without any outfall if the Motel 6 is not constructed concurrently with the 7-Eleven. The underdrain will be useless without an outfall and may turn the dry swale into a wet swale. Wet swales are strongly discouraged in residential areas. The dry swale should meet the specifications established in the MDE Stormwater Manual. Pages B.3.8 – B.3.10 of the MDE Stormwater Manual describe the required specifications for dry swales. The information provided (including the site's stormwater cost estimate) is lacking necessary details. Full credit cannot be given for a BMP that is not designed in accordance with the specs. This office defers to the County DPW for final approval of the design of the BMP.
3. In regard to Buffer Exemption Area mitigation, the landscape plan shows a designated area (0.196 acres) on the proposed Motel 6 property to be planted with 33 trees and shrubs. This area on the Motel 6 property is required to be planted anyway (assuming the

Ms. Nancy Scozzari
July 29, 2003
Page 2

Motel 6 is built) in response to §14-153(e)(1)(i) that requires, "The extent of the lot or parcel shoreward of the new development or redevelopment shall be established and maintained in natural vegetation." As discussed at the previous STAC meeting, addressing both requirements in the same location may be possible provided the density of plantings is sufficient. While the plantings may appear dense on the landscaping plan, proposed planting density equates to 259 square feet per tree or shrub. Typical credits for trees and shrubs are 100 and 50 square feet respectively. Also, if Motel 6 does not move forward, what guarantees are in place to ensure adequate mitigation will occur? This should be addressed.

4. As we have discussed, there is a provision in the BEA section that establishes a 15% impervious cover limit, even in the IDA (see §14-153(d)(5)). The application of this provision should be clarified. Please provide the Commission with a written explanation of the County's interpretation of this section.
5. Please forward a copy of the Planning Director's findings that the intrusion in the Buffer is the minimum necessary. The Planning Director must find that there is no feasible alternative to developing in the Buffer. In order to make such a finding, the status of the northernmost portion of the parcel and its possible future development should be addressed. We are aware that a subdivision plat has not been submitted, yet site plan approval is requested. As you know, the Critical Area Commission has expressed particular concern in the past in regard to subdivision of BEA lots without a demonstrated improvement of water quality and habitat as a result of the subdivision and subsequent development activity.

Thank you for the opportunity to comment on this site plan. This office cannot support approval of the site plan until sufficient information is provided on the proposed dry swale to ensure it functions as such. Also, we cannot support site plan approval without the opportunity to review the subdivision plat and the Planning Director's findings in regard to least intrusion necessary in the Buffer.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC188-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

July 28, 2003

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

Ms. Vivian Swinson
Queen Anne's County
Dept. of Planning & Zoning
107 N. Liberty St.
Centreville, Maryland 21617

RE: Administrative Variance #03-04-04, Ron Siarnicki

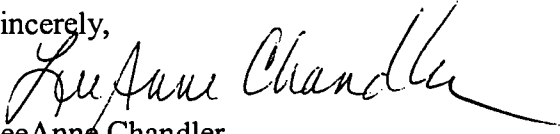
Dear Ms. Swinson:

Thank you for providing the application materials for the above referenced administrative variance. The applicant is requesting a variance from the Buffer requirements in order to construct a swimming pool shoreward of an existing structure within the Buffer. The property is approximately 0.5 acres in size and is currently developed with a single-family dwelling.

There does not appear to be a feasible alternative location for a swimming pool on this lot due to the size of the lot, the existing septic fields and the well. The property is Buffer Exempt and some neighboring properties are developed up to the minimum 50-foot setback. All neighboring properties are also developed with swimming pools. It is our understanding that the septic areas cannot be relocated due to the limited space on this lot. Mitigation should be provided in accordance with Section 14-168(c)(3) of the County's Zoning Ordinance. This section requires that the extent of the lot shoreward of the new development be established and maintained in natural vegetation and that natural vegetation of an area twice the extent of the impervious surface be created on the property. The amount of mitigation required should be revisited to accurately reflect the area of the pool and its surround. Size of the pool and patio should be no more than what was approved on the Cannon property. Given that this lot is maintained as manicured lawn down to the bulkhead, there is ample opportunity to plant native trees and shrubs on this site.

Thank you for the opportunity to comment. Please include this letter in the record for this variance request. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC477-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 29, 2003

Mr. Roby Hurley, Circuit Rider
Maryland Dept. of Planning
27490 West Point Rd.
Easton, MD 21601

RE: Ridgeview Townhomes (formerly Bozek, Inc.) Town of Centreville

Dear Mr. Hurley:

This office has received revised information on the above referenced project. The applicant proposes to construct 14 townhomes on a 1.469-acre IDA parcel within the Town of Centreville. Commission staff has reviewed the information provided, including the required 10% pollutant reduction calculations. We have the following comments:

1. The 10% calculations are split into two parts: 1) the portion of the property to be deeded to the Town for a public road and 2) the area to be developed with townhomes. For the road, the calculations are correct and the removal requirement is 1.35 pounds. A fee-in-lieu is proposed to address this requirement. While a fee for the road may be appropriate (so the funds can be used for a regional BMP that will address runoff from a number of roads), it is unclear as to who will pay the fee and what the fee will be. This should be clarified.
2. The 10% calculations for the townhomes indicate a removal requirement of 1.85 pounds. An infiltration structure is proposed to address runoff. It is my understanding that the structure is a "hybrid" BMP that does not meet the specifications in the MDE Stormwater Manual. The structure seems to be a combination of an infiltration trench and an underground filter. Underdrains are not provided and it is not clear that a soil boring has been done to verify the permeability of the soil. There do not appear to be observation wells or access grates in case of maintenance problems. We defer to the County engineer on design of the facility. However, since the design is modified and it does not appear to meet the required specifications, we are concerned about the 65% efficiency rating being sought (especially without MDE approval). If it were given a modified efficiency, perhaps the 50% given to underground sand filters, it would still meet the 10% removal requirement, if at least 90 to 95% of the site could be directed to it. We recommend that more detail be provided and that the applicant explore the possibility of treating more of the site.

Mr. Roby Hurley
July 29, 2003
Page 2

3. Notwithstanding the above, it appears that some of the roof leaders would be outfalling directly to splash pads at ground level. The soil survey indicates Sassafras sandy loam on site, which at certain depths is highly erodible. This is especially true given the existing and proposed topography of the site. This issue should be addressed (and could be solved if all roof leaders were directed to the infiltration device).
4. If any of the existing trees on site are healthy, we recommend that an effort be made to save them where possible (as it seems that the applicant proposes to remove every tree). Also, grading around units 3 through 8 seems excessive. Given the erodible soils, we recommend that grading be further minimized.
5. We recommend that the landscaping schedule be modified to include more native trees and shrubs. There are attractive alternatives for some of the ornamentals listed. Also, the *Euonymus alatus* should be replaced with a different species; it has been identified as an invasive species that is threatening natural habitats in the mid-Atlantic region.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: Eva Kerchner, Queen Anne's County Dept. of Public Works
Steve Layden, McCrone, Inc.
CV143-01



Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 31, 2003

Mr. Roby Hurley, Circuit Rider
Maryland Dept. of Planning
27490 West Point Rd.
Easton, MD 21601

RE: Centreville Rotary House

Dear Mr. Hurley:

This office has received information on the above referenced project. The applicant proposes to construct two duplexes on a 0.50-acre IDA parcel within the Town of Centreville. Commission staff has reviewed the information provided, including the required 10% pollutant reduction calculations. We have the following comments:

1. The 10% calculations indicate a pollutant removal requirement of 0.15 pounds. The report states that a dry swale will be used to address this requirement. Please note that under step 5, the BMP type is listed as a wet swale. This should be corrected.
2. It is not clear from the information provided that the dry swale is designed in accordance with the MDE manual. Rather, it seems to be a grass channel. In order to obtain credit as a dry swale, it should be designed and constructed in accordance with pages B.3.8 through B.3.10 of the MDE manual.
3. Native trees should be used in landscaping the site.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: Eva Kerchner, Queen Anne's Dept. of Public Works
Richard L. VanEmburch, P.E., Lane Engineering
CV143-01



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 1, 2003

Mr. Keith Lackie
Worcester County Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Rezoning Case #371

Dear Mr. Lackie:

Thank you for providing information on the above referenced rezoning case. The applicants are requesting that approximately 17.38 acres of land be rezoned from A-1 Agricultural to R-2 Suburban Residential. Approximately 4.33 acres are within the Coastal Bays Critical Area and are designated Resource Conservation Area (RCA).

If the underlying zoning district on the property is changed to R-2 Suburban Residential, the portion of the property within the Critical Area is still subject to the development standards of the RCA. This includes a residential density of one dwelling unit per twenty acres. For this property, one dwelling unit would be permitted in the entire Critical Area portion of the site. Other RCA development standards would apply as well (e.g., impervious surface and clearing limits). Also, new commercial, industrial and institutional uses are not permitted in the RCA. If any of these uses is proposed, or if more than one dwelling unit is proposed, the applicant would have to obtain growth allocation for the RCA portion of the property.

Thank you for the opportunity to review this case. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: WC550-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 1, 2003

Mr. Steve Cohoon
Queen Anne's Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Major Subdivision #04-01-09-0009(c), Serenity Farm (Thomas Sperl) – REVISION #3

Dear Mr. Cohoon:

This office has received Revision #3 of the above referenced subdivision. The applicants now propose creating two additional lots (Lots 5 and 6) through the use of two TDRs. After reviewing the site plan and visiting the site with you August 1, 2003, I would like to submit the following comments:

1. The tidal wetland in the north central portion of the property seems to have one edge labeled as a tidal wetland with it accompanying 100-foot Buffer and then another edge labeled as a non-tidal wetland with a 25-foot Buffer. The location of the tidal/non-tidal interface is not shown. As seen in the field today (based on presence of high tide bush *Iva frutescens*, change in elevation, and hydrology), it appears that the eastern edge of the tidal wetland is close to where the non-tidal boundary is shown on the plan. Notwithstanding additional information that would indicate otherwise, a 100-foot Buffer should be shown on the plat from the tidal wetland. This Buffer will prohibit development activities on the western side of the sewage reserve area on Lot 5.
2. On Sheet 2 of 3, note #15 states that "contours shown hereon are field run by McCrone,..." yet no contours are shown on either sheet 2 nor sheet 3. This should be corrected.
3. At the southern point of Lot 6, there is a noticeable change in the shoreline as it shifts landward and creates a small pocket of tidal wetlands. On the plan, the Buffer continues straight and does not follow the landward boundary of the tidal wetland. The septic reserve area (actually the area of the proposed mound system?) may be affected by the 100-foot Buffer. This should be corrected.

Mr. Steve Cohoon
August 1, 2003
Page 2

4. Note 23 on sheet 2 states that the Buffer must be planted with forest vegetation in accordance with COMAR 27.01.09.02 when agricultural uses are converted to other uses. (The reference to COMAR is incorrect; the correct reference to the applicable section is COMAR 27.01.09.01(c)(6).) The "Shore Buffer Forest Requirements" listed at the top of the sheet contradicts this note, stating that no afforestation is required in the Shore Buffer. The Buffer of the two new lots, and any area of the Buffer of Lot 4 that will not continue to be farmed should be established in forest vegetation in accordance with COMAR 27.01.09.01(c)(6). This should be clearly stated on the plat without any contradictory information. Also, we recommend an additional note stating that clearing of existing natural vegetation in the Buffer is prohibited.

Thank you for the opportunity to comment. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC528-01



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 5, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Gregory & Sarah Callanan
File #04-03-07-0005-C


Dear Ms. Scozzari:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to administratively relocate a lot line that was recorded via a deed. The State tax records show only one large parcel with one dwelling on it. However, the deed for the property discusses four parcels that were recorded in the land records in 1978. The purpose of the lot line adjustment is to provide additional room on one of the parcels for a sewage reserve area (to allow it to be developed). Commission staff has reviewed the information provided and we have the following comments:

1. It is not clear how a lot line that exists only on a deed (not on the tax records), can be adjusted via an administrative subdivision. Please explain the "subdivision without plat" mechanism that we discussed so I have an understanding of how it works. What are the requirements of "legalizing" lots that were created via a deed?
2. Information should be provided on the existing size of "parcel 1" and the amount of existing impervious surface on it. Please note that the plat shows two dwellings on it. Aerial photos of the property show an extensive loop driveway that does not appear on the plat.
3. If the lot line adjustment occurs, a variance will be necessary to develop parcel 4. The lot is not Buffer Exempt and any intrusion into the Buffer must be the least necessary to provide reasonable use of the property.

Thank you for the opportunity to review this subdivision. Please forward a revised plat containing the above information. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 5, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Conditional Use Case No. CU-070012, James Archey

Dear Ms. Maxwell:

Thank you for providing information on the above conditional use request. The applicant is requesting conditional use approval for a 350-foot long residential pier. The subject property is designated LDA and is currently developed with a single-family dwelling.

This office has no comments on the requested conditional use. However, as noted in the tidal wetlands license, no construction of the pier can occur from October 15th to March 31st of each year. If the conditional use is approved, such a condition should be made part of the building permit.

Thank you for the opportunity to review this request. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler

Natural Resources Planner

cc: QC557-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 5, 2003

VIA FACSIMILE

Mr. Steve Cohoon, Co-Director
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Buffer Clearing Violation at "Corsica Estates"

Dear Mr. Cohoon:

I am writing to follow up on previous discussions with County staff on a Buffer clearing violation on a property along Corsica Neck Road. It was originally reported to us the week of June 16th, 2003. I spoke with County staff the week of June 23rd and was told that the clearing was unauthorized, that there was no sediment permit applied for ahead of time, and that replanting would be addressed when the subdivision was proposed. Mr. Palmatary explained the violation as a matter of timing on the part of the property owner, and that no fines or stop work orders were issued.

It is our understanding that the developer clearly stated that the purpose of the clearing was to provide a view to enhance the market value of yet to be created lots. While there are markers up to show future lot lines, no subdivision plat has been submitted to the County. In addition, we are aware that McCrone made an inquiry on behalf of the developer with the Department of Natural Resources in March 2003, requesting an environmental review for any Habitat Protection Areas (e.g., Bald Eagle nests) on or near the property. McCrone received a response in April stating that there were Habitat Protection Areas on or near the property, including two Bald Eagle nests, known historic waterfowl concentration areas, as well as the potential for Delmarva fox squirrel habitat. The DNR response further described the restrictions applied to Bald Eagle nests including the prohibition of construction or clearing activities within the Bald Eagle nesting season from December 15th to June 15th. (This correspondence is enclosed for your information.) The clearing violation occurred with knowledge of these Habitat Protection Areas and the applicable restrictions in hand.

This office is extremely concerned about this situation. It is our understanding that the developer has stated that he intends to do more clearing to provide views for additional lots in the proposed subdivision. This is a situation where the owner knew the clearing restrictions and the required procedures for obtaining permission to undertake this type of activity. A developer and hired consultants conducted this unauthorized work. This violation is more than a matter of timing. Please note the following:

Mr. Steve Cohoon
August 5, 2003
Page 2

- Section 14-138(d) of the County Code contains the development standards of the LDA that are also applicable to the RCA. Part (6)(ii)(5) states that if any cutting or clearing occurs before a sediment control permit is obtained, the area removed must be replaced on site at the rate of three times the area removed.
- Section 14-151 clearly states that no natural vegetation shall be removed in the Buffer.
- Any allowed clearing for the specified purposes can occur only with an approved Buffer Management Plan. The specified purposes do not include clearing for a view.
- Section 14-199, Civil remedies, applies to any case in which there is destruction or disturbance of Habitat Protection Areas (including the Buffer).
- Section 14-199.1, Civil violations, include "land disturbance or clearing of natural vegetation that is prohibited by the provisions of the County's Critical Area Program" as well as "knowingly or unknowingly disturbing or destroying a habitat protection area." The section further establishes a fine of \$500 for each of these violations.
- Section 14-199.3, Criminal misdemeanors also include knowingly or unknowingly disturbing or destroying a habitat protection area and permitting any land disturbance or clearing of natural vegetation which is prohibited in the County Program. Penalties for criminal misdemeanors include fines, imprisonment or both.

Also, as we recently discussed, the Critical Area Criteria at COMAR 27.01.09.01(C)(6) requires establishment of a forested Buffer when agricultural lands are proposed to be converted to other uses. When the subdivision of this property is proposed, the plans submitted must include information on how a forested Buffer will be established.

Please notify the Commission by August 19, 2003 of the action taken by the County in response to this violation. A Buffer Management Plan, demonstrating restoration of the Buffer, should be required in addition to any sediment control permit. Please provide the Commission with a copy of the Buffer Management Plan.

Thank you for your prompt attention to this matter. If you have any questions, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

enc.

cc: Marianne D. Mason, Assistant Attorney General



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2003

Mr. Ken Pensyl, Program Manager
Non-Point Source Program
MDE, Water Management Administration
1800 Washington Blvd.
Baltimore, MD 21230

RE: Pollutant Removal Rates for "Grate Inlet Skimmer Box" and "Nutrient Separating Baffle Box"

Dear Mr. Pensyl:

Enclosed, please find documentation on two water quality inlet devices that are being considered for use by the Town of Ocean City. The Town recently adopted a Coastal Bays Critical Area Program, which requires a 10% pollutant removal for all development and redevelopment projects exceeding 250 square feet in size. The developed condition of the town, the lack of available space for BMPs, the high water table and lack of topography present challenges to implementation of this requirement. It is likely that the Town will collect significant amounts of fees-in-lieu due to the challenges of on-site compliance.

