

Staff Correspondence: Cole

2003

S1832-157

Folder 1 of 2

Wanda Leader
Cole

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/

December 15, 2003

Mr. Matt Hedger
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
PO Box 870
Salisbury, MD 21803-0870

Re: **Establishing Stormwater Offset Options and Offset Fees in the City's Critical Area Program and Ordinance**

Dear Matt,

Thank you for your request to meet with Commission staff to discuss offset options that the City of Salisbury may use to meet the "10% Rule" pollutant removal requirement for development in the IDA. I agree that a meeting would be useful to identify a strategy for developing and implementing an offset program and that we should try to schedule a meeting as soon as possible.

In the interim, I believe that there may be some misinterpretation of the City's Critical Area Program by developers and consultants that is resulting in the collection of offset fees that are well below what is appropriate and legally defensible. I am referring to the recent submittal for the Williams Office and Apartment Complex on Riverside Drive in Salisbury. The applicant proposes to pay an offset fee of \$262.15 for an unmet pollutant removal requirement of 0.749 pounds of phosphorus.

The primary issue that I see is that neither the City's Critical Area Program nor Ordinance (Section 2B of the City's Critical Area Program, and Article VIII, SS 149-19 D, of the City's Critical Area Ordinance) allow for the collection of **offset fees**. Both allow for the use of "offsets" that "achieve equivalent water quality benefits" when the benefits can be determined through modeling, monitoring, or the use of other computation of other mitigation measures. It's possible that the omission of offset fees was intentional because the City simply did not want the burden of determining an appropriate offset fee and then administering an offset fee program.

As outlined in the Commission's guidance, an offset fee program collects fees to plan, design, construct, and maintain on-the-ground stormwater management measures within the Critical Area to offset the unmanaged pollutants from development sites. If a local government desires to collect offset fees for 10% Rule compliance, it is responsible for determining the fee amount



subject
re:

Mr. Hedger
December 15, 2003
Page 2

based on pounds of phosphorus or a method of determining the fee based on actual construction costs or estimates. The offset fee program must also include a method for spending the fees once they are collected.

Based on recent information provided to the Commission by the Center for Watershed Protection as part of an update of the Commission's 10% Rule guidance, the cost to remove one pound of phosphorous is roughly between \$27,000 and \$29,000. For the Williams Landing project, this would have resulted in the collection of approximately \$20,972, or a verifiable amount equal to the planning, design, construction, and maintenance costs of treating 0.749 pounds of phosphorus.

For this project, it appears that the developer originally proposed the use of an offset, "riparian forest planting", which is listed as an acceptable offset in the Commission's 10% Rule guidance and is credited at one pound of phosphorus removal for every 0.5 acres of riparian forest planted. The misinterpretation seems to have occurred when the riparian forest planting was converted to a "Tree Mitigation Fund" amount. This type of procedure inappropriately merges two distinct mitigation techniques. **Offsets and offset fees are not interchangeable**; an offset must result in an actual "on-the-ground" water quality benefit. Offset fees must be based on reasonable costs associated with the planning, design, construction, and maintenance of stormwater management practices. "Fees-in-lieu of an offset" are not permitted because, as this example illustrates, they don't allow for the collection of sufficient funds to meet the required pollutant removal requirement.

As we discussed, I know you would like to move forward with the Williams Office and Apartment Complex Project; therefore, I do not think it is necessary to hold up the applicant while we try to resolve this matter. I would recommend that the collection of stormwater offset fees for future projects be suspended until we have an opportunity to meet and discuss this issue. Please contact Mary Owens at 410-260-3480, or myself at 410-260-3481 to arrange a meeting date. We look forward to working with you on this effort.

Sincerely,

Wanda Cole
Natural Resources Planner

cc: Regina Esslinger, CAC
Mary Owens, CAC

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/

January 5, 2004

Ms. Karen Houtman
Dorchester County
Planning and Zoning Office
PO Box 107
Cambridge, Maryland 21613

Re: **DC 929-03: Johnson T. Schufelt Growth Allocation Request
Tax Map 21, Parcels 37 and 157**

Dear Karen,

I have reviewed the information submitted with the growth allocation request application and have the following comments:

1. The 100-foot Critical Area Buffer must be shown and labeled. The arc on the plat which encompasses all or part of lots 14 thru 28 and 32-35, appears to be the Critical Area boundary. The Critical Area boundary line must be shown and labeled.
2. The location of any State tidal and nontidal wetlands must be shown. The Critical Area Buffer must be expanded for any nontidal wetlands that lie contiguous to the 100-foot Buffer.
3. The entire 9.53 acres of the Critical Area must be deducted as growth allocation, unless a 300-foot setback is provided. It appears a 300-foot setback can be accommodated on this site. The area within the setback does not have to be deducted from the County's growth allocation reserve; however, no development activity is permitted in the setback, including stormwater management measures.
4. Information on the presence of rare, threatened, or endangered species and/or their habitats must be provided. The applicant must contact the Wildlife and Heritage Service (WHS) of the Department of Natural Resources for a determination, and all comments provided by WHS must be addressed.

5. The application for Map Amendment states this is a change from LDA to IDA, while your staff report indicates this is a redesignation from RCA to IDA. This information must be reconciled.
6. General Note # 5 on the plat gives tax map and parcel information that conflicts with the application. This information must be reconciled.
7. Compliance with the 10% Rule for pollutant reduction is required for this project. The applicant must show the details on the stormwater facility design and its ability to remove the required pollutant loading prior to or at the subdivision plan approval phase.
8. Critical Area notes must be provided on the plat to indicate the Critical Area designation(s), the amount of existing forest cover and the amount to be cleared, and the amount of existing impervious surface area and the amount of impervious surface area to be created.
9. Information on soils types and topographic elevations must be shown.
10. Although the project is proposed in an identified growth area and is adjacent to the Town of Secretary, the applicant must provide more discussion on adjacent properties that are located in the Critical Area. Specifically, the project must show how it meets the guidelines for locating new intensely developed or limited development areas, as found in Natural Resources Article § 8-1808.1 and COMAR 27.01.02.06. In addition, information on water and sewer service should be provided.
11. It is not clear whether the 100-foot Buffer is currently vegetated. Appropriate plat notes should be provided describing that this area must be naturally vegetated and that clearing and disturbance of natural vegetation is prohibited.

Please contact me at 410-260-3481 or Mary Owens at 410-260-3480 if you have any questions regarding these comments. Thank you for the opportunity to comment at this early stage of the growth allocation application process.

Sincerely,



Wanda Diane Cole

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) 974-5538
www.dnr.state.md.us/criticalarea/

December 19, 2003

Ms. Yvonne Chaillet
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: SM 88-02: # 01-1902 George & Maureen Diaz Buffer Variance Request

Dear Yvonne,

I have reviewed the information regarding this request to construct a dwelling, deck, driveway, and walkways in the expanded Critical Area Buffer of Saint Thomas Creek. This is a grandfathered lot with an LDA designation. We do not oppose this variance request. We recommend the variance approval include a condition that the initial 1:1 of the required 3:1 mitigation plantings be provided on-site. We recommend the plantings be placed in the area of the existing woods road to be abandoned.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 18, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 888-03: MSUB # 03-141-066 SAYSF Bible Church
Boundary Line Adjustment Plat**

Dear Sue,

I have reviewed the plat, which proposes to merge Parcels 451 and 502, as found on tax map 43, into one parcel. I have no comments regarding this action. Thank you for the opportunity to review the plat.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 18, 2003

Mr. Steve Dodd, Director
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 877-03: # 622 D Resubdivision of Lots 2 & 3, Sunset Farms**

Dear Steve,

I have reviewed the plan for this re-subdivision of two lots located in the LDA of Hills Point Cove and Brooks Creek. This property contains acreage located both in and out of the Critical Area. The proposed re-subdivision will create five building lots, a County road, and a shared, community access lane to the shoreline. The following comments are provided for your use regarding the Critical Area portion of this re-subdivision.

1. The impervious area table must be revised to reconcile the total Critical Area acreage of the site with the acreages labeled on the plat. My calculations show 15.049 acres in the Critical Area for Lots A-F and the proposed shared access road. Since the County road and the shared, community access lane to the shoreline will likely become 100% impervious, 0.598 acres must be deducted from the subdivision's total 15% allocation of 2.257 acres. This will cause Lots A-E to have less than 15% available for establishing impervious areas inside the Critical Area portion of each lot. I recommend the applicant allocate a specific amount of impervious area to each lot.
2. Location of soils types and nontidal wetlands must be shown on the plat. The plat will need a Critical Area note stating the amount of existing forest cover.
3. I recall visiting a site in this area with Karen Houtman and inspectors from MDE and the Corps of Engineers to meet with this applicant regarding an unauthorized clearing and grading violation that caused filling of wetlands (the pond) to occur. If this is the same property, has the violation been fully resolved? Was a Buffer Management Plan required and implemented as mitigation for the violation? If so, does the existing forest cover data accurately depict site conditions?

4. I also recall that the Buffer had not been established in this area, and that agriculture had continued to be practiced on these lots. The plat must include a Critical Area note stating that the entire 100-foot Critical Area Buffer must be fully established in forest vegetation using native species. Please provide our office with a copy of the Buffer Management Plan that is approved for this subdivision when it becomes available.
5. Is this site in compliance with any revegetation/regeneration conditions of the timber sale contract that occurred circa 1988? If not, are there areas outside the future development envelopes that need to be shown as reforestation areas on the plat? A Critical Area note is required indicating that these areas may not be disturbed.
6. The sewage reserve area shown is large, contiguous, and located on Lots C and D only. The future septic disposal system will most likely be a bermed infiltration pond. Will the septic disposal system for this subdivision be a shared facility?
7. The plat must include a Critical Area note as to whether a community pier and/or boat ramp is proposed at the shoreline at the end of the community access lane. The construction of a community pier will prohibit the construction of individual piers.
8. The Wildlife and Heritage Service (WHS) must be contacted regarding the presence of rare, threatened and endangered, and their habitats. Information on the MERLIN database (see enclosed image) suggests the wooded areas on this property may be Delmarva Fox Squirrel habitat. All WHS comments must be addressed on the plat prior to granting any approvals. Given the configuration of Lot E, a considerable amount of clearing would be necessary to access and develop this lot.

Please provide a copy of the revised plat and any other additional information when it becomes available. We may have additional comments based upon any new information. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner



Robert L. Ehrlich, Jr.
Governor
Michael S. Steele
Lt. Governor

Maryland Department of Natural Resources
Environmental Review
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

C. Ronald Franks
Secretary
W. P. Jensen
Deputy Secretary

November 25, 2003

RECEIVED

Memorandum

DEC 2 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

To: Tammy Broll, NRP
Regina Esslinger, CAC
Peter Dunbar, RAS
Tim Larney, WHD
From: ^{RCD} Ray C. Dintaman, Jr., Director, Environmental Review Unit
Subject: U.S. Army Corps of Engineers Public Notice NN-04-03; Maintenance Dredging,
St. Jerome Creek; Patuxent River Area; St. Mary's County

Enclosed please find a request for comments from the U.S. Army Corps of Engineers regarding the proposed maintenance dredging of the Federal navigation channel in St. Jerome Creek, St. Mary's County, Maryland. Approximately 60,000 cubic yards of material will be dredged from the channel. It is proposed to place the dredged material in one of two upland sites both of which are located in agricultural fields. The proposed dredge area and placement sites are shown on the map. Please review the submitted materials and provide any comments you may have by **December 15, 2003**. If no comments are received by that date we will assume that you have none. If you have any questions, please contact Roland Limpert of my staff at X-8333.

Check one:

Comments are attached.

No Comments.

Wanda D. Cole
Signature

CAC
Agency

12-17-03
Date

RCD:RJL

Enclosures





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 17, 2003

Mr. Roland Limpert
Environmental Review Unit
Tawes State Office Bldg, B-3
Annapolis, Maryland 21401

Re: Public Notice NN-04-03; Maintenance Dredging, St. Jerome Creek; St. Mary's County

Dear Roland,

I am providing the following guidance comments regarding the proposed project and its dredged material placement sites (DMP):

1. If the project is contracted and managed by a State or federal agency, the design plans for the DMPs must be submitted to this office for review for Critical Area compliance. If the project is contracted and managed by a St. Mary's County agency, the plans must be submitted to the St. Mary's County Department of Land Use and Growth Management for a review for Critical Area Consistency and any necessary local permits.
2. The dredged material placement site (DMP) must be located outside the 100-foot Critical Area Buffer. If this cannot be accomplished, a Critical Area Buffer variance must be requested from the St. Mary's County Department of Land Use and Growth Management if the project is conducted as a County project. If the project is conducted as a State or Federal project, formal approval from the Commission is required. Based upon the map provided, it appears the DMPs will be located outside the Buffer. However, the scale of this map is such that I am unable to determine whether any tributary streams, nontidal wetlands, steep slopes, and/or hydric soils are in the area. These features, if present, may qualify as expanded Buffer areas. The location of the Buffer, if present, must be assessed, preferably early in the design phase.
3. Any clearing of trees for the DMP construction will require mitigation, and a planting plan must be provided.

TTY For the Deaf

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

Thank you for the opportunity to comment. Any questions regarding these comments may be directed to me at 410-260-3481. Information regarding local requirements may be directed to Ms. Sue Veith at the St. Mary's County Department of Land Use and Growth Management. Ms. Veith may be reached at 301-475-4200, ext. 1547.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: Sue Veith
Robert Tabisz

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 9, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 859-03: # 2174 Joseph R. and Darlene K. Alexander
Critical Area Buffer Variance Request**

Dear Steve,

I have reviewed the information regarding the applicant's request to construct an addition onto an existing dwelling located on a grandfathered lot in the RCA of Fishing Creek. This addition is partially located in the 100-foot Critical Area Buffer. This office does not oppose this request. We recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances in the Buffer are to be provided on-site, in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 8, 2003

Mr. Robert C. Boyd
DayTech Engineering, LLC
44425 Pecan Court
California, Maryland 20619

Re: **SM 529-03: MSUB # 03-110-063 Spring Ridge Subdivision, Lots 4 & 5
November 20, 2003 letter to Lori Byrne regarding FIDS guidance**

Dear Mr. Boyd,

Our office received a copy of your November 20, 2003 letter to Ms. Lori Byrne, together with a revised copy of the plat for this proposed subdivision. I am providing comments on this submittal to supplement the comments in my letter of August 11, 2003. These comments are in addition to any you may receive from the Wildlife and Heritage Service.

- It is my understanding that this subdivision application will be submitted as a growth allocation request. The plat shows a 300' Critical Area Buffer, however, septic reserve areas are shown within this Buffer. The entire area of Lots 4 and 5 must be deducted as growth allocation used if any development is placed within the 300' Buffer. I recommend the sewage reserve areas be moved outside the proposed 300' Buffer, and if possible, out of the wooded area completely.

Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Sue Veith, St. Mary's Dept. of Land Use and Growth Management

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 8, 2003

Mr. Mike Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: **BC 858-03: B537025 West Shore Yacht Center, Addition of Boat Slips**

Dear Mike,

I have reviewed the site plan for the abandonment, reconfiguration, and addition of boat slips at an existing marina located in the LDA of Muddy Gut in Baltimore County. It is my understanding that all State and federal permits have been obtained for this project. This office does not oppose this site plan.

Thank you for the opportunity to review the plan.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

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/

December 8, 2003

Mr. Steve Dodd, Director
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 849-03: # 1036 Leonard Greenhawk Intrafamily Transfer**

Dear Steve,

I have reviewed the plan for this one-lot intrafamily transfer in the RCA of Choptank River. Additional information will be needed to assist me in completing a review. The following comments are provided for your use:

1. The 100' Critical Area Buffer line must be shown, and the Buffer expanded for contiguous nontidal wetlands, if present. The location and extent of the Buffer will identify whether or not this lot can be developed without the need for any Critical Area variances.
2. The location of the mean high water line, any vegetated State tidal wetlands, and nontidal wetlands must be shown. The soils types must be shown.
3. The proposed well is shown in the cleared area near the shoreline, suggesting the future dwelling will be located in the clearing. The sewage reserve area, however, is located near Horn Point Road, which would require a 700' long clearing in the forest for the sewer pipeline. To minimize forest clearing, I recommend the sewage reserve area be located into the clearing. If this is not possible, the sewer pipeline must parallel the driveway in the same area cleared for driveway alignment.
4. All forest clearing must be mitigated at the ratio that corresponds to the percentage of existing forest area cleared.

5. The creation of this lot constitutes a change in use from agriculture to residential, therefore, the 100' Buffer must be fully established in forest vegetation.
6. General note # 14 must be deleted as it does not apply to subdivisions in the Critical Area.
7. The name and relationship of the immediate family member to whom Lot 1 will be conveyed must be stated on the plat.
8. The Wildlife and Heritage Service (WHS) must be contacted regarding the presence of rare, threatened and endangered, and their habitats. All WHS comments must be addressed on the plat prior to granting any approvals.

Please provide a copy of the revised plat when it is available. We may have additional comments based upon any new information. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

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/

December 8, 2003

Mr. Matt Hedger
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
PO Box 870
Salisbury, MD 21803-0870

Re: **WIA-8: Approval of Richardson Request to Use 0.60 Acres Growth Allocation**

Dear Matt,

I am pleased to inform you that on December 3, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously concurred with Chairman Madden's determination that the above referenced growth allocation request may be approved as a refinement. The refinement changes the Critical Area Overlay designation of a 0.60 acre area of Tax Map 35, Grid 11, Parcel 5, Lot 3A from Resource Conservation Area to Limited Development Area. This use of growth allocation was approved subject to the following three (3) conditions:

1. Lot 3A shall be divided into two separate lots: one which cannot be further developed, and the other which is created by establishing lot lines around the sewage reserve area and utility line connecting the area to the building site outside the Critical Area;
2. A note shall be placed on the plat requiring use of enhanced nitrogen-removal septic technology and performance of required maintenance on the system to ensure proper functioning; and
3. The growth allocation development envelope shall be established totaling no more than 0.60 acres.

This change shall be incorporated into the County's Critical Area Program within 120 days of the date of this letter. Please provide a copy of the County's revised Critical Area Map reflecting the new designation as soon as it is available. In addition, we also request the opportunity to review a copy of the final plat prior to its recordation.

Thank you for your participation and assistance in this process. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole". The signature is written in dark ink and is positioned above the typed name.

Wanda Diane Cole
Natural Resources Planner

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/

December 8, 2003

Ms. Yvonne Chaillet
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtwn, MD 20650-0653

RE: **SM 862-03: # 03-2148 Dale Snell Variance Request**

Dear Yvonne,

I have reviewed the information regarding this request to construct additions onto an existing structure located on a grandfathered lot in the LDA of Cuckold Creek. We do not oppose this variance request. We recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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 4, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 272-01: SFD 30767: Efton Hill/Steve Morgan Site Plan

Dear Elsa,

This letter serves to follow up our phone conversation of today. I have reviewed the site plan and do not oppose it. However, the variance approval was conditioned upon obtaining an approved habitat protection plan (HPP) prior to construction. The April 2003 revision of the HPP could not be reviewed as MDE had not yet issued a permit for the road culverts. An updated revision of the HPP is now necessary. I will provide final comments on this plan after we have had an opportunity to review and approve the HPP. Please forward a copy of the final revision to this office and to Kathy McCarthy, Wildlife and Heritage Service, as soon as it becomes available.

Thank you for your assistance with this item.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: Claudia Jones
Kathy McCarthy

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/

December 4, 2003

Mr. James B. Dunbar
Maryland Department of the Environment
200 Duke Street, Suite 2700
Prince Frederick, Maryland 20678

Re: Referring Complaint of Wetland Filling and Grading w/o Permit
Lower Cedar Point Beach, Morgantown

Dear Jim,

This letter follows up our phone call Tuesday regarding a complaint of grading in the Critical Area Buffer of Potomac River where debris and sand had been pushed into a wetland. The subject property belongs to Carl Steinhauser, who reportedly was clearing the beach of debris deposited on the beach during Hurricane Isabel. This property is located on Charles County Tax Map 82 as Parcel 18. It is also found on ADC map 38 B-11.

Elsa Ault, Charles County Critical Area Planner, and I visited the site on November 14, 2003. The site could not be accessed directly from Morgantown Road due to repairs being made to the road and revetment by Charles County Public Facilities. The area could be accessed by turning right onto Lower Cedar Point Road, and then left at its end onto what appears to be a farm access lane. This lane leads back to Morgantown Road. The reported activity can be seen on your left as you enter the beach.

Two residents approached us and described what they knew of the situation. Mrs. Pattie Moyer lives at 9750 Morgantown Road and can be reached at 301-259-2638. Her house is the first one where the access lane meets Lower Cedar Point Road. Mr. Tim Cook can be reached at 301-751-5907. According to these residents, Mr. Steinhauser used his equipment to remove storm-deposited debris and toppled trees from the beach. Some debris and beach sand was pushed into a wetland area that appeared to have both tidal and nontidal characteristics. The wetland is a small ponded area that drains to the river through a small, terracotta pipe. The pipe was not visible as beach sand covered it. It is possible this pipe is no longer functioning as no discharge could be seen.

It appeared to Elsa and I that the wetland fill may have been unintentional, that perhaps the equipment operator backed too close to the wetland and knocked material in, or pushed in the debris while scooping up a nearby pile. The area of grading reaches or exceeds 5,000 square feet, and most likely needed a grading permit and/or sediment and erosion control approval. The remnants of Morgantown Road are barely discernible here, and the line of cedar trees that once stood along the road are gone. The beach is somewhat wide here and it appears Morgantown Road used to run along the back side of the beach berm.

Thank you in advance for investigating this matter. Please let me know the outcome of the actions you take. It appears you may need to coordinate any required restoration with the Charles County Planning and Zoning office. Elsa Ault may be reached at 301-645-0653.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Elsa Ault

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 4, 2003

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

Re: BA435A21: US 40, Ebenezer Road to Days Cove Rd, Baltimore County

Dear Ms. Simpson,

Thank you for your letter of November 20, 2003, in which you describe a safety and resurfacing project in the Critical Area of Bird River. This project will occur within the existing roadway and includes maintenance of existing drainage facilities. We concur with your finding that this project is consistent with the Memorandum of Understanding between our agencies. Please feel free to contact me at 410-260-3481 if further assistance is needed.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Patricia Farr, Baltimore County DEPRM

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 4, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: **BC 835-03: Variance Request 03-16 Robert Long for Jarosinski Property**

Dear Keith,

I have reviewed the information regarding this variance request to construct a dwelling within a nontidal wetland Habitat Protection Area located on a grandfathered lot in the LDA of Back River and Chesapeake Bay. It is my understanding that the nontidal wetland encumbers a large area of the lot.

We cannot support this variance request as presented. The applicant has not provided sufficient information to show that this request meets all the Critical Area variance standards, in particular, the standard regarding adverse affects on water quality and fish, wildlife, and plant habitat. A nontidal wetland is not only is an important aquatic habitat, it provides important functions that reduce nutrient pollution in stormwater runoff. In order to assist us in making an informed review of this request, the applicant must provide the following information:

1. A site plan depicting the locations of the nontidal wetland relative to the proposed development footprint. The impacts to the wetland must be quantified.
2. Will the Maryland Department of the Environment authorize the proposed impacts to the nontidal wetlands on this site? I am aware that an application has already been made to MDE for 4,999 square feet of nontidal wetland impact.
3. Topographic information of the site and adjacent areas, including the location of the ravine, its length, depth, and slope.



4. The application to MDE indicates this lot is forested. Information must be provided on how much of the lot is forested and the location of existing tree lines, if applicable, must be shown. If the entire lot is forested, 4,999 square feet of disturbance will remove 60% of the existing forest cover. Exceeding the 30% forest clearing limit requires 3:1 mitigation.

Please provide the additional information and we will provide additional comments. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

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 4, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: **BC 834-03: Variance Request 03-15 John Fischer/Isabella Kerr**

Dear Keith,

I have reviewed the information regarding this variance request to continue use of an existing lawn on a grandfathered lot located in the LDA of Hopkins Creek. This property was the subject of a variance request made in November 2002 for an unauthorized garage that had been constructed in the 100-foot Critical Area Buffer to a tributary stream. The garage has since been removed, the area restored, and the applicant wishes to continue the previous use of the area as a lawn. We do not oppose this variance request.

Please provide this office with a copy of the written decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

Critical Area Commission

STAFF REPORT December 3, 2003

APPLICANT: Wicomico County

PROPOSAL: Refinement- Richardson Property Growth Allocation

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval with Conditions

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 Location and Extent of Future Intensely Developed and Limited Development Areas

DISCUSSION:

Wicomico County is requesting approval of the use of 0.60 acres of growth allocation to change the Critical Area overlay designation of Tax Map 35, Grid 11, Parcel 5, Lot 3A from Resource Conservation Area to Limited Development Area. The Wicomico County Planning Commission approved this request at its September 25, 2003 meeting. The Wicomico County Council approved this request after a public hearing was held on October 21, 2003.

This parcel is located along the south side of Cherry Walk Road in Quantico, Maryland and lies partially within the Critical Area of Quantico Creek. The County will have 703.38 acres of growth allocation remaining after this request is approved. The purpose of this growth allocation request is to provide a 10,000 square foot sewage reserve area and a sewage pipeline to a proposed dwelling that will be located outside the Critical Area. The County has shown that an additional septic area cannot be achieved on the property outside the Critical Area.

The parent parcel contains 73.41 acres, of which 40.6 lie within the Critical Area. The two available RCA density rights were used by a two-lot subdivision created in 1992. Both of these lots contain acreage both within and outside the Critical Area; however, development on both lots took place within the Critical Area using the available Critical Area density for the parcel. Lot 1 contains 13.58 acres, with 10.19 acres in the Critical Area, and Lot 2 contains 7.08 acres, with 2.65 acres within the Critical Area. The residue became Lot 3, which contains 52.75 acres, with 25.28 acres within the Critical Area, but no Critical Area density available. The applicant originally planned to develop the residue outside the Critical Area; however, there were no passing percolation tests outside the Critical Area. In order to make Lot 3 buildable, a sewage disposal area had to be located within the Critical Area and growth allocation was required.

The Program Subcommittee previously discussed this project at its April 2002 and July 2002 meetings. In April, the County requested 0.33 acres growth allocation to include the sewage reserve area and the utility line leading to it. The Subcommittee recommended the growth allocation request include more information on the environmental features on the site, and that the request include the remaining 0.6 acres of RCA that was not used for density for Lots 1 and 2. In July, the Subcommittee reviewed an amended request that included additional environmental information and proposed the use of 0.60 acres growth allocation. The Program Subcommittee advised the County that, if the growth allocation were approved at the local level, it would look at this request favorably, subject to three recommendations involving the configuration of the development envelope, the use of enhanced septic technology including system maintenance, and the establishment of a development envelope consisting of 0.6 acres and precluding further development of the property.

Neither the 100-foot Buffer, nor any other Habitat Protection Area, occurs within the growth allocation envelope. No tree clearing is proposed for implementing this project.

The County has modified its request for growth allocation in accordance with the recommendations made by the Program Subcommittee. The County included the three conditions set out below. The Chairman has determined, and is seeking your concurrence, that this growth allocation request can be approved as a refinement subject to these conditions:

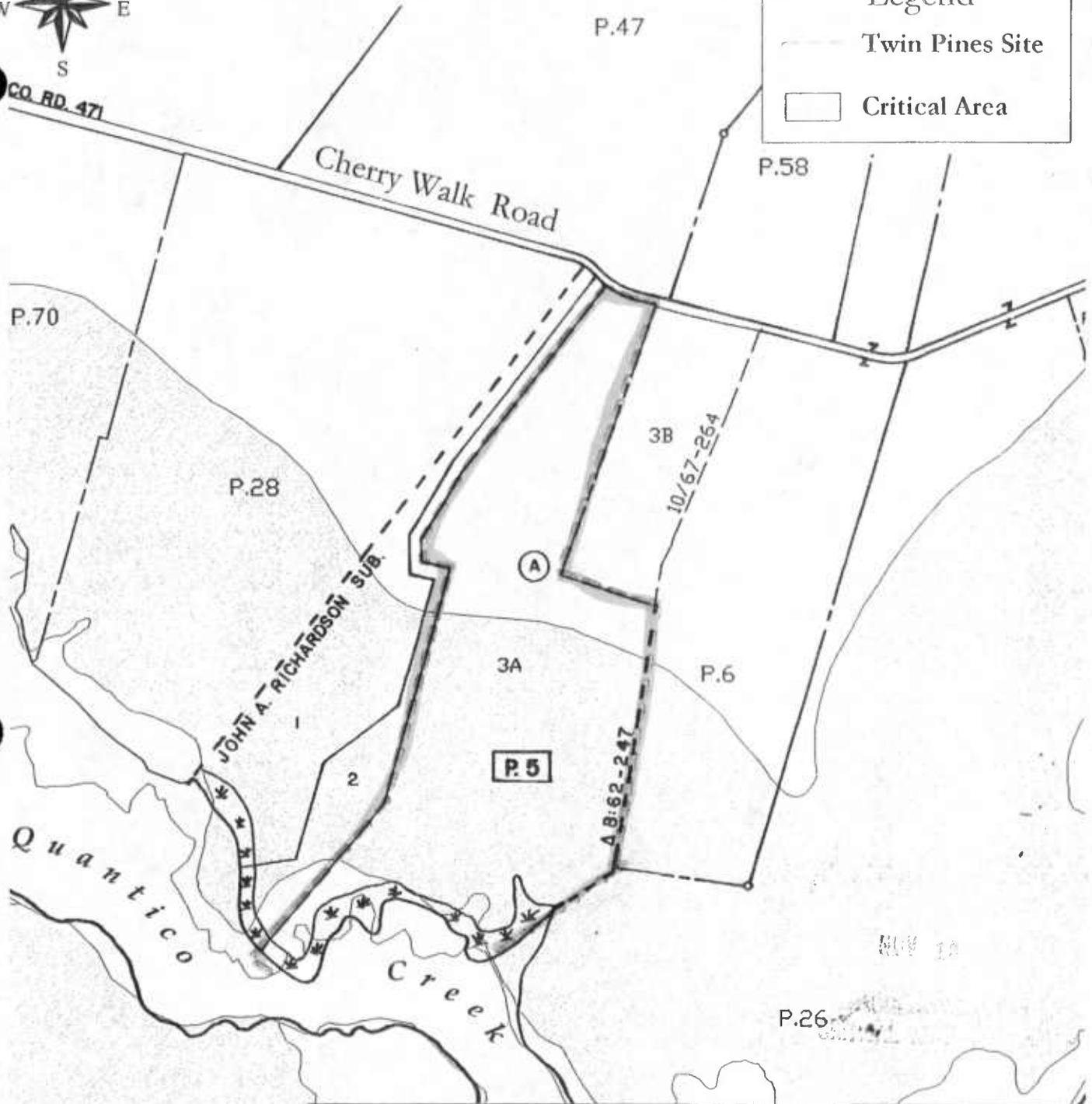
- 1) Lot 3A shall be divided into two separate lots; one which cannot be further developed and the other which is created by establishing lot lines around the sewage reserve area and utility line connecting the area to the building site outside the Critical Area;
- 2) A note shall be placed on the plat requiring the use of enhanced septic technology and the performance of required maintenance on the system to ensure proper functioning; and
- 3) A development envelope shall be established totaling no more than 0.60 acres.

Commission staff are still working with County staff on the configuration of the development envelope. In order to minimize the effect of creating an island of LDA in the RCA, the development envelope was originally proposed to abut the property line; however, there is an existing 20-foot wide drainage easement adjacent to the property line. It appears that some reconfiguration of the development envelope may be necessary to meet Health Department requirements, and additional information will be available at the Commission meeting.



Legend

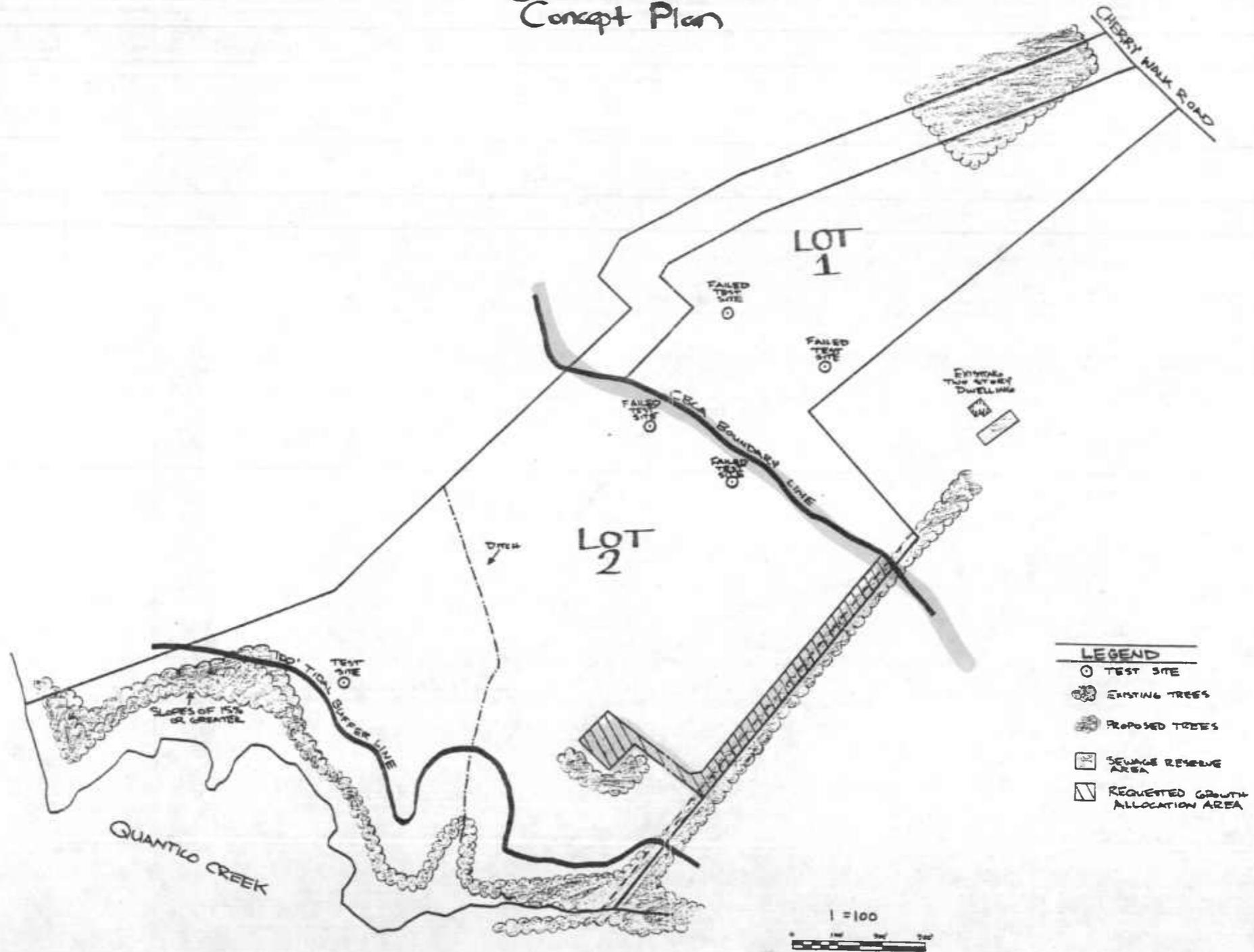
- Twin Pines Site
- Critical Area



WILLIAM C. SULLIVAN
twin pines growth alloc request.apr

Richardson
**Twin Pines Subdivision
 Growth Allocation Request**

Growth Allocation Concept Plan



- LEGEND**
- TEST SITE
 - ☉ EXISTING TREES
 - ☁ PROPOSED TREES
 - ▨ SEWAGE RESERVE AREA
 - ▧ REQUESTED GROWTH ALLOCATION AREA

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/

December 1, 2003

Ms. Sue Veith
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 387-03: MSUB # 03-110-029 Fenhagen Property, Farmstead 1 & Outparcel A Revised Subdivision Plat**

Dear Sue,

The revised minor subdivision plat addresses all the comments in my June 23 and July 11, 2003 letters. -The updated soils and topographic information now show large areas of hydric soils, steep slopes along the shoreline, and tributary streams, therefore, I have these additional comments:

1. It is difficult to determine if the Buffer has been properly expanded for the 15% or greater steep slopes. The Buffer must be expanded 4 feet for every one percent of slope, or to the top of the slope, whichever is greater. In this case, it appears the Buffer has been expanded to the top of the slope when, perhaps, it should have been expanded at least another 60 feet.
2. There is an area of Othello soils adjacent to the 100-foot Critical Area Buffer to the tributary stream and its nontidal wetland. If development or disturbance will impact the wetlands or stream, the Buffer may need to be expanded to include hydric soils.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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/

December 1, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

Re: **CS 836-03: Minor Variance # 1107 Susan Kates Critical Area Buffer Variance**

Dear Reed,

I have reviewed the information regarding this Critical Area Buffer variance to construct an addition onto an existing house located in the LDA of Wicomico River. Provided this is a properly grandfathered lot and meets all other local zoning requirements, we do not object to the granting of this variance. We recommend the variance approval include a condition that mitigation with native Buffer plantings be provided at a 3:1 ratio to offset the 128 square feet of new disturbances in the Buffer, and for the two trees that must be removed. It appears the mitigation will equal 1,584 square feet, while the planting plan currently shows 800 square feet of mitigation.

Please provide this office with a copy of the written decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

BC 279-02

CLEARINGHOUSE REVIEW

October 31, 2003

RECEIVED

TO : Arnold Norden, Greenways and Resources Planning (E-4)
 Glenn Therres, Wildlife (E-1)
 Robert Beckett, State Forest and Park Service (E-3)
 Scott Sewell, Natural Resources Police (E-3)
 Matthew Fleming, Education, Bay Policy Growth Management (E-2)
 Marian Honeczy, Forestry (E-1)
 Bill Hodges, Resource Assessment Services (B-3)
 Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)

NOV 30
 GREENWAYS AND RESOURCES PLANNING
 CRITICAL AREA COMMISSION
 11/26/03 A

FROM : ^{J.W.P.} James W. Price, Director, Program Open Space

SUBJ : POS # 4498-3-384

Chesapeake Village Park Design and Development, Baltimore County

The proposed project consists of the design and construction of a new waterfront park on the 17.3 acre Chesapeake Village Park Site in Middle River. The concept plan for the park includes: Waterfront Boardwalk, day-use piers, boat ramp, athletic field, path/trail network, playground, picnic area, two comfort stations, parking areas, nature interpretation area and various amenities.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

1. The project does not conflict with the plans, programs or objectives of this Agency
2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.
3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

CHECK

INITIAL

✓	wdc
_____	_____
_____	_____

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

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 26, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 804-03: GCP 30137 Parcel B Gatchell Property

Dear Elsa,

I have reviewed the site plan and architectural drawings for the proposed detached two-story garage, whose proposed uses are for vehicle storage, home office, library, workout room and game room. This structure would be located on a 4.71 acre parcel in the RCA of Potomac River, just east of the Town limits of the Town of Indian Head.

We cannot support this site plan. The proposed detached garage/home office/play room contains a floor plan that is similar to most ranch-style homes, and the design does very little to preclude its use as a dwelling. Should this structure be converted to use as a dwelling, it would exceed the 1 per 20 RCZ density. The proposed plumbing, septic system, and more than one toilet facility suggests frequent and prolonged use by more than one individual. The presence of several closets and a balcony make this structure's intended use to also appear to be more as a dwelling than for accessory uses. The design on this structure, particularly on the second floor, must be modified to make it more conducive to meeting the needs of the stated uses, and less conducive as a potential use as a dwelling.

I have additional concerns regarding whether the intended use of the home office and garage areas may be associated with a home occupation or commercial business, both of which do not occur in the County's list of Uses Permissible in the RCZ.

- The architectural drawings shows only one garage door with a parking area located between an exterior wall and a load-bearing wall, which separates the parking of personal vehicles from the rest of the first floor. On the other side of the load-bearing wall is a large open area containing a beam rated for a 5000-pound winch, which is usually used

for removing engines from cars and boats. The site plan includes a note regarding an "overhang carport" along the exterior of the structure, although it does not show the footprint of the carport nor provide for its impervious area in the site tabulations. This arrangement suggests a repair shop may be the intended use of the first floor.

- Is the proposed home office intended to support a home occupation or on-site commercial use? Is the "garage" a vehicle storage garage or an auto repair garage? This structure has a larger-than-usual footprint for a garage, particularly one that seems to be providing most of its parking area outside.
- Will a walkway be provided between the primary residence and this proposed structure? If so, its impervious area must also be provided in the site tabulations.

I recommend the applicant clarify his intended uses of this structure, and provide a design that is clearly consistent with such uses.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Cole
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
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 25, 2003

Mr. Jim Turlington
Turlington Valuation Associates, Inc.
PO Box 205
Hunt Valley, MD 21030

Re: Higgins Mill Pond, Dorchester County Tax Map 43, Grid 16, Parcel 17

Dear Mr. Turlington,

I have enclosed copies of the area known as Higgins Mill Pond, as found on the Dorchester County Critical Area map 43 and State tidal wetland maps 89 and 90A. You requested information regarding the number of RCA density rights available to the Critical Area portion of the parcel, and whether the calculation of density could include the nontidal, open water acreage of the pond.

According to the maps Higgins Mill Pond contains acreage both inside and outside the Critical Area. Higgins Mill Pond Road forms a dam across the lower end of the pond so that all of the wetlands above the dam are classified as nontidal, and some of those nontidal wetlands are located within the Critical Area. The parcel below the dam contains areas of State tidal open water, and large areas of Type 22 red maple-ash wetlands that could be classified as either State-tidal wetlands, private tidal wetlands, or both. You will need to contact Maryland Department of the Environment (MDE) for assistance in determining where the differentiating line might occur.

State tidal wetland acreage must be deducted from a parcel's tract acreage when calculating RCA density. RCA density cannot be determined based upon the maps alone. You will first need to determine the following information, and then contact Dorchester County for guidance in calculating the appropriate RCA density, as the County's underlying zoning may have requirements that could also affect the available density in the Critical Area.

1. The size of the Critical Area portion of the parcel, minus any State tidal wetlands.

2. The Critical Area portion of this lot which is classified as uplands, excluding all nontidal wetland acreage.
3. Any dwellings located within the Critical Area portion of the parcel.

For guidance regarding density rights in and outside the Critical Area, you will need to provide the above information to Mr. Steve Dodd, Planning Director, at the Dorchester County Planning & Zoning office. Mr. Dodd may be reached at 410-228-3234. For assistance in determining the areas classified as State or private tidal wetlands, please contact Mr. Stan Causey, MDE Wetlands and Waterway Program, at 410-901-4043.

I hope this information has been helpful. Please contact me at 410-260-3481 if you have any questions regarding these comments.

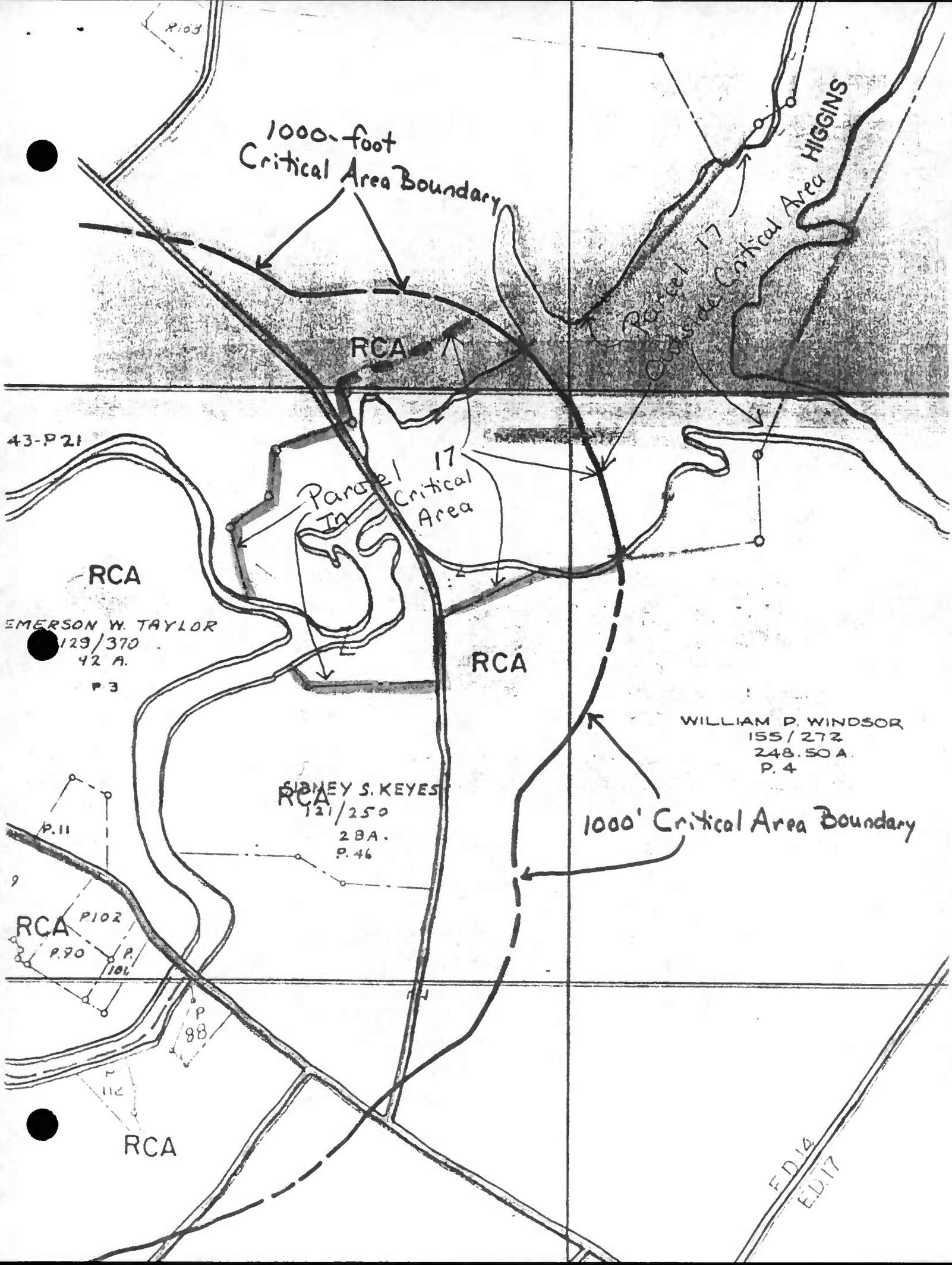
Sincerely,



Wanda Diane Cole
Natural Resources Planner

Enclosures (2)

cc: Steve Dodd
Stan Causey



1000-foot
Critical Area Boundary

RCA

Parcel 17
Outside Critical Area

HIGGINS

43-P21

Parcel 17
Critical Area

RCA

EMERSON W. TAYLOR
129/370
42 A.
P. 3

RCA

WILLIAM D. WINDSOR
155/272
248.50 A.
P. 4

SIDNEY S. KEYES
RCA
121/250
28A.
P. 46

1000' Critical Area Boundary

RCA
P.102
P.90
P.106

RCA

ED 14
ED 17

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. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: **WIA-8: Jack Richardson Property, Request to Use 0.60 Acres Growth Allocation**

Dear Matt,

Thank you for your submittal of the above referenced growth allocation request to use 0.60 acres of growth allocation to change the Critical Area overlay designation from Resource Conservation Area to Limited Development Area. The Critical Area Commission received your letter on November 13, 2003 and is accepting the information as a complete submittal. Senator Madden has determined that this matter can be handled as a refinement, and the Commission will review the matter on December 3, 2003.