The Town, through another source of funds, has conducted a pilot project using the grate inlet skimmer boxes. They have told us that the boxes are easy to install and maintain. The baffle boxes are also being considered for use by the town for retrofit projects in many developed neighborhoods. If a pollutant removal efficiency rating can be assigned to either of these devices, the 10% fees-in-lieu may provide a funding source. We are requesting that you review the enclosed information and assign an efficiency rating as appropriate. Also, any suggestions for alternative use of these funds that address the stormwater issues in the Town of Ocean City would be appreciated.

Thank you in advance for your assistance. If you have any questions, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: Gary Setzer, MDE Commission representative (w/ Enc.)
Gail Blazer, Town of Ocean City Environmental Engineer (w/o Enc.)



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 14, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Subdivision, Winchester Creek LLC
File #05-03-07-0013-C

Dear Ms. Scozzari:

Thank you for providing information on the above referenced minor subdivision. The applicant proposes to subdivide an IDA parcel into two lots. Proposed uses on the lots are a Motel 6 and a 7-Eleven convenience store. Commission staff has reviewed the information provided and would like to submit the following comments.

1. On Sheet 1, note #10 reads, "Topography shown hereon is the result of a field run survey..." yet no topographical information is shown on Sheet 2. It is my understanding that two-foot contours are required for areas proposed as buildable area.
2. It is my understanding that the Corps' jurisdictional determination indicated that there was an area of non-tidal wetlands in the central portion of the site. These non-tidal wetlands should be shown on the plat and in the site capacity calculations on the cover sheet.
3. A portion of the site is located within the 100-year floodplain. If appropriate, the floodplain boundary should be shown on the plat.
4. As discussed in the field on August 12, 2003, some of the tidal wetlands are private tidal wetlands, based on vegetative and hydrologic indicators. We discussed estimating the area of private tidal wetlands rather than requiring a full elevation survey tied into nearby NOAA benchmarks. We recommend that the applicant (if they would like to claim the private tidal wetlands) submit a revised plat, showing a proposed boundary between private and State tidal wetlands.
5. As you are aware, mitigation is required for development of the 7-Eleven property (Lot 2) and the site plans submitted to date show the mitigation on the Motel 6

Ms. Nancy Scozzari
August 14, 2003
Page 2

property (Lot 1). If appropriate, we recommend that a reforestation/mitigation area easement be shown on the plat, along with the access and utility easements.

6. It is our understanding that two lots existed on this property when it was designated Buffer Exempt. Any further subdivision, beyond the two lots now proposed, would raise concerns about maintaining Buffer Exemption status on non-grandfathered lots.

Thank you for the opportunity to comment. Please provide a revised plat addressing the items above. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC577-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 18, 2003

Mr. Keith Lackie
Development Review & Permitting
Once West Market St., Room 1201
Snow Hill, MD 21863

RE: Growth Allocation Request for the Mount Property

Dear Mr. Lackie:

Thank you for providing information on the above referenced growth allocation request. The applicant is requesting growth allocation to change two parcels totaling 8.1 acres of Resource Conservation Area into Limited Development Area, to allow subdivision into a total of three lots.

Commission staff has reviewed the information provided. The entirety of the property is proposed as the development envelope. The property is adjacent to existing LDA. It does not appear that any non-conformities would be created. It also appears that all three lots could be developed in full compliance with the County's Critical Area Program. The County should confirm that the properties involved were legally existing parcels of record as of June 1, 2002. We do recommend that the applicant distinguish between State and private tidal wetlands on the property. State tidal wetlands cannot be included in a private subdivision. While it would not affect the subdivision proposal, it could potentially reduce the acreage request and conserve the County's growth allocation. Also, in regard to the proposed afforestation area, please note §NR 3-119(c)(8)(G). When agricultural use of lands within the Buffer ceases and the lands are proposed to converted to other uses, the Buffer is required to be established.

Thank you for the opportunity to provide preliminary staff comments on this request. As you know, if approved by the County, the request would require approval from the Critical Area Commission as either a refinement or an amendment to the County's Program. Please keep us informed as to the County's action on the request. Also, as we have recently discussed, this office has not yet received the accounting of growth allocation used in the interim period while the Program was being developed. We cannot process a growth allocation request until we receive this information. Please contact me if you have any questions or concerns.

Sincerely,

LeeAnne Chandler
Natural Resources Planner



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 22, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Variance Case No. V-080008

Dear Ms. Maxwell:

Thank you for providing information on the above variance request. The applicant is requesting a variance to reduce a side yard setback to permit construction of a garage to an existing residence. The LDA property is one acre in size and is currently developed with a single-family dwelling and a driveway.

No information was provided in regard to the amount of existing and proposed impervious surface on the property. Lots in the LDA of an acre in size are limited to 15% impervious cover or, for this lot, 6,534 square feet. Provided that the garage does not increase impervious cover over this amount, this office has no concerns regarding this request. If impervious cover exceeds the limit, an impervious surface variance would also be necessary.

Thank you for the opportunity to review this request. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads 'LeeAnne Chandler'.

LeeAnne Chandler
Natural Resources Planner

cc: QC601-03



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 21, 2003

Ms. Gail Blazer
Town of Ocean City
Engineering Dept.
PO Box 158
Ocean City, MD 21842

RE: Michael & Nicole Timothy Site Plan
Lot 88, Harbourside at Heron Harbor

Dear Ms. Blazer:

Thank you for providing information on the above referenced site plan. The applicant proposes the construction of a waterfront single-family dwelling on a 7454 square foot lot.

Based on the information provided, it appears that the proposal meets the requirements of the Town's standard stormwater plan for single-family dwellings. The 10% requirement is therefore satisfied by the use of a trench, rain garden and grassed swale. In addition, Buffer mitigation should be provided at a rate of 2% of the cost of construction of the dwelling. Given the relatively low level of impervious cover, the applicant should be able to accommodate most of the plantings on-site. The balance should be the payment of fees-in-lieu into the Town's Buffer Mitigation fund.

Thank you for the opportunity to review this plan. If you have any questions or concerns, please feel free to contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC602-03



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/

August 25, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: MASP#05-03-03-0006©, 7-Eleven Store, Winchester Creek, LLC – Revision #4

Dear Ms. Scozzari:

Thank you for providing Revision #4 of the above referenced site plan. The applicant proposes to construct a 3,050 square foot 7-Eleven store with fuel pumps on a portion of an approximately 5-acre waterfront parcel. The parcel is proposed to be subdivided into two lots, with the 7-Eleven located on a 1.02-acre lot. The parcel is currently designated as Buffer Exempt and is designated IDA with an underlying Urban Commercial zoning classification. Commission staff has reviewed the information provided and we have the following comments:

1. The revised 10% calculations and the site plan now indicate that a wet swale has replaced the dry swale along the western property boundary. With the treatment of some offsite runoff, it appears the 10% pollutant removal requirement will be met. However, please note that the MDE Stormwater manual recommends against using wet swales in residential areas due to the potential for mosquito breeding conditions. While the site itself is wholly commercial, numerous adjacent properties are both residential and commercial. This office defers to the County DPW for final approval of the design of the BMP.
2. For final stabilization and planting, the wet swale should be planted with wetland species rather than seeding with the typical tall fescue as indicated in the landscaping notes. Not only will such species enhance the area aesthetically, less maintenance will be needed. A variety of wetland species for the wet swale should be added to the landscape plan.
3. Please note that the drainage arrows on the drainage plan do not match those on the site grading/sediment and erosion control plan. This should be corrected.
4. As we have discussed, there is a provision in the BEA section that establishes a 15% impervious cover limit, even in the IDA (see §14-153(d)(5)). The application of this provision should be clarified. Please provide the Commission with a written explanation of the County's interpretation of this section.

Ms. Nancy Scozzari
August 25, 2003
Page 2

5. Please forward a copy of the Planning Director's findings that the intrusion in the Buffer is the minimum necessary. The Planning Director must find that there is no feasible alternative to developing in the Buffer.

Thank you for the opportunity to comment on this site plan. Please forward the requested information to this office for our files. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC188-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 25, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

****VIA FACSIMILE****

RE: Variance Case No. V-030013, Downey Land Development, LLC
RECONSIDERATION

Dear Ms. Maxwell:

Thank you for providing the revised information on the above variance request. The applicant is requesting a variance to permit greater than 600 cubic yards of fill within the floodplain and to allow attached garages to be greater than 900 square feet in area within the floodplain. The subject property has split Critical Area designations of IDA, LDA and RCA. The fill is proposed in the IDA portion of the property.

In regard to the fill variance and the variance to exceed the permitted size of the garage, this office recognizes that this property has numerous development constraints. Allowing the community garage beneath the buildings helps to reduce the footprint of the development, which in turn reduces impacts. We recommend that fill be permitted to ensure that all stormwater from the site drains toward the proposed stormwater management devices. However, we recommend that it be the absolute minimum necessary to allow development of the site. It is our understanding that the applicant has been told that the property will flood during heavy rain events coinciding with high tides. The fill should not be permitted to redirect flooding to adjacent roads and properties such that flooding becomes worse than it already may be under those circumstances. Also, the applicant should be aware that stormwater management for the site will need to be revisited. (Eliminating the underdrain pipe in the dry swale will make it a wet swale, which has a different pollutant removal efficiency.) The project will need to go back to STAC for further review.

Thank you for the opportunity to review this request. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 26, 2003

Ms. Lisa Collison
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, John & Michele Fish (#04-03-08-0006-C)
Minor Site Plan (#04-03-08-0007-C)


Dear Ms. Collison:

Thank you for providing information on the above referenced administrative subdivision and minor site plan. The applicant proposes to remove lot lines to combine four lots into one in order to convert an existing residence into a medical office. The property is designated IDA, is not waterfront and is currently developed with a residence. I have reviewed the information provided and have the following comments:

1. There do not appear to be any Critical Area concerns in regard to the administrative subdivision.
2. In regard to the minor site plan, a review of the 10% calculations indicates that there is a negative removal requirement (which occurs when there is less than 17% impervious cover proposed). The stormwater report shows the BMP as a dry swale, which apparently already exists around the edge of the property. I have spoken to Mr. Lee Mayer, the project engineer at Lane Engineering. I recommended to him that plantings be placed around the new parking lot to capture runoff from the new impervious parking lot. He subsequently sent a revised site plan showing additional plantings along the edge of the parking area. With the negative removal requirement and the revised landscaping, no additional BMP is needed to meet the 10% requirement.
3. On the landscaping plan, we recommend that the *Euonymus alatus* (burning bush) be replaced with a native species. *Euonymus alatus* has been identified by the US Fish and Wildlife Service and others as an invasive species in the mid-Atlantic region.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC471-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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August 29, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Pioneer Point General Partnership
File #03-03-08-0003© (Corsica River Estates)

Dear Mr. Keeley:

Thank you for providing information on the above referenced major subdivision. The applicant proposes to subdivide a 286-acre parcel into twelve (12) lots. The acreage within the Critical Area totals approximately 202 acres or RCA. The property is currently in agricultural use.

After visiting the site with you and reviewing the information provided, we have the following comments:

1. As you may recall, the first place we parked was in close proximity to the headwaters of Middle Quarter Cove. As we began walking down the existing gravel drive, there were some forested non-tidal wetlands to the west (which are shown on the site plan) that appear to receive water from a culvert that runs under the road. To the east, there was a large clump of trees with a low area covered in *Phragmites* that seemed to drain to the non-tidal wetlands. These features are not shown on the plat. They should be added to the plan to ensure there are no impacts from the proposed road. The culvert should also be shown. Existence of additional wetlands should be checked. Figure 11 in the Environmental Assessment report shows this area clearly.
2. Note #15 indicates that the contours are field run, yet no contours are shown on the any of the plats. The areas adjacent to the wetlands and water contain slopes that may require Buffer expansion. Slopes of 15% or greater should be specifically identified. This information should be shown on the plat.
3. The plat should show the revetment that already exists along some of the shoreline.

Mr. Mark Keeley

August 29, 2003

Page 2

4. The existing conditions plat (sheet 4) does not show the edge of woods along Tilghman Cove. This woods line should also be shown on sheets 5, 6 and 10.
5. The DNR response letter in regard to rare, threatened or endangered species discussed two bald eagle nests on or near the property. However, the environmental assessment report states that the one eagle's nest on the property no longer exists. The nest on the adjacent property is still active and, according to the letter from DNR, is within ¼ mile radius of the property. The location of the nest in relation to the site should be surveyed and if necessary, the appropriate protection zones should be shown on the plat.
6. On sheet 5, large Lot 8 shows a building pad that does not include the 10,000 square foot septic reserve area (SRA). According to the County Code, a building pad is defined as, "the portion of a single-family large lot that may be disturbed for development." By this definition, it seems that the building pad should include the SRA.
7. On sheet 7, all of the lots are shown. Also shown are 14 SRAs (two are on Lot 7, two on Lot 8, two on Lot 11 and one on Lot 1 in the open space.) This should be explained.
8. On sheet 7, the site statistics (for the cluster subdivision) show the number of proposed lots as six, with four in the Critical Area. However, Lot 2 is wholly located within the Critical Area and Lot 1 has 46 acres within the Critical Area. This should be explained.
9. On sheet 10, note #3 states that intermittent/perennial streams do not occur on the property according to the USGS topographical map. This is incorrect. Figure 10 in the Environmental Assessment report shows a stream at the head of Middle Quarter Cove. This is in the location of the existing culvert, low area and clump of trees that are missing from the existing conditions plat. This area should be investigated further and accurate information provided on the plat.
10. Note 6 on sheet 10 states that the contours and elevations are taken from a field survey and there are no slopes greater than 15 percent. The contours and elevations are not shown on the plan and there actually are slopes greater than 15 percent along the shoreline. These should be shown on the plan.
11. The Critical Area forest requirements shown on sheet 10 shows that 8.411 acres of afforestation is required (to meet the 15% afforestation threshold), yet it proposes 0.298 acres of this afforestation outside of the Critical Area. At least 15% of the property located within the Critical Area must be forested. Also, please note that

these numbers do not match the plan that shows a protected afforestation area of 9.141 acres.

12. The forest information is no longer accurate due to some illegal clearing that occurred within the Buffer on the property. The area that was cleared is still shown as woods. Replacement of the area cleared must occur at a 3:1 ratio (because it is a violation). County staff indicated that the violation "would be taken care of" at the time of subdivision, yet no recognition of the violation nor any reparation has been provided. This should be addressed.
13. As we observed in the field, there are a number of areas along the shoreline that have severe erosion problems. Wherever possible, we recommend that non-structural erosion protection measures be used. Off-shore stone sills with planted marsh grasses along the beach may be viable options in several locations (as indicated by the small amount of grasses that are already growing there). This office strongly recommends that the applicant consult with MDE early in the planning process for the shore erosion control on this site. Shore erosion control should be part of an overall Buffer Management Plan for the property.
14. Again, as we observed in the field, many areas of the existing Buffer along the shoreline (especially along Middle Quarter Cove) contain invasive nuisance species that are causing harm to the desirable species. Removal of existing natural vegetation within the Buffer is prohibited except that measures may be taken (under an approved Buffer Management Plan) to control pests and to maintain the health of individual trees (§14-151(b) of the County Code). An overall Buffer Management Plan should be provided.
15. COMAR 27.01.09.01(C)(6) states, "Where agricultural use of lands within the area of the Buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide forest vegetation that assures the Buffer functions set forth in the policies of this chapter" (which includes providing for the removal of sediments and nutrients from entering the Bay; minimizing adverse effects of human activity on wetlands, shorelines, tidal waters and aquatic resources; maintain an area of transitional habitat between upland and aquatic communities; and protecting riparian wildlife habitat.). A Buffer Management Plan should be provided demonstrating that the Buffer will be adequately established.
16. To address comments 12 through 15 above, we recommend that the applicant prepare a Buffer Management Plan for the entire property. It can include measures to address the invasive species, shore erosion, and mitigation for the violation as well as a planting plan to ensure the Buffer is established where one does not currently exist.

Mr. Mark Keeley
August 29, 2003
Page 4

Due to the size and nature of the property, we recommend that it be addressed as a whole rather than on a lot by lot basis. Commission staff is available to provide assistance as needed.

17. Any further subdivision on the property or establishing of a dwelling on Lots 1 and/or 2 can occur only with Critical Area TDRs.

Thank you for the opportunity to review this site plan. Please forward the information/revisions requested above when submitted. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC493-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 2, 2003

Ms. Lisa Collison
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Bernie & Jacquelyn Weaver
Adman (#04-03-08-0011-C)

Dear Ms. Collison:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to remove lot lines to combine three lots into one. The property is designated RCA and is currently developed with a single-family dwelling and driveway. Because the property is already developed and no new development is proposed, this office has no Critical Area concerns in regard to this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".
LeeAnne Chandler
Natural Resources Planner

cc: QC621-03



Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 2, 2003

Ms. Tracey Greene Gordy
Maryland Department of Planning
201 Baptist St., Suite 24
Salisbury, Maryland 21863

RE: Buffer Plantings for Macard Office Building

Dear Ms. Gordy:

Thank you for providing information on the proposed planting plan associated with the variance granted for the Macard Office Building. The variance allows construction of a drainage swale and modification to an existing stormwater pond within the Buffer. The variance was granted in 1999 with the condition that the Buffer be fully planted with native vegetation.

Commission staff has reviewed the information provided. Our comments on the planting plan are listed below. However, we recommend that the stormwater design be re-examined under the current stormwater regulations. The swales and extended detention pond were included in the calculations as Best Management Practices. Under the current regulations, the pollutant removal efficiencies have changed along with the construction specifications that must be followed. The design may need to be modified to meet the current regulations. Notwithstanding this issue, we have the following comments on the planting plan:

1. We indicated in our comments on the variance that we would not oppose the variance if there were no impervious surfaces within the Buffer and provided the Buffer were fully planted with native vegetation. As proposed (and using the square footage of plantings provided), only 40% of the Buffer will be vegetated (mostly with shrubs) and it appears the remainder will be manicured turf grass.
2. It is unclear from the information provided what credit system is being used in the proposal. For example, how many square feet are given for a tree, understory tree, shrub, groundcover and perennials? A full schedule should be provided which shows the species along with the number and size of each to be used. Listing percentages of general areas does not provide adequate detail. The purpose of the Buffer is to provide water quality and habitat benefits. From the information provided, it does not appear that the proposal is adequate to restore the needed Buffer functions.
3. The plant list provided is consistent with our recommendations for native species. However, there are just four types of ground covers and no perennial flowers listed. This list should be supplemented with additional species.

Ms. Tracey Greene Gordy
September 2, 2003
Page 2

4. Some of the area proposed for planting (as "new woodlands") appears to be well vegetated already, especially around the existing stormwater pond. Replacement of any vegetation removed should be added to the proposal at a 3:1 ratio.
5. Please note that the information on the printout from the Department of Assessment and Taxations website does not appear consistent with the information previously submitted. Specifically, the parcel size is listed as 39,715 square feet while it was previously reported as approximately 1.4 acres. This should be examined.

We recommend that the applicant revisit the planting plan, provide necessary details, and add additional woody vegetation to the Buffer portion of the site. The condition was recommended due to the fact that the entire Buffer portion of the site is proposed to be disturbed. The proposal does not meet the intent of that condition.

Thank you for the opportunity to provide comments on the planting plan. Please include this letter in your file and submit it as part of the proceeding for the review of this proposal. Also, please notify the Commission in writing of the decision made by the Board. If you have any questions, please feel free to contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: SN246-99

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 5, 2003

Ms. Tracey Greene Gordy
Maryland Department of Planning
201 Baptist St., Suite 24
Salisbury, Maryland 21863

RE: Consistency Report for New Playground, Bathhouse and Pavilion at Byrd Park

Dear Ms. Gordy:

This office has received the consistency report and supporting documentation for the above referenced improvements at Byrd Park. It is our understanding that the new development proposed will be located entirely outside of the Critical Area Buffer. It also does not appear that impervious surfaces will exceed the permitted 15%. The only outstanding question we have is in regard to stormwater management. The site is located in the RCA and is not subject to the 10% pollutant reduction requirement. However, the proposed improvements exceed 5000 square feet of disturbance and therefore require stormwater management under MDE's regulations (and under COMAR 27.01.02.04(D)(2)). Depending upon the soils on site, best management practices such as bioretention or rain gardens may be most suitable in this park setting. With even occasional intense use (as it occurs at annual County fairs), unmanaged stormwater can create a muddy mess, both visually and from a water quality standpoint. We recommend that appropriate stormwater management measures be included in the proposal.

Thank you for the opportunity to review this project. If you have any questions or concerns regarding these comments, please contact me at (410) 260-2477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: Kelly Brewington, Town of Snow Hill
SN608-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 5, 2003

Ms. Tracey Greene Gordy
Maryland Department of Planning
201 Baptist St., Suite 24
Salisbury, Maryland 21863

RE: Buffer Management Plan for the Hillyer Property

Dear Ms. Gordy:

Thank you for providing information on the Buffer Management Plan for the Hillyer Property. Your description and photographs were particularly helpful in the review. Also, a number of months ago, we briefly walked the site with the knowledge that the house had been purchased and there were plans to improve the overall condition of the property. Commission staff has reviewed the information provided and we have the following comments/recommendations:

1. In regard to the use of Roundup or Garlon for eradication of the many invasive woody species on the property, Claudia Jones, our Science Advisor, recommended that these products not be used within close proximity to the water. She indicated that a DNR Forester had actually recommended Garlon to her as a quicker means of eliminating woody invasives. If their application will be limited to painting it on stumps (rather than spraying), she said they could probably be used up to five feet from the water.
2. For the elimination of English Ivy, the proposal to bush-hog does raise concern. Provided that bush-hogging can be done without destroying any desirable species, it seems to be a logical means of getting rid of most of the ivy. Close to the water or where there may be existing vegetation to be preserved, it may be more appropriate to cut back the ivy by hand and then spray with the appropriate herbicide. For spray application near the water, we recommend that Rodeo be used rather than Roundup or Garlon (as both are toxic to fish).
3. The planting list is fully consistent with our recommendations regarding the use of native species. Once the invasive species are under control, we recommend that the applicant supplement the Buffer Management Plan with a planting schedule that specifies the quantity of each species that will be used. Obviously this cannot be done until they can determine what they are dealing with in terms of existing desirable vegetation and space available for new plantings.

Thank you for the opportunity to comment on this Buffer Management Plan. As we

Ms. Tracey Greene Gordy

September 5, 2003

Page 2

discussed, it will be an excellent case study of removing invasives and restoring the functions of the Buffer. If you have any questions or concerns about these comments, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler". The signature is written in black ink and ends with a horizontal line.

LeeAnne Chandler

Natural Resources Planner

cc: Kay Stroud, Town of Snow Hill
SN623-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 8, 2003

Mr. Jesse C. Houston, Director
Town of Ocean City, Planning & Community Development
PO Box 158
Ocean City, MD 21843-0158

VIA FACSIMILE

RE: Critical Area Pier Discussion

Dear Mr. Houston:

This letter is meant to follow up on the electronic mail message you sent in regard to our discussions on piers and how the new Critical Area regulations will affect future requests. Listed below are the items highlighted in your e-mail with our response in italics:

1. Pre-existing projects (development that pre-existed the adoption of our Critical Area Program) are not subject to the restrictions on piers/docks/slips. If they currently have piers and want to replace them, or if they have no piers and want to construct some, they can do so without following the Critical Area regulations. They will be subject to Board of Port Wardens approval as they would have been before the Critical Area Program. *Commission staff agrees with this interpretation. The Community Piers section is applicable only to residential development or redevelopment approved by the Town of Ocean City and is consistent with all criteria and local regulations for the Critical Area.*
2. Fee simple townhouses (townhouses that own the land under the building to the water, i.e., no common element) will be treated as if they are single-family homes and fall under the "private pier" regulation. *Commission staff agrees with this interpretation.*
3. We will consider helping to define a "slip" by assuming that a slip is 25 feet long. So if a perpendicular pier is 50 feet long, each side will be assumed to have 2 slips. (You are also going to try to find a definition of "slip") *Commission staff has discussed the definition of a slip with staff of the Maryland Department of the Environment. There is no definition of "slip" in the Tidal Wetlands regulations. Design of community piers (that do fall under the Critical Area regulations), whether there are several*

Mr. Jesse Houston
September 8, 2003
Page 2

perpendicular piers or instead a "T-pier" with many finger piers, will have to account for the number of boats that could realistically fit in the facility, with the maximum number as established by the Town's Critical Area Program.

4. Another question comes to mind regarding pre-existing development: If an existing development wants to demolish everything and rebuild, would it have some sort of grandfathering under Critical Areas, or would it have to comply as if it were a new development? Our zoning recognizes nonconformity and allows it to be retained, which encourages redevelopment. Would we be able to apply the same philosophy under Critical Areas?) *A new project, whether on a vacant parcel or a redevelopment of an existing project, would require full compliance with the Ocean City Critical Area Program. If, however, an existing development has a community pier, it can be retained, even if it has more slips than would be permitted under the Critical Area regulations. If more slips were allowed under the Town's Program than currently exist at a community pier, the developer could add slips up to the total allowed under the Critical Area Program, but not exceed that amount.*

Another issue that we have discussed is a situation where people may currently dock boats parallel along a bulkhead. If there is no other infrastructure (i.e., mooring piles), it is our understanding that MDE would not recognize these as "slips" and they would not be considered grandfathered if a site were redeveloped. The project would have to comply with the limits on slips under the Critical Area regulations.

If you have any questions or would like to discuss these issues further, please feel free to contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: Ren Serey, Executive Director
Ocean City Program file

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 8, 2003

Mr. John Shelton, Office Coordinator
Queen Anne's Planning & Zoning
160 Coursevall Dr.
Centreville, MD 21617

RE: Fourth Quarter Report and Invoice

Dear Mr. Shelton:

We have received the County's fourth quarter Critical Area report and invoice. As you are aware the Critical Area Commission has requested that staff provide detailed information to them about local government enforcement efforts. Recently, Chairman Madden requested all local jurisdictions provide detailed information on all complaints and violations within the Critical Area in their quarterly reports. We have reviewed the information provided by Queen Anne's-County for the fourth quarter. It appears to be incomplete as reports from only one of the two inspectors were included. Also, reports for specific complaints/violations that Commission staff discussed with the County were not provided. These include a complaint at 1910 Chester Drive, violations at the Narrows Pointe project and a clearing violation at Corsica River Estates. (If it would be easier, rather than filling out the form we provided, submission of copies of the County's usual inspection reports would suffice.) Also, we have noted that the follow up on several violations is "in progress" and we will be looking for resolution of these violations in the next quarterly report.

We will be able to process the County's invoice once we receive the necessary information. Thank you in advance for your cooperation. If you have any questions, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: Grant file

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 9, 2003

Ms. Stacey Weisner
Worcester County Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Variance Case, Burton Anderson

Dear Ms. Weisner:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit construction of an addition to an existing dwelling within the Critical Area Buffer. According to the information provided, the property is approximately one acre in size and is developed with a single-family dwelling, associated driveway, septic area, and accessory structures.

Due to the shape of the existing parcel and with the existing dwelling being located wholly within the Buffer, it appears that there is no alternative location for an addition to the existing dwelling. While the applicant certainly has reasonable use of the property, the addition does not appear excessive in size and it is located no closer to the water than the existing dwelling. It appears that it is located as far as possible away from tidal waters given the existing structures on the property. We do not oppose the variance requested with the condition that mitigation in the form of plantings is required at a three to one ratio for the total amount of disturbance within the Buffer. Planting should occur on-site within the Buffer.

Thank you for the opportunity to comment. 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,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: WC656-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 11, 2003

Mr. Ed Tudor, Director
Worcester County, Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Cotton Hill Campground – Growth Allocation/BMA Designation

Dear Mr. Tudor:

Thank you for your attendance at the Critical Area Commission Program Subcommittee's meeting on September 3, 2003. This letter is meant to document the Subcommittee's discussion on Cotton Hill Campground. As you are aware, a growth allocation request has been formally submitted to the County. Due to the unusual site conditions, Commission staff believed a preliminary discussion with the Program Subcommittee would be useful early in the project review process. Staff, with your assistance, presented an overview of the project using the information provided to us by the applicant. The following items were discussed:

Shape and Configuration of Development Envelope

1. The shape and configuration of the development envelope raised some questions. However, staff explained that the envelope did include all required areas, i.e., lots, required Buffers, impervious surfaces, roads, utilities, stormwater management measures and on-site sewage disposal areas.
2. Since the development envelope concept is being used, there is concern about the future use of the remainder of the property. Staff explained that analysis of any future proposed development would consider the parcel as it existed on June 1, 2002 (the grandfathering date of the Coastal Bays Critical Area Program). Future expansion of the currently proposed development envelope would have to be consistent with the County Program in regard to growth allocation. Leaving portions of RCA that are less than 20 acres would not be acceptable and deduction of the entire parcel may be necessary.

Conflict Between Use of Growth Allocation and Buffer Management Area Designation

3. The request for a Buffer reduction to 25-feet became a focus of the discussion. The Commission's policy on growth allocation states, "For waterfront projects (requiring growth allocation), a minimum 100-foot naturally vegetated Buffer must be established and be included in any acreage deduction." While the full 100-foot Buffer is included in the development envelope, modifying it to a 25-foot setback is proposed. This raised significant concern.
4. We have discussed the growth allocation/buffer management area "conflict" with Commission counsel, Marianne Mason. She indicated that the two are not necessarily mutually exclusive but that the award of growth allocation should occur prior to establishment of a Buffer Management Area.

Proposed Buffer Management Area Setback

5. The County Program (§3-112(d)) lists the standards that must be met by applicants for growth allocation. It states, "In addition to meeting the minimum requirements of the Atlantic Coastal Bays Critical Area regulations, the project design shall enhance the habitat value or improve water quality in the area." Commission staff agrees that due to the prior use of the property, some modification of the Buffer requirements may be appropriate; however, unlike other BMAs in the County, some Buffer functions remain due to the existing vegetation in the Buffer. The Subcommittee expressed serious concern that a 25-foot setback would not be adequate to protect what Buffer functions remain. They also felt that a larger setback may also be warranted because the property is proposed to be designated IDA which has no impervious surface or clearing limits. Establishment of a 50-foot setback was discussed. A 50-foot setback would protect much of the existing vegetation along the shoreline and it would also provide an opportunity to restore additional functions of the Buffer.
6. The Subcommittee also discussed the idea of conditioning an award of growth allocation with a requirement for an overall Buffer Management Plan. A comprehensive Buffer Management Plan approved by the County and the Commission at the time growth allocation is awarded would help in ensuring the project has an overall environmental benefit without having to depend upon individual lot owners to implement it on a lot-by-lot basis.

Piers

7. The proposal to replace the existing individual piers with a community facility with one slip per lot was discussed. The Subcommittee requested additional information

Mr. Ed Tudor
September 11, 2003
Page 3

on the number of existing piers and/or slips as well as feedback from the Maryland Department of the Environment on how they would look at the existing conditions.

In summary, the Subcommittee was less concerned about the odd shape and configuration of the development envelope but instead they were more concerned about ensuring the project was as consistent as possible with the Critical Area requirements. Redesigning the project with at least a 50-foot setback was strongly recommended. As you know, information regarding other Habitat Protection Areas is still outstanding. If other HPAs are present, additional redesign may be necessary.

Thank you again for attending the Subcommittee meeting and facilitating the discussion of the project. If you have any questions or concerns, please feel free to contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: Mr. John H. Burbage, Jr.
Mr. David Blazer
Mr. Robert Hand
Mr. Keith Lackie
Ms. Marianne Mason
Mr. Ren Serey
Ms. Mary Owens
Cotton Hill file

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 11, 2003

Mr. Jordan Loran
Engineering & Construction Program
Tawes State Office Building, D-3
Annapolis, Maryland 21401

RE: ADA Trail and Pier Replacement at Milburn Landing, Pocomoke River State Park

Dear Mr. Loran:

At its meeting on September 3, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed ADA trail and pier replacement at the Milburn Landing area of Pocomoke River State Park with three conditions. The conditions of approval are as follows:

1. Mitigation, at a 2:1 ratio for the new impervious surface within the Buffer and at a 3:1 ratio for any vegetation removed within the Buffer, shall be provided in the form of tree and shrub planting in the vicinity of the project site. A signed Planting Agreement is required.
2. Strict sediment and erosion control measures will be installed and kept in place until the site is fully stabilized.
3. The project will be completed in conformance with the recommendations of DNR's Eastern Region Ecologist.

A blank Planting Agreement form is attached. Please return it with the necessary information and signatures as soon as possible. Also, please provide us with a copy of the comments from the environmental review.

Thank you for providing the information necessary for Commission review and approval. If you have any questions or if there are any changes to the project as it was presented, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: 39-03, DNR



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 11, 2003

Ms. Vivian Swinson
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Variance, John & Hilary Fulton
(#03-04-05)

Dear Ms. Swinson:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to permit construction of an addition and deck on an existing house within the Buffer. The property is approximately 1/2 acre in size and is designated LDA. The property is not Buffer Exempt.

The applicant proposes to construct a 20 by 20 foot addition and a deck waterward of the existing structure. The addition is of reasonable size and it does not appear that there is an alternative location for an addition except into the front yard. We do not oppose the variance requested provided mitigation is provided at a minimum two to one ratio for the new development within the Buffer. Plantings should occur on-site within the Buffer between the new development and the water. Please note that the site plan also shows a shed adjacent to the deck within the Buffer. It was not referenced in the application and there is no justification for the shed within the Buffer. The shed should be located outside of the Buffer.

Thank you for the opportunity to comment. Please include this letter as part of the record for this request. Also, please notify the Commission in writing of the decision made by the County in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC653-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 12, 2003

Mr. Steve Cohoon
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

**RE: Gibson's Grant/White's Heritage Pts. – Concept Plan Amendment
File #CP 04-00-11-0007(c)**

Dear Mr. Cohoon:

This office has received the amended concept plan for the Gibson's Grant project. The applicant will later be requesting growth allocation for a portion of the property. The proposed use of the property has changed slightly in that less residential units are proposed and a resort component has been added.