Please contact Mary Owens or myself prior to December 3rd to discuss the configuration of the development envelope. It appears that some reconfiguration of the development envelope may be necessary to meet Health Department requirements, which may create an island of LDA in the RCA. We need to resolve this situation prior to presenting this to the Program Subcommittee.

You and the applicant are encouraged to attend the meeting, which will be held at the People's Resource Center, Conference Room 1100A, 100 Community Place in Crownsville. I will forward an electronic copy of the agenda and staff report for your use. If you have any questions, please contact Mary Owens at 410-260-3480, or myself at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

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 24, 2003

Ms. Yvonne Chaillet
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: **SM 818-03: # 03-2545 Thomas Smoot Variance Request**

Dear Yvonne,

I have reviewed the information regarding the applicant's variance request to cause new disturbances in the 100-foot Critical Area Buffer and to exceed the site's 15% impervious surface limit. This project proposes the removal of an existing, 192- square foot porch built on slab. A great room is proposed to be constructed over that area, plus create an additional 288 square feet of impervious surface in the Buffer over existing ground. The front wall of the expanded great room will join the two adjacent front walls of the house so that the final result is one continuous front wall on the house. The applicant also proposes to add a 192-square foot porch onto the front of the house. This is a grandfathered lot in the RCA of Trent Hall Creek, and the property is largely constrained by the 100-foot Critical Area Buffer, which is not shown on the site plan.

With this project, the site will have 16.3% in impervious surface areas. Therefore, an impervious surface variance is also required. The site currently contains 15.2% impervious surfaces.

We do not oppose the construction of the great room and porch in the Buffer, however, we cannot support the variance request to exceed the 15% impervious surface limit. This site is already over its 15% limit and the law is very clear regarding the limits on impervious surface areas in the Critical Area. It appears 480 square feet of existing impervious surface areas could be removed so that the project would not need an impervious surface variance. We recommend the applicant consider the existing walkway and driveway as potential areas for removing existing impervious surface areas.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 21, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: **BC 807-03: Variance Request 03-12, Michael and Denise Novak**

Dear Keith,

I have reviewed the information for this variance request to replace a dwelling in the Critical Area Buffer on a grandfathered lot in the RCA of Sue Creek. This site is largely constrained by the Buffer and steep slopes. This office does not oppose the granting of this variance request. We recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances in the Buffer be planted on-site within the Buffer, using native species.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

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 21, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: **BC 809-03: Variance Request 03-14, Peter & Mabel Garey**

Dear Keith,

I have reviewed the information regarding this variance request to construct a dwelling, deck, driveway, walkways, and utilities within the 100' Critical Area Buffer on a grandfathered parcel located in the LDA of Galloway Creek. This parcel consists of two, 50-foot wide lots, and is bounded by the creek on one side, a tidal ditch on a second side, and the community road along the third side, leaving no room for a conforming development envelope. The proposed development is no closer to the shoreline than the structures on the adjacent lots.

This office does not oppose the granting of this variance request. We recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances in the Buffer be planted on-site, using native species.

Note #9 on the plan is not correct and should be deleted.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 21, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection and Resource Management
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: **BC 808-03: Variance Request 03-13, Carol Kern**

Dear Keith,

I have reviewed the information regarding this variance request to construct a driveway across nontidal wetlands on a grandfathered lot located in the RCA of Galloway Creek. The nontidal wetland is situated immediately adjacent to Bowley's Quarter Road and in the path of the only point of access into the interior of the lot.

This office does not oppose the granting of this variance request. We recommend the variance approval include the following conditions:

1. A valid Nontidal Wetland Permit is obtained from Maryland Department of the Environment prior to construction of the driveway.
2. The mitigation for forest clearing is accomplished as outlined in DEPRM's letter from Keith Kelley, dated September 4, 2003.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 21, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 803 -03: MSUB # 03-141-050 St. George's Point BLAP**

Dear Sue,

I have reviewed the boundary line adjustment plat which transfers 1.621 acres from tax map 62, parcel 45 to parcel 105. This boundary line adjustment will not cause an increase in RCA density in the Critical Area of St. Mary's River. Our office has no comments.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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 21, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 752-03: MSUB # 03-120-031 Lighthouse Commons, Section 1**

Dear Sue,

I have reviewed the information on the preliminary plan for this subdivision, which is being proposed on an undeveloped parcel in the IDA of St. George Creek, Piney Point Creek, and Potomac River. The 100-foot Critical Area Buffer does not occur on this parcel. The following comments are provided for your use.

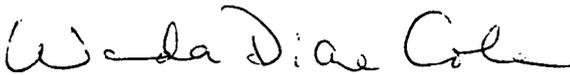
1. The nontidal wetlands along the northwest property line are headwaters to Piney Point Creek. The 100-foot Buffer must be provided for this tributary stream and expanded, if necessary, for adjacent nontidal wetlands. In addition, the soils in this area are hydric and the Buffer should be expanded to include these areas. More detail must be provided regarding off-site environmental features so that the correct delineation of the Buffer can be determined. I have attached an image taken from the MERLIN database regarding the NWI wetlands in this area.
2. The applicant must provide a completed 10% Rule calculation worksheet to show that the proposed stormwater management facilities are capable of meeting the pollution removal requirement. Copies of the worksheets must be provided to our office.
3. More information is needed regarding the design details of the proposed stormwater management facilities. Furthermore, one of the stormwater management facilities is located in nontidal wetlands, which may be part of the Buffer. Stormwater management features cannot be located in the Buffer or other Habitat Protection Areas without a variance. This office cannot support a new subdivision that requires variances to facilitate its development. It appears this site can accommodate stormwater management facilities without encroaching into the nontidal wetlands.

4. The Wildlife and Heritage Service (WHS) must be contacted for a determination on the presence of any rare, threatened, or endangered species and/or their habitats. All WHS comments must be addressed on the plat. A copy of the determination letter must be provided to this office prior to issuing any approvals for this project.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: DayTech Engineering, Inc.

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 20, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: **SA 116-03: Williams Landing Townhouse Apartment & Office Complex
Revised Landscape Plan and 10% Rule Calculations**

Dear Matt,

I have reviewed the revised landscape plans and 10% calculation worksheets. The landscape plans are very nicely done and have addressed all the comments in my October 24, 2003 letter.

The 10% Rule calculation worksheet required corrections as incorrect values were used for the regional constant and the flow-weighted mean concentration. The grass swale is no longer an approved structural BMP. The design proposed is most similar to the Wet Swale in the MDE stormwater manual, therefore the value for the removal efficiency had to be reduced to 40%. The design needs to be modified to include the plantings recommended in the MDE manual. The wet pond and swale # 1 are designed as a series, which requires each BMP to be sized to treat the full water quality volume for the area draining to it. For this series, the drainage area must be that of the pond. The pollutant removal requirement is 1.37 pounds, the best management practices are able to remove 0.621 pounds, leaving a deficit of 0.749 pounds. (See attached 10% calculation worksheet.)

You have indicated that the deficit may be offset by a payment into the City's fee-in-lieu fund. Please provide information on the fee rate charged, how much will be collected for this project, and how the City plans to use these funds to provide the required offset.

If you have any questions regarding these comments, please contact me at 410-260-3481 or Mary Owens at 410-260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 19, 2003

Mr. Steve Dodd, Director
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 743-03: # 1029 Edward Fleming, et al., Lot 1**

Dear Steve,

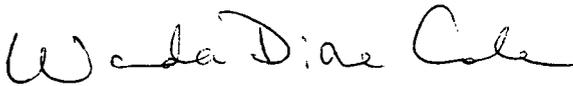
I have reviewed the plan for this one-lot subdivision in the RCA of Scotland Creek. The lot is located on an upland area between two tributary streams, and a portion of the lot lies outside the Critical Area boundary. The following comments are provided for your use:

1. The plat must state how many acres of the parent parcel are located in the Critical Area, the number of RCA density rights available, and how many RCA density rights have been used.
2. The boundaries of the parent tract must be shown. If any State tidal wetlands are located within the parcel boundaries, they must be shown. The acreage of any State tidal wetlands must be deducted from the gross parcel area when calculating the RCA density.
3. A 100-foot Critical Area Buffer must be delineated from the banks of each tributary stream and expanded for contiguous nontidal wetlands, if present. It appears this lot most likely does not include any acreage in the Buffer. I have enclosed information from the MERLIN database that depicts the approximate extent of the nontidal wetlands.
4. It appears the lot is mostly forested, so that 15% afforestation is not necessary. It appears the forested area of this property qualifies as FIDS habitat. The plat must incorporate the FIDS forest conservation guidance found in the Commission's June 2000 document, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*.

5. Topography, location of soils types, nontidal wetlands, and the woodline must be shown on the plat.
6. The Wildlife and Heritage Service (WHS) must be contacted regarding the presence of rare, threatened and endangered species, and their habitats. All WHS comments must be addressed on the plat prior to granting any approvals.

Please provide a copy of the revised plat when it is available. We may have additional comments based upon any new information. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

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 18, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 787-03: # 2170 Gary Kaufman Variance Request**

Dear Steve,

I have reviewed the information regarding this variance request and discussed the project with the applicant's consultant, Ron Gatton. The applicant proposes to construct a replacement dwelling, realign the driveway, and construct an enclosed patio (Florida room) in the 100-foot Critical Area Buffer on a grandfathered lot in the LDA of Fishing Bay. This site is almost entirely constrained by the Buffer. The upland portion has been maintained as lawn. The bank along the tidal wetland area on the east side of the property is 3 feet high. The proposed impervious surface areas are within the allowable limits. The plan also shows the proposed mitigation planting areas.

This office does not oppose the applicant's request to replace the dwelling, add a Florida room, and adjust the driveway's alignment. However, we recommend the proposed Florida room be reconfigured to provide the same buffer between it and the tidal wetlands as the east corner of the proposed house.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 18, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 788-03: # 2171 Terry L. and Robin Jill Vincent Variance Request**

Dear Steve,

I have reviewed the information regarding the applicant's variance request to construct a deck onto an existing dwelling, and a garage to replace a barn and other outbuildings that were destroyed by Tropical Storm Isabel. These accessory structures are located in the 100-foot Critical Area Buffer on a grandfathered lot in the LDA of Fishing Creek.

This office does not oppose this request. We recommend the variance include a condition that, for any new disturbances in the Buffer, 3:1 mitigation is to be provided on site using native plantings.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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 18, 2003

Mr. Ron Young
Town Manager
Town of Indian Head
Indian Head, MD 20640

Re: **IH 810-03: Saber Helal Variance Request, 14 Poplar Avenue**

Dear Ron,

I have reviewed the site plan regarding this variance request. The plan does not provide sufficient information to properly evaluate the applicant's proposal to raze an existing dwelling on a grandfathered lot and replace it with a dwelling located on steep slopes in the LDA of the Potomac River. These steep slopes are contiguous to the 100-foot Critical Area Buffer, which requires that the Buffer be expanded. Therefore, the proposed dwelling and a portion of its driveway are being proposed in the expanded Buffer. I have attached the site plan with a green line depicting the location of the expanded Buffer line.

Based upon the information provided, this office opposes this request for a Buffer variance to construct the dwelling and a portion of its driveway in the expanded Buffer. In 2002, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values. § 8-1808 of the Natural Resources Article and the Code of Maryland Regulations both provide standards a local government must use when granting a variance. Because the applicant must meet all of the standards in order for the Board to grant a variance, this office believes that, in this case, those standards clearly have not been met. I have outlined those standards below:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. The existing house is located outside the

expanded Buffer and that area could be reutilized. The property also contains sufficient area outside the expanded Buffer for reasonable use of the property. The applicant has not shown that there is no opportunity to develop a footprint without the need for a Buffer variance.

2. That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. The applicants have ample area for reasonable use of this property, and therefore, they would not be denied a right commonly enjoyed by their neighbors. There is opportunity to choose a footprint that will accommodate a primary structure and accessory uses without the need for a variance. The applicant's rights must be evaluated against the rights of other property owners under the Critical Area Program.
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area. If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this subdivision, as well as in similar situations in the Town's Critical Area. Owners of parcels must select footprints that will conform to all setbacks and development standards that apply to their lands.
4. The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. The applicant meets this standard.
5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. The applicant bears the burden to prove this factor, along with the others discussed above. In 2002, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. Studies show that a well-established 100-foot Buffer is vital to treating stormwater pollution before it reaches a waterway. Similarly, the habitat within the Buffer provides riparian habitat vital to wildlife for foraging, protection for predators, and resting areas for migratory species that use shorelines as landmarks during migration. Granting this variance will contribute to the decline of water quality in the Potomac River, and, ultimately, the Chesapeake Bay. Decline in water quality contributes to declines in aquatic habitat, ultimately affecting the viability of local fisheries and the local economies that depend on them.

In conclusion, it is our position that, unless the Board finds that the applicant has met the burden of proof on each one of the Town's variance standards, the Board must deny this application.

The applicant will need to provide the following information to complete his application:

1. The applicant must state the amount of impervious surface areas that are existing and proposed. Impervious surface areas are limited to 15% on a grandfathered parcel of this size.
2. The applicant must state whether the existing driveway will be removed, and if not, show which areas are to remain.
3. Information on the amount of tree clearing must be provided. Mitigation for tree clearing and new disturbances in the Buffer is 3:1. Mitigation for tree clearing only outside the Buffer is 1:1 if the clearing is less than 20% of the existing cover.

Please provide a copy of the written decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Marianne Mason

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 17, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 753-03: MSUB # 03-110-102 Foxes Point, Lots 7-11**

Dear Sue,

I have reviewed the information on this minor subdivision plat, which proposes 5 lots in the LDA of Breton Bay and Moll Dyers Run. Lot 7 contains 2 existing dwellings and one guest house. The following comments are provided for your use.

1. Due to the scale, it is difficult to determine how the 100' Critical Area Buffer was delineated. The plat must provide more detail regarding the location and features of the Buffer. All tributary streams, whose 100' Buffer may affect the development envelope on these lots, must be shown, even if the stream is located off-site.
2. The existing forest cover is less than 15%, therefore, afforestation must be provided and the planting site shown on the plat. If this subdivision causes a change in use from agriculture to residential, the 100' Buffer must be fully established.
3. The Wildlife and Heritage Service (WHS) must be contacted for a determination on the presence of any rare, threatened, or endangered species and/or their habitats. All WHS comments must be addressed on the plat. A copy of the determination letter must be provided to this office prior to issuing any approvals for this project.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Jerry Soderberg, DH Steffens Co.

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 13, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 754-03: MSUB # 03-110-104 Springfield Farm, Lot 4 Minor Subdivision**

Dear Sue,

I have reviewed the subdivision plat for Lot 4, Springfield Farm, which creates a 1.9348 acre lot in the RCA of White Neck Creek. An 18.0652 acre density reservation parcel "A" will maintain the 1 in 20 RCA density for Lot 4. I am providing the following comments for your use:

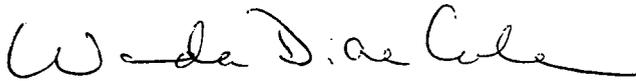
1. The parent parcel contains 57.54 acres. Outparcel 500-A, which appears to contain the tract's balance of 37.54 acres, is located partially out of the Critical Area. The plat must state how much of the parcel's acreage occurs in the Critical Area.
2. The plat must state the total RCA density available to the parent parcel, and how much, if any, has already been utilized. If there is only one RCA density right available, then the plat must contain a statement that Outparcel 500-A has no density rights in the Critical Area.
3. The plat must show the boundary for the entire parent parcel and any existing structures.
4. It appears Lot 4 is fully wooded, so that establishment of the Buffer and/or 15% afforestation are not necessary.
5. If the entire tract is wooded, the forest habitat may qualify as FIDS habitat. If there are FIDS on site, the applicant must refer to the Commission's June 2000 document, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, to determine any FIDS impacts and mitigation. The Wildlife and Heritage Service (WHS) must be contacted for a determination on the presence of rare, threatened, and endangered species and/or their habitats. All WHS comments must be addressed on the

plat. A copy of the WHS determination letter must be provided to this office.

Please forward a copy of the revised plat once it is available. We may have additional comments based upon any new information that is provided.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Lori Byrne- WHS
T. VanMeter- Little Silences Rest, Inc.

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 12, 2003

Mr. Greg Golden
Environmental Review Unit
Tawes Bldg, B-3
Annapolis, Maryland 21401
(VIA: State Courier)

Re: Phase II Geologic and Hydrogeologic Report:
Days Cove Rubble Landfill Lateral Expansion, Baltimore County

Dear Greg,

I have reviewed the information regarding this proposal to expand the rubble landfill operations at Days Cove, which is located on State-owned property managed by Gunpowder Falls State Park. As this information was provided in excerpt form, the following comments may already be addressed in the report.

1. Projects located in the Critical Area on State-owned properties require formal approval by the Critical Area Commission. It appears the eastern arm of this expansion is located partially within the 1,000 foot Critical Area boundary. Therefore, the Department of Natural Resources must submit this project to the Commission for approval. We recommend the design plans be provided to our office for review as each design phase proceeds.
2. We will need the following information for our review:
 - The exact location of the 1,000 foot Critical Area boundary within the project's limits of disturbance. I have attached a copy of the Critical Area boundary map for this area.
 - The location of the 100-foot Critical Area Buffer, as measured in the field, must be shown on the design plans. The 100-foot Buffer must also be delineated for all tributary streams that occur within the Critical Area.

- Existing environmental features with the Critical Area portion of the project, including the location of the mean high water line, soils types, topography on 2-ft contours, location of the limits of tidal and nontidal wetlands and their regulatory buffers, location of tributary streams and their 100-foot Buffers, and forest cover. The location and amount of any proposed forest clearing must also be shown, as well as the location, dimensions, and quantity of existing and proposed impervious surface areas, such as structures and roadways.
3. The Wildlife and Heritage Service (WHS) must be contacted for a determination on the presence or rare, threatened and/or endangered species and/or their habitats. All WHS comments must be addressed in the design plans.
 4. Mitigation for forest clearing is generally 1:1 for impacts outside the 100-foot Critical Area Buffer, and 3:1 for all disturbances within the Buffer.
 5. When the final design has obtained permits and approvals from all other regulatory agencies, we will place the project on the Commission agenda. The Commission meets the first Wednesday of each month. I will be the applicant's contact during this process.

I may be reached at 410-260-3481, or by email at wcole@dnr.state.md.us, regarding these comments and the approval process.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Gene Piotrowski
Michele Hurt
Mike Browning
Lori Byrne



DUR 06-97 07-97
08-88
05-94
07-94

Robert L. Ehrlich, Jr.
Governor

Maryland Department of Natural Resources
ENVIRONMENTAL REVIEW
Tawes State Office Building, B-3
Annapolis, Maryland 21401

C. Ronald Franks
Secretary

Michael S. Steele
Lt. Governor

W. P. Jensen
Deputy Secretary

October 21, 2003

Memorandum

To: Matthew Fleming, WS
Tim Larney, WHS
Marian Honecny, FORS
Arnold Norden, RP
Pete Dunbar, RAS
— Regina Esslinger, CBCAC
Gerald Baum, MGS

From: *GS*
Greg Golden, Environmental Review

Subject: Phase II Geologic and Hydrogeologic Report, Days Cove Rubble Landfill Lateral Expansion, Baltimore County

Please review the attached information and send any comments you may have relative to the Department's concern to me by November 5, 2003. I also have one notebook with additional figures, appendices, and fold-out maps. Please let me know if you would like to review this additional information. Also, please note that the information in this packet is concerning the Days Cove Rubble Landfill Lateral Expansion, which is located between the existing Days Cove Rubble Landfill Horizontal Expansion and the inactive and capped original Days Cove Rubble Landfill.

Please complete the following and return this memorandum with your response:

Check one:

Comments are attached.

No comments.

Wanda Diane Cole

Signature

Critical Area Commission

Agency

If no comments are received by November 5, 2003, it will be assumed that you have none.

RECEIVED

OCT 23 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Attachment

CLEARINGHOUSE REVIEW

RECEIVED

October 31, 2003

NOV 12 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

TO : Arnold Norden, Greenways and Resources Planning (E-4)
Glenn Therres, Wildlife (E-1)
Robert Beckett, State Forest and Park Service (E-3)
Scott Sewell, Natural Resources Police (E-3)
Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Honeczy, Forestry (E-1)
Bill Hodges, Resource Assessment Services (B-3)
Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)

FROM : *J.W.P.* James W. Price, Director, Program Open Space

SUBJ : POS # 4500-3-385
Belmont Park-Parking Expansion and Development, Baltimore County

The proposed project consists of the design and construction of a paved 68 space parking lot addition at Belmont Park.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

- 1. The project does not conflict with the plans, programs or objectives of this Agency
- 2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.
- 3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

CHECK

INITIAL

Wde

Project is not located in the Critical Area

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

CLEARINGHOUSE REVIEW

October 31, 2003

RECEIVED
OCT 31 2003
CRITICAL AREA COMMISSION

TO : Arnold Norden, Greenways and Resources Planning (E-4)
Glenn Therres, Wildlife (E-1)
Robert Beckett, State Forest and Park Service (E-3)
Scott Sewell, Natural Resources Police (E-3)
Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Honecny, Forestry (E-1)
Bill Hodges, Resource Assessment Services (B-3)
Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)

J.W.P.

FROM : James W. Price, Director, Program Open Space

SUBJ : POS # 4494-3-383
Cowenton Ridge Park Development, Baltimore County

The construction of a new community park which, is one of five planned for the Hongo Growth Area. Improvements planned include: two lighted athletic fields, playground, picnic area, trail/path network, comfort station, 80 space parking lot, landscaping and forest conservation plantings.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

	<u>CHECK</u>	<u>INITIAL</u>
1. The project does not conflict with the plans, programs or objectives of this Agency	<input checked="" type="checkbox"/>	<i>Wdc</i>
2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.	<input type="checkbox"/>	
3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.	<input type="checkbox"/>	

Project is not located in the Critical Area.

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

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

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 767-03: Snow Hill Road Bridge over Wicomico River: Grout-filled Bags**

Dear Matt,

I have reviewed the information regarding the placement of grout-filled bags below mean high water to protect the wingwall footings in areas where it appears the channel bottom has scoured. The work is being performed below mean high water and has been authorized by Maryland Department of the Environment and the Army Corps of Engineers.

It appears the disturbances in the Buffer are limited to temporary impacts caused by access to the structure and work area. Most of the existing forest vegetation will not be disturbed. If clearing of forest vegetation for access to the work area cannot be avoided, mitigation must be provided on-site at a 2:1 ratio using native woody species. If permanent disturbances should be proposed in the Buffer, the project must obtain formal approval from the Critical Area Commission.

Please contact me at 410-260-3481 if you have any questions about these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: **BC 755-03: 03-11 Edgar Grove, LLC Variance Request**

Dear Keith,

I have reviewed the information regarding this request to replace two dwellings on William Avenue and three dwellings on Edgar Road. The existing dwellings are all located on grandfathered lots in the LDA of Sue Creek, and all lots are largely constrained by the 100' Critical Area Buffer. The footprints for these replacement dwellings are different from the existing, as most are larger in size, and all will be located farther from Sue Creek. The Edgar Road lots are almost entirely forested.

This office does not oppose the granting of this variance request. We recommend the variance approval include the following conditions:

1. The required 3:1 mitigation plantings for new disturbances in the Buffer must be first provided on-site in the Buffer. Plantings that cannot be achieved on the three Edgar Roads lots must be used in conjunction with the Williams Avenue Buffer plantings to provide afforestation on the two Williams Avenue lots.
2. The impervious surface areas of each lot must not exceed the maximum allowable limits.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

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 7, 2003

Mr. Jerry Soderberg
DH Steffens Company
22335 Exploration Drive
Leonardtown, MD 20650

Re: **SM 411-03: PSUB # 03-120-017 St. Jerome's Crossroads
Preliminary and Forest Conservation & Environmental Features Plans**

Dear Jerry,

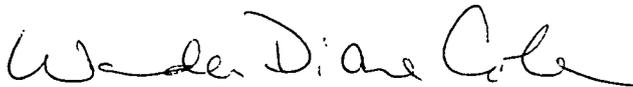
Thank you for providing me with the most recent copies of these plans. The plans now include information on tributary streams and their expanded Critical Area Buffers. Since our last review, comments from the Wildlife and Heritage Service (WHS) have also been received. I have reviewed this information and have the following comments.

1. The Critical Area boundary occurs in two separate locations on the parent parcel. The RCA density has been calculated based upon the parcel's combined Critical Area acreage. The northern portion of the parcel borders an area mapped as tidal wetland on both the State tidal wetland map and the St. Mary's Soil Survey. Following our phone conversation today, I spoke with our science advisor, Claudia Jones. We reviewed the State tidal wetland map and concur with your findings that State tidal wetland acreage does not occur within the parcel boundaries. Even if a fringe of *Spartina alterniflora* occurred along the shoreline, it would measure far less than 5.6 acres- the amount it would take to affect the RCA density calculations.
2. The Forest Conservation Plan addresses clearing and mitigation thresholds for areas outside the Critical Area. This same information must also be provided for the proposed lots within the Critical Area. This may be achieved by listing the FIDS conservation guidelines, and by providing statements regarding the maximum 30% forest clearing limit and corresponding forest mitigation ratios. Or, a development envelope may be defined whose limits of disturbance meets the FIDS conservation guidance, as well as the forest clearing limits.

3. There is an unlabeled area that takes on the appearance of an access road from St. Jerome's Neck Road into Lots 1-3. It also crosses the expanded Buffer. Based upon our phone conversation, it is my understanding that this is a duplicate property line that will be erased.
4. You have indicated that the impervious surface areas and forest clearing associated with the Critical Area portion of School House Lane will be counted against the allowances for the lots on which the disturbances occur, namely, Lots 1 and 3. I recommend the plat contain notes to alert future owners and their builders to the balance of impervious surface area and forest clearing that remains with their lot.
5. The Wildlife and Heritage Service has indicated a number of State Rare and State Threatened species that could occur on this property. The applicant must have the site assessed for the presence of the State Threatened Crested Yellow Orchid, as its habitat appears to be present on Lots 1-3 in the areas to be cleared for sewage reserve areas. The State Rare Lady's Tresses could also occur in the varied habitats present on this site. Please call Ms. Kathy McCarthy at 410-260-8569 for guidance on assessing for these plants. Please provide a note on the plat as to whether the site has been assessed, and if so, the outcome of the assessment.
6. Please add a note that clearing of the sewage reserve areas on Lots 1-3 will be limited to the primary drain fields in order to conserve FIDS habitat.

Please provide a copy of the revised plat once it is available. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Sue Veith

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 24, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: **SA739-03: Mark T. Reeves Variance Request**

Dear Matt,

I have reviewed the information for the applicant's variance request to construct a 16' x 24' bathroom addition onto an existing dwelling on a grandfathered lot in the LDA of Wicomico River. This property contains 6.83 acres. The corners of the west end of the existing dwelling measure 73 and 86 feet from mean high water. The proposed bathroom represents a channelward encroachment into the 100-foot Critical Area Buffer of 16 linear feet.

We do not oppose this variance request. We recommend the variance approval include a condition that the required 3:1 mitigation plantings for new disturbances in the Buffer be provided on-site in the Buffer using native species.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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/

October 24, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: SA 116-03: Williams Landing Townhouse Apartment & Office Complex

Dear Matt,

I have reviewed the revised plans for this project, which have been submitted as follow-up to Ms. LeeAnne Chandler's comment letter, dated February 24, 2003. This project is located in the IDA of the Wicomico River within the City of Salisbury. The property is subject to the requirements of its Special Buffer Area designation, which includes a 30' setback requirement from mean high water as the Critical Area Buffer. The following comments are provided for your use:

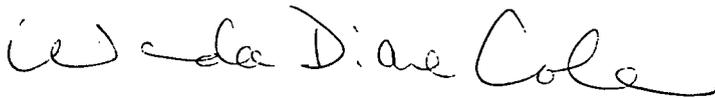
1. The 30-foot setback for the Buffer must be fully established in natural vegetation. Natural vegetation does not include turf grasses that will be maintained as lawn. While Landscape Plan Sheet L-1 provides an assortment of plantings for the entire project area, it does not satisfy the requirement to fully establish the 30' Buffer. Additional plantings, using native tree species, must be provided in the Buffer.
2. The existing woodline shown on sheet D-1 differs from that shown on sheet D-4 and L-1. The discrepancy in the Buffer is significant enough to warrant field verification, as it appears clearing in the Buffer is being proposed or has been done. The plans must be revised to accurately show existing site conditions.



3. The property line on the northwest side extends channelward of mean high water. In doing so, the property boundary encloses an area defined as State tidal wetlands. State tidal wetland acreage must be deducted from the total site area. This net site area is then used when calculating percentages- in this case, the percentage of post-development impervious area. Please determine if the site area deducted the acreage of the State tidal wetlands. If not, the 10% calculations must be revised as the pollutant removal requirement will change, as will the amount of payment into the Mitigation Fund.
4. Golden rain tree and crape myrtle are ornamentals and not species that are native to Maryland. They cannot be used for pollutant removal credit. I recommend native oak species, which are popular shade trees with colorful fall foliage, be considered instead.

A revised plan will be necessary. Please provide a copy of the revised plan once it is available. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

CLEARINGHOUSE REVIEW

October 20, 2003

RECEIVED

TO : Arnold Norden, Greenways and Resources Planning (E-4)
Glenn Therres, Wildlife (E-1)
Robert Beckett, State Forest and Park Service (E-3)
Scott Sewell, Nat. Res. Police (E-3)
Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Honeczy, Forestry (E-1)
Bill Hodges, Resource Assessment Services (B-3)
Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)

OCT 23 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

FROM : James W. Price, Director, Program Open Space

SUBJ : POS # 4420-8-54
Bensville Park, Charles County

Project consists of development of the park entrance area for the BPW approved Bensville Park (previous project 4157-8-47). SHA is requiring Charles County to completely reconstruct a section of MD Route 229 in front of the park and this work was not anticipated in the original scope of work. The new entrance will include the super elevation of Rt. 229, accel and decel lanes, storm water management drain network, relocation of 6 utility poles, and construction of curb and gutter. The work required by SHA has made it necessary to request additional funding to develop Bensville Park

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

CHECK

INITIAL

- 1. The project does not conflict with the plans, programs or objectives of this Agency
2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.
3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

Handwritten checkmark and initials 'WJC 10/23/03' in the first row of the table.

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

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/

October 22, 2003

Ms. Karen Houtman
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Proposed Applications for Text Amendments

Dear Karen,

We have reviewed the four proposed Dorchester County Applications for Text Amendments. Our comments have been combined into categories as follows:

1. The two sets of text changes to the Dorchester County Critical Area Program and Dorchester County Zoning Regulations, which reflect the change in form of County government from "County Commissioners" to "County Council", are necessary and appropriate.
2. The proposed text changes to the Dorchester County Critical Area Program, which remove the 200 acre per year use of growth allocation, appear satisfactory. Due to the deletion of a portion of the text, I recommend combining the remaining wording from the first paragraph on page 26 of the Program with the introduction of the second paragraph. The result would read, **"Growth allocation other than that reserved for the municipalities may be directed to Resource Conservation Areas, or used to convert Limited Development Areas to Intensely Developed Areas, for RESIDENTIAL, commercial, industrial, and institutional uses. The 2900 acre growth allocation for Dorchester County will be used as follows, specific acreage amounts are not listed and may be adopted by resolution by the County Council:"**

TTY For the Deaf

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



3. The text amendments regarding Buffer Management Plans being prepared in consultation with, and reviewed by, the Planning and Zoning office, in lieu of the Forestry Board and/or the DNR Forest Service, is satisfactory and consistent with the Programs of many other local jurisdictions. The text amendments regarding the administration of the Fee-in-Lieu Fund for forest mitigation by the Planning and Zoning office is also satisfactory and consistent with the Programs of other local jurisdictions.

It is likely that during the review of these changes, the Commission's Program Subcommittee may request the following information for their review: the fees that will be assessed; how much money has been collected to-date; how much has been spent; whether the monies being collected will be directed toward replacement in the Buffer; and whether potential planting areas have been identified and are available.

Once these text amendments have been approved through the County's hearing process, please submit them to the Critical Area Commission as locally approved changes to the County's Critical Area Program. The submittal should include a copy of the signed and dated Resolution and/or Ordinance, together with the minutes of the meetings in which these amendments were heard and approved.

Thank you for the opportunity to review these proposed changes. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

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/

October 22, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: Proposed Policy: Chesapeake Bay Critical Area Impervious Surfaces

Dear Elsa,

I have reviewed the draft policy and would like to recommend the following changes and/or additions:

1. For each reference to the Charles County Zoning Ordinance, its definitions and/or requirements, please give the specific citation.
2. In the second paragraph, please revise statement to read, "There have been many recent requests to utilize pre-fabricated pavers that may be considered semi-impervious. Examples of these include Eco-Stone, Turfstone, and grass pavers."
3. In the third paragraph, please revise statement to read, "The Critical Area Commission generally recommends that semi-pervious materials are suitable only for single-family residential or similar low-intensity uses, and, if installed according to the manufacturers' specifications, these materials may receive credit for the amount of perviousness or void ratio stated in the manufacturer's fact sheet."
4. In the fourth paragraph, please revise statement to read, "Charles County has received many requests to install alternative surfaces for driveways, patios and sidewalks that would reduce the impervious surface totals created by new development and redevelopment. This policy states the position of the County on the use of these and similar materials."

5. **Asphalt, Concrete, and Pavers Set in Asphalt or Concrete.** Recommend substituting the word "for" with "as", as in "as 50%", "as 100%".
6. The use of semi-pervious materials should be placed under its own heading, such as "**Eco-Stone, Turfstone, grass pavers and any paver set in gravel or sand.**" Please be advised that the Critical Area Commission has observed the use of semi-pervious pavers and similar products in various situations, and has found that these materials do not function well when used for residential access roads, commercial parking or other areas with heavy and continuous usage.

Please move the last paragraph to a new heading and revise it as follows: "These materials, when used on residential projects, will require certification from a professional engineer retained by the owner or contractor, that the driveway has been installed in accordance with the manufacturer's specifications. The amount of credit for permeability will be ascribed in accordance with the manufacturer's product fact sheet. To receive credit, the property owner or contractor, at the time of application for a building permit, must agree, in writing, to provide the necessary certification. The certification must be provided to the Planning office prior to issuance of a Use and Occupancy permit."

Please contact me at 410-260-3481 if you would like to discuss these comments in greater detail.

Sincerely,



Wanda Cole
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

October 16, 2003

Ms. Elsa Ault
Charles County Department of
Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: Proposed Policy: Chesapeake Bay Critical Area Redevelopment of Grandfathered
Parcels

Dear Elsa,

We have reviewed the draft policy regarding redevelopment on grandfathered parcels and discussed the types of situations in which this policy would be useful. Repetitive variance applications for development in the Buffer on nonconforming lots most likely comes from older neighborhoods where the lots are small, are almost entirely constrained by the Buffer, and have been developed, prior to the Critical Area Law, to such a large degree that the function of the Buffer has been compromised. Because of these constraints, there are few options of conducting redevelopment outside the Buffer. Many of the homes in these neighborhoods have now deteriorated and need to be replaced or updated. Many were originally built for short-term use as weekend homes, and are undersized for today's modern lifestyles, leading to requests for extensions of usable living space. With this in mind, we recommend the County pursue an alternative approach to this need by designating these types of areas as BEAs.

Designating areas as BEAs will, of course, take time. Map and text amendments will be necessary, affected property owners must be notified and allowed to comment through the public hearing process, and formal approval by the Commission is required. I will be happy to set aside time to work with your office throughout this process. With winter months approaching, the absence of foliage provides an optimum opportunity to observe candidate lots and to photograph the degree of existing development in the Buffer.

We encourage the County to pursue this option. Please contact me at 410-260-3481 when you are ready to begin this process.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole". The signature is written in black ink on a white background.

Wanda Cole
Natural Resources Planner

cc: Zakary Krebek
Mary Owens
Danny Mayer

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/

October 15, 2003

Mr. Robert V. Tabisz
Wetlands and Waterway Program
Maryland Department of the Environment
1800 Washington Blvd., # 430
Baltimore, MD 21230-1708

Re: **04-WL-0030 Burgess Family Trust Shore Erosion Control Project:
Jersey Wall Bulkhead in Potomac River**

Dear Bob,

I am providing these comments as follow up to our discussion with Kevin Vienneau at the October 10th Charles County Interagency meeting. Kevin had visited this site and found that there is a high, steep bluff located landward of the proposed structure, as well as landward of mean high water. Portions of the project area are also characterized by a stable beach. The proposed project consists of the placement and backfilling of a Jersey barrier wall to serve as a bulkhead.

There is a similar structure located adjacent to the proposed project area, and the bank behind it has been terraced. Kevin, as am I, is concerned that the applicant will, understandably, want both project areas to look the same by grading the undisturbed bluff into terraces and using the earth for backfill. Such an activity would cause disturbance to the 100-foot Buffer above and beyond the scope of work necessary to provide adequate shoreline erosion protection. Any grading of the Buffer would require a variance and would be required to meet all the variance standards, including hardship. The bank did not appear unstable to Kevin; safety issues would be ruled out as justification for project need. We would greatly appreciate your assistance in determining the applicant's intended source of backfill, and to advise him of the Critical Area concerns regarding grading of banks.

Kevin also observed that the existing beach appeared to be in a stable condition, that erosion of the bank and terraces most likely occurs during storm surges where water hits the existing wall and is forced over and behind it. Given that scenario, it would seem that the existing wall does

not serve its intended purpose. Perhaps an off-shore breakwater would be a more suitable approach to dissipating wave energy at this site while preserving the integrity of the beach environment.

Thank you for your efforts in this matter. Please contact me at 410-260-3481 if you wish to discuss this project further.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Kevin D. Vienneau

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

www.dnr.state.md.us/criticalarea/
October 15, 2003

Ms. Colleen J. Bonnell
Planning Director
Commissioners of Leonardtown
41675 Park Avenue
PO Box 1
Leonardtown, MD 20650

Re: **LE 674-03: # 53-03 George Russell Sparling Boundary Line Adjustment Plat
Lots 58-60 & p/o 61, Tudor Hall Estates**

Dear Colleen,

I have reviewed the information regarding the proposed boundary line adjustment for this property, which is located in the LDA of Breton Bay. We have no objections to this Boundary Line Adjustment Plat. We understand that this plat will be officially recorded in the local land records office. If the Town approves the plat, it appears development of this property will require a Critical Area variance due to the presence of the expanded Critical Area Buffer, which constrains most of the site. Please forward those variances to us at the appropriate time.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 15, 2003

Mr. James W. Price, Director
Program Open Space
580 Taylor Avenue, E-4
Annapolis, Maryland 21401

Re: **Local POS # 4422-22-161 Cedar Hill Park Pavilion, Wicomico County**

Dear Chip,

This project lies within the Critical Area of the Nanticoke River, and appears to be located in the 100-foot Critical Area Buffer. Projects located in the 100-foot Buffer, on properties owned by a local agency, require formal approval by the Critical Area Commission pursuant to COMAR 27.02.06. The Commission meets monthly on the first Wednesday of each month. If this project is located in the 100-foot Buffer, please advise the applicant to provide project details to this office, marked to my attention, no later than three weeks prior to the month in which approval is desired. I may be reached at 410-260-3481 for additional guidance regarding submittals to the Commission.

Development on properties owned by a local agency are regulated by COMAR 27.02.02 when the project is located in the Critical Area but not in the 100-foot Critical Area Buffer. Projects such as these require a Consistency Report from the local agency conducting the project. For guidance regarding Consistency Reports, the applicant may contact Mr. Matt Hedger, Wicomico County Department of Planning, Zoning and Community Development, at 410-548-4860.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: Matt Hedger

CLEARINGHOUSE REVIEW

October 07, 2003

RECEIVED

TO: ~~Arnold Norden, Greenways and Resources Planning (E-4)~~
Glenn Therres, Wildlife (E-1)
Robert Beckett, State Forest and Park Service (E-3)
Scott Sewell, Natural Resources Police (E-3)
Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Honeczy, Forestry (E-1)
Bill Hodges, Resource Assessment Services (B-3)
~~Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)~~

OCT 10 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

FROM: James W. Price, Director, Program Open Space

SUBJ: POS # 4422-22-161

Cedar Hill Park Pavilion, Wicomico County

The scope of work entails construction of a group picnic pavilion, 20'x35', at Cedar Hill Park and marina.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

CHECK

INITIAL

1. The project does not conflict with the plans, programs or objectives of this Agency

2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.

✓ wjlc 10/14/03

3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 15, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: 03-10 Edward M. & Agnes J. Haas Variance Request

Dear Keith,

I have reviewed the information on the applicant's request to clear more than 30% of the existing forest in order to construct a single-family homesite on a grandfathered lot located in the LDA of Sue Creek. This office does not oppose the granting of this variance request. We recommend that the variance approval include a condition that addresses the required 3:1 mitigation.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



CLEARINGHOUSE REVIEW

RECEIVED

OCT 14 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

TO : Arnold Norden, Greenways and Resources Planning (E-4)
Glenn Therres, Wildlife (E-1)
Robert Beckett, State Forest and Park Service (E-3)
Ray Dintaman, Environmental Review (B-3)
Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Honeczy, Forestry (E-1)
Bill Hodges, Resource Assessment Services (B-3)
~~Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)~~

FROM : *JWP*
James W. Price, Director, Program Open Space

SUBJ : POS # 4419-8-53
White Plains Park Driving Range, Charles County

Construction of a new golf driving range at the White Plains Regional Park and Golf Course.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

CHECK

INITIAL

- 1. The project does not conflict with the plans, programs or objectives of this Agency
- 2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.
- 3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

✓	<i>WDC 10/14/03</i>
_____	_____
_____	_____

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

CLEARINGHOUSE REVIEW

October 07, 2003

RECEIVED

OCT 10 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

TO : Arnold Norden, Greenways and Resources Planning (E-4)
Glenn Therres, Wildlife (E-1)
Robert Beckett, State Forest and Park Service (E-3)
Scott Sewell, Natural Resources Police (E-3)

Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Honeczy, Forestry (E-1)
Bill Hodges, Resource Assessment Services (B-3)
Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)

FROM : James W. Price, Director, Program Open Space

SUBJ : POS # 4423-22-162
Pittsville Ball Field Light Replacement, Wicomico County

Replacement of failing quartz lighting fixtures with energy efficient metal halide lights.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

CHECK

INITIAL

1. The project does not conflict with the plans, programs or objectives of this Agency

✓ WDC 10/14/03

2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.

3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 10, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: **03-09 Dannie Sellars Variance Request**

Dear Keith,

I have reviewed the information regarding this variance request to construct a detached garage on a grandfathered lot located in the LDA of Saltpeter Creek. The proposed garage will be located within the 100' Critical Area Buffer to a tributary stream. Clearing of forest vegetation is not proposed, and the new impervious surface areas are well within the property's 15% impervious surface limit.

This office does not oppose the granting of this variance request. We recommend that the variance approval include a conditions that all new disturbances to the Buffer be mitigated at a 3:1 ratio.

Please note that the applicant will need to amend this request or apply for new variances for any additional new disturbances to the Buffer that may be desired, such as an extension of the driveway to the garage, and/or walkways between the garage and the house.

Please provide this office with a copy of the written decision made in this case. Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 6, 2003

Mr. Reed Faasen
Charles County Government
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

Re: **CS 701-03: J.A. Moore Subdivision, Lot 3**

Dear Reed,

I have reviewed the site plan, which is the same as submitted for variance case # 1099 for Cynthia Comstock. The variance has since been granted. I have no additional comments.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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/

October 3, 2003

Mr. Andy Hanas
Southern Regional Engineer
Engineering and Construction
Matapeake Marine Terminal
305 Marine Academy Drive
Stevensville, MD 21666

Re: 45-03: Approval of Replacement Playground at Pt Lookout State Park

Dear Andy,

I am pleased to inform you that, on October 1, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the above referenced project, which proposes to refurbish an existing playground, located in the Hoffman camping loop, by providing new play equipment and surface materials. This playground is located in the Critical Area of Potomac River, Chesapeake Bay and Lake Conoy. This approval is issued in accordance with the criteria found in COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands.

Thank you for your participation and assistance in this process. If I may be of further assistance, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 2, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 686-03: Riverside Drive Dual 60" Culvert Replacement**

Dear Matt,

I have reviewed your Consistency Report, dated September 30, 2003, and, in accordance with COMAR 27.02.02.B State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions, concur that this project is consistent with Wicomico County's Critical Area Program.

Thank you for your participation and assistance in this process.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 30, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 694-03: MSUB # 03-110-093 Brooke Minor Subdivision
Preliminary Plan, Lots 5000-1 and 5000-2**

Dear Sue,

I have reviewed the plan for this subdivision, which is being proposed around existing conditions in the LDA of Cuckold Creek. This is a 4.69 acre parcel that has been developed with a single-family dwelling, driveway, pool, deck, barn and boat house with pier. In addition, there are two existing sewage reserve areas on this parcel. The following comments are provided for your use:

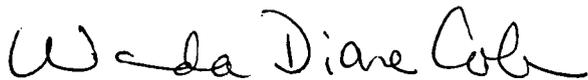
1. The Critical Area Buffer line must be labeled and clearly delineated where it crosses the pool area, and where it occurs west of the pool.
2. Critical Area notes regarding protection of the Buffer and existing forest must be provided.
3. The existing forest and impervious surface areas must be stated on the plan.
4. Othello soils often support non-tidal wetlands. The National Wetland Inventory maps are used for guidance only; field-verification is necessary for areas where conditions are conducive to supporting non-tidal wetlands.
5. There is a large, nearly-rectangular area that surrounds the pentagonal pool area. The lines to this feature lead to a set of steps east of the pool. This feature must be labeled. If the area is impervious, it must be included in the site's existing impervious surface tabulations.

6. The Wildlife and Heritage Service (WHS) must be contacted for a determination on the presence of rare, threatened or endangered species and their habitats on this site. All WHS comments must be addressed on the plan. A copy of the determination letter must be provided to this office prior to granting any approvals.

We request a copy of the revised plan once it is available. We may have additional comments based upon any new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Little Silences Rest

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. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 683-03: James A. Donohue Impervious Surface Variance Request
Lot 9, The Shallows Subdivision**

Dear Matt,

Thank you for researching the use of impervious surface areas in The Shallows subdivision, located in the LDA of Back Creek. Mr. Donohue is proposing a 3,060 square foot paved driveway and 648 square foot swimming pool on a property that has already been developed with a single-family dwelling, and which is not a grandfathered lot. This project will result in a total of 7, 816.25 square feet of impervious surface areas on this lot.

As a result of your research and site measurements, you have found that Mr. Donohue's proposed impervious surface areas are less than 25% of the lot. In addition, this additional use of impervious area within the subdivision is well below the subdivision's maximum 15% impervious surface limit. Therefore, Mr. Donohue will not need a variance and his site plan will not require any further review by our office.