This project, in its previous form, was discussed at a Critical Area Commission Program subcommittee meeting in August 2001. At that time, there were three issues of concern: stormwater management in the 300-foot setback; providing a 300-foot setback around the tidal inlet; and determining the appropriate starting point for the 300-foot setback along Macum Creek. With this submittal, it appears one of these issues has been resolved. A 300-foot setback has been provided around the tidal inlet that extends into the property from Macum Creek. However, stormwater management is proposed within the 300 foot setback and the starting point for the 300-foot setback remains a concern. Please see our comments below:

1. In regard to the stormwater management facilities within the 300-foot setback, the Commission's policy on Growth Allocation and the County's Critical Area Program clearly state that stormwater management measures must be included within the development envelope when less than the entire parcel is proposed to be deducted from growth allocation. All structures and stormwater facilities should be moved outside of the 300-foot setback.
2. In regard to the 300-foot setback along Macum Creek (in order to reduce the amount of growth allocation deducted), Commission staff has discussed this issue at length with County staff, the applicant's consultant as well as the Commission's Program subcommittee. From a technical standpoint, Macum Creek begins where it meets the Chester River, just beyond the island owned by the applicant. The beginning point for the 300-foot setback indicated on the site plan reflects the current boundary between

RCA and LDA. This portion of LDA is the result of growth allocation received in 1996 for the Kent Island Golf Club and does not reflect any on-site conditions. From a buffering standpoint, it makes sense to begin the 300-foot setback at the point where the bulkhead ends (this point also coincides with where the structures in the Buffer end). The natural shoreline and the lack of any structures would allow reestablishment of a fully vegetated Buffer. In order to protect the sensitive nature of Macum Creek, and based on conditions placed on the approval of growth allocation for the Four Seasons project across the creek, Commission staff recommends that the applicant consider redesigning the loop of townhouses to provide a full 300-foot shore Buffer along the entire Macum Creek shoreline up to the existing bulkhead. Commission staff provided a sketch of how this could be done in January 2002 (attached).

3. Again in relation to the 300-foot setback, please note that there is an indentation along the shoreline of Macum Creek where the proposed setback is approximately 200 feet (following the existing RCA/LDA line) rather than the full 300 feet. Please note that the County's Program on page 21, paragraph 1 under "Computing Use of the Growth Allocation," it states that development envelope will include ... b) any required Buffers less than 300 feet in width..." Also, there is a gazebo proposed within the setback along Macum Creek. Structures, like stormwater management facilities, are not to be located within the 300-foot setback.
4. A Buffer Management Plan will be necessary for the extent of the 100-foot Buffer along the Chester River and for the 300-foot setback along Macum Creek. COMAR 27.01.09.01(c)(6) requires the Buffer to be established when agricultural uses of land within the Buffer are proposed to be converted to other uses. Issues of concern will include details of the pedestrian trail; planting details including species and density; and details of any stormwater outfalls extending through the Buffer. The Buffer Management Plan must ensure the functions of the Buffer as stated in COMAR 27.01.09.01.
5. Please provide a copy of the applicant's justification for reduction of the shore buffer under §18-1-084 of the County Code. It is not clear how the site design is improved by the buffer reduction and how the on-site mitigation measures or other features are designed to minimize environmental impacts related to the reduction.
6. Preliminary 10% pollutant reduction calculations and stormwater plans should be submitted as early as possible in the review process. This information will be necessary for the Commission to process a formal request for growth allocation for this project.
7. With the growth allocation petition, the County must provide documentation of how

Mr. Steve Cohoon
September 12, 2003
Page 3

the locational guidelines for growth allocation contained in the Criteria (COMAR 27.01.02.06) have been addressed. Examples of such documentation may include staff reports, Planning Commission minutes, maps, etc.

Thank you for the opportunity to comment on this revision of the concept plan. If you have any questions concerning these comments or would like to discuss these issues further, please call me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC595-00

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 12, 2003

Ms. Lisa Collison
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, John & Michele Fish (#04-03-08-0006-C)
Minor Site Plan (#04-03-08-0007-C) – REVISION #1

Dear Ms. Collison:

Thank you for providing Revision #1 of the above referenced site plan. Commission staff has reviewed the information provided. We have no further Critical Area concerns on this project.

Thank you for the opportunity to review this revision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".
LeeAnne Chandler
Natural Resources Planner

cc: QC604-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 12, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Subdivision, Wright-Alder Branch Farm
File #03-03-09-0005-C

Dear Mr. Keeley:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to subdivide an approximately 124-acre parcel into five lots. A total of approximately one acre is located within the Critical Area, designated RCA. The RCA portion of the property is not proposed for any development but rather it is located in a forest retention area. Commission staff has reviewed the information provided. We have no Critical Area concerns on this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC660-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 12, 2003

Ms. Lisa Collison
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Gregory and Lisa George
File #09-03-09-0004-C

Dear Ms. Collison:

Thank you for providing information on the above referenced administrative subdivision. The applicant is proposing to combine four lots into one to allow construction of one single-family dwelling. Commission staff has reviewed the information provided. Provided development of the lot is consistent with the development standards for the LDA, we have no Critical Area concerns on this project.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC654-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 29, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Site Plan, Piney Neck Point, LLC, Revision #1
File #04-03-07-0001-C

Dear Mr. Keeley:

Thank you for providing the revised information for the above referenced minor site plan. The applicant proposes to convert an existing residence into a commercial office building. A small portion of the site is within the Critical Area designated IDA. The 10% calculations provided indicate a removal requirement of 0.032 lbs. The wet swale will provide some removal but a deficit of just 0.0084 remains. We recommend that the applicant plant two extra trees to offset this deficit (based on 210 trees per pound as previously discussed with DPW). Other than this 10% requirement, we have no further Critical Area concerns on this project.

Thank you for the opportunity to review this site plan. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC499-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 24, 2003

Mr. Steve Cohoon
Queen Anne's Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Major Subdivision #04-01-09-0009(c), Serenity Farm (Thomas Sperl) – REVISION #4

Dear Mr. Cohoon:

This office has received Revision #4 of the above referenced subdivision. The applicants propose creating two additional lots (Lots 5 and 6) through the use of two TDRs.

This revision of the subdivision has addressed most of our prior comments. Note 23 has been revised to include the correct COMAR reference. However, where it once read, "...the Buffer must be planted with forest vegetation," it now reads "the Buffer should be planted..." COMAR 27.01.09.01(c)(6) clearly states, "the Buffer shall be established." We recommend that a note be added which states that no clearing of existing natural vegetation within the Buffer is permitted. Also, please note that there appears to be an error in regard to the elevation shown on the contours on sheet 3 of 3. The elevations shown range from 93 through 96 while the environmental report states that the site is approximately 5 to 14 feet above sea level. The contours also do not seem to correspond appropriately with the 100-year floodplain shown on the plan. This should be examined and corrected as necessary.

Thank you for the opportunity to comment. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC528-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 24, 2003

Mr. Blaine Smith
Town of Ocean City, Planning & Community Development
PO Box 158
Ocean City, MD 21842

VIA FACSIMILE

RE: Site Plan – Colley Residence

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down an existing mobile home and rebuild a new one on a 3600 square foot lot. It is our understanding that the applicant is proposing to reduce overall impervious coverage by approximately 200 square feet.

The 10% pollutant reduction requirement is proposed to be met through the reduction in impervious coverage and the use of the required landscaping. While we understand the constraints of the site, we recommend that a modified best management practice be used to address stormwater management. We recommend that the swale that will presumably be directing water towards the street be densely planted with shrubs and herbaceous materials such that it could function as a modified raingarden/bioretention area. (It appears that some shrubs are proposed in this area anyway.)

Thank you for the opportunity to review and comment on this site plan. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: OC679-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 26, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Subdivision, Atchafalaya Holdings, LLP – REVISION #1
File #04-03-07-0003-C

Dear Mr. Keeley:

This office has received the revised information on the above referenced subdivision. The applicant proposes to create an additional lot using a TDR on this 23-acre RCA parcel. After reviewing the information provided, we have the following comments:

1. The site plan and response from McCrone indicate that the wetlands have been field delineated based on vegetation. We recognize that they have provided a 100-foot Buffer from all of the wetlands and have deducted their entire area from the gross site acreage. While it does not impact the proposed development, there seems to be some confusion between non-tidal wetlands and private tidal wetlands.
2. Contour lines have been shown only on Lot 2. Based on Title 18, it appears that contours are also necessary for the building pad portion of Lot 1.
3. The 100-foot Buffer must be established on Lot 1 as well as Lot 2. The requirement for Buffer establishment is triggered by development rather than just the creation of new lots. Most of the Buffer of Lot 1 is forested but there is an area directly on the Chester River where it is less than the required 100-feet. A Buffer Management Plan should be provided for Lot 1.
4. We have noted that a Buffer Management Plan has been provided for Lot 2. The plan appears to use the 70 trees per acre afforestation standard from the County Code as a starting point, with a mix of 108 trees and shrubs proposed. While we certainly support the full use of native species, the density of plantings may not be sufficient to provide all the functions of the Buffer as established in the County Program.

Mr. Mark Keeley
September 26, 2003
Page 2

Thank you for the opportunity to review this site plan. Please forward the information/revisions requested above when submitted. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC493-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2003

Mr. Gerald T. Mason, Chief Administrative Officer
Worcester County, Office of the County Commissioners
One West Market Street, Room 1103
Snow Hill, MD 21863

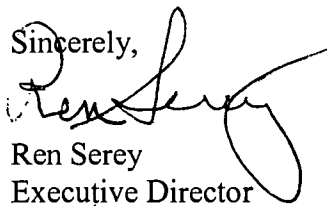
RE: Chesapeake Bay Critical Area Program and Maps

Dear Mr. Mason:

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays received your letter of September 10th, documenting the County Commissioners' approval of the County's updated Chesapeake Bay Critical Area maps, on September 15, 2003. We accept the maps and the previously submitted adopted legislation as a complete submittal and will initiate the review process.

Within 30 days of the date of this letter, Commission Chairman Martin G. Madden will make a determination of whether the proposed update can be considered a refinement or an amendment to the County's existing Program. We will promptly notify the County of his decision and take the necessary steps for Commission review and approval.

If you have any questions or concerns, please contact me at (410) 260-3462.

Sincerely,

Ren Serey
Executive Director

cc: Joe Jackson
Ed Tudor
Sandy Coyman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2003

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Ms. Tracey Greene Gordy
Maryland Department of Planning
201 Baptist St., Suite 24
Salisbury, Maryland 21863

VIA FACSIMILE

RE: Variance Request for Cemetery, Mt. Zion Missionary Baptist Church

Dear Ms. Gordy:


Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit cemetery plots and a driveway within the Critical Area 100-foot Buffer. The properties involved are designated IDA and are currently undeveloped.

It appears that the applicant proposes moving the existing property line between parcels 166 and 167. While this would provide more space for the desired use of the property as a cemetery, the remainder of parcel 166 would be made up entirely of non-tidal wetlands and the 25-foot non-tidal buffer. This may exacerbate the need for a variance on parcel 166 at some point in the future. In regard to the existing parcel 167, it appears that some type of residential use could be accommodated on that property without a variance.

If the two properties were to be combined entirely, the proposed impervious surface within the Buffer (approximately 1500 –2000 square feet) would be comparable to impervious cover associated with a single-family dwelling. Given the desired use of the property (and the ownership), this office would not oppose a variance which would permit cemetery plots and the driveway within the Buffer with the following conditions: 1) Parcels 166 and 167 will be entirely combined; 2) the limits of the cemetery use will be clearly identified through placement of fencing (picket/post and rail, etc.) to prevent further encroachment into the Buffer in the future; and mitigation (either on or off-site) will be provided at a 3:1 for the new impervious surface within the Buffer.

Thank you for the opportunity to comment. Please submit this letter to the record in this case and also notify the Commission in writing of the decision made by the Board. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,


Lee Anne Chandler
Natural Resources Planner

cc: SN608-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2003

Ms. Tanya Krista-Maenhardt
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan #MASP04-02-12-0012(C) – REVISION #4
The Tides Condominiums, Downey Land Development, LLC

Dear Ms. Krista-Maenhardt:

Thank you for providing Revision #4 of the above referenced site plan to our office for review. The applicant proposes to construct two condominium buildings, containing a total of 15 units, along with necessary parking and stormwater facilities. The area of development is designated IDA. Commission staff has reviewed the information provided. The project has changed slightly since Revision #3. The 10% requirement is proposed to be addressed through two pocket ponds and the treatment of offsite runoff at the onsite facilities. The calculations indicate that the offsite area to be treated is approximately 0.247 acres. Provided that all of the offsite drainage areas will actually drain to the BMPs, this office has no further Critical Area concerns on this project.

If you have any questions or if there are further changes to the project as it appears on Revision #4, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC453-01

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 30, 2003

Mr. Steve Cohoon
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan #MASP04-03-09-0011(C)
Cracker Barrel Old Country Store

Dear Mr. Cohoon:

Thank you for providing information on the above referenced major site plan. The applicants propose construction of a Cracker Barrel Restaurant in the parking lot of the existing Kent Landing Shopping Center. The property is designated IDA. I have reviewed the information provided.

The only Critical Area concern is the 10% pollutant reduction requirement. In 1994, the 10% calculations for the Kent Landing Shopping Center were based on a total of 8.2 acres of impervious surface, with the pond addressing 60% of the site plus some offsite areas. (These calculations were provided to us most recently during review of the Rita's Italian Ice site plan.) The total proposed impervious cover is now 8.33 acres with some additional parking (if the requirements are not waived) in the offsite drainage area. In order for us to determine if the existing pond will adequately address the 10% requirement, we request that the applicant provide revised up-to-date 10% calculations (not copies of the old ones) and a revised drainage area map.

Thank you for the opportunity to comment. Please forward the requested information when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC689-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 30, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Walter & Michael Nieves
File #03-03-09-0008-C

Dear Ms. Scozzari:

Thank you for providing information on the above referenced administrative subdivision. The applicant is proposing to relocate a lot line between two existing parcels, "trading" 1.55 acres between the two. The properties are designated RCA. It appears that one existing parcel (parcel 60) contains two dwellings and three barns, while the other parcel (parcel 31) is undeveloped. The relocation of the lot line would effectively transfer one of the dwellings and the three barns to parcel 31. The area of the lots would remain the same.

Based on review of the information provided, it seems that the administrative subdivision would take one non-conforming situation (two dwellings on one lot) and change it into a different, less non-conforming situation. Neither lot can be further developed without an award of growth allocation. Provided redevelopment of either lot is consistent with the development standards for the RCA, we have no Critical Area concerns on this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC680-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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September 30, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Subdivision, Safeway
File #04-03-09-0010-C

Dear Ms. Scozzari:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to subdivide a 9.629-acre parcel into two lots. The property is wholly within the Critical Area, designated IDA.

Provided development of both lots is wholly consistent with the development standards for the IDA, this office has no Critical Area concerns on this subdivision.

Thank you for the opportunity to review this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC662-00



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 2, 2003

Ms. Vivian Swinson
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Variance, Robert & Shirley Beall (Joseph Murphy Property)
(#03-04-08)

Dear Ms. Swinson:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to permit enclosure of an existing deck. It is my understanding that the deck was approved by variance, provided it was not enclosed. The property is approximately 15000 square feet in size and is designated LDA. The property is Buffer Exempt.

The enclosure of the existing deck appears to be a reasonable expansion of living space. The proposal intrudes no further waterward than similar improvements on adjacent properties. We do not oppose the variance requested provided mitigation is provided at a minimum two to one ratio for the new impervious surface within the Buffer. Plantings should occur on-site within the Buffer between the new development and the water. Also, the photos provided indicate that the Buffer is entirely manicured lawn. If any mitigation was due for construction of the deck that did not occur or survive, those plantings should be provided as well.

Thank you for the opportunity to comment. Please include this letter as part of the record for this request. Also, please notify the Commission in writing of the decision made by the County in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC688-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 8, 2003

Mr. Blaine Smith
Town of Ocean City, Planning & Community Development
PO Box 158
Ocean City, MD 21842

RE: Site Plan – Deck Addition, Durante Property

Dear Mr. Smith:

Thank you for providing information on the above referenced proposal. The applicant proposes to expand an existing deck on a waterfront single-family dwelling. Commission staff has reviewed the information provided.

With the deck best management practices and the landscaping proposed, it appears the project is consistent with the Town's Critical Area Program.

Thank you for the opportunity to review this submittal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC706-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 9, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Variance Case No. V-090014

Dear Ms. Maxwell:

Thank you for providing information on the above variance request. The applicant is requesting a variance to reduce side yard setbacks to permit construction of a dwelling on an existing lot. The LDA property is 1.25 acres in size and is in the process of being developed with a single-family dwelling. It is our understanding that the setback issues were found during inspection of the foundation.

Provided that construction of the dwelling is otherwise in full conformance with Critical Area development standards in the LDA (e.g., 15% impervious limit, 15% afforestation requirement, etc.), this office has no comment on this setback variance request.

Thank you for the opportunity to review this request. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC703-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 9, 2003

Ms. Nancy Scozzari
Department of Planning & Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, Maryland 21617

RE: Safeway Food Store – Major Site Plan (Final)
MASP # 04-02-11-0005© - Revision #4

Dear Ms. Scozzari:

Thank you for providing the most recent plans and supporting documentation for the major site plan referenced above. The applicant is proposing to construct a food store, retail space, a gas station and a connection to an adjacent shopping center. The site is designated IDA and is currently an agricultural field with a small residential structure.


It is our understanding that the Safeway corporate office has rejected the proposed revision #4 of the site plan. Subsequently, McCrone, Inc. requested that review of on-site improvements be put on hold. With the understanding that the site plan will go through further revisions, this office would like to submit the following general comments that should be taken into consideration during the revision.

1. Bioretention areas that receive runoff from more than 1000 square feet of impervious surface must be designed to the specifications contained in the MDE Stormwater Manual. Many of the areas proposed as bioretention will receive runoff from much greater than 1000 square feet, yet do not meet the specifications, especially in regard to adequate pretreatment. If credit is sought for these bioretention areas, they must be designed to spec.
2. Bioretention areas that receive runoff from 1000 square feet of impervious surface or less must be sized appropriately but are not required to meet all the specs in the manual. These rain gardens provide "disconnection of non-rooftop runoff credit" in terms of reducing the amount of impervious cover that must be considered in the calculations. See Section 5.3 of the MDE manual.
3. Landscaping of the bioretention areas, as well as the stormwater ponds, should also be consistent with the specifications of the MDE manual. A mix of native species should be used. See Appendix A of the MDE stormwater manual for landscaping guidance for BMPs.