Again, thank you so much for taking the time to investigate this matter, and for contacting the builder to let him know the status of the remaining impervious surface allotment. This is good information for us to have on hand for future projects in this area.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 509-03: Consistency Report for Whitehaven Road Culvert Pipe Replacement**

Dear Matt,

I have completed my review of your Consistency findings and concur that this project is consistent with COMAR 27.02.02 State and Local Agency Actions Resulting in Development on Private Lands or Lands Owned by Local Jurisdictions.

Please contact me at 410-260-3481 if I may be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 686-03: Riverside Drive Dual 60-inch Culvert Replacement**

Dear Matt,

I have reviewed the information regarding the replacement of dual, 60-inch corrugated metal pipe culverts in the LDA of Sharp Creek. This work will be conducted entirely within tidal wetlands and has been approved by Maryland Department of the Environment without conditions. This project appears to be consistent with COMAR 27.02.02. Please provide a Consistency letter that includes your findings on how this project is consistent with the County's Critical Area Program and criteria.

Thank you for your assistance. Please contact me at 410-260-3481 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 693-03: MSUB # 03-110-089 Mill Cove Re-subdivision of Lot 500-1
Minor Subdivision Plat, Lots 500-3 and 500-4**

Dear Sue,

I have reviewed the plat for this subdivision, which is being proposed around existing conditions in the LDA of Mill Creek. This is an 11.804 acre parcel that has been developed with one existing dwelling and accessory structures, a portion of which are located in the Buffer. The following comments are provided for your use:

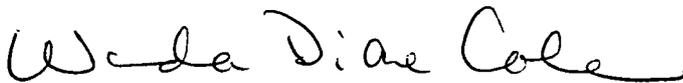
1. The site acreage figures must be verified. General Note # 1 indicates the site contains more acreage in the Critical Area than the size of the site itself. In addition, Critical Area Note # 1 states there are 0.55 acres in the Critical Area, when the entire site appears to be located in the Critical Area.
2. Similarly, the existing forest acreage appears to be understated at 7.2148 acres. Lot 500-3, alone, appears to be almost entirely wooded, and this lot contains 10.362 acres. In addition, Lot 500-4 has a small amount of forest acreage.
3. Topographic information must be shown and labeled.
4. If there is an existing sewage reserve area on Lot 500-4, it must be shown. The limits for an SRA must be shown for Lot 500-3.
5. The location of the proposed impervious surface areas (Critical Area Note # 12) must be shown and labeled on the plat.

6. A 100-foot Buffer must be provided for the tributary stream located on Lot 500-3
7. The Wildlife and Heritage Service (WHS) must be contacted for a determination of the presence of any rare, threatened or endangered species and their habitats on this site. All comments from WHS must be addressed on the plat. A copy of this letter must be provided to this office prior to granting any approvals.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Ben Dyer

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

Ms. Theresa Dent
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: **SM 340-02: # 01-2259 Jeff Guarnero & Diane Sovine Variance Request
Revised Site Plan**

Dear Theresa,

I have reviewed the revised site plan for the proposed addition, whose footprint has been modified since we last commented on this request in June 2002. We do not oppose this variance request. We recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 29, 2003

Ms. Theresa Dent
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 692-03: MNSP # 03-131-057 Confederate Memorial Park Site Plan**

Dear Theresa,

I have reviewed the information for this project, which will create 4,876 square feet of impervious surface area in the RCA of Tanner Creek. The site is a grandfathered parcel containing 3.21 acres that has been utilized as a field. No clearing of woody vegetation is proposed. The 100-foot Buffer does not occur on this site. I have the following comments:

1. Much of the land in this vicinity is constrained by nontidal wetlands. The applicant must field verify whether nontidal wetlands occur on this site.
2. State Highway Administration has been working on plans for improvements to MD 5 in this area, including possible geometric changes at this intersection which could affect this project. The applicant should contact Brian Romanowski, SHA's Project Engineer, at 410-545-8730 for additional details on this project.
3. The Wildlife and Heritage Service must be contacted for a determination on the presence of rare, threatened and/or endangered species and their habitats on this site.

Please contact me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Lori Byrne
Brian Romanowski

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. Theresa Dent
St. Mary's County Government
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 605-03: # 02-2892 Potanka After-the-Fact Variance Requests for
Development in the Critical Area Buffer and Exceeding Impervious Surface Limits**

Dear Theresa,

This letter amends our comments dated September 4, 2003 as new information has been provided for our review.

1. The site has been constrained by the only available location of the sewage reserve area and its required setbacks from the house and well. As a result, there is only a limited area outside the Buffer for a dwelling. We do not oppose the granting of a variance to allow a small portion of the house to encroach into the Buffer. We recommend the variance include a condition that all new disturbances in the Buffer be mitigated at the required 3:1 ratio, with a portion of that mitigation used to replant the open areas located in the Buffer.
2. The impervious surface limit for this lot is 15%. The applicant has created 15.07% in impervious surfaces. We do not oppose the variance for exceeding the impervious surface limit. However, we believe there exists an opportunity to reduce the size of the driveway to bring the site in compliance with the impervious surface limit. If a variance is granted for exceeding the impervious surface limit, we recommend the variance approval include a condition that there be no more variances to the impervious surface limit.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

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 26, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and Community Development
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 685-03: Robert C. and Patty H. Wolf Variance Request**

Dear Matt,

I have reviewed the information regarding this request to construct an addition and enclose a deck to an existing house located in the 100-foot Critical Area Buffer of Tyaskin Creek. This project is located in the RCA and will cause 1,112 square feet of new disturbances in the Buffer.

We do not oppose an addition and enclosure of a deck. We recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances in the Buffer be accomplished on-site in the Buffer.

Please note that the floor plan accompanying this request includes a proposed 1200 square foot garage, which also appears to be located in the Buffer. Is this proposed garage part of this request? The property is currently improved with an existing garage that appears to accommodate two vehicles. There is ample room on this property for locating accessory structures outside the Buffer.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
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 26, 2003

Ms. Theresa Dent
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 673-03: MSUB # 03-141-051 Evergreen Park on the Bay
Boundary Line Adjustment Plat**

Dear Theresa,

I have reviewed the boundary line adjustment plat for this subdivision, which is being proposed in the RCA of Chesapeake Bay and Wise Marsh. Lot 500-6 was deleted from the plat and the boundaries of Lots 500-3, 500-4 and 500-5 are being adjusted accordingly.

I have no comments regarding the boundary line adjustment itself. However, certain information is missing from this plat which must be provided prior to final approval. These items are:

1. The location of the Critical Area Buffer must be shown. The Buffer appears to need expansion for the hydric soils on the site. If fully expanded, almost all of the Critical Area portions of Lots 500-3 thru 500-5 would be constrained by an expanded Buffer. The limits of an expanded Buffer must be determined and shown on the plat.
2. The proposed plat dated April 14, 2001, which we reviewed in July 2002, showed a 100-foot Buffer for the tributary stream crossing the Critical Area portion of these lots. This plat, dated September 02, 2003, shows a 50-foot Buffer. A 100-foot Buffer is required along each side of a tributary stream, therefore, this information must be corrected.
3. There are only two RCA density rights available to the parent parcel. Three lots are being created with acreage inside the Critical Area, yet their development envelopes are shown outside the Critical Area boundary. The owner must assign the RCA density rights to two of these lots, and the plat must contain a note stating that development is prohibited in the Critical Area portion of the remaining lot.

TTY For the Deaf

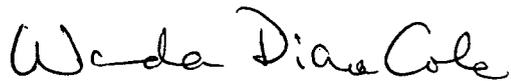
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



4. The Wildlife and Heritage Service commented that the forest on this site may qualify as FIDS habitat. It appears FIDS guidance has been applied by locating the development envelopes immediately adjacent to Evergreen Park Road. FIDS protection notes should be added to the plat to alert future owners to all the restrictions that apply to activities in FIDS habitats.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Sue Veith
SM 337-01

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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 11, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 615-03: MSUB # 03-120-027 St. George's Peninsulas at Piney Point
Lots 6 through 11**

Dear Sue,

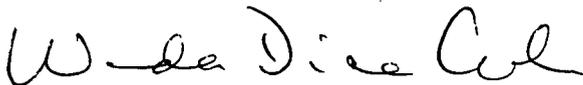
I have reviewed the plat for this subdivision, which proposes to create Lots 6-11 in the RCA of St. George's River. The site's total Critical Area acreage is 32038 acres and five lots have already been created. These lots will utilize six RCA density rights, leaving a potential 5 RCA density rights remaining. The following comments are provided for your use:

1. It is not clear whether the property boundaries enclose State tidal wetlands. The extent of the mean high water line must be field-verified, and adjustments made accordingly, to each lot's site acreage, as percentages of impacts may not include State tidal wetland acreage.
2. There are large areas of hydric soils which are capable of supporting nontidal wetlands. These areas should be field-verified for the presence of nontidal wetlands.
3. Contour lines must be shown. Spot elevations do not accurately depict the degree of slope.
4. This subdivision's 15% limit on impervious surface areas is 48 acres. This includes the roads leading to these lots. The roads, alone, will create large areas of impervious surface. How will these impervious areas be allocated? Will each lot and the residue claim a share of the roads' impervious areas? Please provide a chart indicating existing and proposed impervious surface areas for each lot and the residue.
5. This subdivision represents a change in use from agriculture to residential, therefore, the Buffer must be fully established. Establishment of the Buffer will most likely meet the site's 15% afforestation requirement of 0.92 acres.

6. The Wildlife and Heritage Service has commented that the forested areas may be potential FIDS habitat. From the information shown on the plan, the forested areas contain less than 50 contiguous acres, therefore, it is not likely this forest qualifies as FIDS habitat, although FIDS species are likely to use the dense, forested area in the nontidal wetland shown on sheet 5 of 6. At the very least, this forest makes good riparian habitat that is important during spring and fall migration as a foraging and stopover area. We encourage a conservation easement be placed over this forested area to protect it from any disturbances.
7. What is the "offshore" structure located in the river in front of Lot 7?
8. All outbuildings should be labeled.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

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 11, 2003

Ms. Elsa Ault
Charles County Government
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

**RE: CS 630-03: XPN # 03- Fenwick Shores Lots 4B, 5B, 6B, and 7B
Resubdivision of Lots 4, 5A and Outlot**

Dear Elsa,

I have reviewed the plat, which is being proposed in accordance with the Critical Area intrafamily transfer provisions. The following comments are provided for your use:

1. The configuration of Lots 4 and 5 and the Outlot as of December 1985 must be established. This intrafamily transfer request cannot be approved if any subdivision and use of density occurred after that time. If the Outlot did not exist in 1985, it does not qualify for intrafamily transfer subdivision.
2. Are or were there any dwellings associated with the existing septic fields on Lots 4B and 6B?
3. If Lot 4 and/or Lot 5 contained less than 7 acres as of December 1985, it also does not qualify for an intrafamily subdivision.
4. The plat must state the Critical Area intrafamily transfer provisions and provide the name and immediate family relationship of the persons to whom these lots will be conveyed.
5. The lots are fully wooded, therefore no afforestation or Buffer establishment is necessary.

6. The Wildlife and Heritage Service (WHS) must be contacted for a determination regarding the presence of rare, threatened or endangered species at this site. All WHS concerns must be addressed on the plan.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Cole
Natural Resources Planner

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 11, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 617-03: MSUB # 03-110-075 Cobrum Minor Subdivision
and Boundary Line Adjustment Plat**

Dear Sue,

I have reviewed the plat for Tax Map 29, Parcel 57, which is located in the RCA of St. Clements Bay and Cedar Point Creek. This project proposes the creation of Lot 1 and adjusts the boundaries between parcels 228 and 234. The following comments are based upon the information provided thus far:

1. In 1985, Parcel 57 contained 55 acres. It is unclear as to whether it had been developed with the two existing dwellings at that time. Parcel 234 did not exist. The parcel boundaries between Parcels 57 and 297 have also changed. We have no project review records for these subdivision changes. Please provide a subdivision history and information on the dates the two structures were constructed. It appears Parcel 234 does not have enough RCA density available and may need growth allocation before it can be developed.
2. The boundaries for Lot 1 enclose an area labeled as tidal wetlands. The location of the mean high water line suggests these are not State tidal wetlands. Please verify whether this is the case, as State tidal wetlands cannot be included in the acreage used for calculating density and percentages of site impacts.
3. Aerial information and the soil survey suggest there may be two tributary streams on this site. Given the extent of Othello soils in this area, there may also be nontidal wetlands on-site. This information must be field-verified and delineated on the plat, and evaluated as to whether a 100-foot Buffer or expanded Buffer must be provided for these features.
4. The 1" = 200' scale is insufficient for determining whether the Buffer has been properly delineated, particularly in the area of steep slopes along St. Clements Bay.

5. The existing forest coverage is less than 12%. Afforestation to 15% must be provided.
6. If this subdivision represents a change in use from agriculture to residential, the entire 100-foot Buffer must be established.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

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 11, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 616-03: MSUB # 03-110-073 James A. Norris Estate**
Lots 1-4, Outparcels A-G

Dear Sue,

I have reviewed the information for this subdivision, which proposes the creation of four lots and five outparcels (A-D and G) in the RCA of Mill Creek. This project contains 37.9 acres in the Critical Area and appears to have been developed with four existing dwellings and several outbuildings. Outparcels C and D are located entirely within the Critical Area while Outparcels A, B and G are partially located within the Critical Area. The following comments are provided for your use:

1. Based upon the Critical Area acreage, one RCA density unit is available. Aerial information is not clear as to whether the four dwellings existed as of December 1985. The plat must indicate whether Lots 1-4 are being created around existing conditions. If these dwellings are not grandfathered, growth allocation will be needed. Future development on or subdivision of the outparcels will require growth allocation.
2. The scale of the plan makes it difficult to determine whether the 100-foot Critical Area Buffer has been properly delineated and expanded.
3. There is a tributary stream that runs across Outparcels B and C, and Lot 1. The Buffer must be delineated alongside this stream and expanded, if necessary, for contiguous nontidal wetlands, steep slopes and/or highly-erodible soils.
4. The applicant has provided environmental features according to each lot's dimensions. Based upon this approach, Lots 3 and 4 will require 15% afforestation. The plan must include a note that afforestation requirements for the outparcels will be determined if and when they are submitted for subdivision approval.

5. A field evaluation to determine the presence of nontidal wetlands must be conducted, given the extent of Othello soils and tributary stream in the area.
6. The existing structures must be labeled. If any are to be demolished, this information should be provided at this time.
7. The Wildlife and Heritage Service must be contacted for a determination regarding the presence of rare, threatened or endangered species and/or their habitats on this site. All WHS concerns must be addressed on the plat.

We request a copy any plat revisions when they become available. We may have additional comments based upon any new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

Cc: Bill Higgs, Little Silences Rest

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 11, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 618-03: MSUB # 03-110-077 Jerry M. Bond Intrafamily Transfer**

Dear Sue,

I have reviewed the information for this intrafamily transfer, which proposes the creation of two lots around existing conditions on a 9.24 acre parcel located in the RCA of Canoe Neck Creek. This parcel that has been developed with two dwellings. The Critical Area intrafamily transfer provisions permit the creation of two lots on RCA parcels of this size. The following comments are provided for your use.

1. The plat must include the Critical Area intrafamily transfer provisions, including the name and relationship of the immediate family member to whom the additional lot will be conveyed.
2. Existing forest cover is 3.3%. Afforestation up to 15% must be provided as part of this subdivision approval.
3. A note regarding the 15% impervious surface limit is recommended for Lot 1.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

TTY For the Deaf

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



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 10, 2003

Ms. Theresa Dent
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 657-03: MSUB # 03-141-024 Boundary Line Adjustment Plat
Parcel "B" & Lot 3, Cuckold Manor Subdivision**

Dear Theresa,

I have reviewed the information regarding this boundary line adjustment for parcels located in the RCA of Forest Landing Cove. Parcel B is a density reserve parcel for Lot 6, and Lot 3 has been developed with a single-family home. An existing barn will now be located on Parcel B. While a barn and other agricultural uses may be located on a density reserve parcel, no development activities, associated with Lot 6 or otherwise, may occur on Parcel B. I recommend that a note be put on the plat stating this provision.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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 10, 2003

Mr. Steve M. Dodd
Director of Planning
Dorchester County
Planning & Zoning Office
PO Box 107
Cambridge, MD 21613

Re: Revision of Comprehensive Plan's Land Use Concept Plan
Amendment Area for William Henry Thomas Farm, Egypt Road

Dear Steve,

I have reviewed the information regarding this amendment to the County's Comprehensive Plan. Specifically, the Land Use Concept Plan is being revised to designate the William Henry Thomas Farm, located along Egypt Road near Cambridge, from an Agricultural District and/or Development District to "Towns- Adjoining Areas". It is our understanding that this map revision will not alter in any manner the current RCA that applies to a portion of this property. We also understand that this revision is intended to facilitate annexation of the property by the City of Cambridge; that the City will subsequently be requesting growth allocation from the County; and that the owner/developer will be applying for growth allocation from the City to subdivide and develop this property. If these understandings differ from those of the County's, please provide additional information on how this amendment affects the Critical Area aspects of the property.

With regards to the potential application for growth allocation, the applicant will need to provide the following information for initial review:

1. A subdivision history, including maps of former parcel boundaries as they existed on December 1, 1985, shall be included as part of the submittal.

2. The project must comply with the County's growth allocation provisions as found in Article IV. B of the County's Chesapeake Bay Critical Area Protection Program, and Dorchester County Zoning Regulation Article VII, § 155-38. N. The application must address adjacency, how impacts to Habitat Protection Areas have been minimized, and how the project has been designed to optimize benefits to water quality.
3. The location of environmental features and proposed development activities must be shown on the plans, including but not limited to, the Critical Area boundary, the 100-foot Critical Area Buffer, and 300-foot setback, if applicable, soils types, perc sites, topography, existing forest areas, and impervious surface areas.
4. The application shall include a tabulation of the existing forest area and proposed forest clearing. The locations of any required afforestation and/or mitigation planting areas should be identified.
5. A tabulation of existing and proposed impervious surfaces, and any proposed stormwater management best management practices, must also be provided. I recommend the use of a matrix, or similar feature, for tracking the allocation and use of impervious surface areas within the development.
6. The application shall include information from the Wildlife and Heritage service regarding the presence of any rare, threatened and endangered species and/or their habitats. All concerns and recommendations regarding conservation of these species must be addressed on the plan.

Please contact me at 410-260-3481 if you have questions about any of these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Mary Owens
Roby Hurley

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

Ms. Elsa Ault
Charles County Government
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

Re: **CS 324-03: XPN # 20030 Candland Property Preliminary Plan**

Dear Elsa,

I have reviewed the revised plan for this subdivision and have one remaining comment:

- The 100-foot Critical Area Buffer has not been shown along the north side of the tidal wetlands that occurs between Lots 1 and 2 and the existing, developed residue. There is a wetland buffer line that approximates a 100-foot setback from the wetlands, but it has not been labeled as the Critical Area Buffer. This information must be shown prior to approval and recordation of this subdivision plat.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

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 8, 2003

Ms. Elsa Ault
Charles County Government
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

**RE: CS 176-02: XRS 02-0020 Shores of the Mattawoman
Environmental Features Plan**

Dear Elsa,

I have reviewed the environmental features plan, as well as the April 14, 2003 comments from the Wildlife and Heritage Service (WHS). I have the following comments:

1. The plans for this project must provide information regarding existing forest cover. According to WHS, there is potential FIDS habitat on this property, suggesting that this entire tract may be forested.
2. If FIDS habitat is present, the plans must incorporate the FIDS habitat conservation guidelines, and the applicant must the FIDS conservation worksheet, found in the Commission's June 2000 FIDS guidance document. All mitigation for clearing FIDS habitat must be provided as FIDS habitat.
3. The plan must show the locations for proposed driveways. The location and dimensions of driveways are important in determining compliance with FIDS habitat conservation.
4. It is not clear whether the residue has now been developed with a single dwelling, or whether a footprint is being proposed for future construction on the residue. This information must be labeled on the plat.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole". The signature is fluid and connected, with a long horizontal stroke at the end.

Wanda Cole
Natural Resources Planner

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 8, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 655-03: MNSP # 03-131-053 St. George's Beach, Lots 7 & 15, Block 13

Dear Sue,

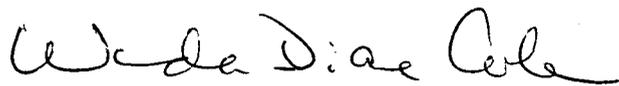
I have reviewed the site plan for these lots, which are located in the IDA of St. George Creek. The 100-foot Critical Area Buffer does not occur on this site. I am providing the following comments for your use:

1. The project will need to provide residential best management practices to offset the impervious surface impacts.
2. This property contains hydric soils capable of supporting nontidal wetlands. The presence of nontidal wetlands must be field verified and shown on the plan. If present, nontidal wetland permits must be obtained from Maryland Department of the Environment.
3. The Wildlife and Heritage Service (WHS) identified the potential for the presence of the eastern narrow-mouthed toad in habitat located at block 16 in this subdivision. Site conditions here could be the same. A determination letter must be obtained from WHS regarding the presence of rare, threatened and endangered species at this site. All WHS concerns must be addressed on the plan. We may have additional comments based upon the WHS comments.



Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Theresa Dent
Lori Byrne
Kathy McCarthy
Judy Cole

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 8, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 613-03: MNSP # 03-131-052 St. George's Beach, Lots 3 & 4, Block 11

Dear Sue,

I have reviewed the site plan for these lots, which are located in the IDA of St. George Creek. The 100-foot Critical Area Buffer does not occur on this site. I am providing the following comments for your use:

1. The project will need to provide residential best management practices to offset the impervious surface impacts.
2. The grass swale shown on the plan appears to have no outlet, which may create a standing water problem near the building foundations.
3. This property contains hydric soils capable of supporting nontidal wetlands. The presence of nontidal wetlands must be field verified and shown on the plan. If present, nontidal wetland permits must be obtained from Maryland Department of the Environment.
4. The Wildlife and Heritage Service (WHS) identified the potential for the presence of the eastern narrow-mouthed toad in habitat located at block 16 in this subdivision. Site conditions here could be the same. A determination letter must be obtained from WHS regarding the presence of rare, threatened and endangered species at this site. All WHS concerns must be addressed on the plan. We may have additional comments based upon the WHS comments.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: Theresa Dent
Lori Byrne
Kathy McCarthy
Judy Cole

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 8, 2003

Ms. Sue Veith
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 619-03: MSUB # 03-110-080 C&V Foster Minor Subdivision**

Dear Sue,

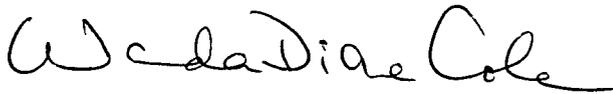
I have reviewed the information regarding this subdivision, which is being created through the Critical Area intrafamily transfer provisions. This 11.64 acre parcel is located in the RCA of Potomac River, and has been developed with one single-family dwelling. The following comments are provided for your use:

1. Critical Area intrafamily subdivisions allow for two density rights on a parcel this size. If the existing old cabin serves as a dwelling, that use must be discontinued, or Lot 2 cannot be created. The County must ensure the number of dwelling units does not exceed the limit, or else growth allocation must be used.
2. The Critical Area intrafamily transfer provisions must be stated on the plat. The plat must also provide the name and relationship of the immediate family member to whom Lot 2 will be conveyed.
3. The RCA designation must be stated on the plat.
4. The 100-foot Buffer must be delineated along the tributary stream that drains into Lane Pond.
5. The Wildlife and Heritage Service (WHS) must be contacted regarding the presence of rare, threatened or endangered species on this site. All WHS concerns must be addressed on the plat.

6. The amount of proposed forest clearing has not been stated on the plat. The plat should contain a statement that a mitigation plan for forest clearing must be provided.

We request a copy of the revised plat once it is available. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole". The signature is written in black ink and is positioned above the typed name.

Wanda Diane Cole
Natural Resources Planner

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 8, 2003

Ms. Theresa Dent
St. Mary's County
Department of Land Use and Growth Management
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 614-03: MNSP # 03-131-054 President's Cottage Deck Replacement and Gazebo

Dear Theresa,

I have reviewed the site plan for this work and found that I will need additional information. My comments are as follows:

1. The 100-foot Critical Area Buffer must be delineated for the project area. It appears this project is located in the Buffer. If so, a variance will be needed.
2. How much impervious surface does the site contain? How much new impervious surface area will the gazebo create? It appears Parcel 3 already exceeds its 15% impervious surface limit.
3. The site plan must show the gazebo's location relative to reference points other than the limits of the deck. Will any clearing be required for the gazebo? Will the replacement deck have the same footprint as the existing?
4. What is the proposed building shown in the northeast corner of the site plan?

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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 8, 2003

Mr. Phil Shire
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 620-03: MSUB # 03-141-038 Tolson Subdivision, Parcels B-1 & B-2
Boundary Line Adjustment Plat**

Dear Phil,

I have reviewed the boundary line adjustment plat for this property, which is located in the RCA of Piney Point Creek. The existing and proposed impervious surface areas for Parcel B-1 and B-2 should be stated on the plat. It appears Parcel B-1 may be over the 15% impervious surface limit.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Sue Veith

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 4, 2003

Ms. Theresa Dent
St. Mary's County Government
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 605-03: # 02-2892 Potanka Variance Request**

Dear Theresa,

I have reviewed the information regarding the applicant's after-the-fact variance requests for a home site that has been partially located in the 100-foot Critical Area Buffer of Cuckold Creek, and whose development caused the site to exceed the 15% impervious surface limit for development in the LDA on parcels of this size. Although this is a grandfathered lot, there was ample opportunity to provide a development plan that avoided the need for Critical Area variances.

This office opposes these variance requests to cause disturbance to the 100-foot Critical Area Buffer and to exceed the 15% impervious surface limit. In 2002, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values. By Chapters 431 and 432 of the 2002 Laws of Maryland, the General Assembly stated that variances to a local jurisdiction's Critical Area Program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. The Code of Maryland Regulations and County Code both provide standards a local government must use when granting a variance. Again, because the applicant must meet all of the standards in order for the Board to grant a variance, this office believes that, in this case, those standards clearly have not been met. I have outlined those standards below:

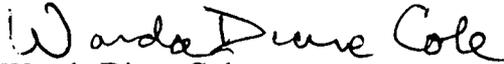
1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area Program that would result in an unwarranted hardship to the applicant. There is nothing special or peculiar about this parcel. It is an undeveloped lot with a nearly rectangular shape, which measures greater than one acre in size. This is generally considered sufficient area for developing an ample homesite with reasonable accessory uses. The applicant has not shown that no opportunity existed for developing a footprint that did not need variances.
2. That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. The applicants would not have been denied a right commonly enjoyed by their neighbors. There was opportunity to locate a development envelope that would accommodate a primary structure and accessory uses without the need for variances. The applicant's rights must be evaluated against the rights of other property owners under the Critical Area Program.
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area Program to other lands or structures within the jurisdiction's Critical Area. If these variances are granted, they would confer upon the applicant a special privilege that would be denied to others in this subdivision, as well as in similar situations in the County's Critical Area. All landowners must conform to all setbacks and development standards that apply to their lands. Had this site plan been brought to County planners for guidance, the applicant would have been advised to provide a plan which avoided the need for variances. Advising applicants to revise a site plan to meet all setbacks and development standards is a routine planning practice.
4. The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. These are after-the-fact requests.
5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. In 2002, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. Studies have been conducted that show that water quality diminishes as impervious surface areas approach 15%, and that water quality becomes

Ms. Dent
September 4, 2003
Page Three

significantly degraded once it exceeds 15%. Granting this variance will contribute to the decline of water quality in the Choptank River, and, ultimately, the Chesapeake Bay. Decline in water quality contributes to declines in aquatic habitat, ultimately affecting the viability of local fisheries and the local economies that depend on them. In addition, disturbance to the 100-foot Critical Area Buffer reduces the ability of the Buffer to provide its water quality and wildlife habitat functions. This 100-foot strip of land is the last filtering mechanism for pollution carried by stormwater runoff. It also serves as an important riparian corridor to migratory birds, which rely heavily on this Buffer as a foraging and resting area during their fall and spring migrations. Without it, migratory songbirds would perish from exhaustion and/or lack of food.

In conclusion, it is our position that, unless the Board finds that the applicant has met the burden of proof on each one of the County's variance standards, the Board must deny this application. Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,


Wanda Diane Cole
Natural Resources Planner

WDC/jjd

cc: Marianne Mason, Esq.

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 2, 2003

Mr. Phil Shire
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 591-03: MSUB # 03-141-045 Barton Hall Farm
Boundary Line Adjustment Plat**

Dear Phil,

I have reviewed the boundary line adjustment plat for this property, which is located in the RCA of Deep Creek. We cannot support this plat at this time. I am providing the following comments for your use:

1. Please verify the RCA density available for the areas being shown on this plat. This information must be added in a Critical Area plat note. The subdivision history here is confusing and it appears the number of existing dwellings in this area may have exceeded the number of available RCA density rights. If so, growth allocation is needed to correct the situation.
2. I researched the 1986 and 1987 plats showing parcels 130 and 277. This information can be found on plats # 25-98 and 27-67, respectively. I also reviewed the 1990 State Taxation and Assessment map, and the current maps, for Parcels 66, 130, 277, 282, and 354. The boundaries for Parcel 277, Lots 1 and 2 have changed many times since 1986, as has the existence of Parcel 282, 1 of 2 and 2 of 2. The 1987 plat shows Parcel 130 as a single parcel containing 10.263 acres, including the agricultural add-on. That same area appeared on the 1990 tax assessment map as having been subdivided into Parcel 277, Lots 1 and 2, and Parcel 282, 1 of 2 and 2 of 2.
3. I could not find a plat for the subdivision that created Parcel 282, 1 of 2 and 2 of 2. There is a tax assessment map showing the area for Parcel 282, 1 of 2, as belonging to an account for Parcel 354. I cannot find a plat that created Parcel 354. I also cannot find a

tax assessment account for Parcel 282, 2 of 2. There is a tax assessment account for a parcel 282, whose map shows the subject parcel being located on Lot 6 on Hodges Road.

4. Information regarding Parcels 130 and 277 on the 1986 plat for James M. Hodges contradicts the information shown on the 1987 plat for Louis B. Mattingly, despite the fact that these plats were produced within ten months of each other, drawn by the same person at the same surveying firm.
5. By 1990, the time the County implemented its Critical Area Program, the area encompassed by Parcels 130, 277, and 282, appear to have five RCA density rights. However, according to the most recent, recorded plat, 27-67, this same area was shown as a single parcel owned by James M. Hodges, containing 10.263 acres, including the agricultural add-on. This would allow only one RCA density right within this footprint. **If this is the correct parcel configuration for this site, then growth allocation is needed to correct the current situation of two or more dwellings having been developed in the RCA.**
6. Parcel 130 contains one dwelling now owned by Michael and Annette Williams. Parcel 277, Lot 1, is not developed and is owned by James M. Hodges. Parcel 277, Lot 2, contains one dwelling now owned by Thomas and Patricia Hodges. Parcel 282, 1 of 2, (also known as Parcel 354) is not developed and is owned by James M. Hodges.
7. The status of Parcel 282, 2 of 2, is not known. It is now labeled as "Adjusted Agricultural Add-on... per Plat 27, Folio 67". Has it been developed? Is this agricultural add-on a stand-alone parcel, or is it associated with another property. This information must be clarified.
8. Parcel 277, Lot 1, must be labeled on this plat.

I would like to schedule a meeting with you and Sue Veith, so we may examine information in the County's records to determine how the subdivision history of this area actually took place. I will be available to meet after September 23, 2003. Please contact me at 410-260-3481 or via email at wcole@dnr.state.md.us to schedule this meeting. Thank you in advance for your assistance in this regard.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Jerry Nokleby

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/cacalarea/
August 29, 2009

Ms. Elsa Ault
Charles County Government
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

Re: **CS 548-03: Raymond and Darlene Fairfax Variance Request**

Dear Elsa,

I have reviewed the information for this variance request to construct two additions onto an existing house located in the 100-foot Critical Area Buffer of Mattawoman Creek. This is a grandfathered lot. We do not oppose the construction of these two additions. However, we have concerns regarding the encroachment of the family room addition onto the site's 46% slope. A variance for steep slopes would also be needed.

There appear to be opportunities to site a family room addition without encroaching onto the steep slope, thus avoiding the need for a steep slope variance. I have attached five possible footprints to illustrate ways disturbance to the steep slope could be avoided or minimized. I am concerned the additional disturbance to this slope, caused by equipment during construction of the footers, may be difficult to stabilize afterward. If the proposed addition has a walk-out entrance, foot traffic around the structure's perimeter would also cause further, long-term disturbances.

If the variance is approved, we recommend the following conditions:

1. Reconfigure the footprint of the family room addition to avoid temporary and permanent disturbances to the steep slope. If an outside entrance is desired, it should avoid causing impacts to the steep slope by pedestrian traffic
2. Place super silt fence, or better, at the limits of disturbance for erosion and sediment control.
3. Provide the required 3:1 mitigation plantings on-site in the Buffer.

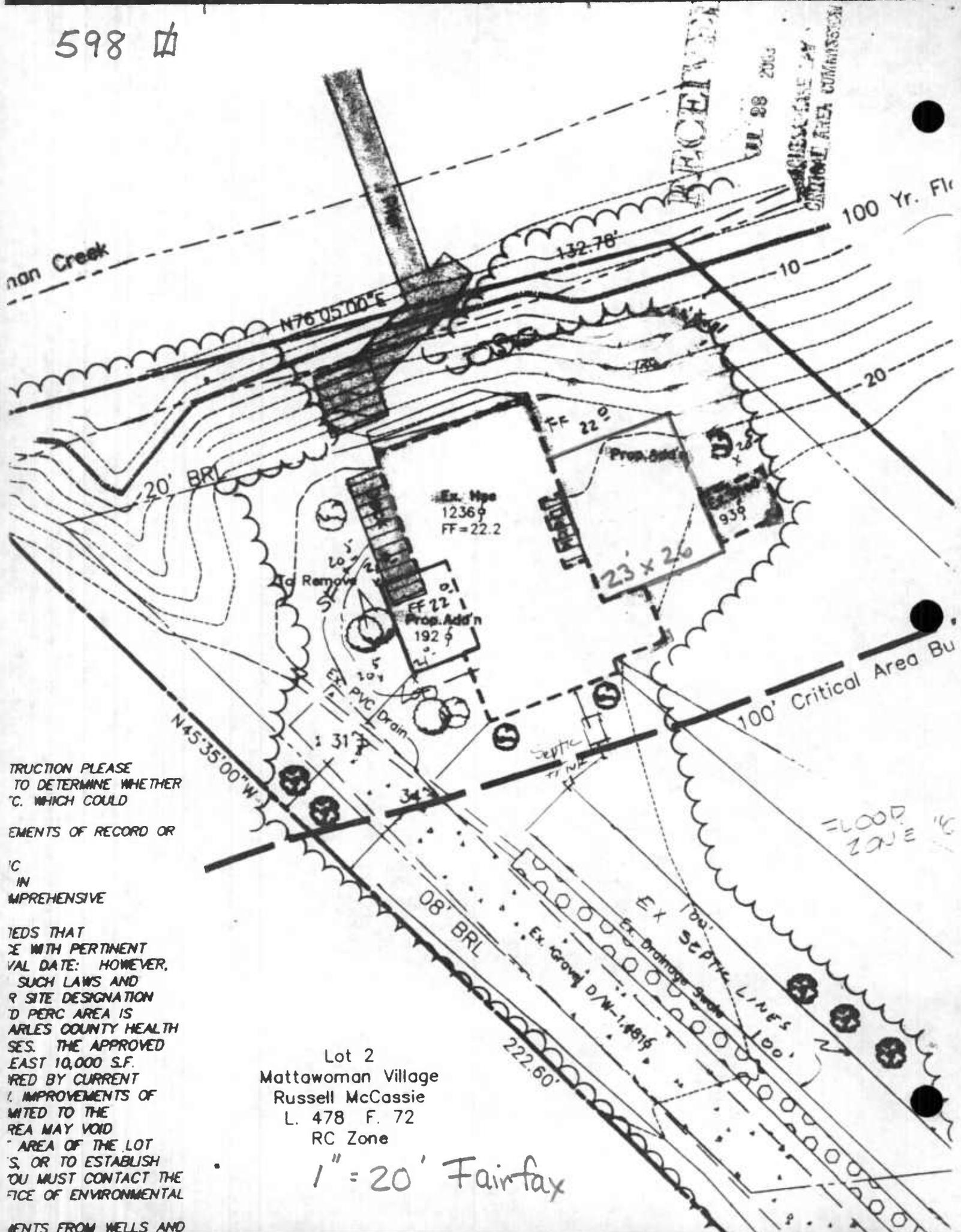
Please provide this office with a copy of the written decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

598 #



INSTRUCTION PLEASE
 TO DETERMINE WHETHER
 'C. WHICH COULD
 ELEMENTS OF RECORD OR
 'C
 IN
 COMPREHENSIVE

NOTES THAT
 THESE WITH PERTINENT
 EXPIRATION DATE: HOWEVER,
 SUCH LAWS AND
 AND SITE DESIGNATION
 AND PERC AREA IS
 CHARLES COUNTY HEALTH
 SERVICES. THE APPROVED
 AREA EAST 10,000 S.F.
 COVERED BY CURRENT
 IMPROVEMENTS OF
 LIMITED TO THE
 AREA MAY VOID
 AREA OF THE LOT
 'S, OR TO ESTABLISH
 YOU MUST CONTACT THE
 OFFICE OF ENVIRONMENTAL

Lot 2
 Mattawoman Village
 Russell McCassie
 L. 478 F. 72
 RC Zone

1" = 20' Fairfax

NOTES FROM WELLS AND

Future Family Room

Option II

With Bump-Out

509

100 Yr. Flood Zone

CONSTRUCTION PLEASE
TO DETERMINE WHETHER
C. WHICH COULD

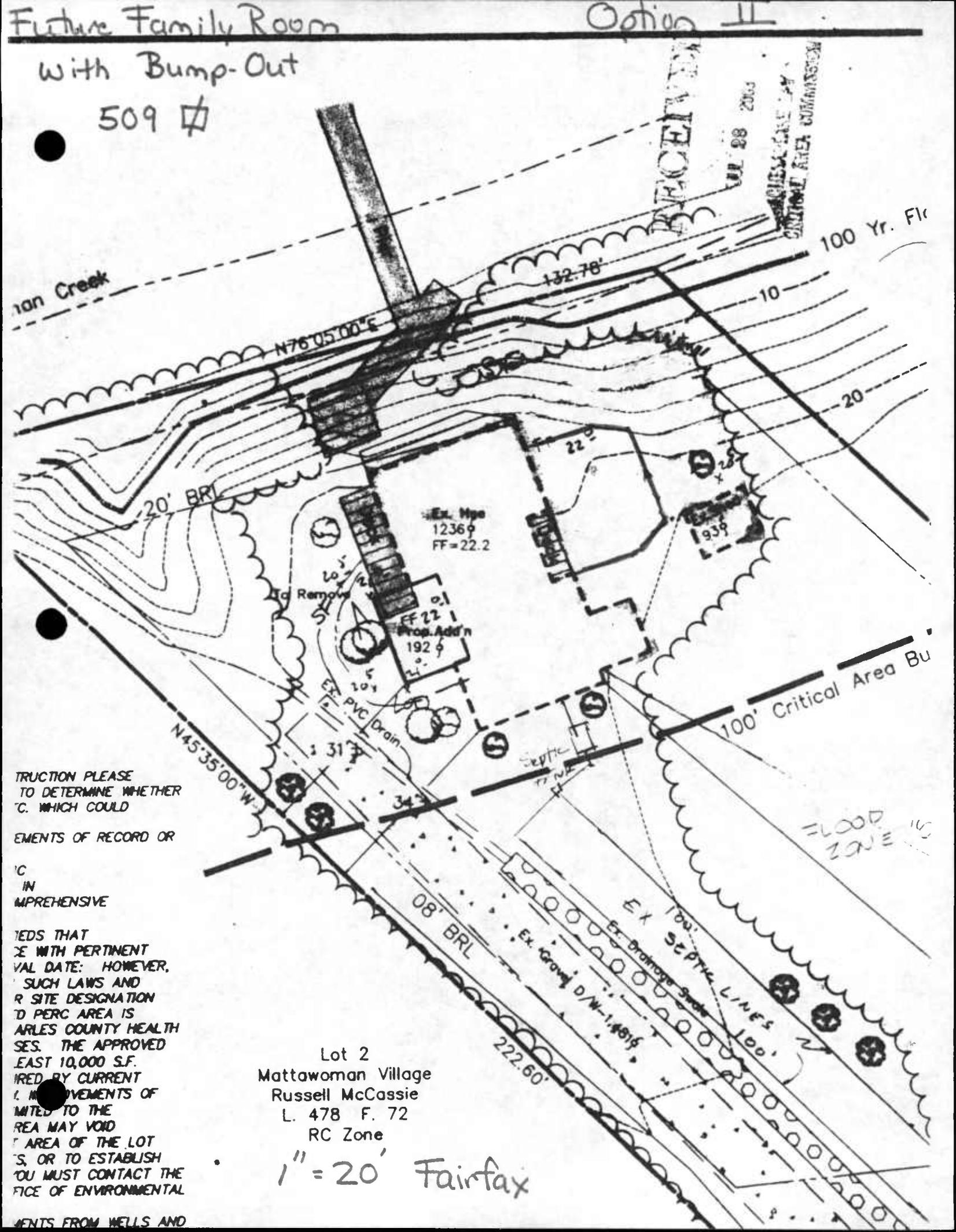
ELEMENTS OF RECORD OR

IC
IN
IMPREHENSIVE

EDS THAT
E WITH PERTINENT
VAL DATE: HOWEVER,
SUCH LAWS AND
R SITE DESIGNATION
D PERC AREA IS
ARLES COUNTY HEALTH
SES. THE APPROVED
EAST 10,000 S.F.
RED BY CURRENT
E. MOVEMENTS OF
IMITED TO THE
REA MAY VOID
AREA OF THE LOT
S, OR TO ESTABLISH
YOU MUST CONTACT THE
FICE OF ENVIRONMENTAL
MENTS FROM WELLS AND

Lot 2
Mattawoman Village
Russell McCassie
L. 478 F. 72
RC Zone

1" = 20' Fairfax



Future Family Room

Option III

with entrance [30 #]

432 #

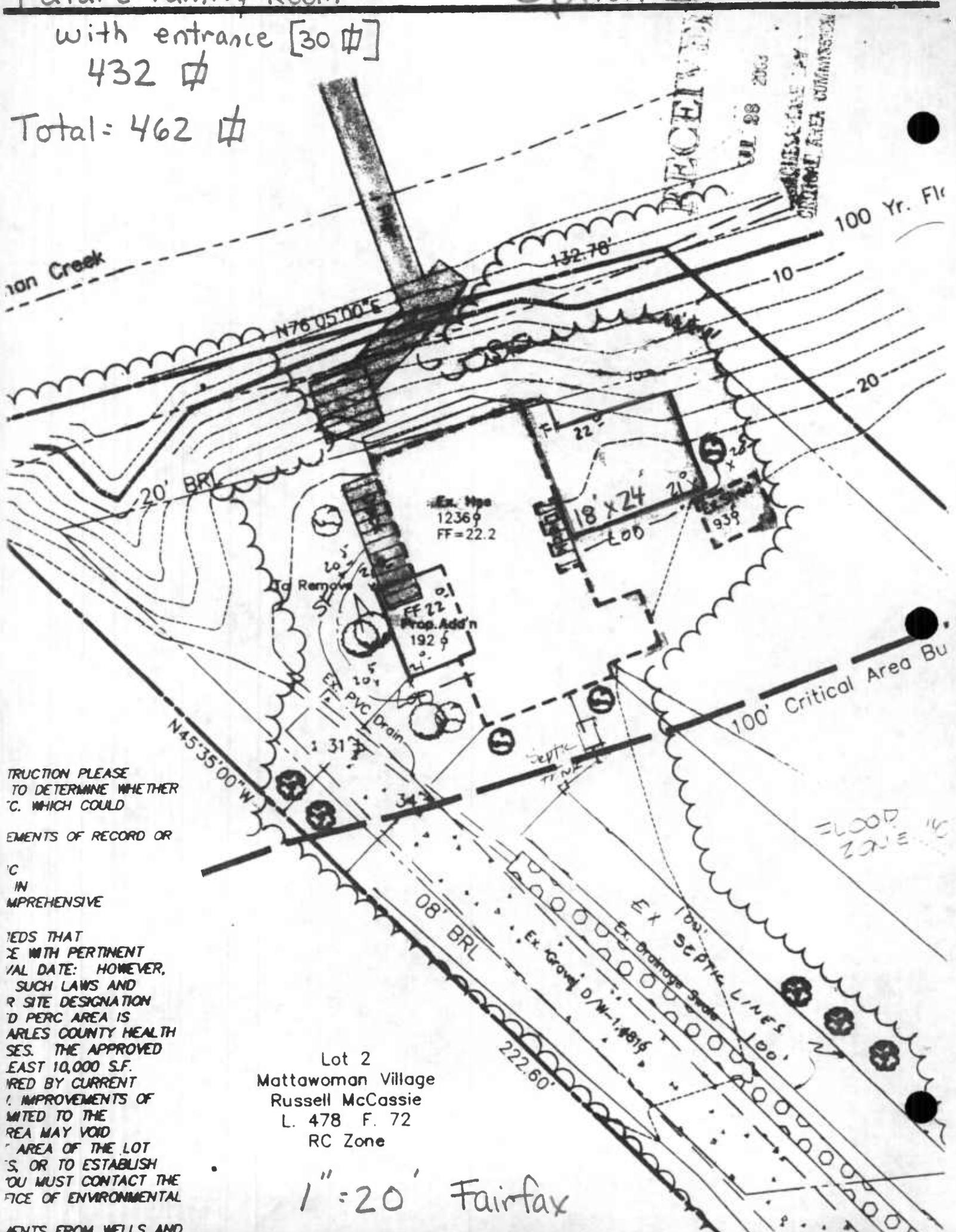
Total = 462 #

100 Yr. Flood Zone

CONSTRUCTION PLEASE
 TO DETERMINE WHETHER
 WHICH COULD
 IMPROVEMENTS OF RECORD OR
 IN
 COMPREHENSIVE
 RECORDS THAT
 WITH PERTINENT
 DATE: HOWEVER,
 SUCH LAWS AND
 R SITE DESIGNATION
 D PERC AREA IS
 ARLES COUNTY HEALTH
 SES. THE APPROVED
 EAST 10,000 S.F.
 RRED BY CURRENT
 IMPROVEMENTS OF
 MITED TO THE
 REA MAY VOID
 AREA OF THE LOT
 S, OR TO ESTABLISH
 YOU MUST CONTACT THE
 FICE OF ENVIRONMENTAL
 IMPROVEMENTS FROM WELLS AND

Lot 2
 Mattawoman Village
 Russell McCassie
 L. 478 F. 72
 RC Zone

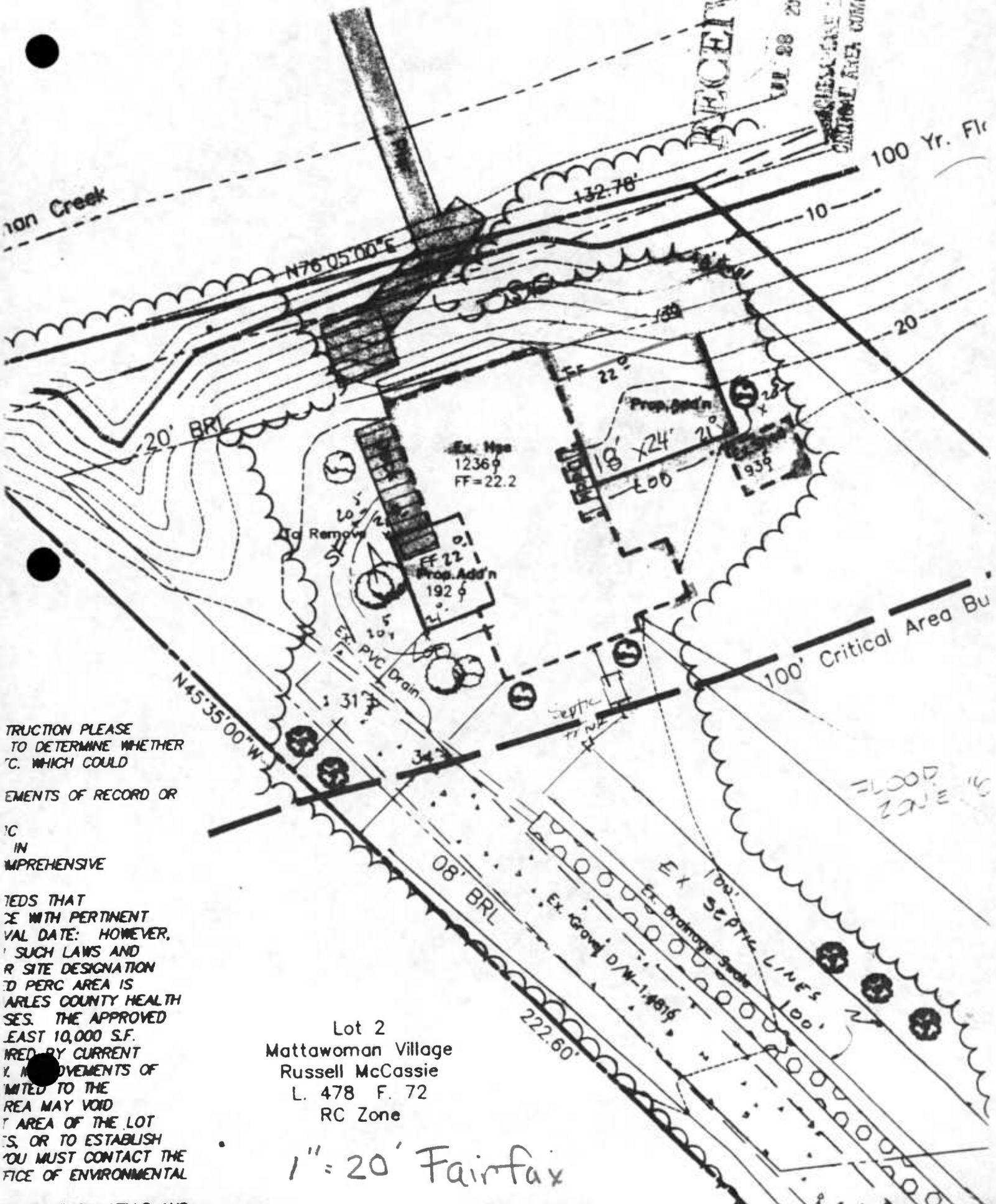
1" = 20' Fairfax



Future Family Room

Option IV

432 #



INSTRUCTION PLEASE TO DETERMINE WHETHER THE PROPOSED ADDITION IS IN A FLOOD ZONE OR A CRITICAL AREA BUFFER ZONE. CONTACT THE OFFICE OF ENVIRONMENTAL PLANNING FOR MORE INFORMATION.

NOTES THAT THE PROPOSED ADDITION IS IN A CRITICAL AREA BUFFER ZONE AND A FLOOD ZONE. THE PROPOSED ADDITION IS IN A CRITICAL AREA BUFFER ZONE AND A FLOOD ZONE.

NOTES THAT THE PROPOSED ADDITION IS IN A CRITICAL AREA BUFFER ZONE AND A FLOOD ZONE. THE PROPOSED ADDITION IS IN A CRITICAL AREA BUFFER ZONE AND A FLOOD ZONE.

Lot 2
 Mattawoman Village
 Russell McCassie
 L. 478 F. 72
 RC Zone

1" = 20' Fairfax

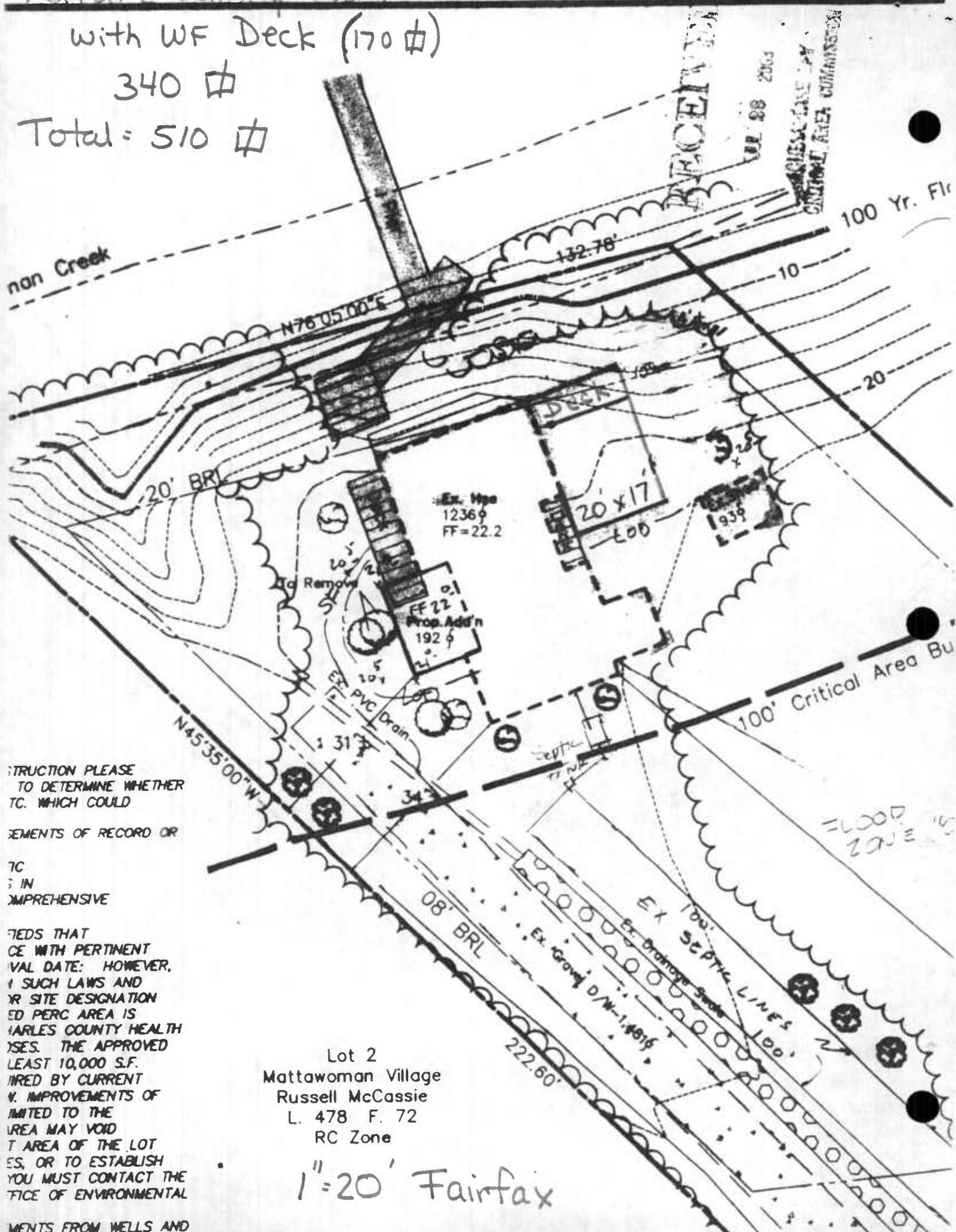
future family room

Option V

with WF Deck (170 #)

340 #

Total = 510 #



INSTRUCTION PLEASE
 TO DETERMINE WHETHER
 TC, WHICH COULD
 EMENTS OF RECORD OR
 TC
 S IN
 MPREHENSIVE

EDS THAT
 CE WITH PERTINENT
 VAL DATE: HOWEVER,
 I SUCH LAWS AND
 R SITE DESIGNATION
 ED PERC AREA IS
 ARLES COUNTY HEALTH
 YSES. THE APPROVED
 LEAST 10,000 S.F.
 IRED BY CURRENT
 Y IMPROVEMENTS OF
 MITED TO THE
 AREA MAY VOID
 T AREA OF THE LOT
 ES, OR TO ESTABLISH
 YOU MUST CONTACT THE
 FICE OF ENVIRONMENTAL

Lot 2
 Mattawoman Village
 Russell McCassie
 L. 478 F. 72
 RC Zone

1" = 20' Fairfax

MENTS FROM WELLS AND

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 29, 2003

Mr. Reed Faasen
Charles County Government
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

Re: **CS 607-03: Variance Docket # 1099 Cynthia L. Comstock**

Dear Reed,

I have reviewed the site plan and supporting information for this variance request. The applicant proposes to raze an existing dwelling that is partially located in the Critical Area Buffer on a grandfathered lot in the RCA of the Potomac River. A replacement dwelling will be constructed and located mostly outside the Buffer. However, a deck is proposed in the Buffer over the existing footprint, and is designed to avoid encroachment toward the shoreline. The project will create 165 square feet of new disturbance in the Buffer while decreasing impervious surfaces in the Buffer by 168 square feet. Mitigation for the new disturbances will be accomplished concurrently with the 15% afforestation being provided. A mitigation planting plan is shown on this site plan.

We do not oppose this variance request, and we support the proposed mitigation planting plan.

Please provide this office with a copy of the written decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

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/

August 29, 2003

Ms. Sue Veith
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 598-03: MSUB # 03-141-047 Philip Woolford Boundary Line Adjustment**

Dear Sue,

I have reviewed the plat proposing a boundary line adjustment between parcels 29 and 781 on Tax Map 67. These properties are located in the Critical Area of Molls Creek. It appears the purpose of the adjustment is to bring the existing development on parcel 29 into compliance with side yard setbacks.

We do not oppose the boundary line adjustment. However, the plat must provide additional information regarding the Critical Area. I am providing the following comments for your use:

1. The tax map and parcel numbers in the General Notes do not match the information in the title block.
2. Critical Area notes must be provided to identify that these parcels lie within the Critical Area and are subject to its regulations. The notes must include the standard statements regarding no disturbances to the Buffer and existing forest cover.
3. The Critical Area overlay designation must be included, as well as statements on the amount of Critical Area acreage, existing forest cover, and existing impervious surfaces. The plat must show topographic and soils information for determining whether the Buffer has been properly delineated. The location of existing woodlines and any tributary streams must also be shown.
4. What appears to be the 100-foot Critical Area Buffer line has no label. A label must be added to the plat.



5. If any development is present on parcel 781, it must be shown, labeled and quantified.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: Jerry Nokleby

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. Phil Shire
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 425-02: MSUB # 03-141-037 Pegg's Subdivision Lot 2
Boundary Line Adjustment Plat**

Dear Phil,

I have reviewed the boundary line adjustment plat for this property, which is located in the RCA of Persimmon Creek. The boundary is being expanded to allow for a replacement sewage reserve area on a lot which was recently created around existing conditions through the Critical Area intrafamily transfer provisions. This adjustment will not cause a change in RCA density.

I have no comments regarding the boundary line adjustment. I would like to recommend that the Critical Area intrafamily transfer provisions that apply to Lots 1 and 2 be added as notes on the plat. The immediate family relationship of Ms. Joanne Pegg to the Pulliams, and to the owners of Lot 1, must be provided on the plat.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

Cc: Jerry Nokleby

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 27, 2003

Ms. Theresa Dent
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: **SM 703-02: # 02-1826 Green's Rest Lot 6 Variance Request**

Dear Theresa,

I have reviewed the revised site plan, which shows a wider area of forest clearing on a 15% slope for the purpose of accommodating the SRA. The original site plan showed clearing only a narrow path between the woodline and the initial drainfield for installation of the distribution line. This office opposes the revised site plan.

Disturbances to steep slopes measuring 15% or greater must be avoided, or at the very least, minimized. It is generally the position of this office to oppose disturbances to steep slopes when there is ample opportunity to avoid them. For this site, the health department indicated it was not possible to relocate the SRA off the steep slope, and, given the lot's grandfathered status, we did not oppose the original site plan that accompanied this request. In addition, the applicant has provided no supporting information to show how this request meets all the variance standards.

We recommend that, if the SRA cannot be located off the 15% slope, the variance approval be granted for the original site plan, and include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

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/

August 26, 2003

Mr. Ray Dintaman, Jr.
Environmental Review Unit
Tawes State Office Bldg, B-3
Annapolis, MD 21401

Re: US Army Corps of Engineers Public Notice
Dorchester Aquatic Ecosystem Restoration

Dear Ray,

I have reviewed the fact sheet regarding this proposal and offer the following guidance regarding activities that might occur in the Critical Area during a marsh creation project.

1. All activities within 1000 feet of mean high water must comply with the requirements of the Critical Area Law and regulations. If the project is conducted by a State or Federal agency, the design plans must be submitted to this office for review and approval prior to initiating construction activities. If the project is conducted by a private individual or a local jurisdiction, the plans must be submitted to the local planning and zoning office for any necessary grading and building permits, and Buffer management plans. The Dorchester County Planning Director is Mr. Steve Dodd, who may be reached at 410-228-3234.
2. The redistribution of sediments and stabilization activities will likely require the use of heavy equipment. Materials and equipment will need to access the shoreline and waterway from a land-based access point. The area 100 feet landward of mean high water is regulated as the 100-foot Critical Area Buffer (Buffer). Stockpile and staging areas must be located outside the Buffer. Disturbed areas which already exist in the Buffer, such as a parking lot, public landing, and/or road shoulder, may be utilized for staging and stockpiling purposes.

3. Any clearing of woody vegetation within the 1000-foot Critical Area boundary must be mitigated. The mitigation ratio will depend on the location and purpose of the tree removal activity.
4. Projects that require formal Critical Area Commission approval are presented to the Commissioners on the first Wednesday of each month. I will be pleased to assist the applicant during the early design phases to ensure the project will meet Critical Area requirements. I may be reached at 410-260-3481.

Thank you for the opportunity to comment.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Steve Dodd

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/

August 22, 2003

Ms. Sue Veith
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 530-03: MSUB # 03-110-069 Rosedale Minor Subdivision**

Dear Sue,

I have reviewed the preliminary plat for this subdivision, which is being proposed in the RCA of Forest Landing Creek. This parcel contains 18.84 acres in the Critical Area. The following comments are provided for your use:

1. This property has two RCA density rights, as Ingleside Road serves as a parcel divider. Lots 1, 2 and Outparcel B each contain acreage in the Critical Area. The plat must include a note stating that no development is permitted in the Critical Area portion of Lots 2 without growth allocation.
2. Lot 2 must be removed from the Critical Area existing conditions table. Although Outparcel B is not being subdivided at this time, I recommend it be included in the Critical Area existing conditions table.
3. It appears there is a tributary stream on the east side of the parcel near Outparcel B. If so, the 100-foot Buffer must be delineated along each side of this stream and shown on the plat.
4. The Wildlife and Heritage Service comments, dated July 23, 2003, indicate the site contains potential FIDS habitat. To avoid the need for calculating and providing FIDS mitigation, forest clearing can be avoided by locating the development envelope, including the SRA, into the cleared area.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner



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 22, 2003

Mr. Phil Shire
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 558-03: MSUB # 03-141-042 Oakley Farm Boundary Line Adjustment
Judith E. Blackistone, et al., heirs**

Dear Phil,

I have reviewed the boundary line adjustment plat for this property, which is located in the RCA of Canoe Neck Creek. Based upon our telephone conversation yesterday, I am providing the following comments on Outparcel A, which is the only portion of this property with acreage in the Critical Area.

1. This appears to be a confirmatory survey performed in conjunction with the settlement of the Ida Louise Dent and Wade Hampton Blackistone estates. The boundary lines being shown are meant to identify the limits of the remaining lands of this estate, and do not represent a request to reconfigure the size and shape of existing parcels.
2. The 100-foot Critical Area Buffer on Outparcel A must be delineated for the tributary streams that approximate the eastern and western boundary lines. Information on topography, soil types and K factors is needed for determining whether these Buffers should be expanded for steep slopes, hydric and/or highly-erodible soils.
3. Outparcel A has one RCA density right. However, there are structures located in the Critical Area; all structures on Outparcel A must be labeled to determine if the RCA density has been used.
4. The plat must contain a note stating whether the parcel contains State tidal wetlands within its boundaries, and, if so, how much acreage.
5. The plat should contain notes indicating the 15% limit on impervious surface areas and 30% limit on clearing of existing forest cover. The amount of existing impervious surface areas and forest cover should also be provided.

6. The Wildlife and Heritage Service (WHS) must be contacted for a determination on the presence of rare, threatened or endangered species and/or their habitats prior to granting approvals of this plat. All WHS comments must be addressed on the plat. A copy of the WHS comment letter must be provided to this office.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner



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 15, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 600-03: SFD # 03-0477 Charles L. Satterfield/George F. Kettle Property

Dear Reed,

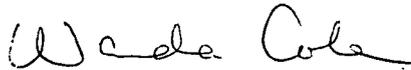
I have reviewed the site plan for the development of a single-family homesite located in the LDA of Mattawoman Creek. This forested parcel is largely constrained by the Critical Area Buffer, which has been expanded for highly-erodible soils. I am providing the following comments for your use:

1. The forested area on this property was identified as containing potential FIDS habitat, as determined by the Wildlife and Heritage Service (WHS), in its letter dated April 14, 2003. The development plan has not met the forest conservation measures outlined in items # 2-5 of the WHS letter. It appears reduction in clearing can be accomplished by locating the development envelope closer to the development envelope shown on the parcel to the east of this property. This location would reduce the length of the driveway and the amount of interior edge being created.
2. Please provide a copy of the forest conservation worksheet for this proposal to verify that no additional mitigation would be required.
3. Please verify the condition of the existing woods road and existing logging road with regards to width, regeneration of forest cover in the roadbed, and whether there is a closed canopy over them. The amount of existing forest in the area provides a good seed source for natural regeneration. It is possible that these roads have reverted to forest cover and do not qualify as suitable mitigation planting areas.

4. Were perc tests performed in other locations on this property other than the chosen homesite? If so, please provide a map showing where their locations and results.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Cole
Natural Resources Planner

Cc: Lori Byrne
Wes Tomlinson



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 15, 2003

Ms. Sue Veith
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 232-03: MSUB # 03-110-008 Riverwind Farmstead Subdivision, Revised Plat

Dear Sue,

On July 29, 2003, Jerry Soderberg and I met to review the revised plat for this subdivision request. Jerry has since sent me the latest set of plans, stamped August 11, 2003. All of my April 7, 2003 comments have been addressed. It is now my understanding that State tidal wetlands have been excluded entirely from within the property boundaries, and that this parcel has only one RCA density right. The Buffer appears to have been correctly expanded for contiguous steep slopes and/or highly-erodible soils. A development envelope has been shown for Farmstead 502-4 to direct future development away from the expanded Buffer, and the development envelope for Lot 502-5, which contains acreage in the Critical Area but has no RCA density, is located outside the Critical Area.

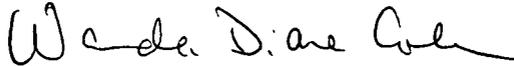
The plat now includes notes regarding the FIDS protection guidelines, pursuant to the comments provided by the Wildlife and Heritage Service (WHS). However, I have noticed that the wording in FIDS note # 3 has merged items # 2 and 9 from the June 12, 2003 Wildlife and Heritage Service letter, and the result has inadvertently changed the interpretation of those two forest conservation measures. In addition, the dates given in WHS item # 9 are incorrect for development activities. Therefore, I recommend the following:

1. Item # 9 in the WHS letter, dated June 12, 2003, provides incorrect breeding season dates for development activities. The breeding season is April- August, expanded to February-August if barred owls are present. Please revise FIDS note # 3 to show the correct dates.
2. FIDS note # 3 has paraphrased the WHS item # 2 and merged WHS item # 9, and in so doing, has changed the context of the conservation measures being described. WHS is advising that unavoidable, permanent disturbances to FIDS habitat be restricted to within

300' of the forest perimeter. The time of year for causing unavoidable disturbances is not a factor. To avoid misinterpretation, FIDS note # 3 include only the wording of WHS item # 9 (with corrected dates), and a new FIDS note created for WHS item # 2.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Jerry Soderberg
Lori Byrne



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 12, 2003

Ms. Sue Veith
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 233-03: MSUB # 03-110-009 Thompson's Run Subdivision
Revised Plat**

Dear Sue,

I would like to append my comments dated August 12, 2003. I have since realized that the wording in FIDS note # 3 has merged items # 2 and 9 from the June 12, 2003 Wildlife and Heritage Service letter, and the result has inadvertently changed the interpretation of those two forest conservation measures. Therefore, I would like to add the following comment:

1. WHS is advising that unavoidable, permanent disturbances to FIDS habitat be restricted to within 300' of the forest perimeter. The time of year for causing these unavoidable disturbances is addressed by WHS item # 9. To avoid misinterpretation, FIDS note # 3 should be replaced with WHS item # 9 (with corrected dates), and a new FIDS note created for WHS item # 2.

Please call me at 410-260-3481 if you have questions.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: Lori Byrne
Jerry Soderberg



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 12, 2003

Ms. Sue Veith
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 233-03: MSUB # 03-110-009 Thompson's Run Subdivision
Revised Plat**

Dear Sue,

On July 29, 2003, Jerry Soderberg and I met to review the latest plat revision for this subdivision request. All of my April 7, 2003 comments have been addressed. It is now my understanding that State tidal wetlands have been excluded entirely from within the property boundaries, and that this parcel has only one RCA density right. The Buffer appears to have been correctly delineated along the tributary streams and expanded for contiguous steep slopes and/or highly-erodible soils. A development envelope has been shown to direct future development away from the expanded Buffer. The plat includes notes regarding the FIDS protection guidelines, pursuant to the comments provided by the Wildlife and Heritage Service.

Jerry will be revising FIDS note # 3 to update the breeding season window to April – August, inclusive, and if barred owls are present, expanded to February – August, inclusive.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: Lori Byrne
Jerry Soderberg



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 11, 2003

Mr. Jerry Soderberg
DH Steffens Co
22335 Exploration Drive, # 1020
Lexington Park, MD 20653

Re: SM 473-03: Thomas Reeves Subdivision, Lots 3-5

Dear Jerry,

During our meeting on July 29, 2003, you inquired as to whether Mr. Reeves may construct a pier on his own property for the use of the future owners of these lots. Access to this pier would be accomplished by extending the driveway located in front of the barns on his Mr. Reeves' property.

A waterfront property owner is permitted a single access to the shoreline, provided mitigation is accomplished at a 2:1 ratio for all forest clearing, and for new disturbances in the Buffer. The property owner is responsible for complying with local zoning and building codes, as well as any State tidal and nontidal wetland permit requirements.

A property owner may allow guests to use his pier and visit the shoreline. However, Mr. Reeves may not formally guarantee these uses to the future owners of Lots 3-5. Therefore, this subdivision request may not utilize plat notes, deed clauses, or any legal instrument that would convey a right to the future owners of Lots 3-5 for access to and use of the shoreline. As with any arrangement where others are invited to use one's property, there would be associated liability and/or management risks.

TTY For the Deaf

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

Page Two
August 11, 2003
Re: SM 473-03: Thomas Reeves Subdivision, Lots 3-5

Please contact me at 410-260-3481 if you have any questions regarding this information.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: Sue Veith
Thomas Reeves



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 11, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 509-03: Whitehaven Road, Pipe Replacement**

Dear Matt,

I have reviewed the information that you and Mr. James A. Miller have provided regarding this pipe replacement project. Based upon this information, this project meets the standards for COMAR 27.01.02.04. C (1)(b) "All roads, bridges and utilities that must cross a habitat protection area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life, and their habitats and maintain hydrologic processes and water quality. Roads, bridges, or utilities may not be located in any habitat protection area unless no feasible alternative exists."

The County must provide findings in the form of a Consistency letter that demonstrates this project is consistent with its Critical Area Program. Please contact me at 410-260-3481 if you have any questions about what findings to include in the consistency letter.

Thank you for your participation and assistance in this process. I look forward to your letter.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: James A. Miller



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 11, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: **WI 462-03: Muddy Hole Road over Broad Creek, Bridge Replacement**

Dear Matt,

I have reviewed the additional information provided by Mr. James A. Miller, Project Manager for the Wicomico County Roads Division. Based upon this information, the Critical Area Commission concurs with the County's findings that this project is consistent with COMAR 27.02.02 State and Local Agency Actions Resulting in Development on Private Lands or Lands Owned by Local Jurisdictions. This concurrence includes the following condition:

All Wildlife and Heritage Service (WHS) comments regarding the presence of any rare, threatened or endangered species and/or their habitats located within the project site or vicinity must be addressed prior to granting a Certificate of Compliance. A copy of the WHS comments must also be provided to this office prior to granting any approvals.

Thank you for your assistance with these items. Please contact me at 410-260-3481 if you have any questions regarding this process.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: James A. Miller



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 11, 2003

Ms. Patricia M. Farr
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

Re: **BC 546-03: Approval of Baltimore County Public Schools
Sparrows Point High School Athletic Field Bleacher Project**

Dear Pat,

I am pleased to inform you that, on August 6, 2003, the Critical Area Commission unanimously approved the above referenced project in accordance with COMAR 27.02.06 Conditional Approval of State and Local Agency Programs in the Critical Area. This approval is subject to the following condition:

- **Commission staff will work with Baltimore County Public Schools and Baltimore County DEPRM to first provide an on-site measure to mitigate the projects' impacts caused by increased stormwater. If, within six months, such a measure is determined to not be feasible, Baltimore County Public Schools may then contribute the County's Critical Area fees-in-lieu payment of \$2,505.06.**

Please forward the contact information for the Baltimore County staff persons who will be working with me on the mitigation measure. I may be reached at 410-260-3481.

Thank you for your participation and assistance in this process.

Sincerely,

Wanda Diane Cole
Natural Resources Planner



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 11, 2003

Ms. Theresa Dent
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: SM 554-03: # 02-2612 Jerry Olmstead Variance Request

Dear Theresa,

I have reviewed the information regarding this after-the-fact request for a six-foot wide walkway to the shoreline. The County ordinance provides for a maximum of three feet for this type of access, which ensures minimum disturbance to the Buffer. We recommend that the request be denied and the applicant directed to restore the area of the path greater than three feet in width. In addition, we recommend a minimum 2:1 mitigation be provided in the Buffer for any clearing that was completed to accommodate this access. If the County's ordinance requires a higher mitigation ratio for unauthorized activities in the Buffer, we support the higher ratio.

Thank you for the opportunity to comment. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner



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 11, 2003

Ms. Sue Veith
St. Mary's County
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 529-03: MSUB # 03-110-063 Spring Ridge Lots 4 & 5**

Dear Sue,

I have reviewed the information regarding Lots 4 & 5 which are being proposed in the RCA of Page Pond off Chesapeake Bay. The parent parcel contains 28.5987 acres in the Critical Area. The following comments are provided for your use:

1. It appears there is not sufficient RCA density available to create two lots. This subdivision cannot be approved without growth allocation. There is a 300' Critical Area Buffer being shown on this plat; is the applicant requesting growth allocation? If so, a Critical Area report and findings must be provided.
2. The plat must provide a subdivision history for lots created in the Critical Area portion of the parent parcel. The following questions must be addressed:
 - What is the configuration of the parent parcel as it appeared on December 1, 1985? Are Lots 4 & 5 being created from Outparcel A, Parcel A or Parcel 500-A?
 - From which parcel was "Existing Lot 3" created? When?
 - For which subdivision does Parcel 500-A serve as a density reservation parcel?
 - The origin of the Johnny E. & Ruby C. Edmonds parcels must be discussed as it appears to relate to the subdivision history.
3. Forest clearing can be avoided or minimized by locating the Sewage Reserve Areas (SRA) closer to the proposed homesites. Clearing for the SRA on Lot 5 may exceed 30% of the site's existing forest, which would require a variance. We cannot support development on new lots that would require a variance.

4. These lots are located on hydric soils. The site should be evaluated to determine whether the Buffer should be further expanded to include all of the forested portions of these lots.
5. The Wildlife and Heritage Service (WHS) must be contacted for a determination on the presence of rare, threatened or endangered species and/or their habitats at this site. All comments by WHS must be addressed on the final plat prior to recordation. A copy of the determination must be provided to this office prior to granting any approvals.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information that is provided.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner



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 11, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, Maryland 20650-0653

Re: **SMA 25: Approval of St. Mary's County Comprehensive Review
(Revision to July 16, 2003 Commission Approval letter)**

Dear Sue,

This letter serves to revise my July 16, 2003 letter, in which the word, "no", was omitted from item # 4. Item # 4 is hereby revised as follows:

4. The County will also amend Schedule 50.4 for "Charter fishing" by adding the following language, "**Charter fishing activities operated at a private pier that is accessory to a residential use providing berthing and facilities for : One vessel carrying more than 6 and less than 25 passengers and meeting the requirements of a `Small Passenger Vessel (under 100 gross tons)` pursuant to US Coast Guard regulations OR no more than three uninspected vessels capable of carrying 6 or fewer passengers for hire each meeting the requirement as an `Uninspected Vessel under 100 gross tons` pursuant to US Coast Guard regulations.**"

Thank you for bringing the omission to my attention. I apologize for any inconvenience it may have caused.

Sincerely,

Wanda Cole
Natural Resources Planner



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 5, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: **CS 575-03: SFD # 03-0503 Clarence R. Lloyd Site Plan**

Dear Reed,

I have reviewed the applicant's site plan and planting plan for a single-family dwelling, garage, driveway and sewage reserve area in the RCA of Piccowaxen Creek. This lot was recently created through the Critical Area intra-family transfer process. I would like to provide the following comments for your use:

1. The eastern property line boundary has not been closed.
2. The elevations differ on the plan view from that shown on the inset; e.g., elevation +15 at the 1"= 200' scale becomes elevation + 30 at the 1"= 100' scale. The elevations must be verified and corrected.
3. The house is shown abutting the 100-foot Critical Area Buffer line. Development activities on a new lot are prohibited in the Buffer. The house location, as shown, allows no room for equipment access during construction, nor for installation of sediment controls. There is insufficient room for creating a front yard or building future amenities such as a deck, porch, pool, gazebo, patio, etc. If the house is not moved back from the Buffer line, this office cannot support any future variance requests for disturbances to the Buffer.
4. The mitigation plantings are not being provided within this parcel's property lines, nor are all the required plantings being placed within the 1000-foot Critical Area boundary. In addition, plantings are being shown within existing forested areas that are located outside the limits of disturbance. The plantings must first be accomplished on-site in

non-forested areas, and if it becomes necessary to complete the plantings on the residual parcel, the plantings must be located within the Critical Area. The site plan must include a note that these plantings must remain undisturbed.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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 5, 2003

Ms. Sue Veith
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 536-03: SMSUB # 03-140-001 Charles Dean Property**

Dear Sue,

I have reviewed the information regarding this parcel, which was created by deed in 1982 without being recorded as an approved subdivision. This lot is located in the RCA of Herring Creek but was not a lot of record as of December 1, 1985. Therefore, this lot has no grandfathered rights and any proposed development must meet the current Critical Area requirements. I would like to provide the following comments for your use:

1. This lot contains insufficient acreage to achieve the 1 per 20 RCA density required when creating a new lot in the RCA, and the applicant is unable to utilize any density reservation areas that might remain with the parent parcel. This lot is cannot be developed without growth allocation.
2. If growth allocation is pursued, the plat must: tabulate the amount of existing forest and impervious areas; include notes regarding the 15% limit on impervious surface areas; indicate whether 15% afforestation is needed; and show the soil types, their locations and K factors.
3. If afforestation is needed, a planting plan is required and the afforestation area must be delineated on the plat. There appears to be a small area in the 100-foot Critical Area Buffer that can be used for a portion of the afforestation.
4. If the applicant intends to create future access to the shoreline, that information should be shown at this time so that its impact can be evaluated. It appears the slope steepens dramatically just above the shoreline. If the pier and turnabout area on the Boothe property, located southwest of this lot, is available for the applicant's use, he may not need to develop access to the shoreline. The pier area can be reached easily from the short driveway that exists from the west side of this lot.

5. The applicant must request a determination from the Wildlife and Heritage Service (WHS) regarding the presence of rare, threatened or endangered species and/or their habitats on this lot. All WHS comments must be addressed on the final plat, and no approvals may be granted until a copy of the WHS letter has been provided to this office.
6. We request the opportunity to review the final, revised plat when it is available.

Thank you for the opportunity to review this plat. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner



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 28, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 496-03: SFD # 03-0513 Anne M. & Nancy J. Garlenski Site Plan

Dear Reed,

Thank you for providing the additional information we requested. The March 6, 2000 Wildlife & Heritage (WHS) determination letter indicates the forest on this parcel may qualify as FIDS habitat. The FIDS mitigation worksheet must be completed to determine whether additional mitigation is required for FIDS. Mitigation for FIDS must be accomplished as FIDS habitat.

The WHS letter also lists three species of concern that could occur on this parcel in areas of appropriate habitat, however, no description of habitat is given. Please contact Mrs. Lori Byrne or Ms. Kathy McCarthy at 410-260-8573 for information regarding appropriate habitat. If the appropriate habitat occurs on this parcel, WHS concerns regarding these species must be addressed on the plat prior to final plat approval.

You have confirmed that the deed to this property includes a clause regarding the intra-family transfer provisions.

Thank you, again, for your assistance. Please contact me at 410-260-3481 if you have additional questions.

Sincerely,

Wanda Cole
Natural Resources Planner



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 24, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 527-03: SFD # 30358 Charleston Estates, Lot 13A Site Plan

Dear Elsa,

I have reviewed the site plan, which proposes a development envelope with no impacts to the 100-foot-Buffer and no forest clearing. The impervious surface limits are well within the maximum limit allowed. We have no concerns regarding this site plan.

If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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 24, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 475-03: SFD 03-0337 Coldspring Farm

Dear Reed,

Thank you for providing the additional information that we requested for our review. This information shows that the Buffer has been expanded for K factors exceeding 0.35, there are no existing structures associated with the existing gravel driveway, and the development envelope is sited on a 10% slope.

Information was not provided regarding how much forest area will be cleared, nor how much reforestation and/or afforestation will be required. No approvals may be granted until the following information has been provided to the County's satisfaction:

- that the site is at least 15% afforested;
- that forest clearing does not exceed 30%;
- mitigation is provided at the ratio appropriate to the percentage of clearing.

We do have no further comments regarding this site plan. Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

Wanda Diane Cole
Natural Resources Planner



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 24
~~June 2, 2003~~

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

**RE: SM 351-03: Variance Case # 03-0686 Thomas Ruthenberg
Revised Site Plan**

Dear Theresa,

I have reviewed the revised site plan in which the applicant reconfigured the proposed footprint, which resulted in a 733 square foot reduction in impervious surface area but places the dwelling six feet closer to the shoreline. Reducing the footprint increases the available area for planting the required native species to offset stormwater quality impacts. We do not oppose this revised site plan. Again, we recommend the variance include a condition that these plantings be accomplished on-site.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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 23, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 237-03: SFD # 03-0122 Roy Robertson (Williams), Lot 1

Dear Elsa,

I want to thank you for your patience while I was out on emergency leave, and I am pleased that you were able to proceed with your review. If possible, I would like to offer two belated comments, neither of which will affect the processing of building permits for this project. They are relatively minor bookkeeping comments that I would like to be on file for our future use. They are:

1. Mitigation/reforestation Area # 3 does not state the size of the area to be planted. This area should measure 1.59 acres.
2. The impervious surface table does not provide a total for post-development impervious surfaces. The existing impervious area for the barns, as shown on sheet 1 of 2, equals 5,172 square feet. The table on sheet 2 of 2 states 4,951 square feet, therefore, these numbers will need to be reconciled at some point. In addition, the heading "Semi Impervious Area" is confusing and would be better stated as "Impervious Surface Area".

If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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 22, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 516-03: Waveland Lot 2 & part of Lot 3 (Thomas Hutchins)

Dear Reed,

I have reviewed the site plan for this project, which has been slightly modified since our November 2001 review for the Buffer variance. The applicant proposes a replacement dwelling with a porch, deck, patio, and walkway to Eventide Place. Eventide Place is located on Lot 1, which is owned by the applicant. The site plan includes the Buffer Management Plan, which proposes plantings on both Lots 1 and 2. I have the following comment:

1. While excavating equipment is on-site for installing footers, the sewage reserve area should be located out of the floodplain to prevent future damage to the drain fields and direct leaching of sewage during flood events. The area above elevation + 10 on the north side of the house has sufficient room for an SRA, is not steep, and would increase the distance between the drain field leachate and Port Tobacco Creek.
2. I highly advise against using topsoil and plantings in the revetment. While attractive from a landscape perspective, it is not likely to thrive. I recommend it not be accepted as part of the Buffer Management Plan for the following reasons:
 - The rocks will superheat and dry up the plantings, particularly the cord grass, which depends on moist soil conditions.
 - Highbush blueberry thrives poorly in saline conditions.
 - Wave energy during storm surges and bi-monthly spring high tides may pull the plantings loose from the soil.

- Normal tidal action against the rocks creates a suction effect that will eventually draw the topsoil down into the rocks, thus exposing the plant roots.
3. If the applicant pursues the revetment planting, the species of cordgrass must be identified. It appears *Spartina patens* would be the logical choice.

Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,



Wanda Cole
Natural Resources Planner

Cc: Mark Xander, Charles County Health Department



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 22, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 508-03: # 2163 Peter C. and Katherine L. Paul Variance Request**

Dear Steve,

I have reviewed the applicant's variance request to construct an addition in the 100-foot Critical Area Buffer on a grandfathered lot located in the RCA of Fishing Creek. The Buffer largely constrains this site due to the configuration of the shoreline and the presence of a tidal marsh.

This office does not oppose this variance request. Please note that an additional 9 square feet of disturbance is proposed in the Buffer by the construction of a 3' x 3' section of steps for an entrance into the addition, as related to me today during a phone conversation with Mr. Paul.

We recommend the variance approval include the following conditions:

1. The required 3:1 mitigation for new disturbances in the Buffer must be provided on-site in the Buffer.
2. Future development activities proposing new impervious surfaces must be located outside the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner



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 22, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

**Re: DC 507-03: # 2161 J. Roger and Eleanor G. Van Dyke Variance Request
Tax Map 28, Parcels 68 and 69**

Dear Steve,

I have reviewed the information regarding the applicant's variance request to construct a dwelling in the 100-foot Critical Area Buffer on a grandfathered parcel located in the RCA of Gary Creek, and to extend a driveway in the Buffer on an adjacent, grandfathered parcel. The upland areas on these two parcels are entirely constrained by the Buffer, with the remainder of the area being constrained by private, tidal wetlands (as defined in COMAR). The applicants propose to combine these two parcels into one parcel.

This office does not oppose this request. The applicant has provided a planting plan for mitigating new disturbances in the Buffer. Provided this planting plan meets the County's Buffer Management requirements, I have no concerns regarding the mitigation ratio, species used or planting locations shown.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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 16, 2003

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
23150 Leonard Hall Drive
PO Box 653
Leonardtown, Maryland 20650-0653

RE: SMA 25
Approval of St. Mary's County Comprehensive Review
(Modifications to Commission's Conditions and Final Critical Area Maps)

Dear Ms. Veith,

I am pleased to inform you that at its July 2, 2003 meeting, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the St. Mary's County Critical Area Program Comprehensive Review and Critical Area Overlay Maps. This approval includes the establishment of Buffer Management Overlay areas and their maps, as well as the County's recommended revisions to the Commission's July 2002 conditions as outlined below:

1. Condition #1 shall be satisfied by adding the following language to Section 26.2.2.a, **"nor may any development right be transferred to land in the RCA from any RCA lot of record that is less than 20 acres in size."**
2. Condition #16 shall be satisfied by adding the following language to Section 51.3.19.a, **"In the RCA, new uses shall be limited to 20,000 square feet of impervious surface area or 15% of the site, whichever is less. The area of individual gravestones shall not be included in the calculation of impervious surface. In the RCA, expansion of existing uses shall be governed by the provisions of Chapter 52, except that a variance shall be required when expansion allowed by that chapter would exceed the impervious surface limits of the Resource Conservation Area overlay."**
3. Condition #17 shall be satisfied by amending Schedule 50.4 for "Charter fishing facility" by deleting "RCA" from the table and amending the description to read, **"This classification includes any facility that berths more than one vessel for hire carrying**

more than six passengers regardless of whether inspection is required for US Coast Guard regulations governing passenger vessels OR more than three vessels for hire meeting the requirements as an 'uninspected vessel under 100 gross tons' pursuant to US Coast Guard regulations and accommodating 6 or fewer passengers each."

4. The County will also amend Schedule 50.4 for "Charter fishing" by adding the following language, **"Charter fishing activities operated at a private pier that is accessory to a residential use providing berthing and facilities for: One vessel carrying more than 6 and less than 25 passengers and meeting the requirements for a 'Small Passenger Vessel (under 100 gross tons)' pursuant to US Coast Guard regulations OR more than three uninspected vessels capable of carrying 6 or fewer passengers for hire each meeting the requirement as an 'Uninspected Vessel under 100 gross tons' pursuant to US Coast Guard regulations."**
5. Condition #21 shall be satisfied by adding the following language to Section 51.3.113, **"In the RCA, this use must be associated with a use permitted in the RCA. Occupation of the worker housing shall cease within 30 days if the agricultural, commercial, or industrial operation employing the workers ceases for more than 30 days, regardless of any intention to abandon or resume such activities. Housing may be reoccupied by workers utilized for the activity upon resumption of the permitted RCA use."**

Thank you for all the effort you invested in this process. We appreciated the assistance you provided during the review and your efforts to coordinate final approval of the conditions with the County Commissioners. If you have any questions, do not hesitate to give me a call.

Sincerely,



Wanda Cole
Natural Resources Planner



CAC Reader

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

Mr. Jon S. Lore
23314 Green Holly Rd
Lexington Park, Maryland 20653

Re: **SM 156-03: MSUB # 03-110-006 Lore's Estates. Lots 1-3**

Dear Mr. Lore,

Theresa Dent and I have discussed your request to count the 1,257 seedlings previously planted in the 100-foot Critical Area Buffer on this parcel toward fulfillment of the subdivision approval requirement to establish the Buffer. I understand these plantings were not shown on the plat as part of the existing forest cover. Provided the entire Buffer becomes established as a result of this subdivision request, these additional seedlings may certainly be counted toward that requirement.

I appreciate your thoughtfulness for inquiring. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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

Ms. Sue Veith
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 21-03: MNSP# 02-131-028 Consistency Report for Marlay Taylor
Wastewater Treatment Facility Upgrade**

Dear Sue,

Thank you for providing the additional information requested for our review of the Consistency Report for this project. Our office concurs with your findings that this project is consistent with the St. Mary's County Critical Area Program and COMAR 27.02.02 State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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 11, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 387-03: MSUB # 03-110-029 Fenhagen Property, Farmstead 1 & Outparcel A

Dear Theresa,

This letter amends item # 2 in my TEC review comment letter dated June 23, 2003. Please include this letter in your file. It is our understanding from Howard Fenhagen, son of the owner, Joseph Fenhagen, that Farmstead 1 is being created under the Critical Area intrafamily transfer provisions. The plat must contain notes stating the Critical Area intrafamily transfer provisions, including the family relationship of the owner to the transferee.

Provided less than 60 acres of the parent parcel lie within the Critical Area, Farmstead 1 will utilize one of the three development rights available under the Critical Area intrafamily transfer provisions. A note must be included on the plat stating how many acres lie within the Critical Area, and that two RCA intrafamily transfer density rights remain.

Again, we request a copy of the revised plat once it is available.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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 11, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 467-03: MNSP # 03-131-037 St. Cecilia Church Hall Site Plan

Dear Theresa,

I have reviewed this site plan regarding the proposed church hall, parking lot and driveway in the RCA of St. Mary's River. I am unable to complete my review as the site plan lacks the following environmental features information:

1. The location of the Critical Area boundary line and how much of the property's acreage lies within the Critical Area.
2. A copy of the USGS topographic and St. Mary's soil survey maps for this area, or similar information, for determining the locations of steep slopes, tributary streams, floodplains, and nontidal wetlands within the project area.
3. A determination from the Wildlife and Heritage Service regarding the presence of any rare, threatened or endangered species and/or their habitats at this site. A copy of the determination letter must be provided to this office prior to granting any approvals for this project.
4. Statement regarding the amount of existing impervious surface areas, existing forest cover, and how much clearing is proposed for this project.

I will provide formal comments on the site plan once I have received the requested information. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Cole
Natural Resources Planner



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 8, 2003

Mr. Matt Hedger, Planner
City of Salisbury-Wicomico County
Department of Planning, Zoning and
Community Development
125 North Division Street, Room 203
PO Box 870
Salisbury, MD 21803-0870

Re: WI 462-03: Muddy Hole Road over Broad Creek, Bridge Replacement

Dear Matt,

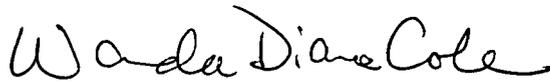
I have reviewed the information regarding this project in which an in-kind replacement of the bridge is being proposed within the existing footprint. I will need additional information to assist me in reviewing this submittal as a Consistency Report, pursuant to COMAR 27.02.02 State and Local Agency Actions Resulting in Development on Private Lands or Lands Owned by Local Jurisdictions. Please provide me with the following information at your earliest convenience:

1. Please quantify the amount of new disturbances for the riprap.
2. Will the approach roadways be paved or will the surface remain in its current condition?
3. Has MDE issued a final License or Permit for the work in tidal wetlands? If so, what is the date of the approval? Are there any time of year restrictions?
4. Has sediment and erosion control approval been issued? Has this project obtained a waiver to stormwater management requirements?
5. Has the Wildlife and Heritage Service been contacted for a determination on the presence of rare, threatened or endangered species within the project area or vicinity? If so, I will need a copy of the determination letter for my staff report.
6. How will traffic be maintained during construction?

7. Where will the staging and stockpile areas be located? These areas should be maintained outside the 100-foot Buffer. However, upon review of the photographs, this may be difficult to do. Unless it would impede maintenance of traffic, I recommend the existing roadbed be utilized for staging and stockpiling of equipment and materials.

Thank you for your assistance with these items. Please contact me at 410-260-3481 if you have any questions regarding this process.