Ms. Nancy Scozzari
October 9, 2003
Page 2

Please submit further revisions to our office for review. If you have any questions concerning these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC662-00

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 8, 2003

Mr. Keith Lackie
Worcester Co. Development Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

RE: Winding Creek Estates (formerly Ayers Creek Estates) – Preliminary Plat

Dear Mr. *Keith* Lackie:

Thank you for providing the preliminary plat and supporting documentation for the above referenced subdivision. The applicant proposes to combine and re-subdivide four parcels into 37 single-family residential lots with four outlots. Commission staff has reviewed the information provided. The following information and changes are necessary for completion of review of this project:

1. A plan which shows the existing property lines and their corresponding tax map and parcel numbers. Acreages (including a breakdown of upland, private tidal wetlands and State tidal wetlands) and number of existing dwellings of each parcel should be provided.
2. Historical (back to June 1, 2002) subdivision information on each of the parcels involved in the subdivision. Existing dwellings should be identified. (Aerial photos of the property dated 1989 show buildings on several of the parcels.)
3. A plat note referencing the four outlots indicating that the outlots cannot be used for residential purposes without an award of growth allocation.
4. A plat note or a revision to the lot table (on sheet 4 of 5 of the preliminary plat) that clearly indicates the impervious surface limits for each of the lots within the Critical Area. The portion of the property within the Critical Area is strictly limited to 15% impervious cover. Similarly, each lot is limited to 15% impervious cover. The driveway lengths may be a consideration in the layout of the subdivision. (The lot table on sheet 4 of 5 of the plat is misleading as each buildable area listed far exceeds the permitted 15%.)

5. Additional clarification in regard to the unnamed area to the south/southeast of proposed Lot 14 on sheet 3 of 5 of the preliminary plat. It has what appear to be lot lines around it, and a proposed sewage easement coming from it, yet it is unlabeled. Also, it seems unlikely that there are narrow bands of uplands between the non-tidal wetlands on outlot 4 and the wetlands in this unlabeled area.
6. A Critical Area Site Plan of the same scale and detail as the plat. Its details should match those of the plat as well as the stormwater and sediment/erosion control plans.

Specific comments and recommendations:

7. State tidal wetlands cannot be included in the gross acreage of the subdivision including all lots, outlots or reserved parcels. Clarification is needed in regard to the proposed waterward boundary of the lots (it appears to be the boundary between fringing non-tidal wetlands and tidal wetlands but it is not clear) as well as in regard to what is referenced as "extension of outlot 4". Private ownership cannot extend into State wetlands.
8. Due to its significance in terms of RCA density, the existing dwelling on outlot 1 must be removed prior to recordation of the plat.
9. As indicated in the Critical Area report, the deciduous forest on the property has been identified as habitat for Forest Interior Dwelling Birds (FIDs). Impacts to FID habitat include the septic areas for Lots 14 and 15 as well as the septic easements for development outside of the Critical Area. The County is responsible for ensuring conservation of FID habitat. The Critical Area Commission has published, "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" (June 2000) that provides a method for evaluating impacts to FID habitat and a number of options for determining appropriate mitigation. Mitigation for FIDs impacts must result in creation of FID habitat. A corridor (with a driveway going through it) as proposed does not qualify as FID habitat.
10. Notwithstanding the above, additional details are needed in regard to proposed reforestation. Depending upon the specifics of the proposed reforestation, a combination of planting and natural regeneration may be permissible.
11. On sheet 1 of 5 of the plat, note 17 states that 30 cluster lots are proposed along with 7 estate lots. This should be corrected to be 31 cluster lots with 6 estate lots. The same error appears also on the Critical Area Site Plan as note 18.

Mr. Keith Lackie

October 8, 2003

Page 3

12. On sheets 2 through 5, the label, "100' Critical Area Program Line" should be renamed "100' Critical Area Buffer and Expanded Buffer."
13. It appears that several tidal guts are now shown as non-tidal wetlands (e.g., the area between lots 18 and 31). This determination should be verified, perhaps during the upcoming site visit on October 21st.
14. There is a small island of upland between sheets 2 and 4 (boundary of which appears to be a solid line). It should be labeled as entirely Buffer.
15. Labels should be consistent amongst all the sheets. The buffer to the non-tidal wetlands should be labeled as "25-foot non-tidal buffer." The terms "wetland buffer" and "state buffer" are not clear.
16. Please note that the acreage of private tidal wetlands shown on the plat is 14.39 acres, not the 16.835 acres shown in the table.
17. Lot 31 is listed twice in the lot tables on sheet 4, once outside the Critical Area and once inside the Critical Area. Lot 31 is wholly within the Critical Area.
18. In order to preserve the integrity of the high quality tidal marsh habitat, we recommend that the applicant consider establishing a community pier with one slip per Critical Area lot on the tidal gut along the southern property line. The Critical Area report states that access to open water for boat docks will be provided for each Critical Area lot, yet just two "dock easements" are shown. This should be clarified. In order to provide a pier for each lot, private ownership must extend to State wetlands.
19. As discussed in the field during our site visit of September 10, 2003, there does appear to be sufficient private tidal wetlands to support the creation of six Critical Area lots. The areas shown on the plat have not been verified to date. However, a site visit is scheduled for October 21, 2003.
20. Section NR3-119 of the County Code states, "Where agricultural use of lands within the Buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide forest vegetation that ensures the Buffer functions as set for in §NR 3-104.." While most of the Buffer is forested, there are several areas that (based on the tree line shown) need to be planted. These areas should be shown on the Critical Area site plan as reforestation areas. We recommend that the applicant provide a Buffer Management Plan addressing this requirement.

Mr. Keith Lackie

October 8, 2003

Page 4

21. The stormwater and sediment/erosion control plans appear to be missing a sheet. See sheet 3 of ?? where there is a matchline in the bottom left corner without any reference or corresponding sheet. This area is of particular concern due to the impacts to FID habitat. The limits of disturbance and provisions for sediment control in these areas should be shown.
22. On sheet 5 of the Road, Grading and Stormwater Management Plan, there is an area labeled "Outlot 5" adjacent to the cul-de-sac of Timberneck Drive. This appears to be an error.
23. The Septic System Plan shows multiple septic easements for development in and outside of the Critical Area impacting the expanded Critical Area Buffer. We recommend that the applicant be required to obtain a variance for this disturbance to the Buffer. In addition, there are several areas where septic facilities serving development outside of the Critical Area impact the RCA, including FID habitat. The Resource Conservation Area should not be used to support development outside of the Critical Area.
24. We recommend that plat notes and deed restrictions be added to address protection of non-tidal and private tidal wetlands that may be located on a particular lot. Sample language was provided in the review of the single-family component of the redevelopment of the Shantytown site.

Thank you for the opportunity to review and comment on these plans. We would like to reserve the ability to provide additional comments, pending further discussion with MDE and the State Wetland Administrator. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler

Natural Resources Planner

cc: Mr. Doldon Moore, Wetlands Administrator, Board of Public Works
WC465-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 10, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Variance Case No. V-100006, Condatore

Dear Ms. Maxwell:

Thank you for providing information on the above variance request. The applicant is requesting a variance to reduce front yard setbacks to permit construction of a sunroom addition on an existing dwelling. The LDA property is 0.4 acres in size and is not waterfront.

Provided that existing and proposed development on the property is otherwise in full conformance with Critical Area development standards in the LDA (e.g., impervious surface limit, 15% afforestation requirement, etc.), this office has no comment on this setback variance request.

Thank you for the opportunity to review this request. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC711-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 14, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Tracy Scheminant
File #04-03-10-0008-C

Dear Mr. Keeley:

Thank you for providing information on the above referenced administrative subdivision. The applicant is proposing to combine two lots into one. The subject property is partially within the Critical Area designated IDA.

Commission staff has reviewed the information provided. Provided that future development of the property is consistent with the development standards for the IDA, we have no Critical Area concerns on this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC715-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 15, 2003

Ms. Vivian Swinson
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Variance, Dean & Ellen Brewer
(#03-05-07)

Dear Ms. Swinson:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to permit construction of a pool and brick decking within the Buffer. The application states that the property is approximately 0.39 acres in size and is designated LDA. The property is Buffer Exempt.

In 2002, the General Assembly passed Senate Bill 326 to reinforce the strict variance standards of the Critical Area Criteria. Codified in Natural Resources Article §8-1808(c)(13) and (d), it establishes that in order to grant a variance, a local jurisdiction must find that the applicant satisfies each of the variance provisions and that reasonable use of the entire parcel or lot must be considered in determining unwarranted hardship.

- The subject property is already developed with a large dwelling and driveway. There is no unwarranted hardship in this case. Reasonable use of the property exists without a swimming pool.
- Denial of the variance would not deprive the applicant of rights commonly enjoyed by other similar properties. Other property owners are prohibited from building new structures shoreward of existing structures under §14-153 of the County Code. While one nearby property owner received a variance to construct a pool in the Buffer, a review of aerial photos taken in the vicinity of the subject property indicates that instead of a right commonly enjoyed, a swimming pool would be a special privilege. (No swimming pools were seen on the aerial photos.)
- All variance standards, including minimization of impacts, must be met in order for a variance to be granted. It does not appear that the applicant has attempted to minimize impacts.

Ms. Vivian Swinson
October 15, 2003
Page 2

Because the applicant has not met the burden of proof, this office must oppose this request.

Thank you for the opportunity to comment. Please include this letter as part of the record for this request. Also, please notify the Commission in writing of the decision made by the County in this case.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC690-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 16, 2003

Ms. Vivian Swinson
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Variance, Ronald & Rachel Kauffman
(#03-04-06)

Dear Ms. Swinson:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to permit construction of a dwelling, septic system and pool within the Buffer. The application states that the property is approximately 0.696 acres in size and is designated LDA. The property is not Buffer Exempt.

It is our understanding that the subject lot was created by deed in 1964 and the County considers it a grandfathered lot. This office does not oppose the siting of a single family dwelling on the lot provided impacts are minimized and the variance requested is the minimum to provide relief. As proposed, it does not appear that impacts have been minimized. The development of the property should take all site constraints into consideration, including the 100-foot Buffer. It has equal if not greater significance than other building restriction lines, yard requirements and height limitations. The dwelling should be designed according to the constraints of the site and all applicable development regulations.

There are numerous opportunities to reduce impacts and minimize the variance request. The layout of the dwelling with the garage twelve feet in front of the rest of the house forces it further into the Buffer. If the front of the house were moved up to the front building restriction line, intrusion in the Buffer would be significantly reduced. A variance to the front building restriction line could also be a possibility. Reducing the garage to handle two cars instead of three would also provide more opportunity to redesign according to the constraints of the site.

In 2002, the General Assembly passed Senate Bill 326 to reinforce the strict variance standards of the Critical Area Criteria. Codified in Natural Resources Article §8-1808(c)(13) and (d), it establishes that in order to grant a variance, a local jurisdiction must find that the applicant satisfies each of the variance provisions and that reasonable use of the entire parcel or lot must be considered in determining unwarranted hardship. Similarly, §14-166(7) of the County Code states that a variance shall not be granted unless..., "the variance is the minimum deviation from

Ms. Vivian Swinson
October 16, 2003
Page 2

the provisions of this subtitle that will make possible the reasonable use of land or structures” [emphasis added].

- The subject property could be developed with a dwelling with minimal impacts to the Buffer. The pool and particular design of the dwelling are forcing the extent of impact up to 50 feet from the water. Reasonable use of the property can be achieved with fewer impacts.
- Denial of the variance would not deprive the applicant of rights commonly enjoyed by other similar properties. Other undeveloped, non Buffer-Exempt properties are subject to the 100-foot Buffer, where development is prohibited. Grandfathered structures on other properties cannot be used to justify the request. Building a brand new large house on an undeveloped lot with a waterfront swimming pool just 50 feet from the water would be a special privilege.
- All variance standards, including minimization of impacts, must be met in order for a variance to be granted. It does not appear that the applicant has attempted to minimize impacts.

Because the applicant has not met the strict standards for the granting of a variance, this office must oppose this request.

Thank you for the opportunity to comment. Please include this letter as part of the record for this request. Also, please notify the Commission in writing of the decision made by the County in this case.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC714-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 24, 2003

Ms. Tanya Krista-Maenhardt
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617


RE: Major Site Plan #MASP04-02-12-0012(C) – REVISION #5
The Tides Condominiums, Downey Land Development, LLC

Dear Ms. Krista-Maenhardt:

Thank you for providing Revision #5 of the above referenced site plan to our office for review. The applicant proposes to construct two condominium buildings, containing a total of 15 units, along with necessary parking and stormwater facilities. The area of development is designated IDA. Commission staff has reviewed the information provided and we have no further Critical Area concerns on this project.

If you have any questions or if there are further changes to the project as it appears on Revision #5, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC453-01

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

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October 24, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Fox/Sullivan
File #04-03-10-0015-C

Dear Ms. Scozzari:

Thank you for providing information on the above referenced administrative subdivision. The applicants are proposing to convey 0.569 acres from one property to the other. The subject properties are designated LDA and are not Buffer Exempt.

Commission staff has reviewed the information provided as well as available aerial photos (enclosed). It appears that the majority of the land being transferred is tidal wetlands. This is not evident on the plat. The shoreline Buffer is incorrect as a 100-foot Buffer is required from the landward boundary of tidal wetlands. Also, it should be verified that the wetlands are private tidal wetlands rather than State tidal wetlands. This can be done through a vegetative survey, an elevation survey or a combination of both. The plat should be revised.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

Enclosure

cc: QC759-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 24, 2003

Mr. R. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan, Philip and Julie Brous

Dear Mr. Smith:

The Critical Area Commission has received the information pertaining to the above referenced site plan. The applicant proposes to construct a single-family dwelling and swimming pool.

Based on a review of the information provided, it appears that the proposal is consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC757-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 27, 2003

Mr. Gerald T. Mason, Chief Administrative Officer
Worcester County, Office of the County Commissioners
One West Market Street, Room 1103
Snow Hill, MD 21863

RE: Chesapeake Bay Critical Area Program and Maps

Dear Mr. Mason:

Commission Chairman Martin G. Madden has determined that the proposed update to the County's Chesapeake Bay Critical Area Program and Maps can be considered a refinement to County's Program. The revisions will be presented to the full Critical Area Commission for concurrence with the Chairman's determination at their November 5th, 2003 meeting.

I will provide an agenda for the meeting to County staff as soon as it is available. If you have any questions or concerns, please contact me at (410)-260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: Joe Jackson
Ed Tudor
Sandy Coyman

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 27, 2003

Ms. Nancy Scozzari
Department of Planning & Zoning
160 Coursevall Dr.
Centreville, Maryland 21617

RE: Hilton Garden Inn (C & T Land, Inc)
Major Site Plan – #05-03-10-0001(c)

Dear Ms. Scozzari:

This office has received the latest plans for the proposed hotel and office building on a 3.234-acre parcel in the Kent Narrows area. I have reviewed the information provided and also visited the site. Many of our concerns previously conveyed remain.

1. As discussed during review of the proposed 7-11/Motel 6 project, the existing conditions plan must be based on a most recent site survey. (See page 8 of "The Applicant's Guide for 10% Rule Compliance.") The use of 1972 and 1984 aerial photos is not acceptable. The "grandfathering" of long absent impervious surfaces has significant implications in regard to the amount of mitigation required as well as in the 10% pollutant reduction requirements.
2. The 10% calculations will have to be revised according to the correct amount of existing impervious surfaces.
3. The amount of mitigation due for construction of new impervious surfaces within the Buffer will have to be adjusted as well.
4. The applicant has indicated that the WVC zoning district requires the 12-foot boardwalk. Such a requirement does not appear in the zoning ordinance. Instead, it states that the site plan cannot be approved unless the development is generally consistent with the guidelines in the Kent Narrows Development Handbook regarding architecture ... and boardwalks. It is unclear if the development handbook recognizes any of the Critical Area requirements for development within Buffer Exemption Areas. Given the layout of the site and the impact of the 12-foot wide boardwalk on two sides of the project, some flexibility in the guidelines should be permitted. This seems especially true since the pedestrian trail entering the site is proposed to be just six feet in width and because the boardwalk dead-ends at the property boundary.

5. The site must be consistent with the criteria for Buffer Exemption Areas as set out in §14-153(d)(1)&(2) of the County Code. The site must also be consistent with the mitigation requirements in BEAs as set out in §14-153(e). This includes both 2:1 mitigation for new impervious surfaces in the Buffer as well as providing natural vegetation in the area between the development and the water. Please note that concrete pavers as well as grassed traffic bearing pavers are not 100% pervious. The manufacturers specifications should be used to establish the perviousness of each and the impervious amount should be included in the total to be mitigated.
6. The area proposed for the fire lane cannot be credited towards the mitigation due for impacts to the Buffer.
7. There was some type of printing error on the copy of the landscaping plan provided, such that the plant list and other notes are illegible. Please provide another plan that is readable.
8. The proposed surface sand filters lack pretreatment as indicated in the MDE manual. See pages 3.32 and 3.38 of the MDE manual. The manual clearly states that "Dry or wet pretreatment equivalent to at least 25% of the computed WQv shall be provided prior to the filter media."
9. The landscaping plan shows planting directly above the proposed underground sand filters. The access grates must be accessible.
10. Please forward a copy of the Planning Director's findings regarding ensuring the least intrusion necessary in the Buffer Exempt Area for this project. It should be noted that the majority of the impervious surfaces on the site in the past were associated with water-dependent facilities that require location within the Buffer.