Sincerely,



Wanda Diane Cole
Natural Resources Planner



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 8, 2003

Ms. Patricia M. Farr
Program Supervisor
Environmental Impact Review
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

Re: **BC 550-02: Stemmers Run Force Main and Pumping Station
Critical Area Consistency Report**

Dear Pat,

I have reviewed the information provided in the Consistency Report for the above referenced project, where construction of a pumping station and extensions of sewer lines are proposed in the IDA and LDA of Back River. We concur that this project is consistent with the Baltimore County Critical Area Program, and in accordance with COMAR 27.02.02.02 State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions.

Please forward a copy of the Wildlife and Heritage Service comments regarding the impacts of this project on the presence of any rare, threatened or endangered species and/or their habitats. No approvals may be granted until this letter has been provided to our office.

Thank you for your participation in this process. If I may be of further assistance, please contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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 8, 2003

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

Re: **Critical Area Commission Unanimous Approval of DO570A21
MD 16 over Parsons Creek, Dorchester County**

Dear Ms. Simpson,

I am pleased to inform you that on July 2, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the above referenced project in accordance with COMAR 27.02.06 Conditional Approval of State or Local Agency Programs In the Critical Area.

Thank you for your participation and assistance in this process. If you have any questions, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: 48-02

Chesapeake Bay Critical Area Commission

STAFF REPORT

July 2, 2003

APPLICANT: St. Mary's County

PROPOSAL: Completion of Comprehensive Review of the St. Mary's County Critical Area Program and Buffer Management Overlay:

- A) Compliance with the Conditions of the Commission's July 2002 Approval
- B) Approval of Updated Critical Area Overlay Maps

JURISDICTION: St. Mary's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Diane Cole

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article, § 8-1809(g)

DISCUSSION:

A) Compliance with the Conditions of the Commission's July 2002 Approval

In July 2002, the Commission approved, with conditions, the four-year comprehensive review of the St. Mary's County Critical Area Program. The results of the review included revisions to the County's Zoning Ordinance document, changes necessary to update and/or correct the County's official Critical Area maps, and approval of Critical Area Buffer Management Overlay Maps. The Commission's approval included fifty-one (51) conditions, which included semantical and programmatic changes that would provide consistency with the State Critical Area Law and Criteria.

On May 13, 20003, the County adopted Ordinance Z-03-04, Repeal and Adoption of the St. Mary's County Critical Area Program and Zoning Maps Designating the Chesapeake Bay Critical Area Overlay Zones. This Ordinance incorporated all of the Critical Area Commission's conditions, with the exception of conditions # 1, 16, 17, and 21. It will take effect ten days after the County receives the Commission's formal approval.

The Commission's conditions and the County's revisions to these four conditions appear below. These revisions had been previously discussed with and agreed to by staff, and are hereby recommended by staff for Commission approval.

Issue 1

Condition # 1: Section 26.2.2.d - Add the following language after the last sentence. **"Property within the Resource Conservation Area of the Critical Area may not transfer development rights from a lot of record that does not meet the density provisions of one unit per 20 acres."** The Commission requested this condition because the County's language would permit the transfer of development rights from existing grandfathered parcels in the RCA that were less than 20 acres to other parcels in the RCA. This could potentially permit new development in the RCA to exceed the one unit per 20 acres density limitation. It is the Commission's position that the right to construct a dwelling on an existing grandfathered lot that is less than 20 acres is not transferable to another RCA property.

Proposed County Revision: In § 26.2.2.a- strike the period and add the following phrase at the end of the last sentence, "nor may any development right be transferred to land in the RCA from any RCA lot of record that is less than 20 acres in size."

Issue 2

Condition # 16: Section 51.3.19.a – Add, **"(4) In the RCA, existing uses are limited to 15% of the site, and new uses shall be limited to 20,000 square feet of impervious surface area, or 15% of the site, whichever is less."** The Commission requested this modification to the development standards for new burial grounds in order to limit the scope and intensity of this type of use. The intent of these limitations is to prevent this use from becoming a large commercial facility that would not be an appropriate use in the RCA while still accommodating smaller facilities for existing churches or family cemeteries.

Proposed County Revision: Add "In the RCA new uses shall be limited to 20,000 square feet of impervious surface area or 15% of the site, whichever is less. The area of individual gravestones shall not be included in the calculation of impervious surface. In the RCA, expansion of existing uses shall be governed by the provision of Chapter 52, except that a variance shall be required when expansion allowed by that chapter would exceed the impervious surface limits of the Resource Conservation Area overlay."

Issue 3

Condition # 17: Schedule 50.4 (#97) – Change **"18 customers"** to **"12 customers."** Delete **"RCA"** from Schedule 50.4. The Commission requested this change because this use appears to be a commercial use that is more aptly classified as a commercial marine type of activity and therefore not compatible with the types of uses permitted in the RCA. The County agreed to delete this use as a permitted use in the RCA.

Proposed County Revision: Delete "RCA" from Schedule 50.4. Use accepted Coast Guard

categories for defining passenger vessel size and capacity. Replace the description with the following, “This classification includes any facility that berths more than one vessel for hire carrying more than 6 passengers regardless of whether inspection is required for US Coast Guard regulations governing passenger vessels OR more than three vessels for hire meeting the requirements as an ‘uninspected vessel under 100 gross tons’ pursuant to US Coast Guard regulations and accommodating 6 or fewer passengers each.”

Issue 4

Condition # 21: Section 51.3.113 - Add the following “General standard”, **“In the RCA, this use must be associated with a use permitted in the RCA and shall not be occupied on a permanent, year-round basis.”** The Commission requested this clarification to ensure that a dwelling constructed to provide lodging for farm workers and other similar employees would not become a guesthouse or “accessory dwelling unit” exceeding the permitted density in the RCA.

Proposed County Revision: Add the following “General Standard”, “In the RCA, this use must be associated with a use permitted in the RCA. Occupation of the worker housing shall cease within 30 days if the agricultural, commercial, or industrial operation employing the workers ceases for more than 30 days, regardless of any intention to abandon or resume such activities. Housing may be reoccupied by workers utilized for the activity upon resumption of the permitted RCA use.”

Issue 5

In addition to these revisions of the Commission’s conditions, the County proposes an additional revision to “Charter Fishing” which is identified as an accessory use. In Schedule 50.4, Use # 119 is defined as, **“One or two charter fishing boats accommodating a maximum of 12 customers berthed and operated at a private pier as an accessory use to residential use. Generation of revenue from fishing excursions shall not be deemed prima facie evidence contradicting the subordinate and incidental nature of this use to the primary residential use.”** The County proposes to amend this as follows, **“Charter fishing activities operated at a private pier that is accessory to a residential use providing berthing and facilities for: One vessel carrying more than 6 and less than 25 passengers and meeting the requirements for a ‘Small Passenger Vessel (under 100 gross tons)’ pursuant to US Coast Guard regulations OR no more than three uninspected vessels capable of carrying 6 or fewer passengers for hire each meeting the requirement as an ‘Uninspected Vessel under 100 gross tons’ pursuant to US Coast Guard regulations.”**

The County requested this change following lengthy discussions between Commission staff, County staff, and the County Commissioners. The County believes that utilizing the Coast Guard definitions will facilitate implementation and that this use, as limited above, represents a typical “home occupation” in St. Mary’s County. It would be similarly regulated to other home occupations with regard to vehicle trips, parking, etc. Commission staff supports the change as proposed.

B) Approval of Updated Critical Area Overlay Maps

As part of the comprehensive review process, the County prepared new digital Critical Area Maps. The original Critical Area boundary had been drawn by hand on the County tax maps and more detailed and accurate base maps had become available. In order to match the shoreline, tax map, and Critical Area boundary layers, comprehensive revisions to the Critical Area boundary were necessary and affected a majority of the maps. These changes involved adjustments to the Critical Area boundary relative to the shoreline and edge of wetlands in order to ensure that the maps depicted actual conditions as accurately as possible.

In addition to these general changes, Commission staff and County staff reviewed the County's official Critical Area Overlay maps and several areas requiring changes were identified. These changes included the following:

- Extending the Critical Area boundary on Tax Map 52 to include the entire parcel where the Shannon Farms PUD was proposed;
- Changing the classification of areas where growth allocation had been previously awarded but not mapped;
- Correcting edge-match problems where the Critical Area boundary, zoning, and parcel lines differed between two adjacent maps;
- Correcting the Critical Area boundary line where it had been incorrectly delineated to be less than 1,000 feet from tidal waters or tidal wetlands;
- Eliminating an anomaly by removing insets in the original overlay maps 2 through 5, where a donut-shaped designation overlay created a gap in the Critical Area for the Golden Beach subdivision. This anomaly had created an inconsistency in applying Critical Area standards in this community;
- Eliminating the Water Dependent Facilities – Critical Area overlay and replacing it with a more accurately delineated Commercial Marine zoning classification.

The updated maps also include the new Buffer Management Overlay areas that the Commission approved in July 2002, as well as updating the underlying zoning information. Flight zones for Patuxent Naval Air Station are identified on these maps, as well. These maps will be available at the meeting for your perusal.

Staff recommends approval of the County's revisions to the Commission's conditions of approval and to the final St. Mary's County Critical Area Ordinance and updated, official Critical Area Maps.

Critical Area Commission

STAFF REPORT

July 2, 2003

APPLICANT: State Highway Administration

PROPOSAL: Replacement of MD 16 Bridge over Parsons Creek

JURISDICTION: Dorchester County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Diane Cole

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

DISCUSSION:

State Highway Administration proposes the replacement of bridge no. 9003, located on MD 16 over Parsons Creek in Dorchester County near the town of Smithville. This bridge was built in 1970 on fill and is elevated above Parsons Creek and its associated tidal wetlands. This roadway and its right-of-way are considered an area of intense development. Therefore, compliance with the 10% Rule for pollutant loading reduction is required.

The existing bridge is a five-span, pre-stressed concrete slab structure with a 34-foot clear roadway width and is 175 feet long. It rests on two semi-cantilever abutments and three steel monotube pile bents. The replacement bridge will be a four-span, pre-stressed concrete slab structure with a 33-foot clear roadway width and will be 160 feet long. It will rest on two semi-cantilever abutments and three steel pile bent piers. Pier 2 will be slightly relocated. While each approach roadway will receive 100-feet of full-depth paving, there will be a net 292 square-foot reduction in impervious area due to the removal of gabion baskets along the shoreline. During construction, traffic will be maintained using a temporary traffic signal.

The entire limits of disturbance are located within the 100-foot Critical Area Buffer. Minimal excavation, grading and removal of vegetation will be required. The right-of-way consists of mowed, grassy fill slopes under the approach roadways, and emergent tidal wetland vegetation along the abutment walls. No trees occur within the project area. Some woody shrub vegetation is present but SHA does not expect to remove it. Therefore, mitigation for lost forest cover is not required.

Due to the reduction in impervious area, the pollutant removal requirement is 0.13 pounds. The best management practice for meeting this removal requirement will be the vegetated side ditches located at the toe of the side slopes. This project qualifies for a waiver to MDE's stormwater management requirements due to the reduction in impervious area. Stormwater will continue to be addressed by directing runoff into the existing side ditches, abutment and side slopes that have been established in thick turf grasses.

Impacts to the stream, its floodplain and wetlands will be temporary, and all disturbed areas will be restored to pre-existing conditions. Application has been made to the Maryland Department of the Environment (MDE). No mitigation is being required by MDE as the impacts to tidal wetlands are temporary. We anticipate MDE approval by July 2.

MDE is expected to issue an approval for sediment and erosion controls. Parsons Creek is an anadromous fish-spawning area. As DNR had no comments regarding impacts to anadromous fish-spawning areas, the customary March 1 through June 15 time-of-year restriction will not be required. A stream diversion device will be used to divert undisturbed stream flow around the pier work areas.

Maryland Department of Natural Resources has determined that there are no rare, threatened or endangered species within the project area.

There will be no mitigation for new disturbances in the Buffer since all the work will occur within the existing footprint. There are no other Habitat Protection Areas affected. A Conditional Approval is required since the project area is located in the Buffer.

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:

(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 road and bridge were constructed prior to enactment of Critical Area regulations. SHA is required to maintain its roadways and bridges in a safe operating condition. The bridge is now deteriorating. Literal enforcement of these regulations would prevent SHA from implementing improvements that would ensure continued and safe use of the bridge.

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

The road and bridge are located along a primary transportation corridor between Cambridge and the communities of Taylor's Island and Hooper Islands. This road is the primary evacuation route if and when major storms and their associated flooding of low-lying areas occurs.

(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 within the same footprint. In addition, impervious surface area will be somewhat reduced, which will provide water quality improvements.

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. The bridge is now deteriorating. Literal enforcement of these regulations would prevent SHA from implementing improvements that would ensure continued and safe use of the bridge.

(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;

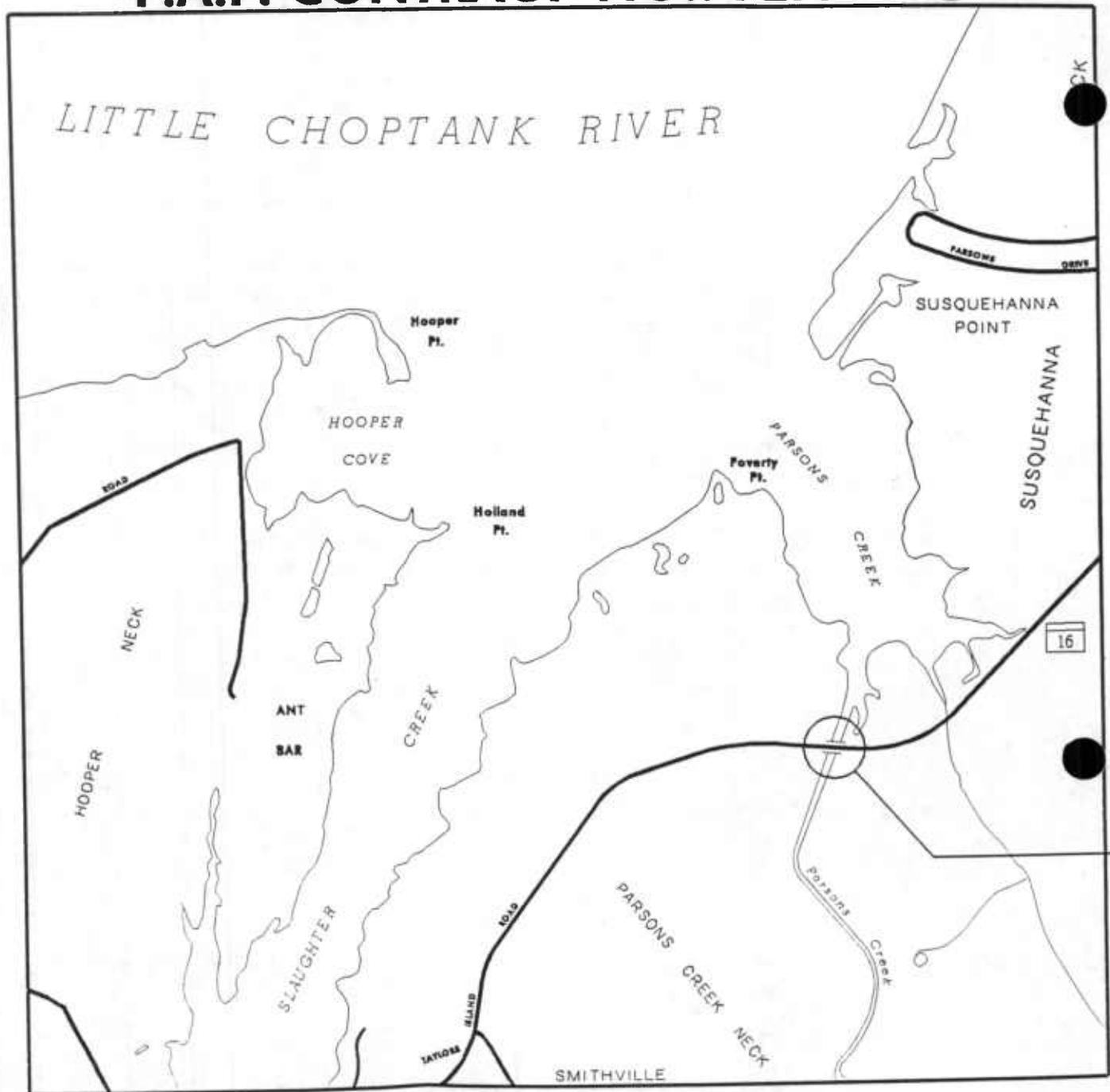
This project has minimized impacts to the Buffer and avoided encroachment into sensitive areas, such as the nearby tidal wetlands. The proposed footprint lies wholly within the existing footprint so that there are no new disturbances to the Buffer. This project represents a continuation of an existing use in the Buffer.

(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.

No clearing of woody vegetation is proposed, therefore, no forest mitigation is required. Compliance with the 10% Rule for removal of phosphorous pollutant loadings will be accomplished by maintaining the existing, vegetated side ditches.

The conditional approval request is consistent with COMAR 27.02.06, the Commission's regulations for Conditional Approval of State Agency Programs in the Critical Area. Staff recommends approval.

S.H.A. CONTRACT NO.: DO5705180
F.A.P. CONTRACT NO.: PENDING

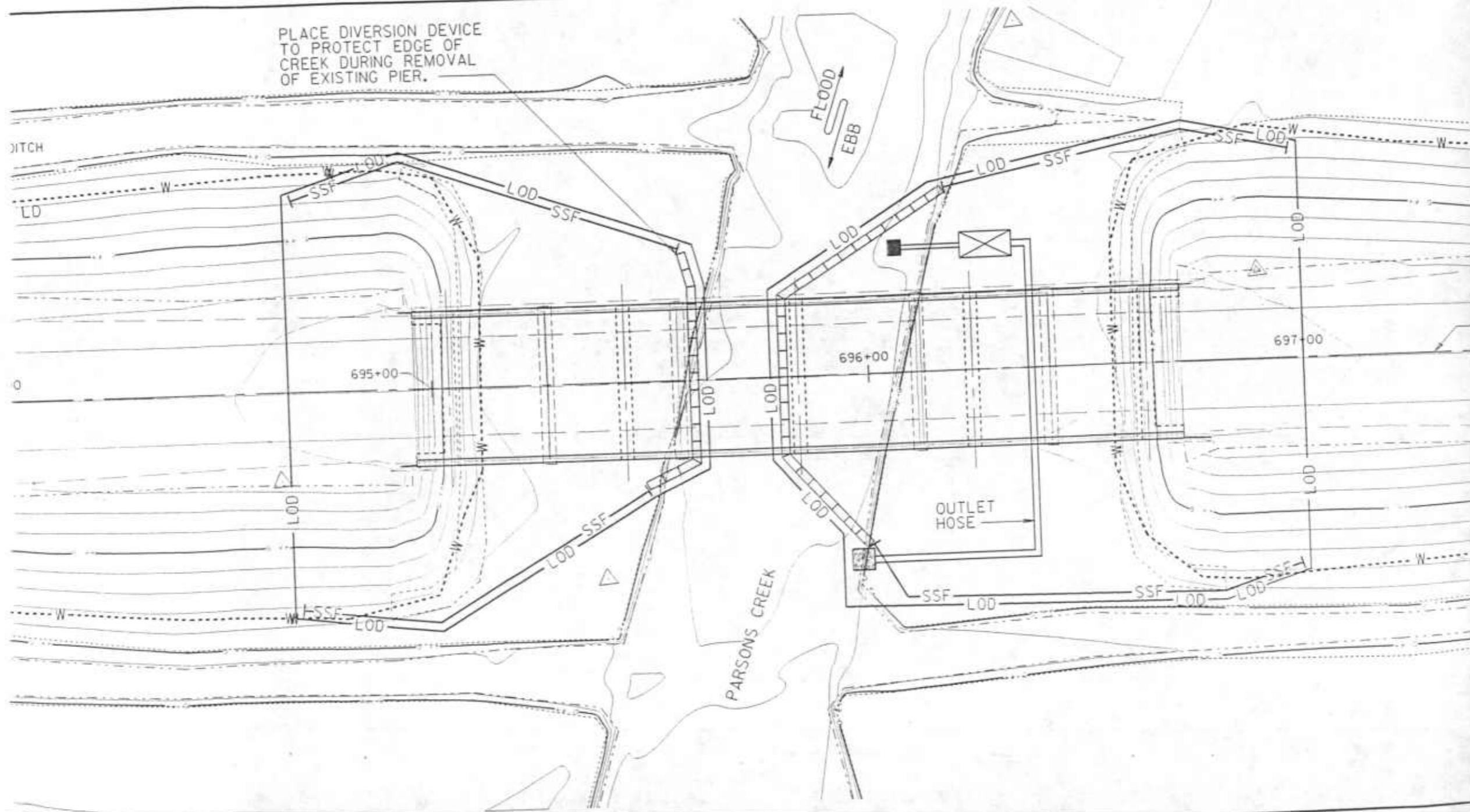


DORCHESTER COUNTY

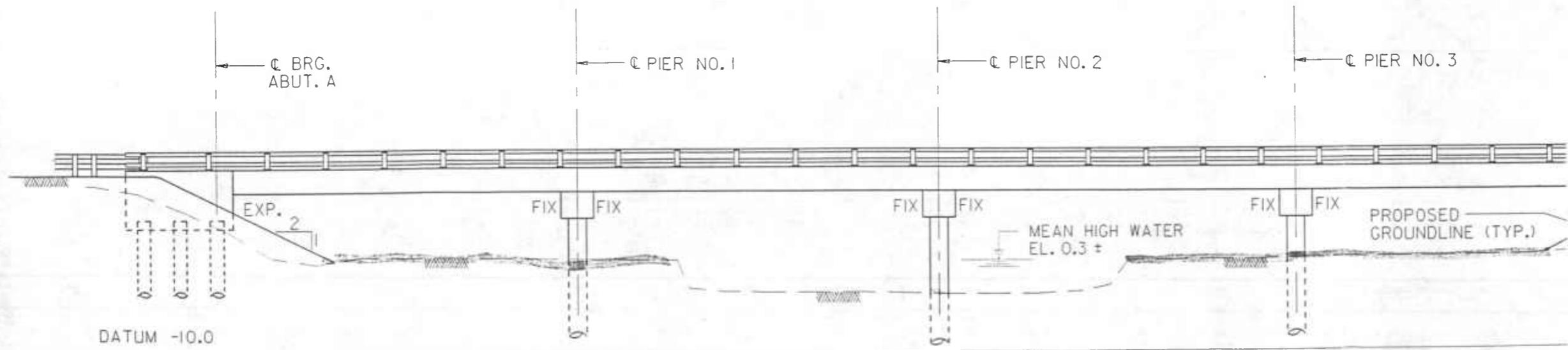
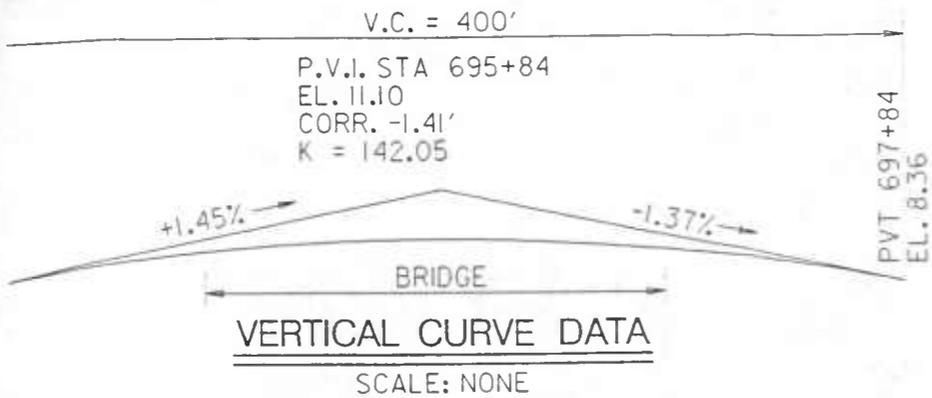
LOCATION MAP
SCALE : 1" = 2000'

DESIGN TRAFFIC DATA

PLACE DIVERSION DEVICE
TO PROTECT EDGE OF
CREEK DURING REMOVAL
OF EXISTING PIER.



SCALE : $\frac{3}{32}$ " = 1'-0"



ELEVATION
SCALE : $\frac{3}{32}$ " = 1'-0"



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 1, 2003

Ms. Karen Houtman
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 451-03: Replacement of Suicide Bridge over Cabin Creek**
Consistency with COMAR 27.02.02.02

Dear Karen,

Thank you for providing the additional information for this review. You have advised that the project is located in the RCA and that no clearing of woody vegetation is anticipated. Therefore, no mitigation is required. Accordingly, we concur with your findings that this project is consistent with the County's Critical Area Program.

Thank you again for your assistance with this information.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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 1, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 460-03: VAAP # 03-1350 TM 27, Parcel 794, Lot 7 Scotch Point
Impervious Surface Variance Request**

Dear Theresa,

I have reviewed the applicant's variance request to exceed the impervious surface limits at this site. The applicant proposes a porch addition and in-ground pool on a grandfathered lot located in the LDA of Hickory Landing Creek. The site is currently 14% impervious surfaces. The proposed improvements will result in a total of 16.6% impervious surface area; the limit for a lot this size is 15%.

This office opposes this request for a variance to exceed the impervious surface limits beyond what currently exists. In 2002, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values. By Chapters 431 and 432 of the 2002 Laws of Maryland, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. The Code of Maryland Regulations and County Code both provide standards a local government must use when granting a variance. Again, because the applicant must meet all of the standards in order for the Board to grant a variance, this office believes that, in this case, those standards clearly have not been met. I have outlined those standards below:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. The existing impervious surface areas on this lot have nearly reached the maximum limit of 6,403 square feet, which is ample room for development of a homesite and its accessory uses. The lot is already developed with a single-family dwelling, a patio, a garage, and a driveway.

2. That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. The applicants already have reasonable use of this property, and therefore, they would not be denied a right commonly enjoyed by their neighbors. There is opportunity to remove impervious areas and avoid the need for a variance. The applicant's rights must be evaluated against the rights of other property owners under the Critical Area Program.
3. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area. If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this subdivision, as well as in similar situations in the County's Critical Area. All grandfathered lots larger than 36,300 square feet are subject to 15% limitations on impervious surfaces.
4. That the variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. The applicant meets this standard.
5. That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. The applicant bears the burden to prove this factor, along with the others discussed above. In 2002, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. Studies have been conducted that show that water quality diminishes as impervious surface areas approach 15%, and that water quality becomes significantly degraded once it exceeds 15%. Granting this variance will contribute to the decline of water quality in Hickory Landing Creek, and, ultimately, the Chesapeake Bay. Decline in water quality contributes to declines in aquatic habitat, ultimately affecting the viability of local fisheries and the local economies that depend on them.

In conclusion, it is our position that, unless the Board finds that the applicant has met the burden of proof on each one of the County's variance standards, the Board must deny this application. Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Marianne Mason, Counsel



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 1, 2003

Mr. Keith Kelley
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

Re: BC 450-03: Rocky Point Golf Course Conceptual Site Plan

Dear Keith,

Thank you for coordinating the June 11th site tour of the golf course with Drew Scully, Ed Beidel, Stacey Herbt, and Rick Boldissar. This is a nice facility and the proposed course upgrades will provide an enjoyable user experience.

In accordance with COMAR 27.02.02.02 State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions, the County must provide our office with a Consistency Report showing that this project is consistent with the County's Critical Area Program and ordinances. Examples of the information we look for are: a project description, list of Critical Area impacts, particularly to HPAs, and any associated mitigation, and a determination by Wildlife and Heritage Service as to the presence of any rare, threatened or endangered species and/or their habitats.

Any proposed development activity that is not consistent with the County's Critical Area provisions will require a conditional approval under COMAR 27.02.06. Conditional approvals must be formally approved by the Commission. For example, any new structures or greens in the 100-foot Buffer would necessitate a conditional approval. The County's application for conditional approval will need to address the standards found in COMAR 27.02.06 B and C.

Projects are presented to the Commission once they have received all other necessary permits, including approvals for sediment and erosion control, stormwater management, and impacts to wetlands. The Commission meets on the first Wednesday of each month. Staff reports containing project descriptions are mailed to the Commissioners two weeks in advance of the meeting, therefore, I recommend this project be submitted no later than three weeks prior to the month in which approval is desired.

I will be happy to provide review and recommendations during the design phases, if desired, to help ensure the project is addressing all Critical Area issues. Please contact me at 410-260-3481 with any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole". The signature is written in black ink and is positioned above the printed name and title.

Wanda Cole
Natural Resources Planner

cc: Andrew J. Scully



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 1, 2003

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

**RE: BC 552-02: Consistency Report for Proposed Improvements
Eastern Avenue at Old Eastern Avenue**

Dear Glenn,

Thank you for providing the Consistency Report for this project, as well as the additional information requested in Regina Esslinger's letter, dated September 12, 2002. We have completed our review and concur with the findings in your Report.

Thank you for your participation in this process.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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 1, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 473-03: SMSUB # 03-110-041 Thomas Reeves Subdivision, Lots 3-5**

Dear Theresa,

I have reviewed the information regarding this subdivision, which proposes the creation of Lots 3-5, located partially within the RCA of Bankhead Cove. These lots are being created from Farmstead 2, which, itself, was recently created by subdivision of a 77-acre parent parcel into Farmsteads 1 and 2. The parent parcel had three RCA density rights, which have all been used by Farmsteads 1 and 2, and Lot 500-1 White Plains. Therefore, no RCA density remains. General Note # 19 has identified this situation by prohibiting development within the Critical Area portions of Lots 3-5.

The restriction on development in the Critical Area on Lots 3-5 referred to in General Note # 19 also applies to piers, slips, and other water-dependent facilities related to Lots 3-5. Note # 21 indicates there may be such facilities proposed. These lots do not have any development rights in the Critical Area.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: Jerry Soderberg, DH Steffens Co.
Bob Tabisz, MDE



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/

June 30, 2003

Ms. Karen Houtman
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 451-03: Replacement of Suicide Bridge over Cabin Creek**
Consistency with COMAR 27.02.02.02

Dear Karen,

Thank you for the Consistency Report for this project. I have reviewed the plans together with your letter for consistency with COMAR 27.02.02.02 Criteria for State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. I will need additional information to assist me in completing my review and have listed it below.

1. What is the Critical Area Overlay for the project area? If IDA, please send a copy of the 10% Rule worksheet and information on the best management practice selected.
2. Will mitigation be required for clearing the access road? If so, has a Buffer Management Plan been submitted for your approval?

Thank you for your assistance with this information. Feel free to email your reply and I will include that message in our file.

Sincerely,

Wanda Diane Cole
Natural Resources Planner



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/

June 30, 2003

Ms. Sue Veith
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 21-03: MNSP# 02-131-028 Marlay Taylor Facility Upgrade**

Dear Sue,

I am writing to follow up on our email and phone conversations regarding the County's Consistency Letter, dated April 28, 2003, for this project. While the letter provides a good description of purpose and need, additional information is needed to determine if the project meets COMAR 27.02.02.02 Criteria for State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The additional information I need is listed below.

1. Is the Site Area given in the 10% Rule worksheet accurately delineated? It seems unusual that a site located in the IDA would have no existing impervious area.
2. Was the Wildlife and Heritage Service consulted for a determination regarding the presence of rare, threatened or endangered species and/or their habitats within the project area. If so, please provide a copy of the determination letter.
3. Please include a statement regarding whether or not this project affects other HPAs.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

June 30, 2003

Mr. Roland Limpert
Environmental Review Unit
580 Taylor Avenue, B-3
Annapolis, MD 21401

Re: DC 520-02/MDE 200364601: Richard & Nancy Boardman

Dear Roland,

Our office reviewed a variance request in September 2002 to allow the applicants to develop homesites in the Critical Area Buffer. The site plan for this application appears to be the same as the one we reviewed in September. I have attached copies of our comments as well as the County's approval decision.

We did not oppose this request as these were grandfathered lots and the applicants consolidated four lots into two in order to reduce the impacts to the nontidal wetlands. It was our understanding at the time that MDE and the COE had been working with the applicant toward this end, and that appropriate mitigation would be provided to offset the impacts to nontidal wetlands.

Thank you for the opportunity to comment on this application.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

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

September 16, 2002

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Cases 2118, 2119, and 2120 Richard E. & Nancy Codri Boardman

Dear Mr. Dodd,

Thank you for the opportunity to review the above referenced variance requests. The applicant intends to consolidate four existing lots at Sunset Farms subdivision into two lots- Lots 1A and 2A in order to meet Maryland Department of the Environment requirements regarding nontidal wetlands. Each lot is constrained by the expanded Critical Area Buffer, leaving little opportunity to avoid impacting the Buffer by development. This is a grandfathered subdivision located in the LDA of Brooks Creek.

This office does not oppose the granting of these variances. We recommend that the variance approvals include a condition that the required 3:1 mitigation plantings be first directed on-site.

Please provide this office with a copy of the written decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,


Wanda Cole
Natural Resources Planner

cc: DC 520-02
DC 521-02
DC 522-02

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

DORCHESTER COUNTY BOARD OF APPEALS

Date: September 20, 2002

Reference: BOA Case #2118, 2119 & 2120 –
Variances from tidewater buffer setback to
permit construction of building envelope
RR, Rural Residential Zoning District

Richard and Nancy Boardman
101 Park Lane
Baltimore, MD 21201

Dear Mr. and Mrs. Boardman,

The Dorchester County Board of Appeals, after public hearing of your request on Thursday, September 19, 2002, hereby notifies you of their action taken. Their decision was to:

Approve the request with no special conditions.

Approve the request with the following stipulations/conditions:

Applicant must mitigate at a ratio of 3:1. Please call our office at 410-228-3234 for more information on planting.

PLEASE BE SURE TO OBTAIN YOUR BUILDING PERMIT OR CERTIFICATE OF USE

Before you start construction and/or operation you will need to obtain the following:

Building, electrical and plumbing permits.

1. If you should fail to use or start construction of your Special Exception within two (2) years of approval, the approval shall become void. (Note: This time limit does not apply to variances.)
2. Any person or party allegedly aggrieved by any decision of the Board of Appeals may appeal the same to the Circuit Court of Dorchester County within thirty (30) days of the notification of the decision. You are strongly advised not to commence any construction until the appeal period has expired.
3. The Department of Planning and Zoning will be responsible for the enforcement of any stipulations/conditions that the Board of Appeals has placed on this approval.

If you have any questions regarding the above, please contact this office immediately and speak with the undersigned.

Sincerely,

DORCHESTER COUNTY BOARD OF APPEALS



Steve Dodd
Executive Secretary

cc: Ryan Showalter

Sandy McAllister

Chuck Woodward



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/

June 26, 2003

Mr. Ace Adkins
Maryland Department of the Environment
Wetlands and Waterways Program
201 Baptist St, # 22
Salisbury, MD 21801

Re: **MDE Tracking # 200362370: Richard and Teresa Wheatley
Nontidal Wetland Permit**

Dear Ace,

A Joint Public Notice recently circulated for the above-referenced application. Our office is opposed to the granting of this permit because the proposed work is located in the expanded Critical Area Buffer and would require a variance from the Dorchester County Critical Area ordinances. This lot was created by deed in 1992 and then formally recorded as a subdivision after August 2002. New lots cannot be created that would require a variance.

During our review of the August 2002 subdivision application, the plat did not show a house and driveway footprint. The site plan showed a development envelope outside the expanded Buffer that appeared sufficiently sized for developing a homesite without the need for Buffer encroachment. See attached plan.

Please contact Steve Dodd, Planning Director, Dorchester County Planning and Zoning for additional guidance on Dorchester County's Critical Area requirements. Steve may be reached at 410-228-3234.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: DC 481-02
Steve Dodd

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 3
To Steve Dodd	From Wanda Cole	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	

TTY For the Deaf

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



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/

June 26, 2003

Mr. Ace Adkins
Maryland Department of the Environment
Wetlands and Waterways Program
201 Baptist St, # 22
Salisbury, MD 21801

Re: **MDE Tracking # 200362370: Richard and Teresa Wheatley
Nontidal Wetland Permit**

Dear Ace,

A Joint Public Notice recently circulated for the above-referenced application. Our office is opposed to the granting of this permit because the proposed work is located in the expanded Critical Area Buffer and would require a variance from the Dorchester County Critical Area ordinances. This lot was created by deed in 1992 and then formally recorded as a subdivision after August 2002. New lots cannot be created that would require a variance.

During our review of the August 2002 subdivision application, the plat did not show a house and driveway footprint. The site plan showed a development envelope outside the expanded Buffer that appeared sufficiently sized for developing a homesite without the need for Buffer encroachment. See attached plan.

Please contact Steve Dodd, Planning Director, Dorchester County Planning and Zoning for additional guidance on Dorchester County's Critical Area requirements. Steve may be reached at 410-228-3234.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

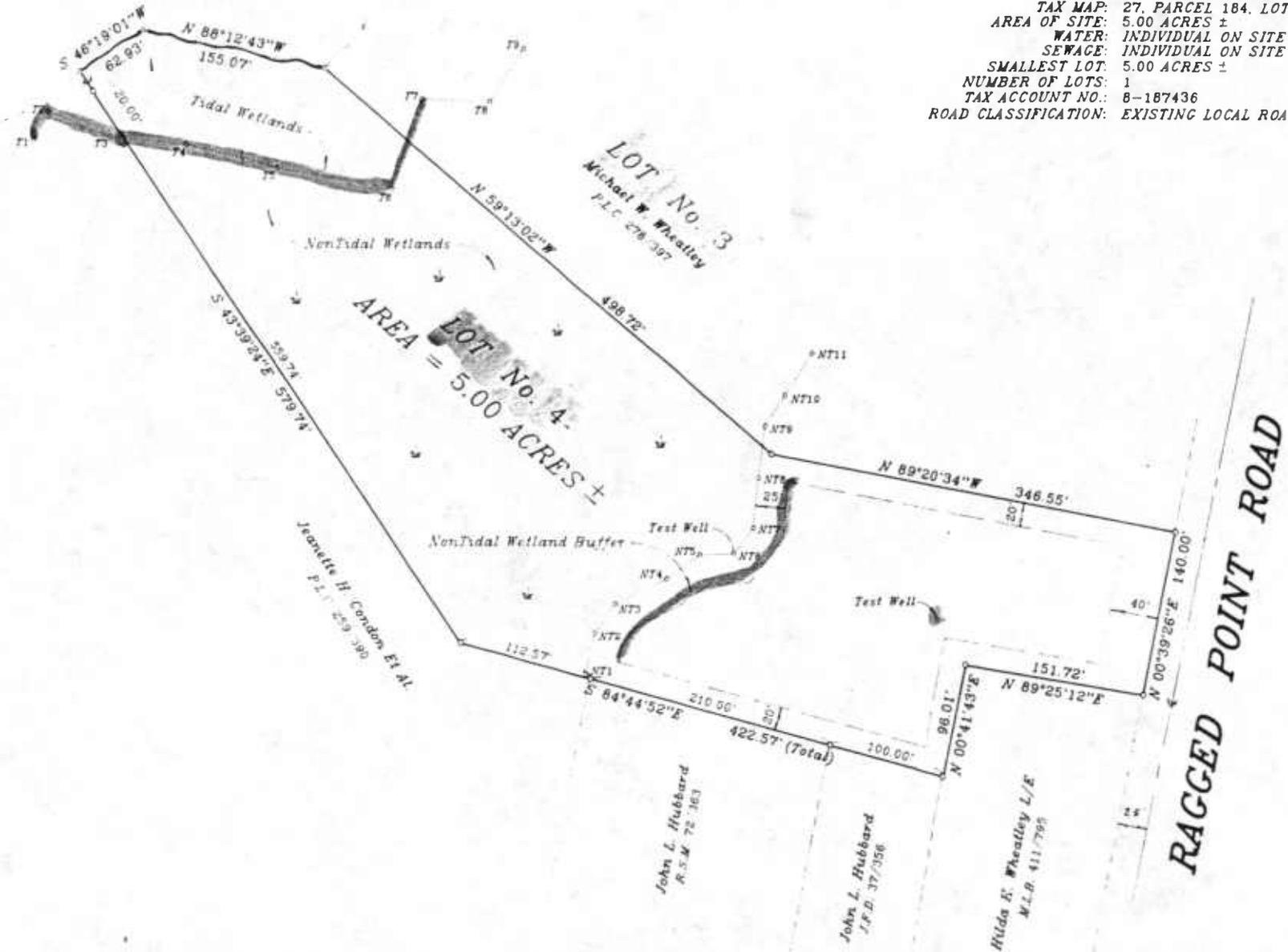
cc: DC 481-02
Steve Dodd

BROOKS CREEK

SITE DATA

OWNER & DEVELOPER: RICHARD D. WHEATLEY & TERESA D. WHEATLEY
 403 MARYLAND AVENUE
 CAMBRIDGE, MD. 21613

DEEDS: P.L.C. 278/400
 ZONING: RR
 TAX MAP: 27, PARCEL 184, LOT 4
 AREA OF SITE: 5.00 ACRES ±
 WATER: INDIVIDUAL ON SITE WELL
 SEWAGE: INDIVIDUAL ON SITE SEPTIC SYSTEM
 SMALLEST LOT: 5.00 ACRES ±
 NUMBER OF LOTS: 1
 TAX ACCOUNT NO.: 8-187436
 ROAD CLASSIFICATION: EXISTING LOCAL ROAD





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/

June 27, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: SM 459-03: # 03-1279 Robert C. Oliver Variance Request

Dear Theresa,

I have reviewed the information regarding this variance request to construct a deck in the 100-foot Critical Area Buffer of Cherry Cover Creek. This is a grandfathered lot with an LDA designation. We do not oppose this variance request. We recommend that the variance approval include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site in the Buffer. The mitigation plantings must utilize species native to southern Maryland.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

Staff Correspondence: Cole

2003

S1832-157 folder 2 of 2



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/

June 27, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD, 21613

Re: **DC 412-03: P&Z # 1023 Mabry & Barnett Subdivision
Sketch Plat and TAC Meeting**

Dear Steve,

Thank you for holding a Technical Advisory Committee meeting on this project. I found it informative and enjoyed hearing the discussion of the other review agencies. The following comments are provided to reiterate the information I stated during the meeting, as well as to document my understanding of this project.

1. This project is intended to be the first phase of a subdivision planned for the entire 124-acre parcel. This project lies entirely within the LDA of the south branch of Secretary Creek.
2. Drilled wells and individual septic systems will be provided on each lot. Perc tests have not yet been performed, therefore, the number of lots and their layout may change.
3. The new lots must be laid out to avoid the need for a variance. You recommended that development envelopes be defined for each lot so that future development on these lots could avoid the need for a variance.
4. There are hydric soils on this site, as well as soils with seasonally high water tables, which might support nontidal wetlands. A wetland field delineation is planned and will be shown on a future site plan.

5. The 100-foot Critical Area Buffer line should be labeled as such. If nontidal wetlands are found to be contiguous to this line, the Buffer must be expanded to include all of the contiguous wetlands. The Buffer must also be shown for any tributary streams that occur in the project area.
6. The acreage for State tidal wetlands must be stated on the plat and deducted when calculating density and percentages of forest clearing and impervious surfaces.
7. Topographic information will be needed to identify areas of steep slopes as it appears steep slopes occur near Secretary Creek. The Buffer must be expanded for steep slopes.
8. This subdivision will represent a change in use from agriculture to residential, which requires the 100-foot Buffer to be established. The 100-foot Buffer on this project is already wooded. Unless the Buffer needs to be expanded beyond the woods line, the Buffer is already established.
9. Forest clearing may not exceed 30% of the existing forest, and mitigation for lost forest cover will be required, depending on the percentage of existing forest cover removed. The plat must state the amount of existing forest on the parent parcel as well as within this project area. The amount of clearing for the proposed roadway must be quantified. It was recommended the applicant quantify the area of forest to be cleared within each proposed development envelope to ensure the clearing will not exceed 30%.
10. Impervious surfaces are limited to 15% of the subdivision. Since the roads will utilize a sizable portion of this allotment, I recommend the applicant provide a matrix that allocates impervious surface area to each lot. Defining a development envelope for each lot will be helpful for this purpose.
11. The area set aside for stormwater management is sited near a ditch that could be utilized with the outfall. Should the expanded Buffer occur in this area, the stormwater facilities must be relocated outside the Buffer.

Thank you for your assistance with these items. If you have any questions regarding these items, please contact me at 410-260-3481.

Sincerely,



Wanda Cole
Natural Resources Planner



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/

June 25, 2003

Ms. Sue Veith
St. Mary's County
Department of Planning and Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SMA 25: St. Mary's County Critical Area Program
Completion of Comprehensive Review**

Dear Sue,

Thank you for providing copies of the County's amended Critical Area Maps and the final draft of the Critical Area Ordinance, along with supporting correspondence from the Board of County Commissioners. As you may recall, we had deferred action on the maps at the June 2002 Commission meeting at the County's request. The Critical Area Commission received this information on June 12, 2003 and is accepting the information as a complete submittal. The Commission will be reviewing this information at its regular meeting on July 2, 2003.

You are welcomed to attend the meeting, which will be held at the People's Resource Center, Conference Room 1100A, 100 Community Place in Crownsville. Please contact me at 410-260-3481 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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/

June 23, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 458-03: SMSUB # 03-110-24 Cuckold Manor Lot 2 and Boundary Line Adjustment Parcel B and Outparcel B**

Dear Theresa,

I have reviewed the plat for this project and am unable to complete my review at this time. I am providing the following comments for your use, including a list of the information I will need to complete my review:

1. It is unclear whether sufficient RCA density remains to allow the creation of Lot 7. Please provide a copy of the final plat that was recorded for Lot 6 and any subdivision history that was furnished by the applicant as required in Sue Veith's memorandum, dated September 17, 2000. At this time, it appears the boundary line adjustment between Parcel B and Outparcel B may affect the overall 1-in-20 RCA density reservation for the parent parcel.
2. Please note that the previous subdivision of Lot 6 does not allow the intra-family provisions of the Critical Area Law to be applied to the remainder of the Critical Area acreage.
3. A copy of the Wildlife and Heritage Service determination regarding the presence of rare, threatened or endangered species must be provided to this office prior to granting any approvals for this project.
4. The Critical Area note # 9 has omitted the forest clearing proposed for the SRA.

5. What is included in the existing impervious surface area information?

Thank you for your continued assistance in this review. I will provide additional comments once I have received the requested information. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner



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/

June 23, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 411-03: PSUB # 03-120-017 St. Jerome's Crossroads
Preliminary Plan, Lots 1-10**

Dear Theresa,

I have reviewed the preliminary plan for this proposed 10-lot subdivision, a portion of which is located in the RCA of Chesapeake Bay and St. Jerome Creek. The 100-foot Critical Area Buffer does not appear to occur in the area proposed for lots 1-10. The following comments are provided for your use:

1. A statement regarding the amount of State tidal wetlands acreage that occurs within parcel boundaries must be shown on the plat. This acreage must be deducted prior to calculating RCA density.
2. One RCA density right appears to remain with Lot 11- the residue. The assignment of this density right must be labeled/shown on the plan.
3. We recommend that the deeds for Lots 4 and 10 include a provision that reiterates General Note # 16- "There can be no development within the Critical Area on portions of Lots 4 & 10".
4. The presence of rare, threatened or endangered species and/or their habitats must be determined by the Department of Natural Resources Wildlife and Heritage Service (WHS) prior to granting final subdivision approval. The recommendations of the WHS must be incorporated into the final plat/plan for this subdivision.

Please provide a copy of the revised plat once it is available. We may have additional comments based upon any new information that is provided. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner



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/

June 23, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 410-03: MSUB # 03-110-036 John Bean Subdivision, Lot 2

Dear Theresa,

I have reviewed the plat for this subdivision and have no comments as it is located outside the Critical Area.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

June 23, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 388-03: SMSUB # 03-110-034 Potomac Peninsulas, Lots 1-5**

Dear Theresa,

I have reviewed the sketch plan for the proposed build-out of the Potomac Peninsulas subdivision, and the plat for lots 1-5. This subdivision is sited on the Lundeborg Maryland Seamanship School property located in the RCA of St. George Creek and Locust Grove Cove. The following comments are provided for your use:

1. No information is provided as to the overall Critical Area requirements relating to the 17-lot subdivision. Please provide information regarding the requirements for afforestation, Buffer delineation, presence of rare, threatened or endangered species, hydric and highly erodible soils, etc., that apply to the overall subdivision.
2. The site area acreages stated on the plat and plan are confusing and must be reconciled. The sketch plan refers to 340 acres in the Critical Area and 165 acres outside the Critical Area, for a total site area of 505 acres. The plat for Lots 1-5 refers to a site area of 228 acres, yet the total for Lots 1-5 is much less. Where are the boundaries for the 228 acres being referenced?
3. Why are there Critical Area Notes for Lot 6 for a plat regarding Lots 1-5? Where are the notes for Lots 1-5?
4. Lot 6 appears to be a subdivision around existing conditions. If so, all existing features on this and all other lots must be labeled as such.
5. The topographic contour lines must be clearly shown and labeled.
6. The 100-foot Buffer line must be labeled, correctly delineated, and expanded where required. All tributary streams must be shown, labeled, and a Buffer delineated on each side.

7. Lot 5 has been incorrectly numbered on the plat as Lot 54.
8. Unless Lots 1-5 are on a stand-alone parcel, existing forest information for the entire parent parcel must be provided. Afforestation, if required, must be quantified and a planting area identified on the plat.
9. The State tidal wetland acreage that is contained within parcel boundaries must be stated on the plan, and deducted when calculating RCA density rights.
10. The presence of rare, threatened or endangered species and/or their habitats must be determined by the Department of Natural Resources Wildlife and Heritage Service (WHS). All WHS comments must be incorporated into the final subdivision plat. A copy of the determination letter must be provided to this office prior to issuing final subdivision approvals.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner



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/

June 23, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 387-03: MSUB # 03-110-029 Fenhagen Property, Farmstead 1 & Outparcel A**

Dear Theresa,

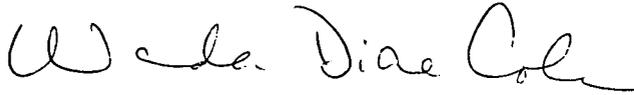
I have reviewed the minor subdivision plan for an agricultural parcel containing 9.975 acres in the RCA of Jutland Creek. The following comments are provided for your use:

1. This subdivision represents a change in use from agriculture to residential. The site is fully forested, therefore, the site has met the requirement to fully establish the 100-foot Buffer.
2. Farmstead 1 will utilize the only RCA development right belonging to this parcel. Please inform the applicant that the Critical Area intra-family provisions will no longer apply to this parcel once this subdivision has been recorded. Therefore, Critical Area note # 5 must be deleted.
3. The plan needs more detailed topographic information to adequately assess other site constraints that might exist.
4. The forest on this parcel may be suitable FIDS habitat. The presence of rare, threatened or endangered species and/or their habitats must be determined by the Department of Natural Resources Wildlife and Heritage Service (WHS). All WHS comments must be incorporated into the plan. A copy of the determination letter must be provided to this office prior to issuing any final subdivision approvals.
5. The amount of State tidal wetland acreage contained within parcel boundaries must be stated on the plan.

We request a copy of the revised plat once it is available. We may have additional comments based upon any new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole". The signature is written in black ink and is positioned above the printed name.

Wanda Diane Cole
Natural Resources Planner



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/

June 23, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SM 386-03: MNSP # 03-131-027 Phillip Clarke Estate Subdivision, Lot 5

Dear Theresa,

I have reviewed the information regarding the site plan for this lot. This lot is currently improved with seven cabins, a shared septic system, shared well, gravel parking area and driveway. The applicant proposes replacement of two existing cabins in the 100-foot Buffer on a grandfathered lot located in the LDA of Mill Creek. The replacement structure consists of one duplex dwelling and an extension of the septic system. The sewer extension is proposed on a parcel located on the opposite side of Clarke's Landing Lane, which is also owned by the applicant. The replacement dwelling will be located just slightly farther away from the shoreline than the existing structures.

- A variance is required for new disturbances in the Buffer. The 3:1 mitigation plantings required for new disturbances to the Buffer should be directed to the on-site Buffer.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

June 19, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 390-03: # 2155 Henry M. Immanuel Variance Request**

Dear Steve,

I have reviewed the information regarding the applicant's variance request to construct a replacement dwelling, extend the driveway, and install a sewage reserve area in the 100-foot Critical Area Buffer on a grandfathered lot in the RCA of Fishing Bay. The dwelling will be on a much larger footprint than the existing, dilapidated dwelling. This site is almost entirely constrained by the Buffer with the exception of a small, oval-shaped area in the center of the upland portion of the property.

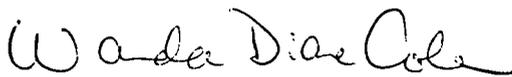
This office does not oppose this request. However, we understand that there may be rare, threatened or endangered species present on this property or in the vicinity. Therefore, we recommend the variance approval include the following condition:

- A building permit may not be issued until the applicant has addressed the following concerns:
 1. Obtain a determination from the Maryland Department of Natural Resources, Wildlife and Heritage Service (WHS), regarding the presence of any rare, threatened or endangered species and/or their habitats that might be affected by this project. The site plan shall incorporate the actions recommended by WHS to protect these species and/or their habitats, which may include, but not be limited to, time of year restrictions and adjustments in the development footprint.

2. Clearing of forest cover shall be kept to the minimum necessary to implement the features shown on this site plan, and shall not exceed 30% of the existing forested area. State tidal wetlands, if present, must be deducted from the forest area when calculating percentages.
3. The required 3:1 mitigation for new disturbances in the Buffer must first be provided on-site, in the Buffer, to the extent feasible.
4. Impervious surfaces shall not exceed 15% of the net tract area after deducting State tidal wetland acreage.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Ace Adkins
Roland Limpert
Lori Byrne
Scott A. Smith



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/

June 19, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 392-03: # 2156 Richard A. & Joy P. Loeffler Variance Request**

Dear Steve,

I have reviewed the information regarding the applicant's request for a variance to develop a home site in the LDA of the Choptank River. The 100-foot Critical are Buffer does not occur on this lot. However, the proposed development will result in 26% impervious surface on the lot, an amount which exceeds the County's maximum impervious surface limit of 15%. The limit on impervious surfaces for newly created lots is contained in State law, Annotated Code of Maryland, Natural Resources Article, Section 8-1803.3. This lot is not grandfathered because it was created by a re-subdivision after the implementation of the County's Critical Area Program. Accordingly, as a newly recorded lot, it is subject to the County's current Critical Area development standards.

This office opposes this request for a variance to exceed the impervious surface limits by 73%. In 2002, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values. By Chapters 431 and 432 of the 2002 Laws of Maryland, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. The Code of Maryland Regulations and County Code both provide standards a local government must use when granting a variance. Again, because the applicant must meet all of the standards in order for the Board to grant a variance, this office believes that, in this case, those standards clearly have not been met. I have outlined those standards below:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. This is an undeveloped lot measuring nearly one-half acre in size, which is generally considered sufficient area for developing an ample homesite with reasonable accessory uses. The applicant has not shown that there is no opportunity to develop a footprint without the need for an impervious surface variance.

This lot was created by means of a re-subdivision that resulted in two conforming lots. Subdivision eliminates any grandfathering provisions.

2. That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. The applicants have reasonable use of this property, and therefore, they would not be denied a right commonly enjoyed by their neighbors. There is opportunity to choose a footprint that will accommodate a primary structure and accessory uses without the need for a variance. The applicant's rights must be evaluated against the rights of other property owners under the Critical Area Program.
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area. If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this subdivision, as well as in similar situations in the County's Critical Area. All lots recorded after implementation of the County's Critical Area Program are subject to 15% limitations on impervious surfaces. Owners of parcels must select footprints that will conform to all setbacks and development standards that apply to their lands.
4. The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. The applicant meets this standard.

The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. The applicant bears the burden to prove this factor, along with the others discussed above. In 2002, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. Studies have been conducted that show that water quality diminishes as impervious surface areas approach 15%, and that water quality becomes significantly degraded once it exceeds 15%. Granting this variance will contribute to the decline of water quality in the Choptank River, and, ultimately, the Chesapeake Bay.

Decline in water quality contributes to declines in aquatic habitat, ultimately affecting the viability of local fisheries and the local economies that depend on them.

In conclusion, it is our position that, unless the Board finds that the applicant has met the burden of proof on each one of the County's variance standards, the Board must deny this application. Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Marianne Mason, Counsel



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/

June 16, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: **DC 392-03: # 2156 Richard A. & Joy P. Loeffler Variance Request**

Dear Steve,

I have reviewed the information regarding the applicant's request to develop a home site on a grandfathered lot in the LDA of Choptank River. The 100-foot Critical are Buffer does not occur on this lot. However, the proposed development will exceed the County's maximum impervious surface limit of 15%.

This office does not oppose this request. The State Critical Area law provides an impervious surface limit of 31.25% on grandfathered parcels of this size.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

*Disregard. Lot found to
not be grandfathered.*



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/

June 16, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: SM 412-03: # 03-1073 Peter Brown Variance Request

Dear Theresa,

I have reviewed the information regarding the applicant's request to construct a sunroom onto an existing house located on a grandfathered lot in the LDA of Potomac River. We do not oppose this variance request. We recommend that the variance approval include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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/

June 16, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: DC 391-03: # 2153 Russell A. & Mariel J. Umstead Variance Request

Dear Steve,

I have reviewed the information provided regarding the applicant's request to construct an addition onto an existing house located on a grandfathered lot in the LDA of Cooks Point Cove. This office does not oppose this request. We recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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/

June 13, 2003

Dr. Elizabeth Spahr
Assistant Director for Finance and Administration
University of Maryland
Center for Environmental Science
PO Box 775
Cambridge, MD 21613-0775

Re: Guidance regarding proposed improvements in the Critical Area, Horn Point Laboratory

Dear Dr. Spahr,

I wish to thank you and Dave Rhoades for providing the site tour and overview of the proposed projects that will be located in the Critical Area portion of the Horn Point Laboratory property. In addition to yourselves, attendance included Maria Lasek, US Army Corps of Engineers (COE) Wetland Permit Section; Stan Causey, Maryland Department of the Environment (MDE) Wetlands and Waterways Program; Don Merritt, Horn Point Oyster Research Program; and myself. These projects can be described as:

- Oyster research facilities at the marina. This project includes construction of a pier to hold large circulation tanks used for oyster spat research, as well as a small office/storage building for administrative uses by the oyster research staff.
- Redevelopment of facilities at the existing barn site. This project includes demolition of existing structures and relocating their uses into a complex of new structures.

Critical Area Designation

For all projects located in the Critical Area at the Horn Point Laboratory property, we have determined that the Critical Area is not an area of intense development.

Critical Area Development Standards for State Projects

1. Stormwater Management. Projects must comply with current State standards for stormwater management. Projects will be scheduled for presentation to the Critical Area Commission to request formal approval **after** MDE has issued a written stormwater approval.
2. Other permits as required. Projects will be scheduled for presentation to the Critical Area Commission to request formal approval **after** all necessary permits, licenses and/or approvals have been issued. This may include permits for sediment and erosion control from MDE, as well as wetland permits from MDE and COE.
3. Protecting the 100-foot Critical Area Buffer. New impacts in the 100' Critical Area Buffer are prohibited unless they are water-dependent, such as uses associated with aquatic research and education. Any other uses proposed in the Buffer must meet the standards for a Conditional Approval as described in COMAR 27.02.06. Based upon my observations, there is sufficient room at each project site to provide the non-water-dependent uses outside the Buffer in order to avoid the need for a Conditional Approval.

Site plans must accurately delineate the location of the 100-foot Critical Area Buffer and the Buffer must be expanded to include all nontidal wetlands that are contiguous to the 100-foot Buffer. I have enclosed guidance on measuring the 100-foot Buffer for your use.

- In redeveloping facilities at the existing barn area, there is opportunity to provide a site plan that will remove non-water-dependent structures and uses from the 100-foot Buffer. The Buffer can then be established by planting woody vegetation using native species. These plantings will provide benefits by enhancing stormwater quality and wildlife habitat, thereby improving aquatic conditions for Horn Point research.
 - The proposed improvements at the marina are all located in the 100-foot Buffer. Except for the office/storage building, the proposed work can be considered water-dependent. While the office/storage building is not a water-dependent use, and while it will be used for administration of research-related activities, the building does not need to be located in the Buffer to serve this purpose. Therefore, information must be provided to show there are no potential and reasonable areas where this building could be located outside the Buffer.
4. Buffer Exemption Area (BEA) Designation. The Buffer at the marina is not functioning as most of the Buffer contains impervious surfaces. Where pervious areas exist, pedestrian traffic has compacted the soils. Runoff is likely contaminated by lubricants dripping from equipment and heavy vehicles that utilize this area. You might consider applying for BEA status for the marina. As a BEA, the width of the Buffer would be reduced. The first 25 feet from mean high water would be required to be established in

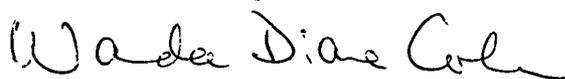
native, woody vegetation. I have enclosed information on BEAs for your use. The Commission must first formally approve a BEA designation before the BEA standards can be applied to a project.

5. Mitigation Plantings. Mitigation for new disturbances to the Buffer must be provided at a 3:1 ratio. Disturbances include forest clearing and/or the creation of new impervious areas. The plantings must be native tree and shrub species. The mitigation ratio for clearing forest vegetation in areas outside the Buffer is 1:1 if the clearing is less than 20% of the existing forest cover at the site. Based upon my observations, clearing would be less than 20%.
6. Impervious surfaces. The maximum limit for impervious surfaces is 15% of the site. Given the size of the Horn Point property, the subject proposals will be well within that limit.
7. Habitat Protection Areas. In addition to the Buffer and nontidal wetlands, the presence of rare, threatened or endangered (RTE) species must be determined. MDE and COE regulate impacts to nontidal wetlands. Although both project sites are highly disturbed and it is unlikely that RTE species are present, the Maryland Department of Natural Resources Wildlife and Heritage Service must be consulted for a determination regarding RTEs. A copy of their determination letter must be provided to this office prior to scheduling the project for presentation to the Commission. All comments regarding RTEs must be addressed on the plan. Please contact Mrs. Lori Byrne at 410-260-8573 regarding their review.

I will be happy to work with the University's consultants and/or architect engineers regarding implementation of Critical Area requirements on these projects as the design phases proceed. I may be reached at 410-260-3481 or via email at wcole@dnr.state.md.us.

Thank you again for bringing these projects to our attention at the initial phase. As always, please do not hesitate to contact me if you have additional questions.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

Cc: Dave Rhoades
Stan Causey
Maria Lasek
Lori Byrne



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/

June 13, 2003

Mr. Steve Dodd
Director of Planning
Dorchester County Planning and Zoning Office
PO Box 107
Cambridge, MD 21613-0107

Re: Critical Area Commission Representation at TAC Review Meetings

Dear Steve,

Thank you for the invitation to attend TAC review meetings to discuss projects which require Planning Commission review. I will be the Critical Area Commission's representative and can be reached at 410-260-3481 or via email at wcole@dnr.state.md.us. As you mention, I will only need to attend meetings where Critical Area projects are on the agenda.

I'd like to take this opportunity to reaffirm the types of projects that local jurisdictions are required to send to our office in accordance with COMAR 27.03.01. Since the list is lengthy, I have enclosed a copy of an easy-to-use checklist our office developed to assist local Critical Area staff. Feel free to distribute copies to anyone you think needs to know this information. I don't recall projects for types # 5 and 6 having been submitted recently from Dorchester County. Most likely, some TAC projects will fall out as type # 6.

Please contact me if you have any questions about items on the checklist or the requirements of COMAR 27.03.01.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

SUMMARY OF NOTIFICATION REQUIREMENTS
 CRITICAL AREA COMMISSION
 (COMAR 27.03.01)

<u>Type of Application</u>	<u>Require notification to Critical Area Commission (yes/no)</u>		
	<u>IDA</u>	<u>LDA</u>	<u>RCA</u>
1. Disturbance to Habitat Protection Areas	Y	Y	Y
2. Physical disturbance to Buffer (see Note 1)	Y	Y	Y
3. Variance from Critical Area Program	Y	Y	Y
4. Development resulting in less than 5,000 square feet of disturbance	N	N	N
5. Development resulting in between 5,000 and 15,000 square feet of disturbance	N	N	Y
6. Development resulting in greater than 15,000 square feet of disturbance	Y	Y	Y
7. Subdivision of three lots or fewer	N	N	Y
8. Subdivision of four to ten lots	N	Y	Y
9. Subdivision of greater than ten lots	Y	Y	Y
10. Subdivision affecting growth allocation	N/A	Y	Y
11. Intrafamily transfer	N/A	N/A	Y
12. Rezoning that would occur wholly or partially within the Critical Area	Y	Y	Y
13. Special exception or conditional use for industrial, commercial, institutional, nonresidential or multi-family	N	Y	Y
14. Substantial alteration to applications previously submitted to Critical Area Commission	Y	Y	Y

Note 1: Shore erosion control measures and private piers that do not involve disturbance to the Buffer and are permitted by MDE do not require Commission notification

DORCHESTER COUNTY PLANNING & ZONING OFFICE

P. O. Box 107
CAMBRIDGE, MARYLAND 21613
PHONE: 410-228-3234



MEMORANDUM

RECEIVED

MAY 23 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Due June 11, 2003

DATE: May 27, 2003

TO: Bill Forlifer, Health Department
Elvin Thomas, Public Works
Jim Herbert, Sanitary Commission
Bob Small, SHA
Jim Newcomb, Soil Conservation District
Gary Newcomb, MUC
Bob Cadwallader, County Forestry Consultant
Stan Causey, Maryland Department of Environment
Wanda Cole, Critical Area Commission

FROM: Steve Dodd *SD*

The Dorchester County Council has requested that I initiate a technical review committee (TAC) to better coordinate the processing of development review in the County. I am writing to you to solicit your assistance by nominating a member of your staff who might serve as a representative from your department. Depending on the location or nature of the project, you may not need to attend every TAC meeting.

I am suggesting that, as a start, only those projects which require Planning Commission review (i.e. commercial site plans and major subdivisions) be eligible for TAC review. As members of this group, you are welcome to nominate projects which you feel warrant TAC review.

As to the format of this process, I envision setting a standing monthly meeting date. An agenda would be developed a week or so in advance and the projects' agent would be invited to attend the TAC meeting to ask questions or just listen to our comments and questions. Of course, the TAC would meet when projects are at their earliest stage. These would not be public meetings in the sense that the public would be invited to attend.

Please send me the name of your department's representative and their mailing and e-mail address.

cc: Jane Baynard

RECEIVED

MAY 22 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Due 06/09/03



Robert L. Ehrlich, Jr.
Governor

C. Ronald Franks
Secretary

Michael S. Steele
Lt. Governor

Maryland Department of Natural Resources

Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

W. P. Jensen
Deputy Secretary

REVIEW AND EVALUATION
OF ACTIVITIES AFFECTING DNR LAND

DATE: May 19, 2003

RECEIVED

TO: John Norbeck
Lori Byrne
Mike Browning
~~Regina Esslinger~~
Michele Hurt

MAY 22 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

FROM: Amber Widmayer *AW*

SUBJECT: Todd's Inheritance Parking Lot, North Point SP (2003-DNR-111)

Please review the attached information regarding this project and forward your comments directly to me by June 9, 2003. Complete and include the following memorandum along with any additional comments that are pertinent.

Check one:

Comments are attached

This proposal is consistent with the goals of this program

WDC 06/09/03

Signature

CAC

Agency

Timely processing of this request requires that this memorandum be returned by the date given above. If comments are not received by that date I will assume that you have none, and that this proposal is consistent with the goals of your program.

cc: Bob Beckett



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/

June 9, 2003

Ms. Amber Widmayer
MD DNR- Resource Planning
E-4 Tawes Building
Annapolis, MD 21401

Re: **2003-DNR-111: North Point SP, Todd's Inheritance Proposed Parking Lot**

Dear Amber,

I have reviewed the conceptual information regarding the proposed parking at the Todd's Inheritance farmhouse property. This property is located in the Critical Area of Shallow Creek. The proposed parking lot is located outside the 100-foot Critical Area Buffer and is not an area of intense development.

If this project moves forward to the design and build phase, it will require formal approval by the Commission after all other permits have been obtained, including sediment and erosion control and stormwater management approvals. When submitting this project, the attached State Project Checklist should be utilized to ensure all the appropriate information is provided. Most importantly, the 1000-foot Critical Area boundary line must be shown on the vicinity map and/or site plan, as appropriate. Clearing of woody vegetation must be quantified and replaced at a 1:1 ratio. The amount of impervious surfaces being created will also need to be quantified. As this area has already been greatly disturbed, it is unlikely rare, threatened or endangered species occur within the project area.

Please contact me if you have additional questions at 410-260-3481 or at wcole@dnr.state.md.us.

Sincerely,

Wanda Diane Cole
Natural Resources Planner



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/

June 9, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 237-03: SFD # 03-0122 Roy Robertson (Williams), Lot 1

Dear Elsa,

I have reviewed the revised site plan and have the following comments:

1. The forest mitigation for clearing 3 acres in violation of the County's Critical Area Ordinance is 9.0 acres. The plan shows 3.0 acres mitigation. How and where will the remaining 6 acres of mitigation be provided?
2. It appears the dirt road between the barns and the proposed house is not necessary once the proposed driveway is provided. It is a short distance from the barns to Banks O'Dee Road and then on to the driveway. I recommend this section of roadbed be abandoned and planted as part of the mitigation needed to satisfy the violation.
3. There appears to be a small open area in the Buffer on the north side of the limits of disturbance where grading for the house pad will occur. This area can be used as part of the mitigation needed to satisfy the violation.
4. Please verify the impervious surface calculations stated on the plan. My calculations for structures equal 8,975 square feet, which is 1,000 square feet greater than what is given on the plan. I have calculated 3,250 square feet for the detached garage, 2,200 for the house, 2,900 for the pool and the walkways around/to it, and 625 square feet for the pottery shed.

If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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/

June 6, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: CS 383-03: SFD # 30323 R.J. Earnshaw, Wicomico View Farm Parcel C

Dear Elsa,

I have reviewed the site plan and Buffer planting plan for this parcel and find both to meet the Critical Area requirements for development on lots in new subdivisions. The owner has selected a nice mixture of trees for the Buffer plantings. They will not only provide a good riparian corridor, but will protect the house from prevailing northerly winter winds.

If you should have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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/

June 2, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: **BC 353-03: Case # 03-06 Janice Oberst Variance**

Dear Keith,

I have reviewed the information regarding the applicant's request for a variance to permit the construction of a dwelling within the 100' Critical Area Buffer. This is a grandfathered lot located in the LDA of Galloway Creek. The lot is oddly shaped and entirely constrained by the Buffer.

This office does not oppose the granting of this variance request. We recommend that the variance approval include a condition that the required 3:1 mitigation plantings for new disturbances in the Buffer be provided on-site to the extent possible.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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/

June 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 355-03 # 03-141-027 Elizabeth Reilly Boundary Line Adjustment Plat**

Dear Theresa,

I have reviewed the information for this request and have no comments. Thank you for the opportunity to review the plat.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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/

June 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: **SM 355-03 # 03-141-027 Elizabeth Reilly Boundary Line Adjustment Plat**

Dear Theresa,

I have reviewed the information for this request and have no comments. Thank you for the opportunity to review the plat.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner



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/

June 2, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: BC 353-03: Case # 03-06 Janice Oberst Variance

Dear Keith,

I have reviewed the information regarding the applicant's request for a variance to permit the construction of a dwelling within the 100' Critical Area Buffer. This is a grandfathered lot located in the LDA of Galloway Creek. The lot is oddly shaped and entirely constrained by the Buffer.

This office does not oppose the granting of this variance request. We recommend that the variance approval include a condition that the required 3:1 mitigation plantings for new disturbances in the Buffer be provided on-site to the extent possible.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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/

June 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: SM 351-03: Variance Case # 03-0686 Thomas Ruthenberg

Dear Theresa,

I have reviewed the information on the applicant's request to construct a dwelling and driveway in the 100-foot Critical Area Buffer on a grandfathered lot located in the IDA adjacent to Saint George Creek. This office does not oppose this request. Please note that the Buffer mitigation plantings also serve as a best management practice to satisfy the 10% Rule for development on residential lots. We recommend the variance approval include a condition that the required mitigation plantings be provided on-site to the extent feasible, as these plantings are necessary to satisfy the 10% Rule for residential development.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

June 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: SM 351-03: Variance Case # 03-0686 Thomas Ruthenberg

Dear Theresa,

I have reviewed the information on the applicant's request to construct a dwelling and driveway in the 100-foot Critical Area Buffer on a grandfathered lot located in the IDA adjacent to Saint George Creek. This office does not oppose this request. Please note that the Buffer mitigation plantings also serve as a best management practice to satisfy the 10% Rule for development on residential lots. We recommend the variance approval include a condition that the required mitigation plantings be provided on-site to the extent feasible, as these plantings are necessary to satisfy the 10% Rule for residential development.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

May 30, 2003

Mr. Keith Kelley
Baltimore County
DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: **BC 354-03:** Local Case # 03-07 Jeanine Brown Variance Request

Dear Keith,

I have reviewed the information regarding this variance request, in which the applicant is proposing two additions onto an existing house. This is a grandfathered lot located in the LDA of Hopkins and Norman Creeks. The 100' Critical Area Buffer does not occur on this property, however, a variance is needed for the additional 466 square feet of impervious surface being created. The property currently contains 36.4% impervious area, which exceeds the 31.25% impervious surface limit on parcels of this size.

This office does not oppose the granting of this variance request. Natural Resources Article § 8-1808(c)(12) provides for reasonable accommodations necessary for the physically disabled. It also provides local jurisdictions the authority to require such accommodations to be removed and the area restored when there is no longer a need for them. Therefore, we recommend the following conditions be included in the variance approval:

1. When accommodations for the physically disabled are no longer needed at this property, sufficient impervious areas will be removed to bring the site into compliance with the 31.25% impervious surface limitation for properties of this size.
2. If and when the carport is in need of rehabilitation, it shall be razed and relocated to an area adjoining the addition situated next to the driveway.

Please provide this office with a copy of the written decision made in this case. Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

May 30, 2003

Mr. Keith Kelley
Baltimore County
DEPR Management
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: BC 352-03 Mary Pospisil Variance Request

Dear Keith,

I have reviewed the information regarding this variance request to exceed the 30% forest clearing limits in order to develop a home site. This site is mostly wooded and site grading is needed to raise the building pad elevation to meet 100-year floodplain requirements. This is a grandfathered lot located in the LDA of Seneca Creek. The 100-foot Critical Area Buffer does not occur on this property.

This office does not oppose the granting of this variance request. We recommend that the variance approval include a condition that a portion of the required 3:1 mitigation for clearing over 30% of the existing forest be provided on-site in the completed site grading areas.

Please provide this office with a copy of the written decision made in this case. Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Judge John C. North, II
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

May 23, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: # 1019 G. Philip Jackson & Diana C. Jackson Subdivision

Dear Steve,

Thank you for the opportunity to review this subdivision plat. The applicants propose a one-lot subdivision of a 185-acre parcel located in the RCA of Fishing Creek. This subdivision appears to be around existing conditions involving one dwelling. The following comments are provided for your use:

1. The Critical Area acreage of the parent parcel must be stated on the plat, as well as the State tidal wetland acreage. The number of RCA density rights available and the number of rights used to date must also be stated. All State tidal wetland acreage must be deducted from the tract acreage prior to calculating the number of RCA density rights.
2. Please provide the acreage of existing forest cover on the proposed lot and show its location on the plat. If there is less than 15% forest cover, 15% afforestation must be provided and shown on the plat.
3. Please state the existing impervious areas on Lot 1 and the reserved density area.
4. A copy of a determination letter from Wildlife and Heritage Service (WHS) regarding the presence of rare, threatened and endangered species and/or their habitats must be provided to this office prior to granting any approvals. All comments provided by WHS must be addressed on the plat.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Mr. Dodd
May 23, 2003
Page Two

5. The 100-foot Critical Area Buffer line must be labeled on the plat. I concur with your comment to Mr. Tim Marshall that the Buffer must be afforested if this subdivision represents a conversion in use from agriculture to residential.

Please contact me if you have any questions regarding these items. I may be reached via email at wcole@dnr.state.md.us or 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

WDC/jjd

cc: DC 334-03



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/

May 21, 2003

Ms. Victoria Lenney
2043 Midshipman Drive
Stafford, VA 22554

Re: 3311 Choptank Avenue, Baltimore County
Tax Map 98, Parcel 203, Lots 131-133 and Lots 150-154

Dear Ms. Lenney,

Enclosed are copies of maps and tax assessment information regarding your parents' property in Baltimore County. The MERLIN on-line generated map shows the Critical Area boundary as a guideline only. I have also enclosed a copy of the portion of the County's Critical Area map that shows the legally-binding Critical Area jurisdictional boundary for properties in this area. The Critical Area overlay zoning in this area is Limited Development Area.

If you need further assistance, please contact Mr. Keith Kelley or his supervisor, Ms. Patricia Farr, at Baltimore County Department of Environmental Protection and Resource Management (DEPRM). They may be reached at 410-887-3980.

Thank you for contacting us about the Critical Area requirements for this property. If I may be of further assistance, please contact me at 410-260-3481 or via email at wcole@dnr.state.md.us.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Patricia Farr



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/

May 20, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case # 2152: Robert F. and Catherine A. Geisler
Request to construct a deck in the 100-foot Critical Area Buffer

Dear Steve,

This letter follows up our phone conversation of this afternoon, in which you advised that this variance request is for after-the-fact approval. The following comments supercede and amend those in the letter I faxed to you earlier today.

The applicants are requesting after-the-fact approval for a deck that has been constructed in the 100-foot Critical Area Buffer onto an existing house located in the LDA of Church Creek. This property is part of a subdivision that was approved in September 1988, just prior to implementation of the County's Critical Area Program.

This office opposes the granting of this variance request. In 2002, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values. By Chapters 431 and 432 of the 2002 Laws of Maryland, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. The Code of Maryland Regulations and County Code both provide standards a local government must use when granting a variance. Again, because the applicant must meet all of the standards in order for the Board to grant a variance, this office believes that, in this case, those standards clearly have not been met. I have outlined those standards below:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. The applicants have not shown that there is insufficient buildable area available on this lot. It appears a deck can be constructed on this site without the need for a Buffer variance. In the 2002 amendments to the Critical Area law (chapters 431 and 432 of the 2002 Laws of Maryland), the General Assembly expressly required that the Board must evaluate the variance applications in regard to the reasonable use of the applicant's entire property or parcel. Thus, the Board must look at the uses available to the applicant on the entire property and not just in the area where they want to place the new structure.

In addition, this lot has already received a Critical Area variance (case # 1972,), requesting an encroachment into the 100-foot Critical Area Buffer. This office provided comments on variance # 1972 five times beginning on June 19, 2000. Commission staff visited this site and worked with the current applicants to provide a site plan that minimized Buffer impacts to 434 square feet. As a result, we did not oppose case # 1972. However, in her letter dated August 6, 2001, Mary Owens stated, "This office does not oppose the revised house location as long as the footprint shown includes all decks and patios that may be located on the south side of the house." The applicants are now proposing an additional 500 square feet of new disturbance in the Buffer.

2. That a literal interpretation of this subtitle or the local Critical Area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. The applicants have reasonable use of this property. There was opportunity during the building permit phase to choose a footprint that would accommodate future accessory structures without the need for future variances. There appears to remain opportunities to construct a deck on this lot without the need for a Buffer variance. The applicant's rights must be evaluated against the rights of other property owners under the Critical Area program.
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area. If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this subdivision, as well as in similar situations in the County's Critical Area. New development in the Buffer is prohibited. There is sufficient area outside the Buffer on this lot to construct a deck.
4. The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. During the processing of variance case # 1972, the applicants were made aware of the constraints posed on their lot by the location of the Buffer, and were advised by this office that the footprint must include all decks and

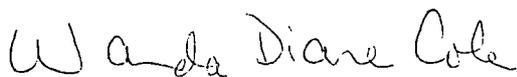
patios that may be desired. Constructing a home on a footprint that abuts the Buffer and constrains the location of future amenities is a condition created by the action of the applicants.

5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. The applicant bears the burden to prove this factor, along with the others discussed above. In 2002, the General Assembly re-enacted its findings regarding the importance of a naturally vegetated buffer around the Bay, and expressed again a commitment to protection of the 100-foot Buffer.

The 100-foot Buffer is the last barrier to pollutants that might enter waterways leading to Chesapeake Bay. Encroachment into the Buffer reduces available area for vegetation to grow. Vegetation absorbs excess runoff and the pollutants it carries, thus, the vegetation is critically important for protecting the water quality of the Chesapeake Bay watershed. Good water quality allows aquatic organisms to survive, which, in turn, allows commercial and sport fisheries, seafood industries, and the local economies that depend on them, to thrive. Granting this variance will contribute to the decline of water quality in Church Creek, and, ultimately, the Chesapeake Bay watershed.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Marianne Mason, Counsel
DC 336-03



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 6, 2001

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P O Box 107
Cambridge, Maryland 21613

**RE: Earl Robinson Variance
DC 303-00**

Dear Mr. Dodd:

Thank you for providing updated information on the referenced project. Following my correspondence to you dated April 11, 2001; I met with Mr. and Mrs. Geisler on site, and we discussed various locations for the house that would minimize impacts to the Buffer and would be generally in keeping with the concept of the original approval.

I have reviewed the most recent site plan prepared by William Craig and dated July 13, 2001. The plan indicates that the proposed Buffer encroachment will be 434 square feet. This proposal seems reasonable and is generally consistent with the original Board of Appeals approval. This office does not oppose the revised house location as long as the footprint shown includes all decks and patios that may be located on the south side of the house.

Thank you for providing me with the revised plan. If you have any questions, please feel free to call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens, Chief
Program Implementation Division

MRO/jjd

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

Judge John C. North, II
Chairman



1

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

April 11, 2001

Mr. Steve Dodd
Dorchester County Planning & Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: Earl Robinson Variance
DC 303-00

Dear Mr. Dodd:

Thank you for providing updated information on the referenced project. It is my understanding that following the Board of Appeals conditional approval of the variance request dated June 26, 2000, that the Robinsons sold the property to Mr. and Mrs. Giesler. The new owners propose to amend the size and location of the proposed dwelling as reflected on the site plan that was submitted with your letter dated March 21, 2001.

I have reviewed the revised site plan and Commission staff's previous comments on the variance request. This office opposes the revisions to the site plan because it appears that impacts to the Buffer have been increased. As you are aware, many factors were considered when the original variance application was submitted, and Commission staff negotiated with the applicants' attorney to determine a location and footprint for the dwelling that minimized impacts to the Buffer. The final site plan involved approximately 450 square feet of development within the Buffer. The site plan submitted by Mr. and Mrs. Giesler involves approximately 1,000 square feet of development within the Buffer.

I have prepared a sketch using the revised footprint for the house showing how Buffer impacts could be minimized. See Enclosure (1). I believe this design, though different from the one that was originally approved by the Board of Appeals, is reasonable and generally in keeping with the concept of the original approval.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450

Mr. Dodd
April 11, 2001
Page 2

I am available to meet with you and Mr. and Mrs. Giesler to discuss the sketch in more detail should they desire to do so. Please feel free to contact me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

Cc: Mr. Robert Geisler



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/

May 20, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: # 1015 Marilyn H. Luthy, et al. Revised Preliminary Subdivision Plat

Dear Steve,

Thank you for providing a copy of the revised plat. The lot line is now set back 100' from mean high water in order to avoid having to establish the Buffer in forest vegetation.

1. Lot 1 must provide three (3) acres of afforestation to meet the 15% afforestation requirements. This afforestation is being shown in the area between the proposed development envelope and Maple Dam Road. We recommend more of these plantings be directed to the Buffer, particularly beyond Lot 1.
2. The future dwelling must be located to maintain sufficient distance from the 100-foot Buffer so that encroachment into the Buffer does not occur during construction of the dwelling and any future amenities that might be desired.

If you have any questions regarding these items, please contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner

cc: DC 88-03



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/

May 20, 2003

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

Re: SM 711A21: MD 234 at MD 238 Geometric Improvements

Dear Ms. Simpson,

Thank you for providing information on the proposed roundabout project located in the Critical Area of Chaptico Run in St. Mary's County. I have enclosed a copy of the County's Critical Area boundary map for the project area. Please note this is Tax Map 17 with a scale of one-inch equals 600 feet.

From your description, this project will need to be presented to the Commission for formal approval. As you develop the design, you will want to address the following:

1. The project is located in an intensely developed area, therefore, compliance with the 10% Rule for pollutant removal requirements must be provided. Once the design details are ready, please complete the 10% Rule worksheet showing the pollutant removal requirement, along with details on the best management practice selected to meet the removal requirement.
2. Enclosed is a project checklist, which will assist your staff in providing information needed for Commission review. It appears this project may not be constrained by a 100-foot Critical Area Buffer unless a tributary stream is present. Field assessments should identify the presence and location of tributary streams, hydric soils, tidal and nontidal wetlands, steep slopes, forested areas, and habitats for rare, threatened and endangered species. The footprint should be located so as to avoid and/or minimize impacts to these natural resources.

3. If the 100-Buffer for a tributary stream is needed, please quantify the Buffer impacts and show why these impacts could not be avoided.
4. Please quantify existing forested areas and forest clearing impacts, and provide a mitigation planting plan that utilizes native species. Forest cover is replaced at a ratio based upon the percentage of the existing forest cover cleared. A copy of a Planting Agreement is enclosed for your use.
5. All other permits must first be obtained prior to scheduling this project on the Commission's agenda. Similarly, the forest mitigation area and plan must be approved by this office in order for the project to be placed on the agenda.

I will be happy to provide additional assistance and attend site visits as necessary. I may be reached at 410-260-3481.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

Enclosures (3)

cc: 31-01



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
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

May 20, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case # 2152: Robert F. and Catherine A. Geisler
Request to construct a deck in the 100-foot Critical Area Buffer

Dear Steve,

Thank you for providing the information on this variance request. The applicants propose the construction of a deck onto an existing house in the LDA of Church Creek. This lot is located in a subdivision that was approved in September 1988, just prior to implementation of the County's Critical Area Program.

This office opposes the granting of this variance request. The Code of Maryland Regulations and County Code both provide standards a local government must use when granting a variance. Those standards do not appear to have been met. I have outlined those standards below:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. The applicants have not shown that there is insufficient buildable area available on this lot. It appears a deck can be constructed on this site without the need for a Buffer variance.

This lot was the subject of variance case # 1972, requesting an encroachment into the 100-foot Critical Area Buffer. This office provided comments on variance # 1972 five times beginning on June 19, 2000. Commission staff visited this site and worked with the current applicants to provide a site plan that minimized Buffer impacts to 434 square

feet. As a result, we did not oppose case # 1972. However, in her letter dated August 6, 2001, Mary Owens stated, "This office does not oppose the revised house location as long as the footprint shown includes all decks and patios that may be located on the south side of the house." The applicants are now proposing an additional 500 square feet of new disturbance in the Buffer.

2. That a literal interpretation of this subtitle or the local Critical Area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. The applicants have reasonable use of this property. There was opportunity during the building permit phase to choose a footprint that would accommodate future accessory structures without the need for future variances. There appears to remain opportunities to construct a deck on this lot without the need for a Buffer variance.
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area. If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this subdivision, as well as in similar situations in the County's Critical Area. New development in the Buffer is prohibited. There is sufficient area outside the Buffer on this lot to construct a deck.
4. The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. During the processing of variance case # 1972, the applicants were made aware of the constraints posed on their lot by the location of the Buffer, and were advised by this office that the footprint must include all decks and patios that may be desired. Constructing a home on a footprint that abuts the Buffer and constrains the location of future amenities is a condition created by the action of the applicants.
5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. The 100-foot Buffer is the last barrier to pollutants that might enter waterways leading to Chesapeake Bay. Encroachment into the Buffer reduces available area for vegetation to grow. Vegetation absorbs excess runoff and the pollutants it carries, thus, the vegetation is critically important for protecting the water quality of the Chesapeake Bay watershed. Good water quality allows aquatic organisms to survive, which, in turn, allows commercial and sport fisheries, seafood industries, and the local economies that depend on them, to thrive. Granting this variance will contribute to the decline of water quality in Church Creek, and the Chesapeake Bay watershed.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: Marianne Mason, Counsel
DC 336-03



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 6, 2001

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P O Box 107
Cambridge, Maryland 21613

RE: Earl Robinson Variance
DC 303-00

Dear Mr. Dodd:

Thank you for providing updated information on the referenced project. Following my correspondence to you dated April 11, 2001; I met with Mr. and Mrs. Geisler on site, and we discussed various locations for the house that would minimize impacts to the Buffer and would be generally in keeping with the concept of the original approval.

I have reviewed the most recent site plan prepared by William Craig and dated July 13, 2001. The plan indicates that the proposed Buffer encroachment will be 434 square feet. This proposal seems reasonable and is generally consistent with the original Board of Appeals approval. This office does not oppose the revised house location as long as the footprint shown includes all decks and patios that may be located on the south side of the house.

Thank you for providing me with the revised plan. If you have any questions, please feel free to call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens, Chief
Program Implementation Division

MRO/jjd

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450



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

April 11, 2001

Mr. Steve Dodd
Dorchester County Planning & Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: Earl Robinson Variance
DC 303-00**

Dear Mr. Dodd:

Thank you for providing updated information on the referenced project. It is my understanding that following the Board of Appeals conditional approval of the variance request dated June 26, 2000, that the Robinsons sold the property to Mr. and Mrs. Giesler. The new owners propose to amend the size and location of the proposed dwelling as reflected on the site plan that was submitted with your letter dated March 21, 2001.

I have reviewed the revised site plan and Commission staff's previous comments on the variance request. This office opposes the revisions to the site plan because it appears that impacts to the Buffer have been increased. As you are aware, many factors were considered when the original variance application was submitted, and Commission staff negotiated with the applicants' attorney to determine a location and footprint for the dwelling that minimized impacts to the Buffer. The final site plan involved approximately 450 square feet of development within the Buffer. The site plan submitted by Mr. and Mrs. Giesler involves approximately 1,000 square feet of development within the Buffer.

I have prepared a sketch using the revised footprint for the house showing how Buffer impacts could be minimized. See Enclosure (1). I believe this design, though different from the one that was originally approved by the Board of Appeals, is reasonable and generally in keeping with the concept of the original approval.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-3093

Mr. Dodd
April 11, 2001
Page 2

I am available to meet with you and Mr. and Mrs. Giesler to discuss the sketch in more detail should they desire to do so. Please feel free to contact me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

Cc: Mr. Robert Geisler



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/

May 19, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2148 Ann M. Dixon & Isabelle E. Lowry
Request to build a deck and screened porch in the 100' Buffer

Dear Mr. Dodd,

Thank you for providing the information on this variance request. This is a grandfathered lot located in the RCA of the Chesapeake Bay. The applicants wish to construct a screened porch and deck onto an existing dwelling that was designed with sliding doors for access onto a deck. It is our understanding that in 1989, when the house was under construction, the unprotected shoreline was more than 100 feet away from the proposed dwelling. However, the shoreline has eroded so that portions of the house are now located in the Buffer.

Our office does not oppose this variance request. We recommend that the new Buffer line be shown on the site plan, and that the variance approval include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: DC 619-02



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/

May 15, 2003

Ms. Sue Veith
St. Mary's County
Department of Planning and Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-06583

Re: **SMA 28: ISUB # 00-100-032 Prospect Hill, Outparcel B
Mark Henderson, Jr. Growth Allocation**

Dear Sue,

I am pleased to inform you that on May 7, 2003, the Critical Area Commission concurred with Chairman Madden's determination that this growth allocation request was a refinement to the County's Critical Area Program. The refinement involves the use of growth allocation to change the Critical Area designation of 1.303 acres, identified as Outparcel B on Tax Map 40, Block 17, Parcel 94, from RCA to LDA. This refinement was approved with the following conditions:

1. The road along the shoreline shall be removed and the abandoned roadbed revegetated with native species.
2. The 5.42-acre RCA density reserve parcel and the 300-foot buffer shall be labeled on the plat as unbuildable.
3. A note shall be included on the plat stating that new development or disturbance to the 300-foot buffer on the parent parcel shall be prohibited.
4. A note shall be included on the plat that no further subdivision may occur on this site.

Please forward a copy of the signed Ordinance and the revised Critical Area Overlay map as soon as they are available.

Thank you for your assistance in this process. If you have any questions, please don't hesitate to contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

May 15, 2003

Ms. Sue Veith
St. Mary's County
Department of Planning and Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-06583

Post-It™ brand fax transmittal memo 7671 # of pages ▶ |

To	J. Peele	From	
Co.		Co.	
Dept.		Phone #	
Fax #	301-925-1803	Fax #	

Re: **SMA 27: ISUB # 00-100-058**
Thomas Colton & Mossey Lea Subdivision Growth Allocation

Dear Sue,

I am pleased to inform you that on May 7, 2003, the Critical Area Commission concurred with Chairman Madden's determination that this growth allocation request was a refinement to the County's Critical Area Program, and the refinement was approved. The refinement will change the Critical Area designation of 11.51 acres, identified on Tax Map 38, Block 24, Parcel 33, from RCA to LDA.

Please forward a copy of the signed Ordinance and the revised Critical Area Overlay map as soon as they are available.

Thank you for your assistance in this process. If you have any questions, please don't hesitate to contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

May 15, 2003

Ms. Sue Veith
St. Mary's County
Department of Planning and Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-06583

Re: **SMA 27: ISUB # 00-100-058**
Thomas Colton & Mossey Lea Subdivision Growth Allocation

Dear Sue,

I am pleased to inform you that on May 7, 2003, the Critical Area Commission concurred with Chairman Madden's determination that this growth allocation request was a refinement to the County's Critical Area Program, and the refinement was approved. The refinement will change the Critical Area designation of 11.51 acres, identified on Tax Map 38, Block 24, Parcel 33, from RCA to LDA.

Please forward a copy of the signed Ordinance and the revised Critical Area Overlay map as soon as they are available.

Thank you for your assistance in this process. If you have any questions, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner



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/

May 15, 2003

Ms. Sue Veith
St. Mary's County
Department of Planning and Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMA 26: ISUB # 00-140-039 Bohanan Subdivision Growth Allocation

Dear Sue,

I am pleased to inform you that on May 7, 2003, the Critical Area Commission concurred with Chairman Madden's determination that this growth allocation request was a refinement to the County's Critical Area Program, and the refinement was approved. This refinement will change the Critical Area designation of 7.341 acres, identified on Tax Map 58, Block 24, Parcel 18, from RCA to LDA.