Thank you for the opportunity to comment on this proposal. Please feel free to contact me if you have any questions or concerns regarding these comments. I can be reached at (410) 260-3477.

Sincerely,



Lee Anne Chandler
Natural Resources Planner

cc: QC8-02

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 28, 2003

Mr. Steve Cohoon
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

**RE: Gibson's Grant/White's Heritage Ptsp. – Concept Plan Amendment
File #CP 04-00-11-0007(c) – Revision #1**

Dear Mr. Cohoon:

This office has received revision #1 of the amended concept plan for the Gibson's Grant project. After review of the response to previous comments and the revised plans, we have the following comments:

1. In regard to the 300-foot setback along Macum Creek and the proposed development envelope for the project, Commission staff notes that there is an indentation along the shoreline of Macum Creek where the proposed setback is approximately 200 feet. The County's Critical Area Program on page 21, paragraph 1 under "Computing Use of the Growth Allocation," states that the development envelope will include ... b) any required Buffers less than 300 feet in width... It does not appear that the development envelope is consistent with the requirements of the County's Critical Area Program.
2. In addition, the Critical Area Commission policy on the use of growth allocation states that a 300' naturally vegetated Buffer is strongly encouraged, and in the case where it is provided, it shall not be deducted, even if that Buffer does not meet the 20-acre requirement. The area referenced in comment #1 has a Buffer just 200' in width. Additional growth allocation may need to be deducted.
3. We recommend that the 300' setback begin where the bulkhead ends. The natural shoreline and the lack of any structures would allow reestablishment of a fully vegetated Buffer. This would eliminate the inconsistencies identified above between the proposal and the County's Program and Commission's policy.
4. A Buffer Management Plan will be necessary for the extent of the 100-foot Buffer along the Chester River and for the 300-foot setback along Macum Creek. COMAR 27.01.09.01(c)(6) requires the Buffer to be established when agricultural uses of land



Mr. Steve Cohoon

October 28, 2003

Page 2

within the Buffer are proposed to be converted to other uses. Issues of concern will include details of the pedestrian trail; planting details including species and density; and details of any stormwater outfalls extending through the Buffer. The Buffer Management Plan must ensure the functions of the Buffer as stated in COMAR 27.01.09.01.

5. Preliminary 10% pollutant reduction calculations and stormwater plans should be submitted as early as possible in the review process. This information will be necessary for the Commission to process a formal request for growth allocation for this project.
6. With the growth allocation petition, the County must provide documentation of how the locational guidelines for growth allocation contained in the Criteria (COMAR 27.01.02.06) have been addressed. Examples of such documentation may include staff reports, Planning Commission minutes, maps, etc.

Thank you for the opportunity to comment on this revision of the concept plan. If you have any questions concerning these comments or would like to discuss these issues further, please call me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC595-00

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 29, 2003

Ms. Tanya Krista-Maenhardt
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Donald Gibson/George Moore
File #06-03-10-0017-C

Dear Ms. Krista-Maenhardt:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to relocate a lot line and transfer 0.45 acres from one parcel to the other. One property is developed with a commercial use while the other is approved for residential use. Provided that future development of both parcels is consistent with all LDA development standards, this office has no Critical Area concerns on this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC764-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 29, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – David Knicely

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a deck on an existing single-family dwelling.

Provided the deck is constructed to pervious (i.e., spaces between boards, gravel beneath) and provided mitigation is provided at 2% of the cost of construction, the project appears consistent with the Town's Critical Area Program.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC763-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 29, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – Robert & Pam Layton

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicants propose to construct several additions on an existing single-family dwelling.

Two raingardens and a rain barrel are proposed to meet the 10% pollutant reduction requirement. In addition, mitigation for the Buffer disturbance is required at 2% the cost of construction. Provided that the plantings that count toward the 2% are in addition to those needed for the raingardens (because the plantings are an integral part of the BMP), with the remainder paid into the fee-in-lieu, it appears that the project would be consistent with the Town's Critical Area Program. There appears to be ample space on the property to provide the mitigation on site.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC768-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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October 30, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Pioneer Point General Partnership
File #03-03-08-0003© (Corsica River Estates) – Revision #1

Dear Mr. Keeley:

Thank you for providing information on the above referenced major subdivision. The applicant proposes to subdivide a 286-acre parcel into twelve (12) lots. The acreage within the Critical Area totals approximately 202 acres or RCA. The property is currently in agricultural use.

1. Sheets 7 and 8 do not show the woods line along Tilghman Cove.
2. The plat should show the revetment that already exists along some of the shoreline.
3. On sheet 11, the notes under "Forest Protection Timetable during Development Activities" mention three protected afforestation areas totaling 9.141 acres while just two areas totaling 7.873 acres are shown and labeled on the plan. The courses and distances table then shows the total area as 7.807 acres. These numbers should be checked and corrected as necessary.
4. As we observed in the field, there are a number of areas along the shoreline of the subject property that have high rates of erosion. Title 14, section 132(9) requires the location of eroding shorelines, rates of erosion, and areas to be protected by shore erosion structures to be shown on plats. Also, §14-133 requires a shore erosion protection plan (that contact specifications for shore erosion work) to accompany plats when in the Critical Area. This information should be provided.
5. It is unclear why the applicant would be working with the Maryland Department of the Environment on the tree replacement for the illegal clearing. MDE does not have jurisdiction over the Buffer. Mitigation for the Buffer clearing should occur in the Buffer.

Mr. Mark Keeley
October 30, 2003
Page 2

6. While the future owners of lots 7,8,11 and 12 may be maintaining the agricultural character of each lot, it seems highly unlikely that soybeans or corn will be grown between their houses and the shoreline. The Buffer is required to be established when agricultural use of the Buffer ceases. We recommend that the Buffer Management Plan be amended to include plans for these lots as well as the others. Provisions for shore erosion control and shoreline access should be included as well.
7. On the Buffer Management Plan, under the Planting Specifications, the statement after "Pre-Planting" ("existing underbrush to be cleared and all areas within the 100-foot Buffer required to be planted to meet Critical Area requirements are to be mowed before planting") is inappropriate given the existing conditions on this site. With the exception of invasive species and undesirables such as poison ivy, the existing vegetation within the Buffer must be retained. Wholesale bushhogging is not acceptable. It is likely that control of invasive species will have to be done by hand.
8. The "Two-year Protection and Maintenance Criteria" gives the impression that after two years, the area is no longer protected. The Buffer is permanently protected. In addition, the sign refers to the Forest Conservation Act rather than the Critical Area Law.
9. While a mix of trees and shrubs is encouraged, the planting plans for lots 5, 6, 9 and 10 are dominated by shrubs. We recommend a better balance between the trees and shrubs.

Thank you for the opportunity to review this site plan. Please forward the information/revisions requested above when submitted. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC580-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 3, 2003

Ms. Stacey Weisner
Worcester Co. – Dev. Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

RE: Site Plan – Seaside Village Residential Planned Community

Dear Ms. Weisner:

Thank you for providing information on the above referenced site plan. The applicant proposes the establishment of a residential planned community consisting of a mix of 125 multi-family units and associated amenities. The property is designated IDA, BMA and is 21.42 acres in size. The required setback around the existing marina is 15 feet while the setback in the dredge disposal area is 50 feet. Commission staff has reviewed the information provided and we have the following comments:

1. In regard to the marina, the site plan indicates that it is in the process of being renovated/reconstructed. Information is needed on the existing (pre-renovation) number of slips that existed at the marina historically. The site plan indicates that the marina is to be "non-commercial." Please note that community marinas are subject to the slip limitations contained in §NR 3-124 of the County code. If the number of slips that existed prior to renovation exceeds the number permitted, only that number can be replaced (no expansion would be allowed).
2. The existing conditions plan and corresponding impervious surface calculations must be based on the most recent site survey rather than old surveys or aerial photos. Similarly, tidal wetlands and non-tidal wetlands should be shown based on a recent field delineation and jurisdictional determination.
3. The 10% calculations must use the most recent site survey to determine existing impervious surface coverage. In step 1, site acreage is listed as 21.42, yet in later steps, site acreage is listed as 15.24. The numbers must be consistent. The calculations need to be revised.
4. The 10% worksheet shows three proposed BMPs, i.e., one pocket pond and two multiple-pond systems. A drainage area map, which corresponds to these three BMPs, is needed. Also, in order for full pollutant removal credit to be given for the multiple-pond and wetland systems, they must be designed in accordance with the criteria of the MDE stormwater manual. Adequate pre-treatment as well as appropriate landscaping are of

particular concern. As shown on the plans provided to date, it does not appear that pre-treatment nor adequate landscaping is provided.

5. There may be a conflict between the note under "County Commissioners Conditions of Step 1 Approval" that states, "A minimum of 80 of the 100 slips in the marina shall be for sale or lease ...with a maximum of 20 slips to be reserved for use by the developer at his discretion..." and the requirements for community piers under §NR 3-124(h)(2) that states, "the facilities are community-owned and established and operated for the benefit of the residents only of a platted and recorded riparian subdivision" [emphasis added]. Further discussion of this matter is needed.
6. In regard to the landscaping plan, we have a number of concerns. First, in regard to the Bufferyard planting, the applicant proposes to take credit for the existing vegetation. If the existing vegetation was sufficiently providing habitat and water quality benefits, the area should not have been designated as a BMA. We recommend that the applicant provide further, more detailed information on the existing condition of the 50-foot setback. While some credit may be granted for whatever desirable vegetation may exist, supplemental planting is likely needed to meet the intent of the requirement for a bufferyard in BMAs. Also, credit is sought on a square footage basis for an herbaceous seed mixture to be spread over two acres. While the County's Program does provide credit for herbaceous materials, giving an equal square footage credit for a seed mixture that will be mowed regularly falls short of the intent of the County's Buffer Management Area Program. There is ample opportunity to enhance the landscaping on site.
7. In regard to mitigation and afforestation as listed, it is not clear on what acreage the 15% is based. Fifteen percent of 21.42 acres is 139,958 square feet. The proposal currently includes just 48,750 square feet of trees and shrubs with the large majority consisting of herbaceous materials.
8. The landscaping schedule should include the names of the species proposed to be used. The schedule lists the size of large evergreen trees to be 12 to 18 inches. It was our understanding that seedlings were not used. Also, the table shows excess credit for small shrubs (75 sf instead of 50) as well as large shrubs (100 sf instead of 75). These issues should be addressed.

Thank you for the opportunity to review and comment on this project. Please provide the revised information requested above when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 3, 2003

Ms. Stacey Weisner
Worcester Co. – Dev. Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

RE: Site Plan – George Fuhrer Project

Dear Ms. Weisner:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a commercial building and associated parking on a property within the Critical Area. The property is designated IDA, is not waterfront and is currently developed with one building, parking lot and a stormwater facility.

The two Critical Area issues of concern are the 10% pollutant reduction requirement and the 15% afforestation requirement. In regard to the 10% calculations, in Step 4, the numbers provided for Lpost and Lpre are incorrect (both listed as 39.77) though the result is correct at 0.85 lbs. as the removal requirement. In regard to the proposed BMPs, a typical grassed swale is not given any pollutant removal efficiency for 10% purposes unless it is designed as a dry swale or a wet swale in accordance with the MDE stormwater manual. Also, the calculations indicate that the entire site would be treated by the swale. However, the grading plan does not show how runoff from both buildings and all of the parking will reach the grassed swale. Also, porous pavement may be given partial credit as a semi-pervious surface (i.e., to reduce post-development site imperviousness used in Step 1) but it is not an acceptable BMP with a 65% removal efficiency. Since the proposal does not meet the 10% requirement, the applicant must address the 10% pollutant reduction requirement through some other method. Bioretention may be ideal for this site.

We have received the proposed landscaping plan. Fifteen percent of the site equates to 2679 square feet. The proposed landscaping does not meet the requirement. Additional trees and shrubs must be added to the plan.

Thank you for the opportunity to review and comment on this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeArne Chandler".

LeeArne Chandler
Natural Resources Planner

cc: WC750-03

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

November 3, 2003

1804 West Street, Suite 100, Annapolis, Maryland 21401

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www.dnr.state.md.us/criticalarea/

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – 76th Street LLC, 46-unit Condominium

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a 46-unit condominium and associated parking. Commission staff has reviewed the information provided and we have the following comments:

1. Parking should not be permitted within the required setback, whether it is on semi-pervious pavers or not.
2. Information should be provided on the proposed paver system that documents the percentage that can be considered pervious. The manufacturer's specifications and any written field studies would likely contain this information.
3. Once the perviousness of the paver system can be established, it is likely that the Buffer mitigation will have to be re-calculated based on the new numbers.
4. The infiltration trench beneath the pavers is not designed in accordance with the MDE manual and full pollutant removal credit cannot be given. The trench lacks a means of the required pre-treatment and the required distance from the water table. The applicant must provide the required 10% pollutant reduction through some other method.
5. We recommend that the setback be planted with additional trees and shrubs rather than sod.

Thank you for the opportunity to review this project. Please provide the revised information requested above when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: OC769-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 3, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – Pelican Perch

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct twelve townhouses and associated parking on four residential lots.

In order for this office to complete our review, the 10% pollutant reduction calculations are required. In order for the proposed amount of impervious surface to be calculated, the perviousness of the proposed paver system needs to be documented (i.e., 100% perviousness cannot be assumed). Documentation of the manufacturer's specifications should be provided to this office for review. Once the perviousness of the pavers can be determined, the 10% calculations can be completed. In addition, the proposed Buffer mitigation will need to be revised to account for the imperviousness of the pavers.

The pavers also cannot receive credit as a stormwater quality treatment device. They do not meet the specifications of the MDE manual as an infiltration device. They lack a means of the required pre-treatment and the required distance from the water table. The applicant must provide the required 10% pollutant reduction through some other method.

Thank you for the opportunity to review this project. Please provide the revised information requested above when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC762-03



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

October 29, 2003

1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460 Fax: (410) 974-5338

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Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – K-Coast Village & Surf Shop

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a commercial building and associated parking on a 23,100 square foot parcel.

The 10% pollutant reduction calculations are showing the proposed BMP as an infiltration trench yet no specifics were shown on the site plan. It appears that the "trench" is beneath permeable pavers. In order for the proposed amount of impervious surface to be calculated, the perviousness of the proposed paver system needs to be documented (i.e., 100% perviousness cannot be assumed). Documentation of the manufacturer's specifications should be provided to this office for review. Once the perviousness of the pavers can be determined, the 10% calculations can be completed. In addition, the proposed Buffer mitigation will need to be revised to account for the imperviousness of the pavers.

The pavers cannot receive credit as a stormwater quality treatment device. They do not meet the specifications of the MDE manual as an infiltration trench. They lack a means of the required pre-treatment and the required distance from the water table. The applicant must provide the required 10% pollutant reduction through some other method.

In addition, the landscape plan does not provide for the required 15% afforestation. Total plantings equal 2701.7 square feet while the requirement is 3465 square feet. Additional plantings must be provided, as fee-in-lieu currently is not available for the 15% afforestation requirement.

Thank you for the opportunity to review this project. Please provide the revised information requested above when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC762-03

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**

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November 4, 2003

Mr. Keith Lackie
Worcester Co. Development Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

RE: Winding Creek Estates (formerly Ayers Creek Estates) – Preliminary Plat

Dear Mr. Lackie:

Thank you for providing the preliminary plat and supporting documentation for the above referenced subdivision. The applicant proposes to combine and re-subdivide four parcels into 37 single-family residential lots with four outlots. Commission staff has reviewed the information provided.

1. The area labeled p/o outlet 4 to the south/southeast of proposed Lot 14 on sheet 3 of 5 of the preliminary plat still has extra property lines around it. The lines labeled "N 32°14'03" W" and the line that extends southwest from it appear extraneous.
2. Clarification is needed in regard to the island of uplands that appears on Sheets 2 and 4. It is not clear if the acreage of this island is included as part of any lot or as part of the "State tidal marshland."
3. On the Critical Area site plan, the tidal marsh not identified as private tidal wetlands is labeled as p/o outlet 4, "tidal marsh." On the plat, the area is identified as "State tidal marshland" that does not appear as part of outlet 4. State tidal wetlands cannot be included in the gross acreage of the subdivision including all lots, outlots or reserved parcels. The private vs. State tidal wetlands issue needs to be resolved.
4. The site visit on October 21st took place as scheduled. At that time, the delineation of the private tidal wetlands was discussed at length. MDE, Critical Area staff and the State Wetlands Administrator agreed that the area designated private tidal wetlands appeared accurate, although it is my understanding that a written report with elevation data tied to a NOAA benchmark is supposed to be submitted. Please forward a copy of the report when it is provided.