Please forward a copy of the signed Ordinance and the revised Critical Area Overlay map as soon as they are available.

Thank you for your assistance in this process. If you have any questions, please don't hesitate to contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner



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/

May 15, 2003

Ms. Joanna Hiebler
Environmental Specialist
URS Corporation
4 North Park Drive, Suite 300
Hunt Valley, Maryland 21030

Re: **17-03: Approval of Nice Memorial Bridge Salt Dome Replacement Project**

Dear Joanna,

I am pleased to inform you that, on May 7, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the above referenced project in accordance with COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands. This approval is subject to the following condition:

That the existing salt dome site be afforested using native, woody species.

The site plan approved for this project includes a 4,000 square foot planting area located in the Buffer to mitigate for forest clearing for the new salt dome, and a 4,456 square foot reforestation area located partially in the Buffer for restoration of the existing salt dome, which will be demolished at a future date.

Attached is a copy of the Planting Agreement for this project. Please have the appropriate Maryland Transportation Authority representative sign, date and return this form to me prior to initiating the project. I will need a phone number and/or email address for contacting this representative to schedule follow-up inspections of the plantings.

Thank you for your participation and assistance in this process. It has been a pleasure working with you. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

Planting Agreement for State Projects

State Agency
MD Transportation Authority

Project Number
17-03

Agency Contact

Phone Number

Commission Approval Date
May 15, 2003

CAC Planner
Wanda Diane Cole

Project Name
Nice Memorial Bridge Salt Dome Replacement

Project Location
US 301 @ Potomac River, Charles County

Square Feet Cleared Outside 100ft Buffer
77 trees and shrubs

Mitigation Ratio for Clearing Outside Buffer*
1:1

Mitigation Calculation Outside Buffer
4,000 square feet

Square Feet Disturbed/Cleared Within 100ft Buffer
4,456 square feet for demolition of existing salt dome

Mitigation Ratio for Disturbance/Clearing Within Buffer*
1:1

Mitigation Calculation Within Buffer
4,446 square feet

15% Afforestation Requirement Met?
Not applicable

Total Mitigation Required
8,446 square feet

Planting and Natural Regeneration Plan (attach additional sheets if necessary)
Clearing and Planting Plan attached

Planting Date
Fall

Year
2003

First Site Visit Date

First Site Visit By

Second Site Visit Date

Second Site Visit By

Mitigation Completed?

* see back for explanations

Revised 4/28/99

Wanda Diane Cole

05/15/03

410-260-3481

REFORESTATION
PLANTING AREA
4,456 SF

EXISTING SALT DOME
TO BE REMOVED

100' CRITICAL
AREA BUFFER

GOVERNOR HARRY NICE BRIDGE

VIRGINIA

GRAIN HIGHWAY

ASPHALT ROAD

100' CRITICAL
AREA BUFFER

REFORESTATION
PLANTING AREA
4,000 SF

25' NON-TIDAL
WETLAND BUFFER

NON TIDAL
WETLAND

RIGHT-OF-WAY LINE OF THROUGH HIGHWAY

STORMWATER
MANAGEMENT
FACILITY

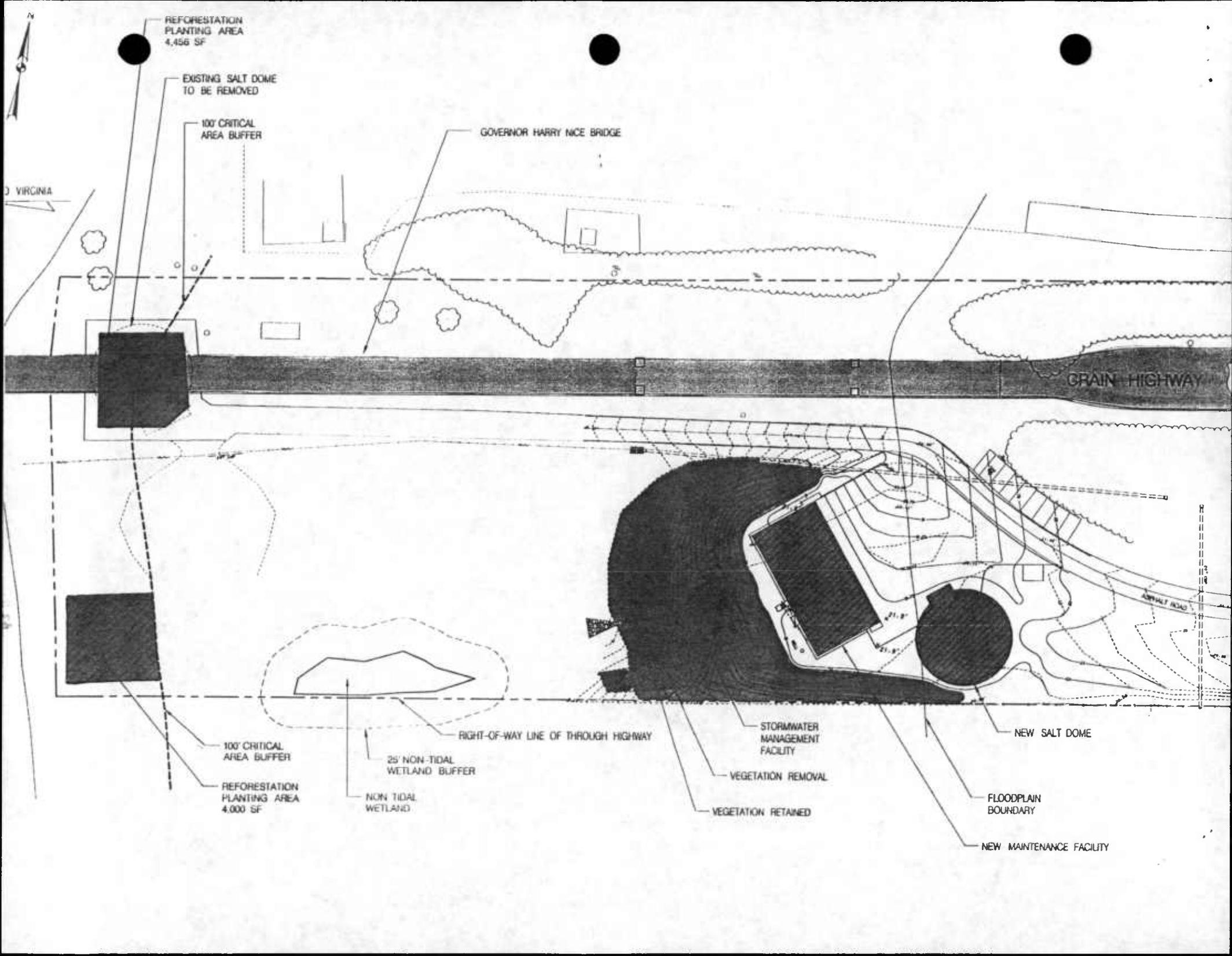
VEGETATION REMOVAL

VEGETATION RETAINED

NEW SALT DOME

FLOODPLAIN
BOUNDARY

NEW MAINTENANCE FACILITY





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/

May 15, 2003

Ms. Robin M. Bowie, Manager
Division of Environmental Planning
Maryland Aviation Administration
PO Box 8766
BWI Airport, MD 21240-0766

Re: **22-03 Maryland Aviation Administration:
Martin State Airport Projected Development Plan**

Dear Ms. Bowie,

I am pleased to inform you that the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the above referenced project at its meeting on May 7, 2003. This approval is in accordance with COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands and is **subject to the following conditions:**

1. Maryland Aviation Administration shall submit the design for each development and improvement project for formal approval to the Commission prior to implementing the project.
2. Compliance with the 10% Rule for pollutant removal shall first be attempted on-site. Should it be determined that off-site areas will be necessary, Maryland Aviation Administration shall submit a project to the Commission for formal approval after detailed plans are available regarding the off-site best management practice(s).

It is our understanding that you will be working with other agencies, namely Baltimore County DEPRM, in developing a potential off-site area for the stormwater quality offsets. I will be happy to assist you in any way toward that effort. Please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner



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/

May 15, 2003

Mr. Andrew Hanas
Chief, Southern Region
Engineering and Construction
Tawes State Office Bldg, D-3
Annapolis, MD 21401

Re: 24-03: Approval of Smallwood State Park ADA Improvements

Dear Andy,

I am pleased to inform you that, on May 7, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the above referenced project in accordance with COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands. Enclosed for your signature is a copy of the Planting Agreement, which will remain in effect for five years after completion of the mitigation plantings. Please return the signed copy to me, and contact me to arrange a site visit once the plantings have been installed.

Thank you for your participation and assistance in this process. It has been a pleasure working with you, Tom Schanno, and your respective consultants. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: Tom Schanno, DGS

Planting Agreement for State Projects

State Agency

Department of Natural Resources

Project Number

24-03

Agency Contact

Andy Haras

Phone Number

410-260-8909

Commission Approval Date

May 7, 2003

CAC Planner

Wanda D. Cole

Project Name

SMALL WOOD STATE PARK, ADA RENOVATION

Project Location

CHARLES COUNTY

Square Feet Cleared Outside 100ft Buffer

N/A

Mitigation Ratio for Clearing Outside Buffer*

N/A

Mitigation Calculation Outside Buffer

N/A

Square Feet Disturbed/Cleared Within 100ft Buffer

718 SQ. FT

Mitigation Ratio for Disturbance/Clearing Within Buffer*

3:1

Mitigation Calculation Within Buffer

2154 SQFT

% Afforestation Requirement Met?

YES

Total Mitigation Required

2154 SQFT

Planting and Natural Regeneration Plan (attach additional sheets if necessary)

[Empty box for planting and natural regeneration plan]

Planting Date

[Empty box]

Year

[Empty box]

First Site Visit Date

[Empty box]

First Site Visit By

[Empty box]

Second Site Visit Date

[Empty box]

Second Site Visit By

[Empty box]

Mitigation Completed?

[Empty box]

* see back for explanations

Revised 4/28/99

Wanda Diane Cole 05-15-03

1. Amount of Disturbance and Clearing

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

2. Plant Spacings and Mitigation Credits for Various Size Trees and Shrubs*

Credit Square Feet	Plant Size	Plant Spacing
100 sq. ft.	1 tree (2-inch caliper)	10-foot center
400 sq. ft.	1 tree (minimum 2-inch caliper and either balled and burlapped or container grown) and understory vegetation (minimum 2 small trees or 3 shrubs)	tree: 20 ft. center understory: 10-ft. center
50 sq. ft.	1 tree (seedlings)	7-ft. center
50 sq. ft.	1 shrub	3 - 7 ft. center

* The Critical Area Commission recognizes natural regeneration as a method for mitigation on appropriate sites. This will be determined on a case-by-case basis. All plantings will require an easement to ensure that these areas remain forested in perpetuity.

3. Mitigation Ratios

Choose from the following for the mitigation ratios.

Mitigation Ratio for Clearing Outside of Buffer

Clearing of Forest/Woodlands up to 20% 1:1
 Clearing of Forest/Woodlands up to 30% 1.5:1
 Clearing of Forest/Woodlands over 30% 3:1
 Clearing Violation 3:1
 Other
 N/A

Mitigation Ratio for Disturbance/Clearing Within Buffer

New Development/Redevelopment (non-BEA) 3:1
 New Development/Redevelopment (BEA) 2:1
 Shore Erosion Control 1:1
 Public Shoreline Access 2:1
 Clearing Violation 3:1
 Other
 N/A

4. Planting Date

The Planting Date should be either the Spring or Fall season following the approval of the project by the Critical Area Commission.

5. Site Visits

Two site visits will be conducted over a period of two years by Critical Area Commission staff. The objective of the site visits is to verify that the plantings have been carried out in accordance with the approved planting plan (i.e., species, number of trees/shrubs, location) and that the plantings are surviving.



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/

May 14, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: SFD # 30140 Harry and Elsie Stine Property Site Plan

Dear Ms. Ault,

I have reviewed the site plan for the Stine property. The applicant proposes to construct a dwelling with garage, driveway, well and septic in the RCA of a tributary stream to Wicomico River. All of the development will be located in an existing clearing outside the 100-foot Buffer.

All of the soils have K factors greater than 0.35 and one of those soils, Othello, is also hydric. If the Buffer were expanded for these soils, the entire 6.53 acre parcel would be constrained by the expanded Buffer. The County needs to determine if expansion is necessary. The purpose for expanding the Buffer for such soils is to minimize impacts to aquatic habitat and water quality. The slopes are not steep on this parcel and the forested area between the future barn and the stream appears intact. Protection of the waterway could be enhanced if the Buffer line were expanded to coincide with the existing woods line, with a note on the plat that this existing forested area is to be protected from any further disturbances.

If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner

cc: CS 337-03



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/

May 13, 2003

Mr. Tom Lawton
Somerset County Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: Richard Wheatley VAR SO 325-03, 03-727

Dear Mr. Lawton:

Thank you for providing information on the above-referenced variance for our review and comment. It is our understanding that this variance application is for a parcel in an LDA. It appears that there is adequate room on the parcel to build the house and avoid the 100-foot Buffer. It appears that the reason, at least in part, for the variance is to avoid cutting a large tree. This office recommends denial of the variance as proposed. While it is sometimes worthwhile to save individual specimen trees, in the case of the 100-foot Buffer there will be more of a benefit to water quality by locating the new impervious surface farther from the water. It looks like it might be possible to shift the house to the opposite side of the lot from the tree, reconfigure the septic area, and bring the driveway up on the same side as the house, saving the tree in that way. This office recommends mitigation at a 3:1 ratio for any disturbance that does occur in the Buffer. Please call if you have any questions regarding these comments. You can reach me at 410-260-3476.

Sincerely,

Claudia Jones

Claudia Jones
Science Advisor



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/

May 12, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MNSP # 03-131-019 St. George's Beach Town Homes Site Plan

Dear Theresa,

I have reviewed the information on the proposed 7-lot town home development plan, which is located in the IDA of St. George Creek. The 100-foot Critical Area Buffer does not occur on this property. I have the following comments:

1. Compliance with the 10% Rule is required for projects in the IDA. The worksheets must be completed and a best management practice (BMP) selected that will meet the 10% pollutant loading removal requirement. Please forward a copy of the completed worksheet and revised plan showing the BMP once they are available.
2. According to the St. Mary's Soil Survey, map 30, the soils on the plan do not appear to be correctly located. The map shows Othello soils located where the Mattapex MuB2 soils are being shown on the plan, and Mattapex MuA soils are located in the area where Othello soils are being shown. The Othello soils appear to extend to the shoreline, which means an expanded Buffer might fall on this property.
3. MuA soils are nearly flat and Othello soils are hydric. Has this site been investigated for the presence of nontidal wetlands? The MERLIN database shows a palustrine, forested, nontidal wetland across this entire site. A copy of the MERLIN image is attached. A variance for disturbance to a Habitat Protection Area will be needed if nontidal wetlands exist, as will a nontidal wetland permit from Maryland Department of the Environment.
4. A copy of the Wildlife and Heritage Service (WHS) determination letter regarding the presence of rare, threatened, or endangered species and/or their habitats must be provided to this office. All concerns raised by WHS must be addressed on the plan.

TTY For the Deaf

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

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Cole

Wanda Cole
Natural Resources Planner

cc: SM 322-03



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/

May 12, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: XPN # 20030 Candland Property Preliminary Plan

Dear Elsa,

I have reviewed the information regarding this subdivision plan and have the following comments:

1. The property contains more than 60 acres in the Critical Area, therefore, the Critical Area intrafamily transfer provisions do not apply. The property appears to have three (3) RCA density rights.
2. A portion of the SRA on Lot 1 crosses a 20% slope and must be relocated to avoid encroachment onto this area.
3. The 100-foot Buffer line must be labeled for Lots 1 and 2.
4. The woodline is not shown for Lots 1 and 2, however, the Lot Tabulation indicates these lots are 100% forested. No more than 30% of the existing forest may be cleared, and all clearing must be mitigated at the ratio appropriate to the percentage of existing forest cleared. Since the Buffer must be fully established and is already established on Lots 1 and 2, we recommend all mitigation be directed to the Buffer of the residual lot.
5. The K factors of the soils have not been provided. The Buffer may need to be expanded for those soils with K factors greater than 0.35.
6. No approvals may be granted until this office has received a copy of the Wildlife and Heritage Service (WHS) determination letter regarding the presence of rare, threatened or endangered species and/or their habitats at this site. All concerns raised by WHS must be addressed on the plan.

Please provide a copy of the revised plan when it is available. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

Wanda Cole
Natural Resources Planner

cc: CS 324-03

Critical Area Commission

STAFF REPORT

May 7, 2003

APPLICANT: St. Mary's County

PROPOSAL: Refinement- Bohanan Subdivision Growth Allocation

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 Location and Extent of Future
Intensely Developed and Limited Development Areas

DISCUSSION:

St. Mary's County is requesting approval of the use of 7.341 acres of growth allocation to change the Critical Area overlay designation of Tax Map 58, Block 24, Parcel 18 from Resource Conservation Area to Limited Development Area. This parcel is located along the north side of South Snow Hill Manor Road in Park Hall, Maryland and lies entirely in the Critical Area of St. Mary's River. The County will have 1,550.359 acres of growth allocation remaining after this request is approved.

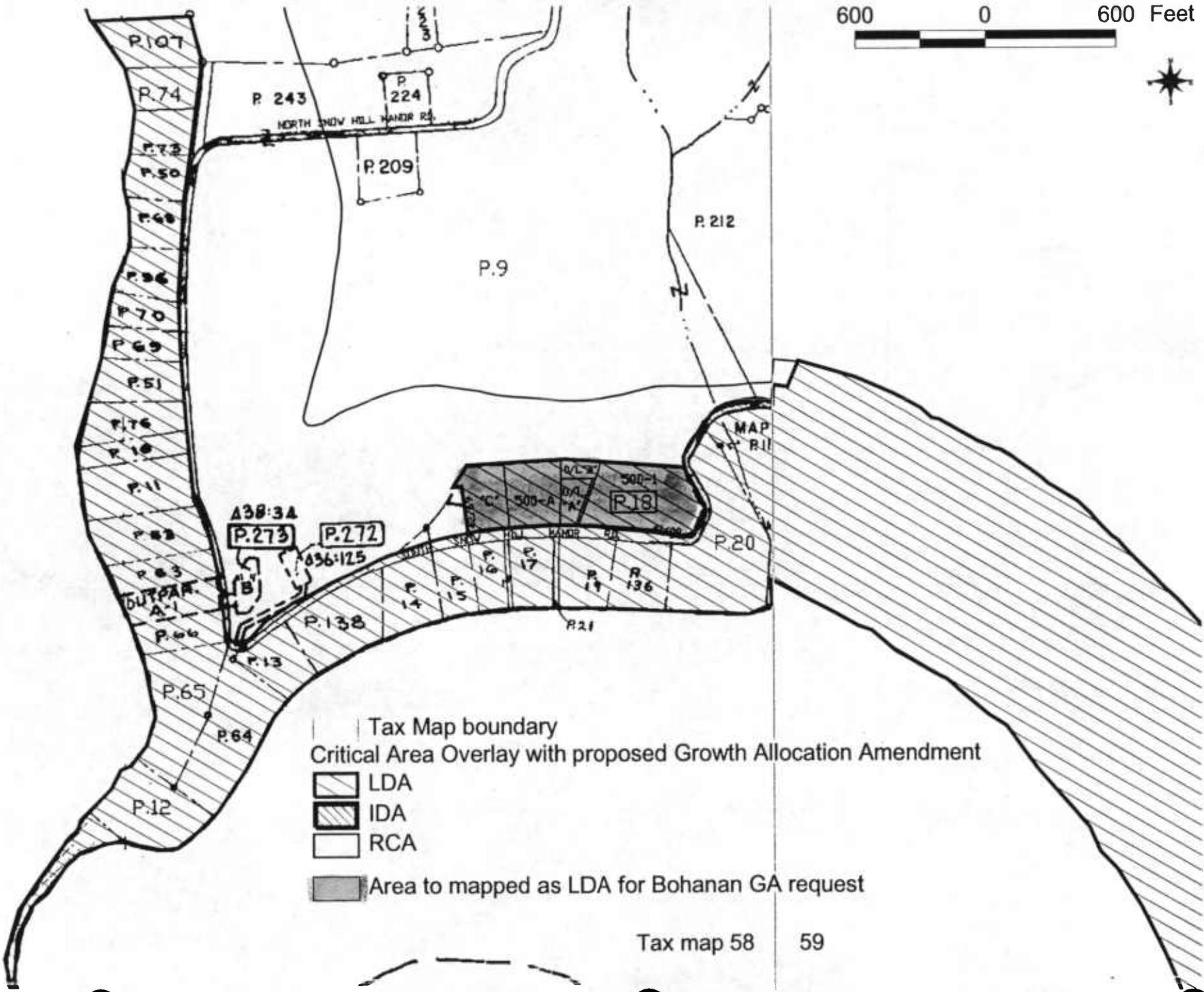
The change in designation of Parcel 18 will allow the County to approve a minor one-lot subdivision of Parcel 16, the John L. Bohanan, Sr. and John L. Bohanan, Jr. property. The proposed subdivision will create one new lot (500-2) and accommodate sewage reserve areas (SRA) for four adjacent lots. Adjacent properties on the south side of South Snow Hill Manor Road are designated LDA.

Parcel 18 was subdivided in 1992 to create Lot 1 and Parcel A. In 1995, Lot 1 was subdivided to create Lot 500-1, Outlot A to serve as a sewage reserve easement to Parcel 19 (SRA # 1), and Outlot B to serve as a sewage reserve easement to Parcel 136 (SRA #2). In 1996, Parcel A was subdivided to create Parcel 500-A to serve as a sewage reserve easement to Parcel 17 (SRA #3), and Parcel C to serve as a sewage reserve easement to Parcel 16 (SRA #4) owned by the Bohanans. The creation of septic systems in the RCA constitutes development, and Lot 1 used all available RCA density for Parcel 18; therefore, the outlots and parcels created in the Resource Conservation Area after 1992 can only be used as sewage reserve easements if growth allocation is granted.

Messrs. Bohanan, Sr and Jr applied for growth allocation in July 2001 and contiguous property owners were notified. The St. Mary's County Planning Commission held an advertised public hearing in March 2002 and recommended approval with conditions on April 22, 2002. The Board of County Commissioners held an advertised public hearing on July 16, 2002 and approved the use of 7.341 acres of growth allocation on August 20, 2002. Resolution No. Z02-04 was adopted on November 19, 2002. This resolution included conditions that Parcel 18 in its entirety be designated LDA; that the official zoning map include notes that no further subdivision may occur within the 7.341 mapped as LDA; and that the final subdivision plat shall conform to all other comments and requirements necessary to approve the final subdivision plat.

There are no known Habitat Protection Areas located on Parcel 18.

Staff recommends approval. The Chairman's determination of refinement will be sought at the Commission meeting as well as your concurrence with the Chairman's determination.



Bohanan Growth Allocation Map Amendment Request

St. Mary's Co. DPZ ; 00-140-039
2/19/03 sv

Tax map 58 59

Critical Area Commission

STAFF REPORT

May 7, 2003

APPLICANT: St. Mary's County

PROPOSAL: Refinement- Thomas Colton & Mossy Lea Subdivision
Growth Allocation

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 Location and Extent of Future
Intensely Developed and Limited Development Areas

DISCUSSION:

St. Mary's County is requesting approval of the use of 11.51 acres of growth allocation to change the Critical Area overlay designation of Tax Map 38, Block 24, Parcel 33 from Resource Conservation Area to Limited Development Area. This parcel is a 97 acre tract located along the north side of Oakley Road in Avenue, Maryland. Only 11.51 acres lies in the Critical Area of Canoe Neck Creek and is the subject of this growth allocation. The County will have 1,538.849 acres of growth allocation remaining after this request is approved.

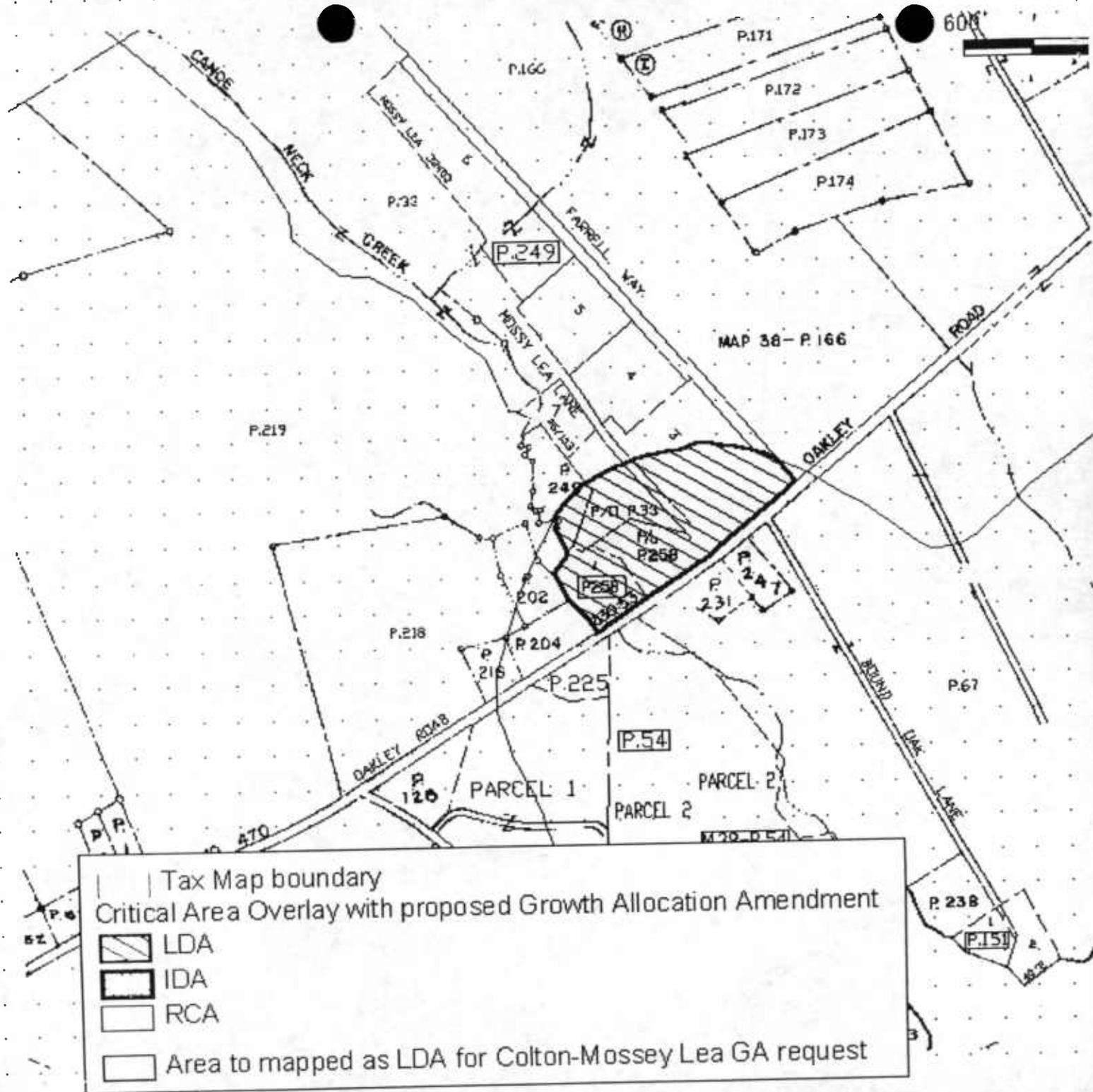
The change in designation of Parcel 33 will allow the County to approve a one-lot subdivision of an agricultural parcel owned by Thomas Colton. Mr. Colton wishes to provide a lot for his daughter to build upon. The subdivision proposes to create a new lot (Lot 2 Thomas Colton Subdivision) and adjust the boundary line of an existing RCA lot (Lot 2 "Mossy Lea") to add the balance of the agricultural residue. This minor subdivision would exceed the RCA density requirements of one dwelling unit per twenty acres. Adjacent properties in this area are designated RCA.

Mr. Colton applied for growth allocation in November 2000 and contiguous property owners were notified. The St. Mary's County Planning Commission held an advertised public hearing in March 2002 and recommended approval with conditions on April 22, 2002. The Board of County Commissioners held an advertised public hearing on July 16, 2002 and approved the use of 11.51 acres of growth allocation on August 20, 2002. Resolution No. Z02-03 was adopted on November 19, 2002. This resolution included conditions that the Critical Area portion of Parcel 33 be designated LDA; that the official zoning map include notes that no further subdivision may

occur within the 11.51 acres mapped as LDA; and that the final subdivision plat shall conform to all other comments and requirements necessary to approve the final subdivision plat.

There are no known Habitat Protection Areas located on this parcel with the exception of the 100' Buffer to a tributary stream. This Buffer does not occur on the area being proposed for subdivision and subsequent development. The requirements to provide 15% afforestation of the site will be addressed during final subdivision approval.

Staff recommends approval. The Chairman's determination of refinement will be sought at the Commission meeting as well as your concurrence with the Chairman's determination.



APPROVED _____
DIRECTOR _____
CHAIRMAN _____
ST. MARY'S COUNTY HEALTH DEPARTMENT
APPROVAL DATE _____
DIRECTOR, ENVIRONMENTAL HEALTH

ST. MARY'S COUNTY
 HEALTH DEPARTMENT
 APPROVAL DATE
 DIRECTOR, ENVIRONMENTAL HEALTH



P. 219
 N/F
 RENIE O. QUADE
 DBK 234/038
 ZONED: RPD
 USE: AGRICULTURAL

7
 "MOSSEY LEA"
 PLAT: EWA 43/103

10,000 S.F.
 SEPTIC DISPOSAL
 AREA

1000' CRITICAL AREA LINE

W&B

CRITICAL AREA NOTES:

- 1) 4.14 ACRES OF THIS SITE DEVELOPMENT ACTIVITIES ARE SUBJECT TO STATE AND FEDERAL AG REVIEW AND HAVE APPROVED.
- 2) NO DEVELOPMENT IS PERMITTED UNDER LOCAL STATE + FEDERAL REGULATIONS FOR NON-TIDAL WETLANDS.
- 3) ALL EXISTING FOREST SHALL BE PRESERVED UNDER THE PROVISIONS OF THE AFFORESTATION OR REAFFORESTATION REQUIREMENTS OF ST. MARY'S COUNTY CRITICAL AREA REGULATIONS.
- 4) RESOURCE PROTECTION REGULATIONS PER SECTION 21.02.
- 5) AREA OF EXISTING IMPROVEMENTS SHALL BE PRESERVED.
- 6) EXISTING TREES: 12,000 S.F. AREA PROVIDED: 15,200 S.F.
- 7) THERE ARE NO NATURAL WETLANDS OR HABITATS OF SIGNIFICANCE.

N 36°49'37" E
 26.50'

APPROX. 100-YEAR
 FLOODPLAIN PER
 FRM PANEL #00515

500-2
 PART OF "MOSSEY LEA"
 PLAT MRB 26/26
 3.54 ACRES *

EXISTING DWELLING

21689

MOSSEY LEA LANE 20' R/W

N 38°55'38" W
 50.87'

S 59°55'52" W
 136.55'

78.24'

W&B

1.02 ACRES *

MtA

N. MARY'S COUNTY
 ROAD AND THESE
 50' HT -
 COUNTY
 SYSTEM
 JUAL

50' R/W
 PLAT 026 - 025
 RECORDED 12/01/85

1
 RENIE OLIVIA QUADE
 + ANGELA YVONNE QUADE
 EWA 1339/594

2

21697

10,000 S.F.
 SEPTIC DISPOSAL
 AREA

10,000 S.F.
 SEPTIC DISPOSAL
 AREA

AFFORESTATION
 EASEMENT
 (15,200 s.f.)

MmB2

CANOE NECK CREEK

MD STATE ROUTE 470 (AKA OAKLEY ROAD) 40' R/W

TH
 P.

Critical Area Commission

STAFF REPORT

May 7, 2003

APPLICANT: St. Mary's County

PROPOSAL: Refinement- Prospect Hill Outparcel B
Mark Henderson, Jr. Growth Allocation

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 Location and Extent of Future
Intensely Developed and Limited Development Areas

DISCUSSION:

St. Mary's County is requesting approval of the use of 1.303 acres of growth allocation to change the Critical Area overlay designation of Tax Map 40, Block 17, Parcel 92 and part of Parcel 94 (Outparcel B) from Resource Conservation Area to Limited Development Area. This 8.42 acre parcel is located along the south side of Knight Road in Leonardtown, Maryland and lies entirely in the Critical Area of Breton Bay. The County will have 1,537.16 acres of growth allocation remaining after this request is approved.

The change in designation of 1.303 acres of Outparcel B will allow the County to approve a minor one-lot subdivision that will create Lot 18. This minor subdivision would exceed the RCA density requirements of one dwelling unit per twenty acres. The balance of the outparcel's acreage will include 5.42 RCA density reservation parcel for a previous subdivision of Lots 1-3. Adjacent properties are designated LDA. Please note that the existing LDA along the shoreline contains a road that will be relocated out of that area.

Mr. Henderson applied to the County for growth allocation in April 2000 and contiguous property owners were notified. The St. Mary's County Planning Commission held an advertised public hearing in March 2002 and recommended approval with conditions on April 22, 2002. The Board of County Commissioners held an advertised public hearing on July 16, 2002 and approved the use of 4.374 acres of growth allocation on August 20, 2002, which has now been revised to 1.303 acres in order to comply with the RCA density requirements of the previous subdivision. Resolution No. Z02-05 was adopted on November 19, 2002.

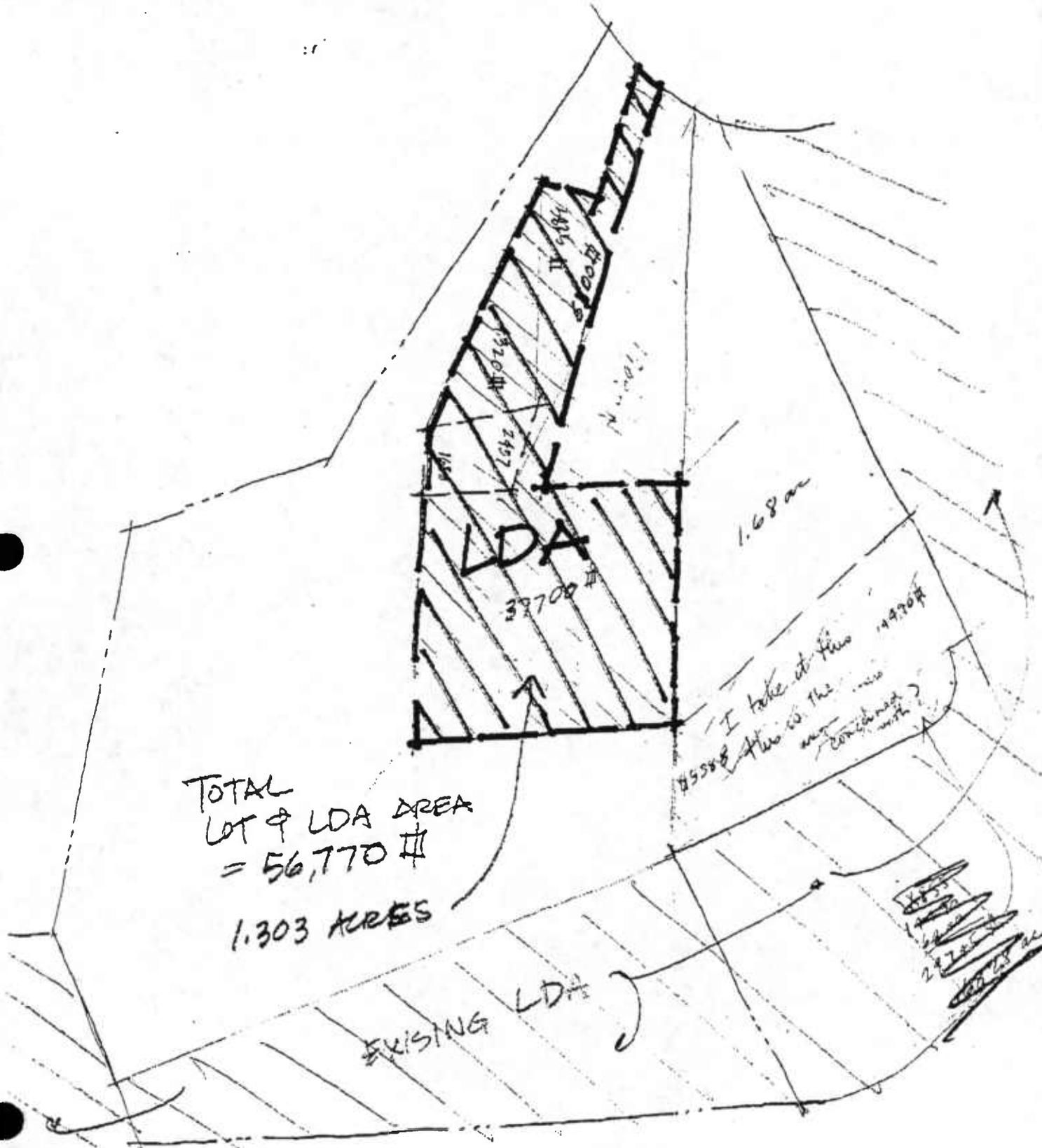
The following conditions are being recommended by staff in order to maintain the RCA character of the area of the parent parcel not included in the new lot. These conditions were proposed by the County, and include:

- The road along the shoreline shall be removed and the abandoned roadbed revegetated;
- A note shall be included on the plat to state new development or disturbance to the 300-foot buffer on the parent parcel shall be prohibited;
- The 5.42 acre RCA density reserve parcel and the 300-foot buffer shall be labeled on the plat as unbuildable; and
- A note shall be included on the plat that no further subdivision may occur on this site.

The Chairman will be asked for a determination of refinement for this request and the Commission's concurrence will be sought.

Lot 18 Prospect Hill

- Mark Henderson Jr.



Critical Area Commission

STAFF REPORT

May 7, 2003

APPLICANT: Maryland Aviation Administration: Martin State Airport

PROPOSAL: Approval of Projected Development Plan

JURISDICTION: Baltimore County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

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

DISCUSSION:

Martin State Airport is proposing several development and improvement projects through the year 2005. These projects are necessary to meet increased security needs, as well as the growing demand of private aviation. These proposals include:

- Relocation of utility substation (Project A)
- Expansion of existing hangar (B)
- New corporate hangar (C)
- New aircraft parking Apron (D)
- Apron for 50 replacement T-hangars (E)
- New hangar (F)
- Additional area for T-hangars (G)
- Parking area (H)
- New fixed-base operator/complex (I)
- Maintenance and storage shed (J)

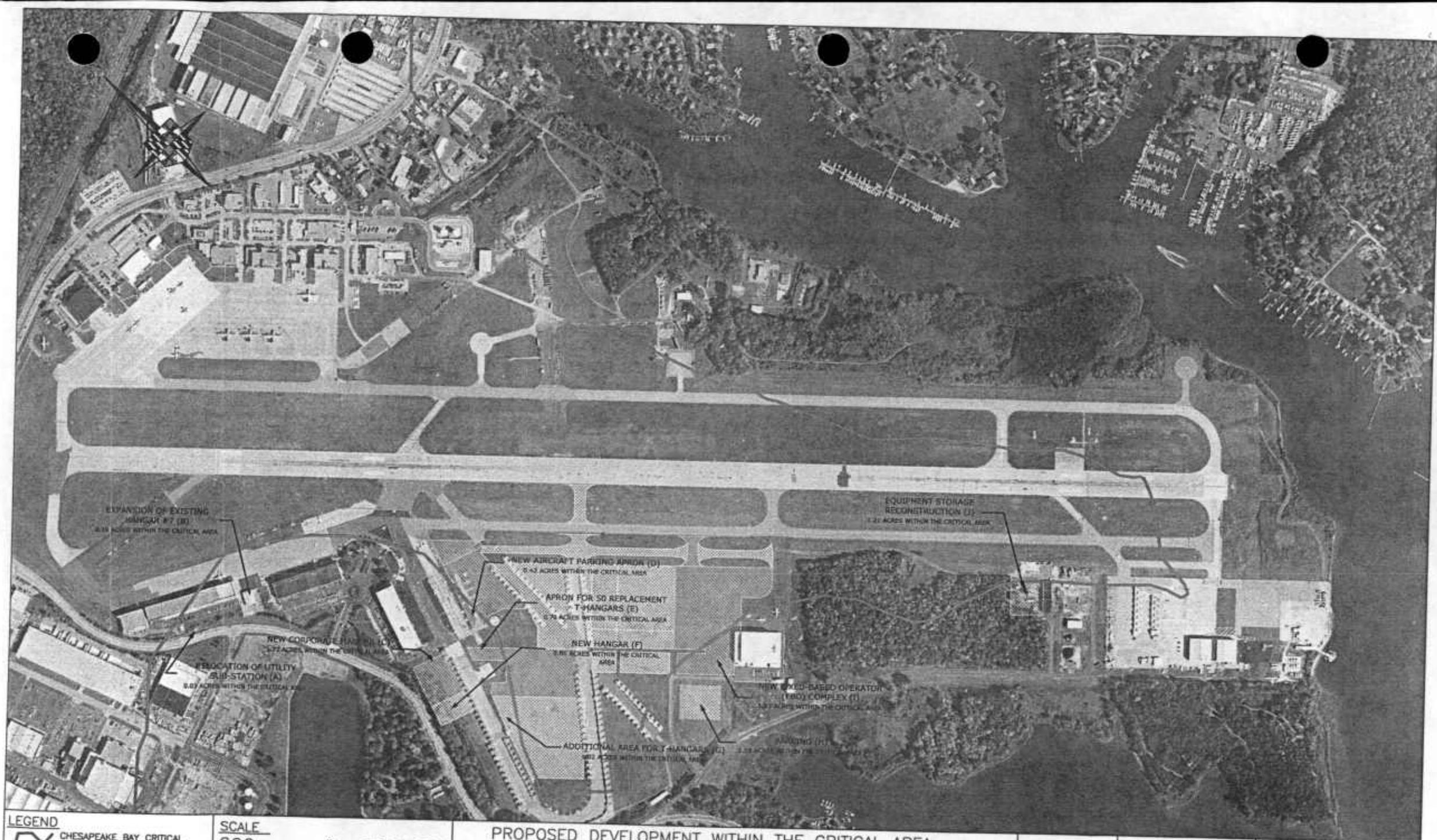
Martin State Airport is considered an intensely developed area. Airport staff has calculated stormwater management needs based upon 100% development of each project area, which will result in a total of 31.01 acres of impervious area. Stormwater for each project area will be managed with a sand filter facility, which is capable of removing 50% of the pollutant loading, therefore, the Airport will have a remainder of 6.96 pounds of pollutant removal requirement that it cannot meet. Discharge from the sand filters will go into the existing storm drain system.

Airports are required to meet Federal requirements regarding stormwater facilities and grounds management that reduce the risk of hazards created by wildlife striking aircraft. These requirements include facilities that do not impound water for more than 24 hours, maintaining regularly mowed grassy areas, and preventing woody vegetation from growing too thick or too high near runways or in the landing pattern to runways. These practices prevent wildlife, mainly birds, who would use wet and wooded areas, from flying into airborne aircraft.

Martin State Airport proposes to provide offsets for stormwater in the form of wildlife habitat plantings elsewhere in the Critical Area, enhancement of 100-foot Buffer areas, stream restoration projects, and anything else the Commission would deem a suitable offset. The Airport is willing to work with other agencies in accomplishing this goal. Baltimore County, who has not yet been contacted about this offset approach, has a history of providing stream restoration and stormwater retrofit projects to improve water quality in small watersheds. It is possible that this offset approach may provide better environmental improvements than on-site facilities would.

Martin State Airport recognizes that each project design must be submitted to the Commission for approval. Airport staff advises that each project area shown and its footprint within are the maximum projected build-out. They expect that actual design will be smaller.

There are no proposed impacts in the Buffer. Some forest cover will be lost and will be mitigated at a 1:1 ratio in an area that does not represent an aviation hazard. There are no rare, threatened or endangered species located in any of the project areas. No work will occur on steep slopes.



EXPANSION OF EXISTING HANGAR #7 (B)
8.88 ACRES WITHIN THE CRITICAL AREA

EQUIPMENT STORAGE RECONSTRUCTION (J)
1.21 ACRES WITHIN THE CRITICAL AREA

NEW AIRCRAFT PARKING APRON (D)
2.42 ACRES WITHIN THE CRITICAL AREA

APRON FOR 50 REPLACEMENT T-HANGARS (E)
2.70 ACRES WITHIN THE CRITICAL AREA

NEW CORPORATE HANGAR (C)
4.77 ACRES WITHIN THE CRITICAL AREA

NEW HANGAR (F)
2.91 ACRES WITHIN THE CRITICAL AREA

RELOCATION OF UTILITY SUB-STATION (A)
0.69 ACRES WITHIN THE CRITICAL AREA

NEW FIXED-BASED OPERATOR (FBO) COMPLEX (I)
3.87 ACRES WITHIN THE CRITICAL AREA

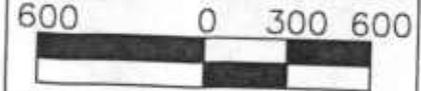
ADDITIONAL AREA FOR T-HANGARS (G)
1.01 ACRES WITHIN THE CRITICAL AREA

RAVINE (H)
3.28 ACRES WITHIN THE CRITICAL AREA

LEGEND

-  CHESAPEAKE BAY CRITICAL AREA BOUNDARY
-  PROPOSED DEVELOPMENT 2002-2005
-  PROPOSED DEVELOPMENT 2005-2010

SCALE



APRIL 2003

PROPOSED DEVELOPMENT WITHIN THE CRITICAL AREA
ASSOCIATED WITH THE
CAPITAL IMPROVEMENT PROGRAM AT
MARTIN STATE AIRPORT
2002-2010



Critical Area Commission

STAFF REPORT

May 7, 2003

APPLICANT: Maryland Transportation Authority (MdTA)

PROPOSAL: Nice Memorial Bridge Salt Dome Replacement,
Wash Bay, and Storage and Maintenance Building

JURISDICTION: Charles County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

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

DISCUSSION:

The Maryland Transportation Authority is proposing to replace an existing, deteriorating salt dome located in the 100-foot Critical Area Buffer with a new salt dome located in the Critical Area but outside the Buffer. In addition, a wash bay and new storage and maintenance building will be constructed. The storage and maintenance building were approved by the Commission at its meeting on November 1, 2000. The existing salt dome will be demolished and the site restored to native vegetation.

This project is located in an area considered intensely developed and will create 0.54 acres of new impervious surfaces in the Critical Area. Compliance with the 10% Rule has been met by providing a sand filter with two forebays, which will discharge at the toe of the slope below the knoll upon which this development is sited. The pollutant removal requirement is 0.74 pounds; the sand filter will remove 0.77 pounds. MDE has informed CAC verbally that their stormwater review is not yet complete, however, most of their comments will not affect the design or footprint of the proposed stormwater management facility. We expect MDE will have issued a final approval by the date of the Commission meeting.