5. During the site visit, Commission Science Advisor Claudia Jones advised that the linear drainage way coming from the pocket of non-tidal wetlands on Outlot 1 met the definition of a stream. Mr. Ed Launay, the applicant's consultant, marked the location with flags and indicated that it would be surveyed and shown on the next site plan. The stream must be shown on the plat and Critical Area site plan along with its 100-foot Buffer.
6. As indicated previously, the proposal involves disturbance to habitat for Forest Interior Dwelling Birds (FIDs). Impacts to FID habitat include the septic areas and easements for Lots 14 and 15. **No new information has been provided since the previous submittal.** We recommend that the County require the applicant to develop a FID conservation plan. The Critical Area Commission has published, "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" (June 2000) that provides a method for evaluating impacts to FID habitat and a number of options for determining appropriate mitigation. Under this guidance, mitigation for FIDs impacts must result in creation of FID habitat. A corridor (with a driveway going through it) as proposed does not qualify as FID habitat and is not sufficient to meet the FID conservation guidelines.
7. Additional details are needed in regard to proposed reforestation. Depending upon the specifics of the proposed reforestation, a combination of planting and natural regeneration may be appropriate.
8. On the Atlantic Coastal Bays Critical Area site plan, the symbol representing those areas of the Buffer to be planted is incorrectly identified in the legend as private tidal wetlands. We recommend that the applicant provide a specific description on how the Buffer will be established in these areas.
9. On sheets 2 through 5 of the Critical Area site plan, there are two legends that do not have the same symbol for non-tidal wetlands. Also, some non-tidal wetlands lack the cross-hatching identifying them as wetlands. For example, the areas between lots 31 and 18, between 17 and 18, 17 and 16, etc. Mapping of specific features should be consistent.
10. On sheet 4 of the Critical Area site plan, there is a table labeled "Critical Area Summary" yet the information beneath it is in regard to the area outside of the Critical Area.
11. We recommend that plat notes and deed restrictions be added to address protection of non-tidal and any private tidal wetlands that may be located on a particular lot. Sample language (from another Worcester subdivision) is enclosed.

Mr. Keith Lackie
November 4, 2003
Page 3

Thank you for the opportunity to review and comment on these plans. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

Enclosure

cc: Mr. Doldon Moore, Wetlands Administrator, Board of Public Works
WC465-03

05/28/2003 13:38 14183438148

SPECIAL CONDITIONS (Deed Restrictions)

The applicant, a lot owner, or any subsequent landowner shall not subdivide this property described as Lots 1-79, Whispering Woods Subdivision, West Ocean City, Maryland, and may not conduct at any time, any of the restricted activities described below.

Except as expressly authorized pursuant to any permits or letters of authorization previously obtained from and issued by the U.S. Army Corps of Engineers and/or Maryland Department of the Environment (or their successors or assigns), neither the permittee, nor any subsequent owner or owners of the Property, or any portion thereof, shall undertake or cause to be undertaken, any of the following within or upon the wetland or buffer areas:

- a. Construct or place buildings, sheds, walkways, roads, signs or other structures on or above the ground within the wetland or buffer areas;
- b. Dump or place trash, brush, mulch, soil, or other fill material within the wetland or buffer areas, or otherwise use the ground within the wetland or buffer areas for disposal or storage of such materials;
- c. Excavate, dredge, or remove loam, peat, gravel, soil, rock, plant materials, or other material substance within the wetland or buffer areas;
- d. Remove or destroy trees, shrubs, or other vegetation, or any other material substance within the wetland or buffer areas in violation of Section 404 of the Clean Water Act and/or the applicable provisions of the Maryland Nontidal Wetlands Protection Act, or
- e. Engage in any activities on the wetland or buffer areas that would violate any governmental regulation concerning drainage, flood control, water conservation, erosion control, soil stabilization, or plant, fish or wildlife habitat preservation.

Alteration of vegetation or other substances within the wetland or buffer areas as required for routine maintenance of the wetland or buffer areas consistent with State and federal laws is permissible.

The above deed restrictions must appear on the deed and individual lot plats for these lots currently known as, Lots 1-79, Whispering Woods Subdivision, West Ocean City, Maryland and must be recorded for all future sales of this property.

Failure to include these deed restrictions on the deeds for the above property and to record these deed restrictions on the record plats, will invalidate this permit

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 4, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – John and Anna Kraft

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down and reconstruct a mobile home on a 3600 square foot lot.

With the proposed best management practices (grassed swale/raingardens) along with the required landscaping and fees-in-lieu, it appears that the proposal is consistent with the Town's Critical Area Program. Please note that there is an error in the math determining the fee-in-lieu. Required landscaping is \$2340 while they are providing \$636. The correct fee-in-lieu is \$1704.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC744-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 6, 2003

Mr. Gerald T. Mason, Chief Administrative Officer
Worcester County, Office of the County Commissioners
One West Market Street, Room 1103
Snow Hill, MD 21863

RE: Chesapeake Bay Critical Area Program and Maps

Dear Mr. Mason:

At its meeting of November 5, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays reviewed the County's revised Chesapeake Bay Critical Area Program and Maps. The Commission concurred with the Chairman's determination of refinement and the Chairman approved the refinement without conditions.

Commission staff appreciates the hard work and cooperation of Worcester County staff in completing the required comprehensive review.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: Joe Jackson
Ed Tudor
Sandy Coyman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 10, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – Lou and Charmaine Hershey

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new single family dwelling on a vacant waterfront lot.

With the proposed best management practices (grassed swales/raingarden), it appears the 10% rule is adequately addressed. In regard to the Buffer mitigation (2% requirement), the landscaping estimate appears to be seriously inflated. For example, it shows \$55 for a daylily or liriop. This is not realistic. The estimate should accurately reflect the cost of the plants.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC786-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 20, 2003

Mr. Steve Cohoon
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision #04-01-09-0009(c)
Serenity Farm (Thomas Sperl) – Revision #5

Dear Mr. Cohoon:

Thank you for providing Revision #5 of the above referenced subdivision to our office for review. The applicant proposes to create two additional lots through the use of two TDRs. Changes from the previous version appear to be limited to changing the means of access to the two new lots. Previously recommended changes to the plat notes (see our letter of September 24, 2003 on Revision #4) have not been completed. Provided those changes are made prior to Planning Commission approval, this office has no further comments on the subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC528-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 20, 2003

VIA FACSIMILE

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

RE: Site Plan – Long & Foster Office Building

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a real estate office within an existing shopping center. It also appears that an addition is proposed on an existing grocery store.

Critical Area requirements for this project include mitigation for disturbance within the Buffer, the 15% afforestation requirement, and compliance with the 10% pollutant reduction requirement. Commission staff has reviewed the information provided and we have the following comments:

1. It appears that no mitigation or afforestation is proposed. Currently, the Town's Critical Area Program does not provide for a fee-in-lieu of the 15% afforestation requirement. There appears to be significant opportunity to enhance on-site landscaping within the setback along the water (as it appears to be just grass). We recommend that the applicant comply with these requirements on-site in accordance with the Town's Program.
2. The applicant's stormwater calculations use 21,800 square feet (0.5 acres) as the total project area while the 10% calculations use 0.137 acres. The project area and pre- and post-development impervious surface amounts should remain consistent. Also, the "C" value used in the calculations should be 1.08 rather than 0.3 (as the Commission has not yet approved the revised guidance manual). Lastly, the efficiency value for the infiltration trench should be 32.5% rather than the 65% used because it does not meet the specifications of the MDE manual.

Mr. Blaine Smith
November 20, 2003
Page 2

As proposed, the project does not meet the requirements of the Town's Critical Area Program. We recommend that the applicant re-design the proposal to meet the requirements on site.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler". The signature is written in black ink and has a long, sweeping horizontal line extending to the right from the end of the name.

LeeAnne Chandler
Natural Resources Planner

cc: OC762-03

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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November 20, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Robert & Pat Mann

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new single family dwelling in the place of an existing mobile home.

With the proposed best management practices (grassed swales/raingarden), it appears the 10% rule is adequately addressed. In regard to the Buffer mitigation (2% requirement), the site plan does not include the proposed landscaping. A landscaping plan should be provided. Also, please note, it appears that the proposed sunroom will be within the 5-foot setback from the water. Intrusion in the setback with new impervious surface requires a variance. We recommend that the house be shifted one-foot further from the water.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC822-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 20, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Shawn & Lisa Distephano

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new single family dwelling in the place of an existing mobile home.

With the proposed best management practices (grassed swales/raingarden), it appears the 10% rule is adequately addressed. In regard to the Buffer mitigation (2% requirement), the site plan does not include the proposed landscaping. A landscaping plan should be provided.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC823-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 21, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – David Bradley

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct an addition on an existing townhouse.

With the proposed best management practice (pervious deck design), it appears the 10% rule is adequately addressed. In regard to the Buffer mitigation (2% requirement), it appears that the proposed landscaping bed shoreward of the new deck will satisfy this requirement.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


Lee Anne Chandler
Natural Resources Planner

cc: OC824-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 21, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Pioneer Point General Partnership
File #03-03-08-0003© (Corsica River Estates) – Revision #2

Dear Mr. Keeley:

Thank you for providing Revision #2 of the above referenced major subdivision. The applicant proposes to subdivide a 286-acre parcel into twelve (12) lots. The acreage within the Critical Area totals approximately 202 acres of RCA. The property is currently in agricultural use.

1. It is unclear how the information submitted meets the requirement of §14-133(4) for a shore erosion protection plan. While certain lots are remaining in agricultural use, they are still eroding and causing sediment pollution in the Corsica River.
2. Since much of the property is remaining in agricultural use, a farm plan or soil conservation and water quality plan should be in place with the Queen Anne's County Soil Conservation District. According to §14-133(3), such a plan is required to be submitted with preliminary plats.
3. McCrone has indicated in the cover letter that the applicant has been required to mitigate and has done so. A note stating, "Pursuant to the requirements of the Maryland Department of the Environment the applicants have provided mitigation and compensation for the unregulated tree removal." As indicated previously, MDE has no jurisdiction over the Buffer and details of mitigation are still lacking. Dave Danmeyer, MDE's compliance specialist for Queen Anne's County, has never been to the subject property.
4. If the Buffer on lots 7,8,11 and 12 is being maintained in agricultural use until the lots are developed with dwellings, some mechanism must be in place to ensure the Buffer is established at the appropriate time. We recommend that the deeds for these lots include this requirement to ensure compliance by future owners. Also, we

Mr. Mark Keeley
November 21, 2003
Page 2

recommend that the County's records for these lots be "flagged" in some way to ensure a Buffer Management Plan is provided at the time a building permit is requested.

5. On the Buffer Management Plan, credit may be given for the existing trees that are going to remain. However, credit should not be given for dead or dying trees that may be removed in the near future. Such trees, primarily sycamores, are located on proposed lots 9 and 10 and removing them was discussed during our site visit over the summer.
6. It is unclear who will be responsible for implementing the Buffer Management Plan. The cost estimate and letter of credit required includes all the plantings but the note on the plan itself indicates that planting location will be subject to house location, something that may be determined by the individual lot owners. This should be clarified.

Thank you for the opportunity to review this site plan. Please forward the information/revisions requested above when submitted. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC580-03

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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November 24, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Rusty Anchor Townhouses

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down and replace a multi-family building.

The 10% calculations contain an error in Step 5. When determining the load removed by the bioretention facilities, L_{post} should be 1.65 instead of 1.72. With the correction, it appears that there is a small deficiency (0.007 lbs) in the proposal. This difference can be made up through fees-in-lieu or in expanding the bioretention to handle just a little bit more of the site. In regard to the Buffer mitigation/15% requirement, it appears that the proposal meets the 15% requirement but fees-in-lieu totaling \$11,961.60 are due for the remainder of the Buffer mitigation.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


Lee Anne Chandler
Natural Resources Planner

cc: OC820-03

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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November 24, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Neal Hitchcock

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a duplex on a vacant lot.

In regard to the Buffer mitigation, it is not clear that 9 large trees, 43 large shrubs, and 44 small shrubs will actually fit in the undeveloped portions of the site. (The landscaping square footage is far greater than the portions of the lot available to plant.) Also, the site plan's information on the landscaping requirement of 15% does not match the quantities in the Critical Area form. A landscaping plan showing proposed locations and species should be provided.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC821-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 25, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Conditional Use Case No. CU-110002, Augustus Lester

Dear Ms. Maxwell:

Thank you for providing information on the above conditional use request. The applicant is requesting conditional use approval of a 275-foot pier extension. The subject property is designated RCA.

Provided that the pier extension is constructed in a manner that is consistent with the State and Federal permits, this office has no comment on this conditional use request.

Thank you for the opportunity to review this request. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC837-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 25, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Variance Case No. V-110006, Kevin McGovern

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to reduce the front yard setback for an addition to a residence. The property is designated LDA and is currently developed with a single-family dwelling, driveway, and patio.

We have no comment on the front yard setback variance. However, the County must ensure that the addition does not create more impervious surface on the lot than is permitted. The lot is permitted 4,950 square feet of impervious coverage. With what appears to be an extensive concrete driveway as well as a concrete porch and brick patio, there is significant impervious coverage on the lot. If the impervious surface limit is exceeded, an additional variance would be necessary.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC838-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 25, 2003

Ms. Nancy Scozzari
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Alan Balutis
File #04-03-11-0010-C

Dear Ms. Scozzari:

Thank you for providing information on the above referenced administrative subdivision. The applicants are proposing to combine two lots into one. The subject properties are designated RCA.

Commission staff has reviewed the information provided. Provided any future development on proposed Lot 6 is consistent with development standards for the RCA, this office has no Critical Area concerns on this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

Enclosure

cc: QC839-03



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/

November 25, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Hall/Cook/Hall III
File #02-03-11-0011-C

Dear Mr. Keeley:

Thank you for providing information on the above referenced administrative subdivision. The applicant is proposing to relocate a lot line between two lots. The subject properties are designated RCA and one parcel is developed with a single-family dwelling.

Commission staff has reviewed the information provided. Since no new lots are proposed and no additional development is planned for Parcel 49, we have no Critical Area concerns on this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC840-03



Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 25, 2003

Mr. Steve Cohoon
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan #MASP04-03-09-0011(C) – REVISION #1
Cracker Barrel Old Country Store

Dear Mr. Cohoon:

Thank you for providing information on the above referenced major site plan. The applicants propose construction of a Cracker Barrel Restaurant in the parking lot of the existing Kent Landing Shopping Center. The property is designated IDA. I have reviewed the information provided.

The only Critical Area concern is the 10% pollutant reduction requirement. Revised calculations have been provided. However, there is a discrepancy between the total proposed impervious surface as listed in the site statistics (8.33 acres) and the revised calculations (8.22). This should be corrected. (It is likely that the existing pond will still be adequate to meet the 10% requirement.)

Thank you for the opportunity to comment. Please forward the requested information when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC689-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 25, 2003

Mr. Steve Cohoon
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan #MASP 04-03-11-0014(C)
Christ Episcopal Church Expansion

Dear Mr. Cohoon:

Thank you for providing information on the above referenced major site plan. The applicants propose to construct several additions on an existing church. A small portion of the site is within the Critical Area, designated RCA and only a new driveway is proposed in that area. I have reviewed the information provided.

As stated above, only a driveway and associated clearing is proposed within the Critical Area portion of the site. According to the site plan, 0.096 acres are proposed to be cleared. Under the County's ordinance, trees cleared during development in the RCA must be replaced on a one to one basis. The exact number of trees to be cleared was not provided, nor is it clear that adequate mitigation is proposed. This should be clarified. Other than the tree replacement, this office has no other Critical Area concerns regarding this project.

Thank you for the opportunity to comment. Please forward the requested information when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC294-00

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 26, 2003

Mr. Keith Lackie
Worcester Co. – Dev. Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Growth Allocation Request/BMA Designation – Bay Point Plantation

Dear Mr. Lackie:

Thank you for providing information on the above referenced growth allocation request and Buffer Management Area designation. The applicant is requesting 38 acres of growth allocation to change the Critical Area designation on a portion of an RCA property to IDA. Proposed use of the property is a 33-lot single-family residential subdivision. Commission staff has reviewed the information provided and we respectfully submit the following comments and recommendations for the County's consideration:

1. The Critical Area report should acknowledge that the majority of the existing structures have been removed. Also, the existing conditions plan should show the location of the old septic areas, if they are known.
2. The minimum 100-foot Buffer is required on each side of the tributary streams identified on the site plan.
3. It appears that the proposed development envelope includes all the lots, required Buffers, impervious surfaces, utilities and stormwater management measures as required by the County's Critical Area Program and the Commission's policy on the use of growth allocation. The area to remain RCA is greater than 20 acres. If the property were developed further in the future, analysis of the development would consider the parcel as it existed on June 1, 2002. Future expansion of the currently proposed development envelope would be required to be fully consistent with the County's Critical Area Program.
4. The County's Critical Area Program requires growth allocation projects to enhance the habitat value or improve water quality in the area. Commission staff agrees that removal of the many failing septic systems and dilapidated structures is certainly an environmental improvement. However, when this project was discussed by the

Critical Area Commission's Program Subcommittee at their September 2003 meeting, concern was expressed about the proposed 25-foot setback.

5. Staff notes that the setbacks vary from 25 feet to 100 feet on the most recent site plan. When County and Commission staff were working together on the County's Buffer Management Area Program, the setbacks were established based on the existing condition of the Buffer and not necessarily what provided optimal development potential on each property. As indicated in previous correspondence, this proposed BMA is different than other BMAs in that some Buffer functions remain due to the existing vegetation within the Buffer. The Subcommittee discussed a larger setback of 50 feet to protect the Buffer functions that remain, especially since the property is proposed to be designated IDA, a designation that has no impervious surface or clearing limits. They expressed serious reservations about a BMA designation that would reduce the setback to 25 feet.
6. If the County decides to designate portions of the property as a Buffer Management Area, findings which document how the Buffer is not meeting its stated functions must be submitted to the Commission along with the request for a BMA map amendment.
7. We recommend that the County condition an award of growth allocation for this project with a requirement for an overall Buffer Management Plan subject to approval of the County and the Commission. Such a plan would help in ensuring that the project has an overall environmental benefit without having to depend upon individual lot owners to implement it on a lot-by-lot basis.
8. In regard to the proposed community marina, we recommend that the applicant contact the Maryland Department of the Environment for preliminary feedback regarding the idea. Also, the Subcommittee requested information on the number and legality of the existing private docks and piers.
9. Please provide a copy of the written response from the Maryland Department of Natural Resources in regard to Habitat Protection Areas for our files.
10. It has been determined that portions of the existing forest on this site are habitat for forest interior dwelling birds (FIDs). Claudia Jones, the Commission's Science Advisor, reviewed the analysis of FID impacts. She determined that the proposal: 1) restricts the development to the forest edge and 2) conserves approximately 80% of the existing forest interior. Therefore, the project meets the guidelines contained in the Commission's FIDs guidance paper. When the guidelines are followed, mitigation for impacts to FID habitat should occur at a 1:1 ratio. The exact acreage of proposed clearing within the FID habitat has not been finalized. Once it is, the

Mr. Keith Lackie
November 26, 2003
Page 3 of 3

adequacy of the proposed mitigation (via natural regeneration on 7.78 acres of existing fields) can be verified.

11. This office does not oppose the use of natural regeneration for mitigation of FID habitat impacts with certain conditions. An agreement should be in place that provides for inspections on a bi-annual basis resulting in a report of the number of acceptable plants per acre, any invasive species present and other field observations pertinent to the viability of the site naturally reverting to an early successional forest. The areas will be considered forested upon verification that a minimum of 450 evenly distributed native woody stems per acre have been established throughout the site. The agreement should include provisions for supplementing the natural regeneration with plantings if necessary. The area should also be protected from disturbances such as ATVs and motorbikes.
12. As we have discussed previously, prior to submitting the project to the Commission for a vote, the County needs to quantify the acreage of growth allocation still available and provide information on the growth allocation used in the interim period between June 1, 2002 and March 1, 2003. The Commission will not be able to consider the growth allocation request without this information.

Thank you for the opportunity to review and comment on this request. If additional or revised information is submitted, please forward it to our office for review. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: WC766-03

MEMORANDUM

To: Senator Madden

From: LeeAnne Chandler 

Date: December 1, 2003

RE: Growth Allocation and Buffer Management Area designation for Bay Point Plantation (formerly Cotton Hill Campground), Worcester County (Coastal Bays)

As you may recall, the Program Subcommittee, at their September 2003 meeting, discussed a project involving potential redevelopment of a campground in serious disrepair in the Coastal Bays watershed. The property, known as Cotton Hill Campground or the Lynch property, is proposed to be redeveloped into "Bay Point Plantation," a subdivision of 33 single-family homes to be served by community water and septic systems. The developer has requested 38 acres of growth allocation for the project to change the designation from RCA to IDA. He is also requesting that the property be designated a Buffer Management Area (BMA) that would have setbacks ranging from 25 to the full 100 feet.

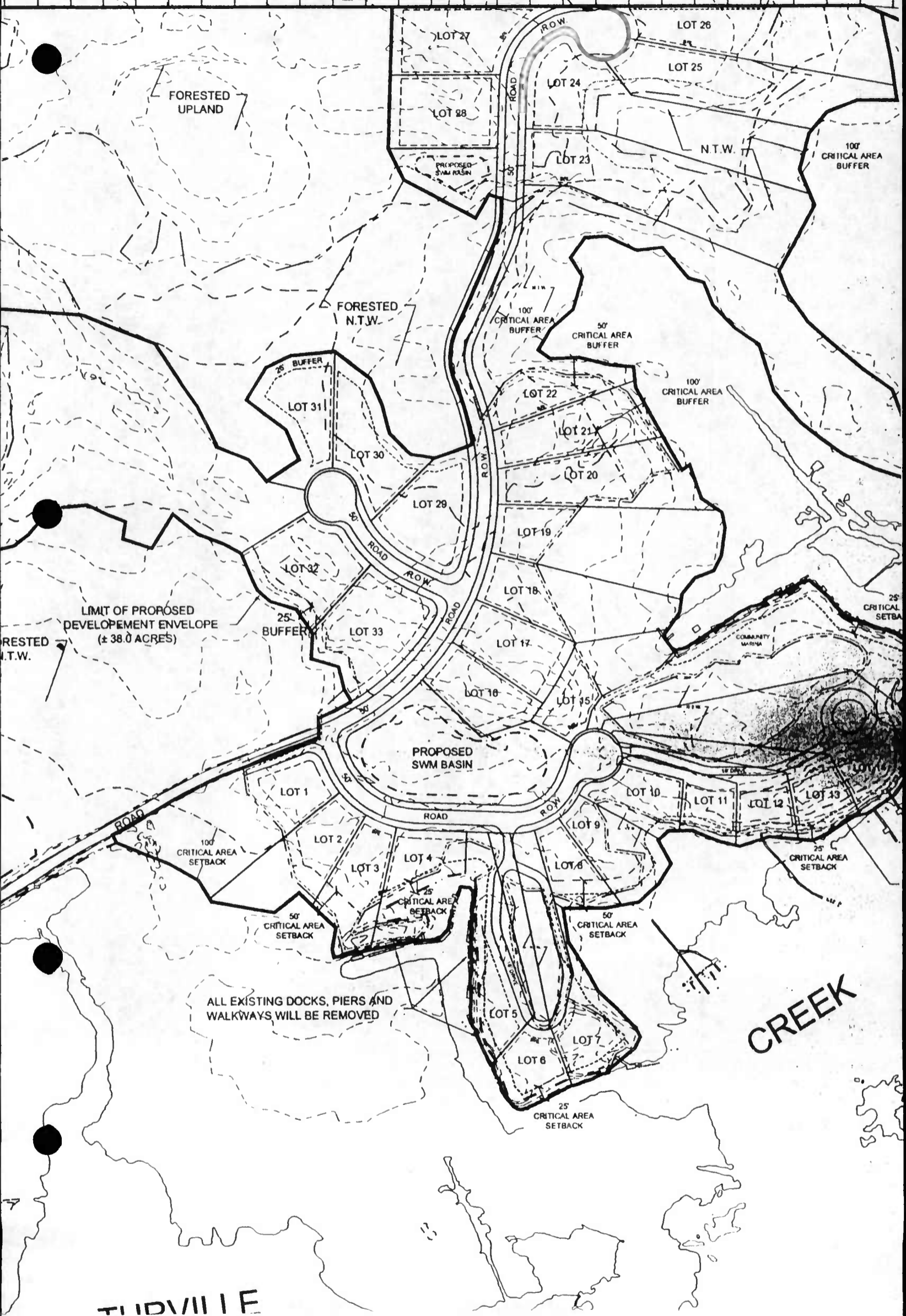
We discussed the early proposal with Ed Tudor, Worcester County's Director of Development Review and Permitting. We agreed with Ed that the County would benefit from the Subcommittee's guidance as it discussed the proposal with the developer. The Program Subcommittee's discussion with Ed Tudor focused on two main issues – the shape and size of the development envelope and the proposed setback of 25 feet. The development envelope, though oddly configured, included all lots and utilities as required by the County's Program and the Commission's Growth Allocation Policy. While there were some questions about the use of the remainder of the property (the property is a total of 141 acres), the subcommittee did not express concern about the development envelope. However, in regard to the proposed setback, they expressed serious concern about the proposed 25-foot setback and how it would protect the Buffer functions that remain. (While the property was used for several decades as a campground, the use has ceased and the structures removed as required by a court order, due to health department and zoning violations.) Unlike any other BMAs in the County, the Buffer does contain mature forest vegetation. Although it was premature for a Subcommittee vote on recommendations, there were no dissenting views expressed regarding the importance of maintaining the Buffer functions on this site as much as possible. After the subcommittee's meeting in September, staff wrote a follow-up letter to the County to summarize the discussion, with copies provided to the developer, his consultant, Dave Blazer (as the Coastal Bays representative), and Marianne Mason.

The revised proposal staff received for comment has changed only slightly since the subcommittee's September discussion. It is to be discussed at the County Planning Commission meeting of December 4, 2003. Staff has sent comments to the County indicating that the development envelope was consistent with the County's Program but the BMA designation with

some setbacks of 25 feet raised significant concern. We suggested a setback of 50 feet to better protect the existing functions of the Buffer. A 50-foot setback would require reconfiguration of the proposal and possible loss of waterfront lots.

The developer of this project is Mr. Jack Burbage. He was a fellow passenger on the boat trip with the Governor on the Coastal Bays. He may contact you as this project moves forward in the County review process. If the County Commissioners approve the request, they will send it to us as an amendment or refinement to their Program. Please let me know if you would like to discuss the project in further detail.

cc: Ren Serey



TUDVILLE

CREEK

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 8, 2003

Ms. Tracey Gordy
Maryland Office of Planning
201 Baptist St.
Box 24
Salisbury, Maryland 21801

RE: Town of Snow Hill, Parking Lane at the County Courthouse

Dear Ms. Gordy:

Thank you for providing a consistency report and supporting documentation for the proposed parking lane in front of the County Courthouse within the Town of Snow Hill. I have also visited the site and saw the area proposed for the parking lane.

As a project within the IDA, compliance with the 10% pollutant reduction requirement should be addressed. Given the relatively minor nature of the project along with the fact that it lies within the road right-of-way, constructing a BMP to address the requirement (of 0.031 pounds) is unrealistic. Planting one tree per every 100 square feet of impervious surface appears to be a reasonable solution. The planting should occur within the Critical Area of the Town.

Thank you for the opportunity to review this proposal. If you have any questions or concerns, or if the scope of the project expands, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: Kelly Brewington, Town Manager
Keith Lackie, Worcester County DRP
SN850-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 10, 2003

Mr. Steve Cohoon
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision #04-95-029
The Landing at Kirwan Creek

Dear Mr. Cohoon:

Thank you for providing information on the above referenced major subdivision. The applicant proposes to subdivide an existing 16-acre LDA parcel into 14 residential lots, an open space lot and a lot for natural resource conservation. It is our understanding that the Planning Commission approved the subdivision in 1995, but recordation did not occur and construction has not started due to legal issues. Stormwater management had to be revisited due to the change in regulations. I have reviewed the information provided as well as the documents from our 1995 files on microfiche. Please take note of the following:

1. The building restriction lines as shown on the subdivision plat do not match those shown on the contract drawings for lots 2 through 5. Also, please note that neither plan is consistent with note #7 (proposed lot restrictions) on Sheet 1 of the contract drawings. This should be clarified.
2. The allowable impervious surface for the entire subdivision should be based on 15% of the gross site area minus the area of open water and vegetated State tidal wetlands. This should be corrected on Sheet 3 of the subdivision plat.
3. Notwithstanding the issue contained in comment #4 below, the proposed jogging path that is shown on Sheet 2 of the subdivision plat is not shown on Sheet 1.
4. Based on the information available, it does not appear that the proposed jogging path was part of the subdivision proposal that was approved in 1995. The path is located almost entirely within the 100-foot Buffer, non-tidal wetlands, and tidal wetlands. Correspondence between the applicant's consultant and the Army Corps of Engineers

Mr. Steve Cohoon
December 10, 2003
Page 2

regarding the 1995 proposal indicated that no disturbance was proposed in non-tidal or tidal wetlands and therefore no permits were needed. This issue must be clarified. The path must be sited to avoid impacts to wetlands and their Buffers to the greatest extent possible. Permits must also be acquired.

5. The 1995 Environmental Assessment Report indicated that the northern half of the property was an abandoned agricultural field containing saplings of numerous species of trees and shrubs. Given the eight years that have passed since the report was completed, it is likely that the "field" now contains an early successional forest. Mitigation should be provided for clearing of any forest.
6. Our old files contained a water appropriation permit that indicated that if the water was not used within two years, the permit would expire. A new permit is necessary.
7. Clearing of approximately 0.29 acres of forest is shown (mostly in the area of the stormwater management facility and on Lot 12), along with reforestation of approximately 0.30 acres. However, development of certain lots (Lots 11 and 13) will require additional clearing to construct dwellings and to drill their wells. If individual lot owners will have responsibility to mitigate for the clearing, it should be stated on the plat. Otherwise, the plans should show clearing on Lots 11 and 13 and appropriate mitigation areas.
8. Sheet 2 of 9 of the contract drawings show the proposed limits of disturbance (LOD) for Lots 1 through 10. The LOD impacts non-tidal wetlands (and expanded Buffer) on Lots 2 through 10. Disturbance within the expanded Buffer is not permitted without a variance and non-tidal wetlands permit.
9. An updated Environmental Review for Habitat Protection Areas should be requested from the Department of Natural Resources.

Thank you for the opportunity to comment. Please forward the requested information when it becomes available. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC880-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 11, 2003

Mr. Mark Keeley
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Sliding Scale Subdivision, Cook/Hall III
File #02-03-12-0001-C

Dear Mr. Keeley:

Thank you for providing information on the above referenced sliding scale subdivision. The applicant is proposing to subdivide an existing property into two lots. The new lot is located entirely outside of the Critical Area.

Because the new lot is located outside of the Critical Area and no new development activity is proposed within the Critical Area, this office has no comment on this subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: QC885-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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December 11, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Variance Case No. V-110019, S. Allan Adelman

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to reduce the front yard setback for a garage addition to a residence. The property is designated LDA and is currently developed with a single-family dwelling, driveway, deck and shed.

We have no comment on the front yard setback variance. However, the County must ensure that the addition does not create more impervious surface on the lot than is permitted. The lot is permitted 31.25% impervious coverage. Any new impervious driveway leading to the new garage should also be taken into consideration. If the impervious surface limit is exceeded, an additional variance would be necessary.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC879-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 11, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Laguna Vista Condominium

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to remove several existing buildings and construct a condominium and associated parking on a 35,295 square foot property.

The proposed reduction in impervious surfaces satisfies the 10% pollutant reduction requirement. In regard to waterfront setback issues, please note that there appear to be balconies proposed within the setback in the western corner of the site (where there is a "notch" in the property). If the balconies are impervious, they should be located outside of the setback or a variance should be requested. In regard to the proposed landscaping, the amounts listed in the project application (e.g., 814 small shrubs?) do not match those shown on the landscaping plan. Also, though this office does not oppose the use of herbaceous materials at 2 square feet per plant, the Town's Program does not include them as an option.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC861-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 11, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Bay One Condominium, File No. 1878

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to remove several existing buildings and construct a condominium and associated parking on an approximately 27,600 square foot property.

Additional information is needed for this office to complete its review of this project. The 10% pollutant reduction calculations are needed as well as the Critical Area project application that provides more detail on required landscaping. Also, it is our understanding that a portion of the property may be within the 100-foot Buffer from tidal wetlands. This should be clarified and the required information should be forwarded to this office for review.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC860-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 11, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – D’Agostino, 104 52nd Street

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to replace an existing home with a new mobile home.

Critical Area 10% requirements are adequately addressed by the proposed French drain and grass swale. Also, it appears that the applicant has satisfied the Buffer mitigation requirements.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC891-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 11, 2003

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Vallario, 147 Old Wharf Road


Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a sunroom and new deck on an existing residence.

Critical Area 10% requirements are adequately addressed by the proposed deck design and the plan to direct roof drains to the gravel beneath the deck. The proposed landscaping appears unclear. Based on the Town's Program, landscaping should include plant materials of at least \$400.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Natural Resources Planner

cc: OC882-03

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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December 11, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Variance Case No. V-110020, George Pettinato & Barbara Whaley

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to reduce the rear yard setback for a porch addition to a residence. The porch is closer to the water than the existing dwelling so under the County's Buffer Exemption Area provisions, a variance from the Buffer requirements is also necessary. The property is designated LDA and is currently developed with a cottage.

The proposed porch addition is located 37 feet from the shoreline. To avoid the need for a Critical Area variance, the porch must be located no closer to the water than the existing dwelling (48 feet). Otherwise, the request must meet the strict Critical Area variance standards, including the standard of unwarranted hardship. Unwarranted hardship is denial of reasonable use of the property. The property is already developed with a cottage. While it would be most convenient to locate the porch in its proposed location, there are alternative locations and/or designs for the porch. We recommend that the applicant redesign the proposal to minimize or avoid the need for the Critical Area variance request. Any new structure constructed within the Buffer must be mitigated at a minimum 2:1 ratio.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC878-03



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 22, 2003

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Variance Case No. V-110008, Dean & Ellen Brewer

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit construction of a pool and brick decking within the Buffer. The application states that the property is approximately 0.39 acres in size and is designated LDA. The property is Buffer Exempt.

In 2002, the General Assembly passed Senate Bill 326 to reinforce the strict variance standards of the Critical Area Criteria. Codified in Natural Resources Article §8-1808(c)(13) and (d), it establishes that in order to grant a variance, a local jurisdiction must find that the applicant satisfies each of the variance provisions and that reasonable use of the entire parcel or lot must be considered in determining unwarranted hardship.

- The subject property is already developed with a large dwelling and driveway. There is no unwarranted hardship in this case. Reasonable use of the property exists without a swimming pool.
- Denial of the variance would not deprive the applicant of rights commonly enjoyed by other similar properties. Other property owners are prohibited from building new structures shoreward of existing structures under §14-153 of the County Code. While one nearby property owner received a variance to construct a pool in the Buffer, a review of aerial photos taken in the vicinity of the subject property indicates that instead of a right commonly enjoyed, a swimming pool would be a special privilege. (No swimming pools were seen on the aerial photos.)
- In accordance with §14-164, no previous decision of the Board of Appeals shall authorize or qualify any land, use or structure not involved in the decision for the same treatment under the County's Critical Area Program.

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- All variance standards, including minimization of impacts, must be met in order for a variance to be granted. It does not appear that the applicant has attempted to minimize impacts.

Because the applicant has not met the strict Critical Area variance standards, this office must oppose this request.

Thank you for the opportunity to comment. Please include this letter as part of the record for this request. Also, please notify the Commission in writing of the decision made by the County in this case.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC690-03