Copies of letters from MDE, the Army Corps of Engineers, Department of Natural Resources, and US Fish and Wildlife Service have been provided to show that no Habitat Protection Areas will be affected. Proposed clearing consists of 77 trees and shrubs, which will be replaced 1:1 in the Buffer adjacent to an existing boat ramp.

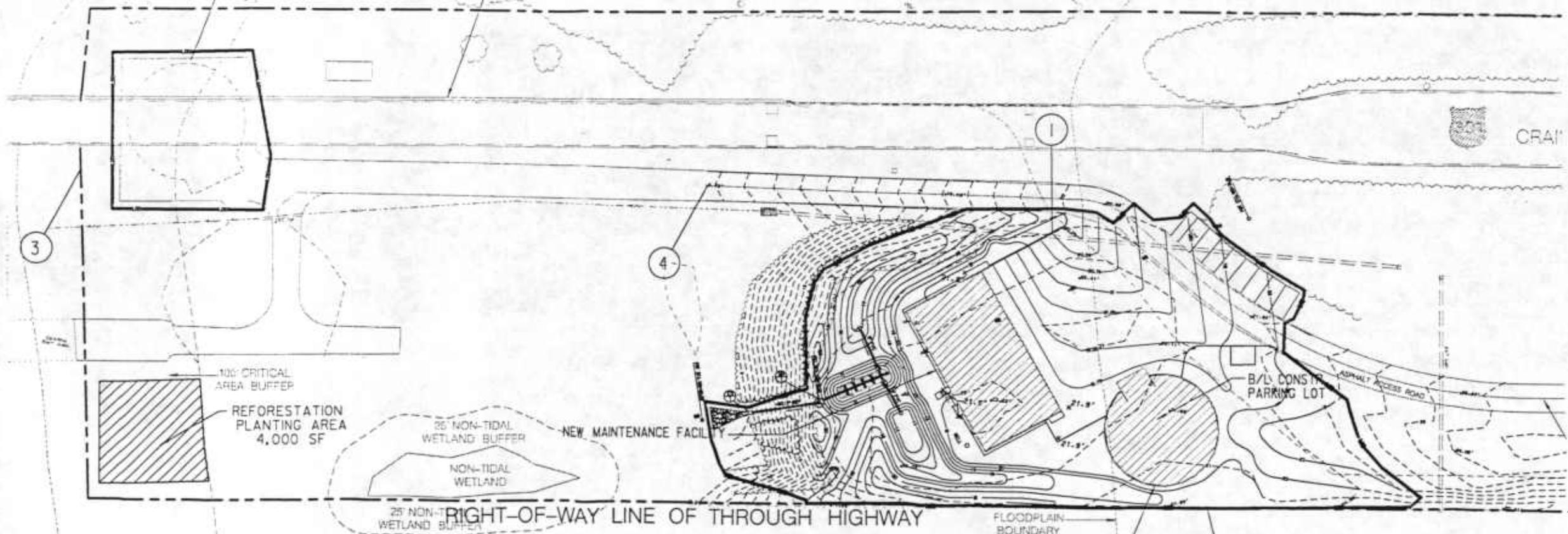
E 1,317,570
-4,100

EXISTING SALT DOME
TO BE REMOVED

OVERHEAD BRIDGE

NICE MEMORIAL BRIDGE Salt Dome Replacement

VIRGINIA



3

4

1

2

NEW SALT DOME
SEE DESIGN-BUILD DETAILS
IN TECHNICAL SPECIFICATIONS
AND DRAWING E-3.

E 1,317,570
N 253,450

SEE ADDITIONAL
FOR WORK IN T

Critical Area Commission

STAFF REPORT

May 7, 2003

APPLICANT: Department of General Services, agent, for
Department of Natural Resources, owner

PROPOSAL: Smallwood State Park: ADA Improvements

JURISDICTION: Charles County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

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

DISCUSSION:

The Department of Natural Resources proposes improvements at Smallwood State Park to meet ADA requirements for accessibility on public lands. These improvements include walkways, a timber footbridge, an elevated campsite pad, resurfacing of parking pads, and a concrete apron around an informational sign. These improvements are located in the Critical Area of Mattawoman Creek in Charles County in a portion of the park considered not an intensely developed area.

A 5-foot wide concrete walkway and a timber footbridge are proposed in the 100-foot Buffer to replace an existing gravel path. This path currently connects the existing footbridge and the campsite loop road. In addition, a 14' x 12' concrete pad is proposed to connect an existing concrete sidewalk to a bulletin board near the pier. Not all of the walkway is located in the Buffer, and some of the walkway follows the alignment of the existing path. No trees will be removed. The total area of new disturbances in the Buffer will be 718 square feet, which will be mitigated on-site in the Buffer at a 3:1 ratio using native trees and shrubs.

The Critical Area Act was amended to allow local governments to include provisions in policies and procedures to address this type of development (Natural Resources Article § 8-1808 (c) (12). It can be assumed the same flexibility applies to State projects; therefore, conditional approval is not required.

Impacts within the Critical Area but outside the Buffer involve the construction of a 5-foot wide concrete walkway to connect campsite 7 to the existing restroom, the walkway to the footbridge, and placing paving over a portion of an existing gravel parking lot to create ADA-compliant parking pads. A portion of the walkway replaces an existing gravel path while the remainder will be new work necessary to meet ADA specifications. There will be no change in impervious character for the parking area. No trees will be removed for these amenities, therefore, no mitigation plantings are required for the 1802 square feet of new impervious areas outside the Buffer.

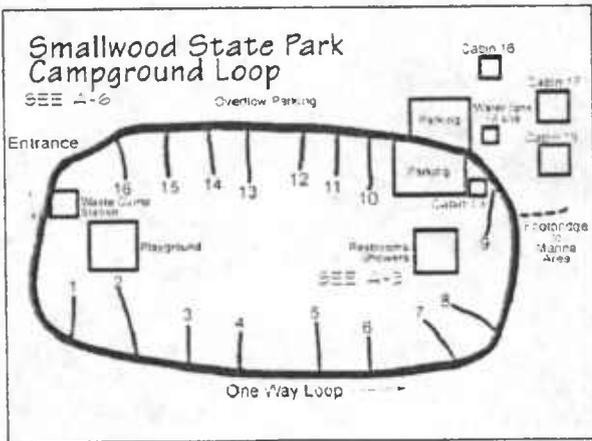
Compliance with the 10% Rule is not required in areas that are considered not intensely developed. Stormwater quality improvements will be provided by the 3:1 mitigation plantings that will be placed to keep pedestrian traffic onto the walkway and away from the steep slopes, as well as from compacting areas beneath mature trees.

No other Habitat Protection Areas will be affected.

The mitigation planting areas are near the amphitheatre and appear as red polygons on the site plan. A 5-year Planting Agreement will be required for this project to ensure viability beyond any short-term drought cycles.

cc: 24-03

Vicinity Map:



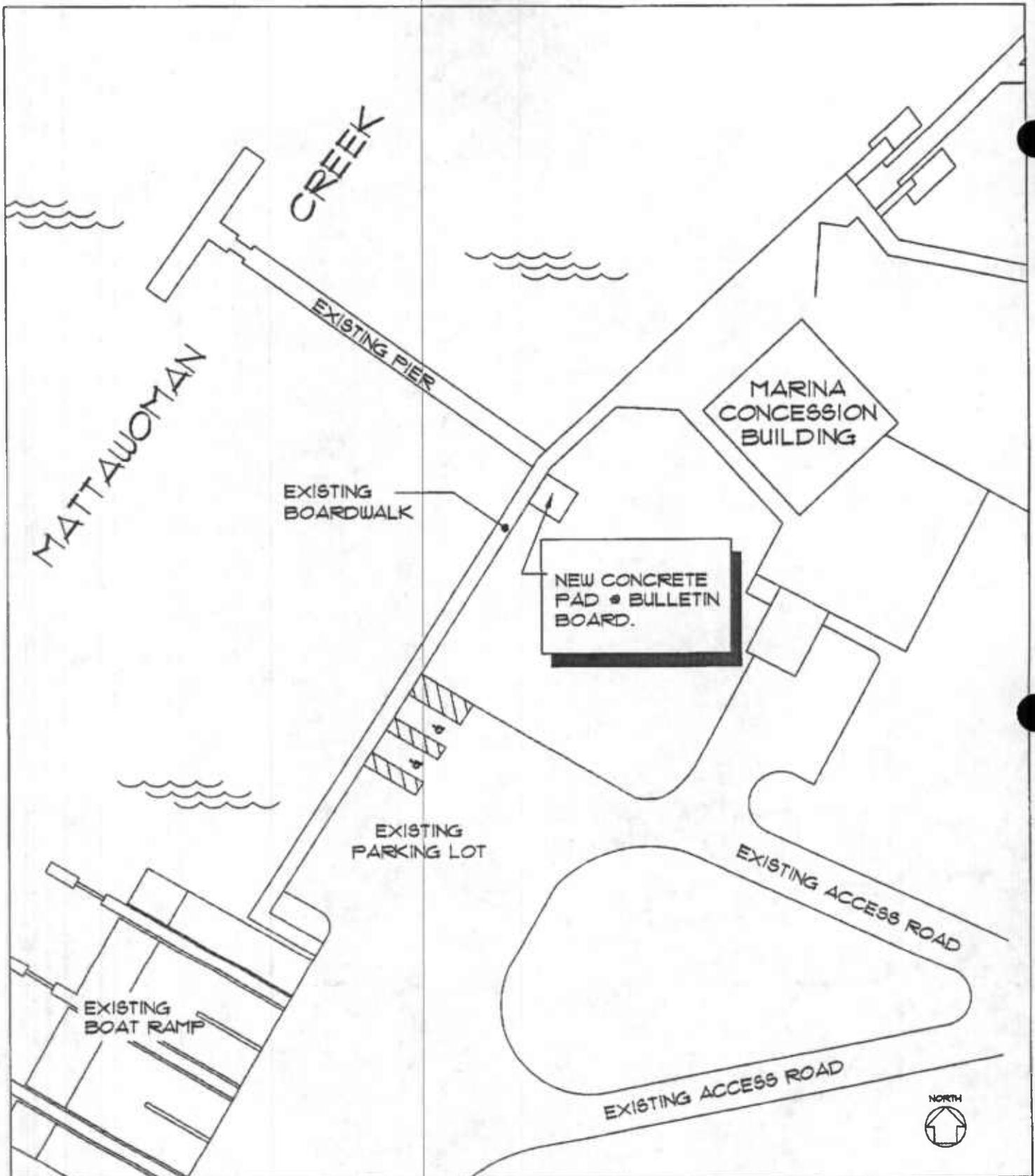
CAMPGROUND KEY PLAN

A.S.



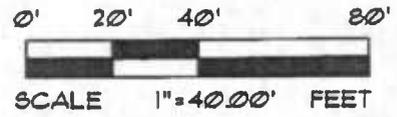
PARK KEY PLAN

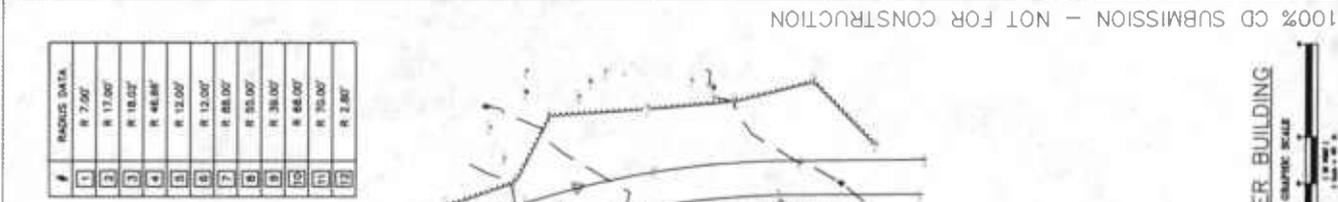
A.S.



PARTIAL SITE PLAN @ "FISHING AREA"
 (NEW CONCRETE PAD @ BULLETIN BOARD)

SMALLWOOD STATE PARK





#	NORTHING	EASTING	DESCRIPTION
1	4356.19	5300.56	PC = 0+0.00
2	4508.08	5300.26	PC = 0+01.85
3	4501.05	5301.35	PT = 0+05.56
4	4581.21	5305.46	PC = 0+11.76
5	4372.54	5301.48	PT = 0+20.53
6	4073.44	5362.29	PC = 0+31.74
7	4078.75	5363.50	POC = 0+38.01
8	4589.64	5366.34	POC = 0+38.15
9	4592.31	5366.34	POC = 0+42.08
10	4595.81	5365.25	PT = 0+45.37
11	4608.73	5306.17	PC = 0+51.18
12	4611.88	5306.82	PT = 0+63.56
13	4612.01	5306.54	PC = 0+63.99
14	4613.00	5355.41	PT = 0+65.49
15	4621.33	5320.88	PC = 1+04.89
16	4642.21	5284.28	PT = 1+43.15
17	4642.88	5274.65	PC = 1+52.79
18	4643.91	5286.29	PT = 1+51.32
19	4644.06	5283.54	PC = 1+51.98
20	4650.47	5250.71	PT = 1+57.26
21	4650.57	5250.96	PC = 1+57.43
22	4661.80	5226.43	PT = 1+54.87
23	4662.86	5237.23	PC = 1+56.70
24	4678.32	5227.18	PT = 2+15.10
25	4688.08	5222.26	PC = 2+26.04
26	4689.01	5220.89	PT = 2+27.72
27	4689.24	5220.14	END = 2+28.51

#	NORTHING	EASTING	DESCRIPTION
1	4683.30	5073.77	PC = 0+0.00
2	4626.75	5068.82	PT = 0+28.85
3	4620.08	5061.76	PC = 0+38.34
4	4627.12	5068.89	PT = 0+45.47
5	4627.52	5068.81	POC = 0+50.21
6	4687.82	5071.06	PC = 0+58.90
7	4678.09	5066.13	PT = 1+00.01
8	4687.10	5056.40	PC = 1+12.21
9	5023.49	5037.18	POC = 1+43.40
10	5000.88	5010.42	PC = 1+58.44
11	5024.47	5012.48	POC = 1+58.18
12	5021.68	5012.48	PC = 1+57.33
13	5025.97	5017.76	PT = 1+57.04
14	5037.82	5043.44	PC = 2+10.29
15	5044.42	5046.38	PT = 2+14.55
16	5048.70	5038.09	END = 2+18.94

#	RADIUS DATA
1	R 863.12'
2	R 616.43'
3	R 330.10'
4	R 14.35'
5	R 2594.43'
6	R 2220.37'
7	R 275.61'
8	R 44.88'
9	R 201.83'
10	R 377.61'

#	RADIUS DATA
1	R 7.00'
2	R 17.00'
3	R 18.00'
4	R 44.88'
5	R 12.00'
6	R 88.00'
7	R 55.00'
8	R 38.00'
9	R 66.00'
10	R 70.00'
11	R 70.00'
12	R 2.80'



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/

May 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MSUB # 03-110-027: Tennyson's Waverly Subdivision

Dear Theresa,

I have reviewed the plat for this subdivision, which is being submitted in accordance with the provisions of a Critical Area intrafamily transfer. The subject parcel, which contains 134.74 acres in the Critical Area, lies in the RCA of Deep Creek. The applicant is proposing the creation of Lots 2 and 3. The following comments are provided for your use:

1. The parcel has more than 60 acres in the RCA, therefore, the intrafamily transfer subdivision provisions do not apply.
2. The 100' Critical Area Buffer line must be labeled on the plat.
3. It appears expansion of the Buffer for contiguous hydric soils may be necessary. Both lots would be located in the expanded Buffer which would require variances for development. We cannot support variances for development on new lots.
4. The location map should show the position of these lots within the parent parcel.
5. State tidal wetlands, if present, must be shown and quantified on the plat.
6. This subdivision represents a conversion in use from agriculture to residential, therefore, the 100' Buffer must be fully established.
7. Is the existing forest cover information for the entire Critical Area portion of the parcel or for the proposed subdivision? A statement regarding the need for 15% afforestation must be provided.

8. The contour elevations should be verified. It seems odd that a +90 ft contour exists adjacent to the shoreline without a steep slope being present. The Scotland area is fairly flat and not very high above sea level.
9. Are there any nontidal wetlands associated with the Othello soils? The Soil Survey suggests these may have been prior-converted ag fields. If agriculture has ceased in this area, wetland vegetation may have returned.
10. Critical Area note # 10 indicates that natural heritage areas and habitat for threatened or endangered species have been identified. Where are these areas? A copy of the Wildlife and Heritage Service determination letter regarding the presence of rare, threatened or endangered species must be provided to our office. The plat must address all concerns raised by Wildlife and Heritage Service.

We request the opportunity to review a copy of the revised plat once it is available. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: SM 319-03



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/

May 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MSUB # 03-110-026: Bell Subdivision

Dear Theresa,

I have reviewed the information on this subdivision and have no comments. The proposed subdivision is located outside the Critical Area portion of the parent parcel.

Thank you for the opportunity to review the plat.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 320-03



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/

May 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MSUB # 03-110-016: Tranquility Farm

Dear Theresa,

I have reviewed the information on this subdivision and have no comments as the proposed subdivision is located outside the Critical Area. Thank you for the opportunity to review the plat.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 321-03



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/

May 2, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MSUB # 03110-013: Lighthouse 5-lot Minor Subdivision

Dear Theresa,

I have reviewed the information on this proposed subdivision, which is located in the IDA of Piney Point Creek and St. George Creek. My comments are nearly the same as they were in my letter, dated October 16, 2001:

1. A copy of the Wildlife and Heritage Service (WHS) determination letter regarding the presence of rare, threatened or endangered species and/or their habitats must be provided to this office.
2. Compliance with the 10% Rule must be provided. A copy of the completed 10% calculations worksheet and a plan showing the best management practices that will be utilized to meet the pollution reduction requirement must also be provided.
3. Although afforestation is not required, the proposed lot sizes offer opportunity to establish native forest vegetation. We encourage the applicant to consider providing additional plantings that would enhance the habitat and stormwater quality functions on these lots.

Please provide a copy of the 10% calculations and WHS determination letter when they are available. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: SM 542-01



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

May 2, 2003

Mr. Glenn Shaffer
Baltimore County
DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

RE: BC 606-02: Oak Grove Village Forest Clearing Variance Request

Dear Glenn,

I have reviewed the information regarding the applicant's request to clear 33.6% of the site's existing forest located in the LDA of Middle River. Mitigation will be provided as a payment of fees-in-lieu of planting. This office does not oppose the granting of this variance request.

Please provide this office with a copy of the written decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Judge John C. North, II
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

April 29, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: 03-132-004 Concept Mining & Reclamation Plan: Medley's Neck Modification "A"

Dear Theresa,

Thank you for the opportunity to review and comment on the above referenced concept plan. The applicant proposes to modify an existing sand and gravel mining permit to add 0.4 acres of the Medley's Neck tract and 100.8 acres of the Cammack Tract. These parcels are located in the Resource Conservation Area of Medley Creek, Flood Creek and Potomac River.

I have reviewed the information and have the following comments:

1. The Critical Area Buffer line on the Medley tract (Sheet 2 of 2) seems to stop in two areas near the pond containing the water pump. What is this Buffer line be delineated from? Is the pond part of a tributary stream? If this area is not part of the proposed expansion, the Buffer line should stop at the property/boundary line, otherwise, it should be delineated for the entire project area. Similarly, a Buffer line must be delineated for the most westward branch to Medley's Creek.
2. The Critical Area designation must be stated on the plan.
3. Please provide a legend for the various lines being shown. There is a bold, dashed line that suggests the boundaries of the proposed expansion areas, however, there is no labeling to indicate what it represents. The boundaries between the existing permit area and the proposed expansion area must be shown and clearly labeled.
4. The proposed contour elevations must be stated on the plan.
5. The amount of proposed forest clearing and mitigation requirements must be stated on the plan. Has a mitigation planting area been identified? If so, please describe.

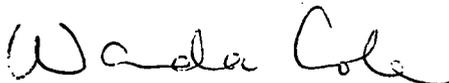
Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

6. All proposed access and haul roads must be shown and clearly labeled on the plans. There is an area on the Medley tract that appears to be a haul road with two culverts. This feature and its components must be labeled.
7. Will the proposed pond have an outfall? Please provide details on the pond.
8. Please provide information on all cross-sections shown on the plan, i.e., A-A', B-B', C-C', etc.
9. What is the small, pond-like feature being shown on the Cammack tract that is located in the area where the pond outfall could be expected? If it is a constructed feature, please provide design details.
10. Please provide the K-factor information for the soils.
11. Although the site will be largely self-contained, please provide a copy of the required sediment and erosion control plans.
12. Please provide a copy of the Wildlife and Heritage Service determination letter regarding the presence of rare, threatened or endangered species and/or their habitats at this site. Please provide a copy of the Environmental Review Unit or Fisheries Service comments regarding impacts to aquatic habitats.
13. Please provide a copy of the Army Corps of Engineers jurisdictional determination letter when it is available.

I would appreciate the opportunity to review a copy of the revised plan for this project when it is available. Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Cole
Natural Resources Planner

cc: SM 278-03

Judge John C. North, II
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

April 29, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: CA Permit # 03-0627 Cooper Variance Request

Dear Theresa,

Thank you for providing additional information on the above referenced variance request. This letter amends the comments in my letter dated April 14, 2003. The applicant proposes to build an addition over the footprint of the existing porch, to construct an addition onto the back of the house, and to install a shed on a grandfathered lot located in the LDA of Chesapeake Bay. The proposed impervious surfaces do not exceed the maximum limit.

We do not oppose the granting of this variance. We recommend the variance include a condition that the required 3:1 mitigation for new disturbances in the Buffer be accomplished on-site.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 251-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 29, 2003

Mr. Ron Young
Town Manager
Town of Indian Head
Indian Head, MD 206

Re: **IH 245-03: River Watch Subdivision on Former Ammar Tract**

Dear Ron,

Thank you for providing the information packet on the River Watch subdivision, which is being proposed in the LDA of Potomac River on the Ammar tract. This property contains 26.63 acres in the Critical Area and is largely forested, contains steep slopes and two areas of nontidal wetlands.

I have reviewed the information and separated my comments by topic.

Critical Area Buffer

1. None of the site plans show the location of the Buffer. The Buffer line must be correctly delineated and shown on all subdivision plats and plans. There are tributary streams on this property for which a 100-foot Buffer must be delineated.
2. This office would like to arrange a site visit to evaluate these streams and determine which will require Buffers.
3. In some areas along these streams, the Buffer may need to be expanded for contiguous steep slopes, and when so expanded, the Buffer may significantly constrain the development envelopes for Lots in Sections A, B, C and Parcel C. This office cannot support variances for disturbances in the Buffer on new lots.
4. Please provide information on the K factors for the soils present in the Critical Area portion of the site. The Critical Area Buffer may need to be expanded for contiguous areas with a K factor exceeding 0.35.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

5. The Wetlands Investigation Report should be amended to show the property's location in Charles County, rather than Anne Arundel County.
6. Please provide a copy of the Army Corps of Engineers (COE) Jurisdictional Determination letter for the two nontidal wetland areas described on the property.
7. Although there may be no vegetated tidal wetlands at this site, how much of the property acreage meets the definition of State tidal wetlands? This acreage must be stated on the plat and plan and must be deducted from the site's Critical Area acreage when computing impervious surface percentages.

Plans and Project Reports

8. The ESA fails to mention the Critical Area Program in its section on regulatory requirements. The Critical Area standards are a major factor in determining how this site can be developed.
9. Parcel C must be shown on Exhibit V: Full scale final site plan.
10. Any development of Parcel C must comply with all Critical Area requirements. It appears Parcel C will be constrained by an expanded Buffer, thereby limiting development.
11. The proposed Homeowner's Overlook on Parcel C shows a platted access lane down a ravine with slopes as steep as 38-46%. What kind of access is proposed?
12. We recommend the stream and shoreline restoration/stabilization plans be submitted to this office for review and guidance early in the design phase. Similarly, plans for development of the proposed waterfront park and its access should be submitted to our office for review early in the design phase. A Critical Area consistency report must be provided for any project located on Town property to summarize how the Critical Area development and Habitat Protection standards have been met.
13. The number of lots being proposed in the Critical Area appears incorrect. Counting the development envelope on Lot 8 Section A, 59 lots will occur in the Critical Area. The inventory must be corrected accordingly.
14. Lots 10-14 in Section A, Lots 2, 3, 6, 7, 12, 13, 29, and 30 in Section B, and Lots 29 and 30 in Section C all show rear setbacks that encroach onto or very nearly onto steep slopes and possibly the expanded Buffer. We recommend that the expanded Buffer be excluded from lot lines to preclude future disturbance and enforcement issues. Any disturbance to the expanded Buffer or steep slopes will require a variance.

15. It appears that Lots 26-30 of Section C and the road can be reconfigured to eliminate impacts to steep slopes.
16. A stormwater management facility on Parcel A is partially on steep slopes and possibly the Buffer. A variance will be needed. We recommend the applicant consider alternative stormwater management options to eliminate the need for a variance.

Impervious Surface Areas

17. The impervious surface areas proposed in the Critical Area approach the maximum 15% for the site. It is not clear whether the figure cited for impervious surfaces includes future development on individual lots. The entire build-out of the subdivision may not exceed the 15% impervious surface limit unless growth allocation is used.
18. Please provide a tabulation of the proposed impervious surface areas. If individual lots will be allocated an impervious surface limit, a matrix showing the limit for each lot must be recorded on the approved subdivision plat.

Forest Habitat Protection

19. Please discuss whether and how the Ammar clearing was addressed on this subdivision plan. None of the reports mentions the clearing in the Buffer conducted by Mr. Ammar in 2000. Mitigation for this clearing has yet to be provided. Is this clearing included in the proposed forest clearing information stated on the General Development Plan? If not, this clearing must be included in the mitigation calculations for this subdivision. Has the existing forest cover information subtracted the area cleared by Mr. Ammar?
20. The Critical Area Compliance Report states an incorrect mitigation ratio for forest clearing. This subdivision proposes the clearing of 28.8% of the existing forest, therefore, mitigation is required at a 1.5 to 1 ration for all forest clearing. The stated clearing is 7.03 acres; mitigation required will be 10.545 acres, or 459,340 square feet. Mitigation should first be attempted on-site before off-site or fees-in-lieu are considered.
21. Please provide a copy of the determination made by the Maryland Department of Natural Resources Wildlife and Heritage Service regarding the presence of rare, threatened or endangered species and/or their habitats at this site. Previous determinations for the nearby Robinson Terminal property are not conclusive indicators as to what may occur on the Ammar tract.

I would be happy to meet with you to discuss any or all of these comments. Please provide the revised plans when you receive them. I may be reached at 410-260-3481 or via email, wcole@dnr.state.md.us.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: IH 245-03
Eric See

CLEARINGHOUSE REVIEW

April 25, 2003

RECEIVED

APR 28 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

TO : Arnold Norden, Greenways and Resources Planning (E-4)
Glenn Therres, Wildlife (E-1)
Robert Beckett, State Forest and Park Service (E-3)
Douglas DeLeaver, Natural Resources Police (E-3)
Ray Dintaman, Environmental Review (B-3)
Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Horieczy, Forestry (E-1)
Bill Hodges, Resource Assessment Services (B-3)
Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)

FROM : ^{J.W.P.} James W. Price, Director, Program Open Space

SUBJ : POS # 4391-9-99
Dorchester County Pool, Dorchester County

This project proposes to replace the 50 year old flat roof of the existing swimming pool maintenance building that was partially damaged by this winter's large snow-fall. A peaked roof will be installed to correct this safety hazard.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

1. The project does not conflict with the plans, programs or objectives of this Agency
2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.
3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

CHECK

INITIAL

wdc 4-29-03

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

Judge John C. North, II
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

April 23, 2003

Mr. Keith Kelley
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, MD 21204

Re: BC 262-03 Concept Plan for Norbert Porter Intrafamily Transfer

Dear Keith,

Thank you for the opportunity to review and comment on this concept plan. The applicant owns 25 acres in the RCA of Back River and Chesapeake Bay and proposes a 5-lot subdivision via the Critical Area intrafamily transfer process. In addition to the comments DEPRM provided subsequent to its April 7, 2003 meeting, I would like to add the following:

1. Pursuant to Natural Resources Article § 8-1808.2(e)(3), no more than three (3) lots per parcel may be created in the RCA by means of the intrafamily transfer process.
2. All existing structures must be labeled on the plan.
3. Please verify if that is an existing lane located north of Parcel 255 where there is a linear clearing in the forest cover.
4. The 1000' Critical Area boundary and the 100-foot Buffer or expanded Buffer must be delineated and labeled on the plan.
5. Any State tidal wetland acreage must be stated on the plan. The mean high water line must also be delineated and shown on the plan.

We request the opportunity to review and comment on any revised plan that results from these and DEPRM's comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole

Natural Resources Planner
Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 24, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

RE: Variance Case Number 2147: Anthony R. & Jeffrey S. Ulehla

Dear Steve,

Based upon additional information provided by the applicant's consultant, Ron Gatton, I would like to amend the comments in my April 17, 2003 letter with the following statement:

We do not oppose this variance request provided that Maryland Department of the Environment (MDE) has determined the proposed pier location best minimizes impacts to aquatic habitats on the property, and that MDE has determined the proposed revetment is needed, and whether construction of the revetment can be accomplished without need to cross the Buffer.

It appears there remains an opportunity to minimize Buffer impacts through use of a temporary crossing or a bridge, rather than fill. The Board should ensure the Buffer impacts are the least necessary. Mitigation for disturbances to the Buffer are required at a 3:1 ratio using native plantings. We recommend these plantings be accomplished on-site.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 269-03
Stan Causey
Ace Adkins
Ron Gatton

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 21, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, Md 21613

RE: Variance Case 2144 Anna Brooks and Sandra Brooks Sharpe

Dear Steve,

Thank you for the opportunity to comment on the above referenced variance request. The applicants are proposing to remodel an existing house and detached garage in a manner that will result in an enlarged dwelling, add on a carport, and establish a detached garage at another location on the property. This is a grandfathered lot, which is almost entirely constrained by the 100' Critical Area Buffer, and is located in the LDA of Fishing Creek.

We do not oppose the request for additional living space, however, it appears there are ample opportunities to reconfigure the development in a way that reduces its encroachment toward the shoreline. We recommend the applicants consider an alternate footprint that minimizes encroachment toward the shoreline. Drawings of possible alternatives are attached for the applicants' consideration.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 266-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Parcel 95
 4708 Steamboat Rd.
 3.11 Acres
 Owner Benjamin F. Sears III
 Deed Ref. MI F/ 434/ 279
 Tax Acc# 197486

Parcel No. 98
 4712 Steamboat Rd.
 31,363 SF
 Owner Ted A. and Julia J. Brooks
 Deed Ref. PL C/ 262/ 759
 Tax Acc# 191851

Parcel No. 204
 4714 Steamboat Rd.
 22,651 SF
 Owner Archie S. Brooks
 and Mildred S. Brooks
 Deed Ref. MI B/ 425/ 399
 Tax Acc# 194746

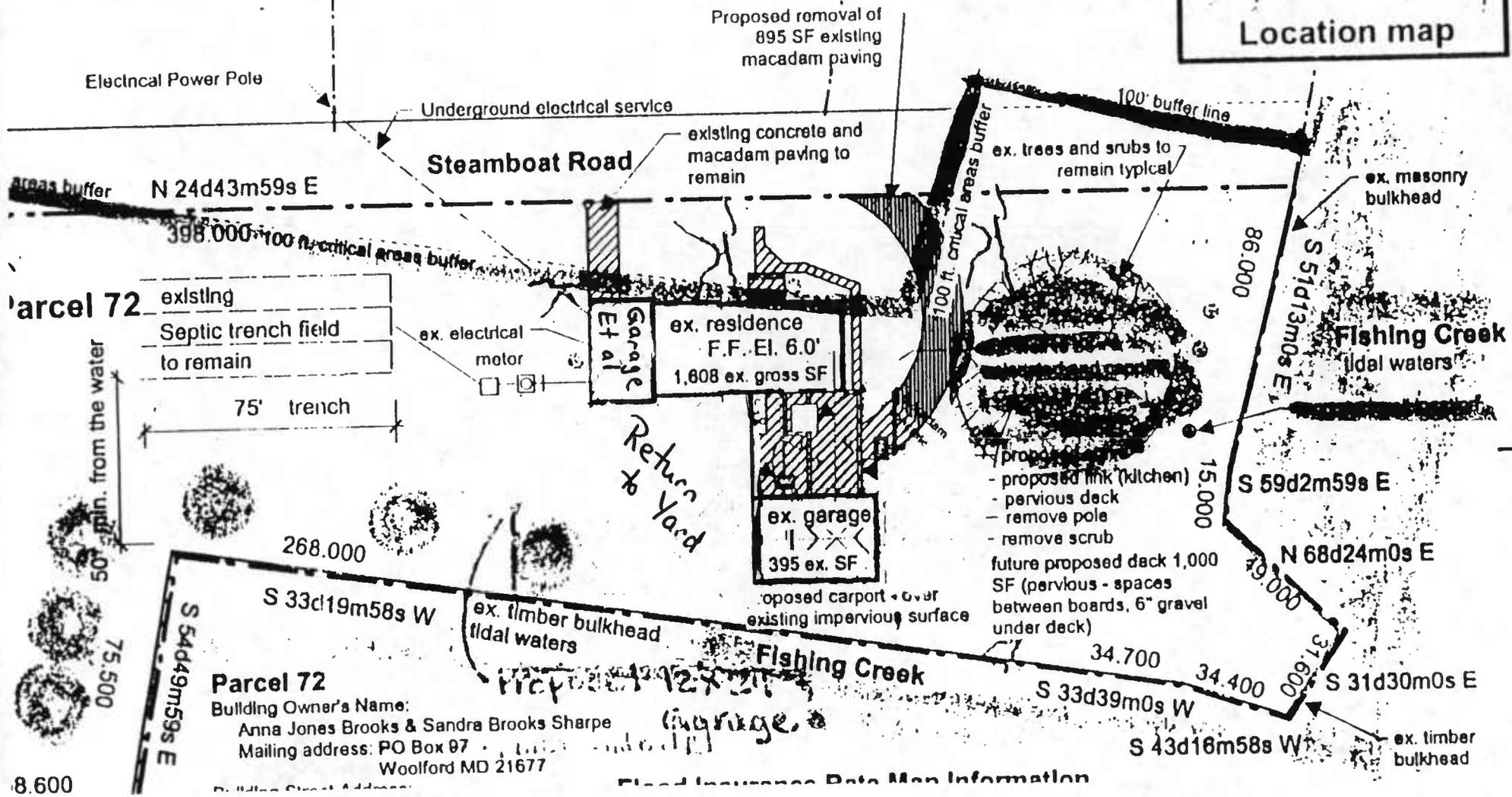


Location map

J. Paul Me...
 All Rights Reserved
 Business M...
 phone 410...
 e-mail jpm...
 *Profession...
 I certify th...
 were prep...
 me, and th...
 licensed a...
 laws of th...
 license nu...
 expiration...
 - J. Paul M...

Progr...
 dated...
 March...
 "NOT...
 CONS...

Project Title
 Addition...
 for Sa...
 4711...
 Wool...



8.600

DC 266-03 Case # 2144 Option 'A'

Parcel 95
 4708 Steamboat Rd.
 3.11 Acres
 Owner Benjamin F. Sears, III
 Deed Ref. MI F/434/279
 Tax Acc# 197486

Parcel No. 98
 4712 Steamboat Rd.
 31,363 SF
 Owner Ted A. and Julia J. Brooks
 Deed Ref. PI C/262/759
 Tax Acc# 191851

Parcel No. 204
 4714 Steamboat Rd.
 22,651 SF
 Owner Archie S. Brooks
 and Mildred S. Brooks
 Deed Ref. MI B/425/399
 Tax Acc# 194746



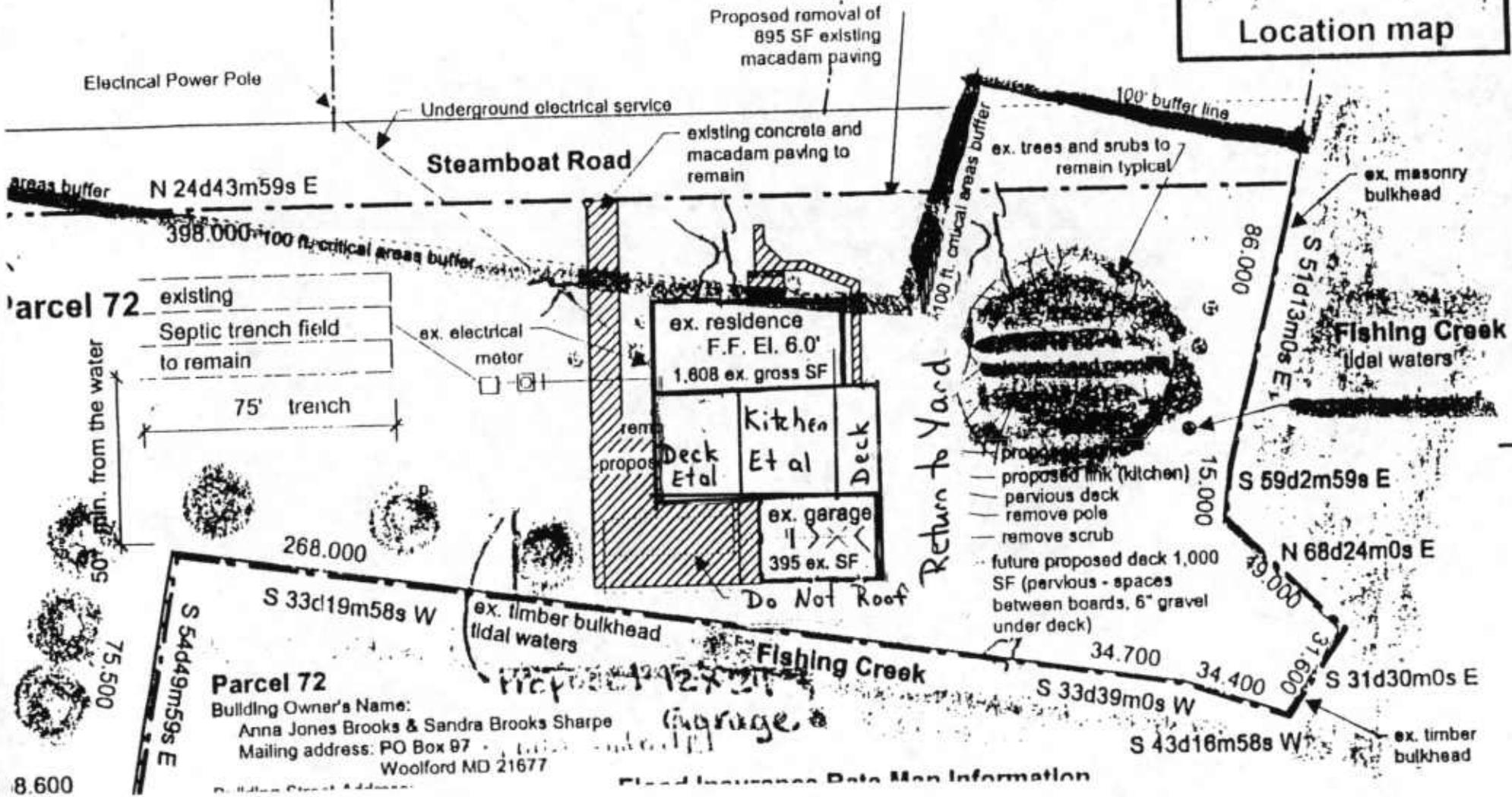
J. Paul Me...
 Add Reser...
 Building, M...
 photos 400...
 email jpm...
 Profession...

I certify th...
 were prep...
 me, and th...
 licensed a...
 laws of th...
 license nu...
 expiration...
 - J. Paul M...

Progr...
 dated...
 March...
 "NOT...
 CONS...

Project Thi...
 Additi...
 for Sa...
 4711...
 Woo...

Mark

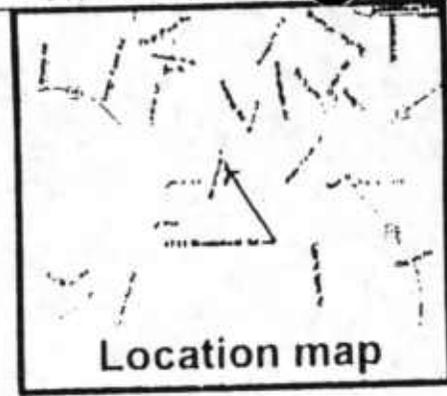


DC 266-03 Case #2144 Option B

Parcel 95
4708 Steamboat Rd.
3.11 Acres
Owner Benjamin F. Sears III
Deed Ref. MI F/434/279
Tax Acc# 197486

Parcel No. 98
4712 Steamboat Rd.
31,363 SF
Owner Ted A. and Julia J. Brooks
Deed Ref. PL C/262/759
Tax Acc# 191851

Parcel No. 204
4714 Steamboat Rd.
22,651 SF
Owner Archie S. Brooks
and Mildred S. Brooks
Deed Ref. MI B/425/399
Tax Acc# 194746



Location map

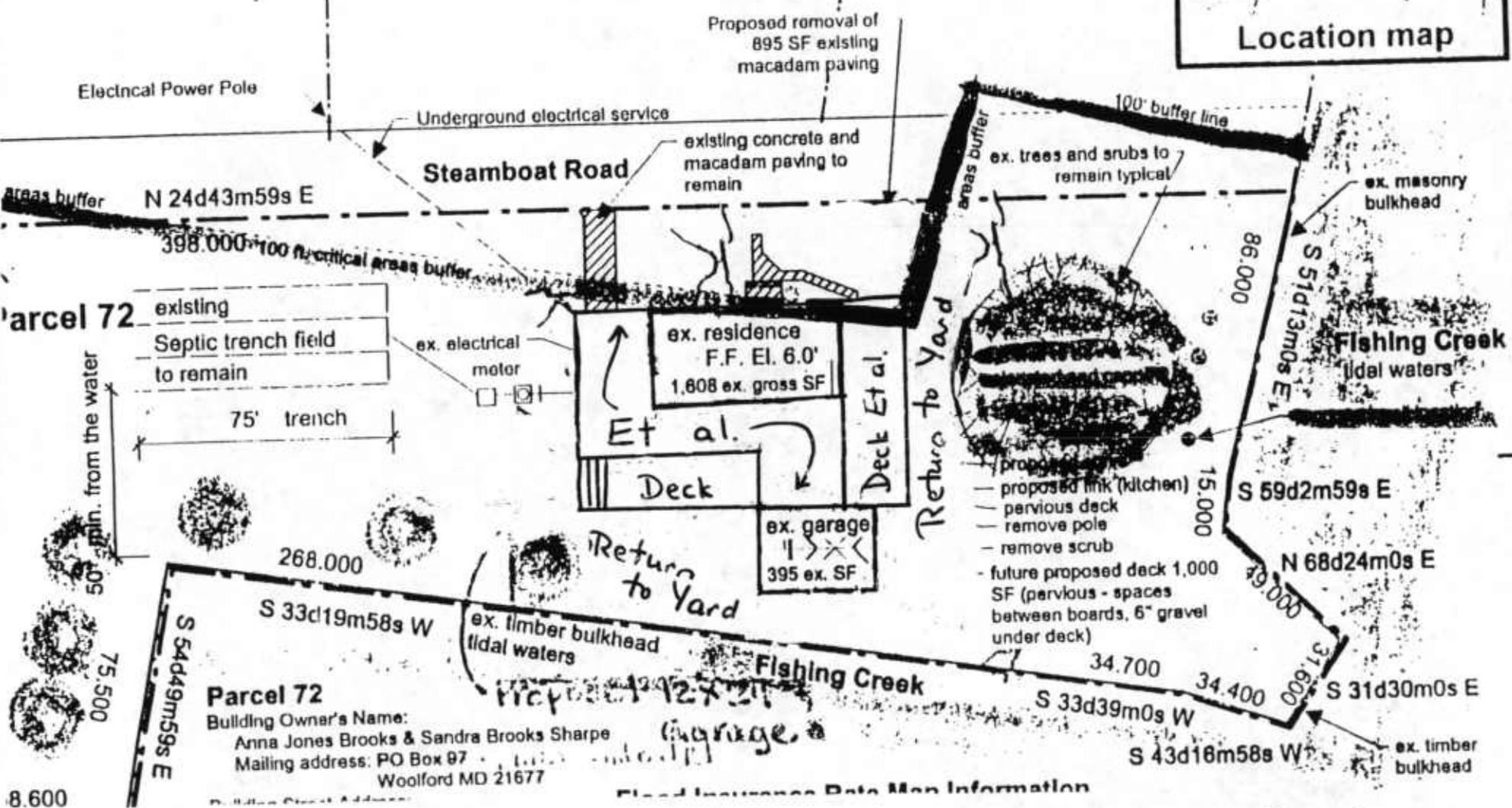
J. Paul Me...
All Reser...
Business, M...
ph: 420...
e-mail: jme...
*Professio...

I certify th...
were prep...
me, and th...
licensed a...
laws of th...
license nu...
expiration...
- J. Paul M...

Progr...
dated...
March...
"NOT...
CONS...

Project Thi...
Additi...
for Sa...
4711...
Woo...

Mark



Parcel 72
Building Owner's Name:
Anna Jones Brooks & Sandra Brooks Sharpe
Mailing address: PO Box 97
Woolford MD 21677

DC 266-03 Case #2144 Option 'C'

Judge John C. North, II
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

April 17, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

RE: Variance Case Number 2147: Anthony R. & Jeffrey S. Ulehla

Dear Steve,

Thank you for the opportunity to review the above referenced variance request. The applicants propose a driveway that will cross the Critical Area Buffer, which has been expanded for nontidal wetlands. This driveway will provide access to the proposed house site, which is located in an area of upland surrounded by Buffer. This is a grandfathered parcel containing 36.04 acres located in the RCA of Brooks Creek.

This office opposes the granting of this variance request. The Code of Maryland Regulations and Dorchester County Zoning Ordinance both provide standards a local government must use when granting a variance. Those standards do not appear to have been met for this project. I have outlined those standards below:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. The applicants have not provided information regarding any special conditions on this property that prevent them from locating a dwelling in an area that would not require a variance. Upon review of the site plan, there appears to be sufficient buildable area outside the Buffer on this lot.
2. That a literal interpretation of this subtitle or the local Critical Area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. This is a 36.04 acre property that contains a considerable amount of upland area that would facilitate reasonable use of the site while enjoying both a water view and access to the shoreline. Therefore, the applicants would not be deprived of any right currently being enjoyed by their neighbors.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area. If the variance is granted, it would confer upon the applicants a special privilege would be denied to others in this area, as well as in similar situations in the County's Critical Area. New development in the Buffer is prohibited. There is sufficient area outside the Buffer on this lot to construct the proposed development.
4. The variance request is not based upon conditions or circumstances, which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. The applicants have met this standard.
5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat with in the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. This Buffer provides aquatic habitat for a diversity of organisms, which have an important place in the food chain. The Buffer also acts as a filter, removing pollutants carried in sediment-laden runoff from agricultural use of the upland. A crossing such as this causes a permanent impact on this habitat. The construction and maintenance of the crossing may cause sediment to enter the stream, and poor maintenance of the crossing could lead to long-term sedimentation of the wetland.

We request that a decision on this variance be deferred until such time as the applicants provide information to show that this project meets the standards for a variance. Otherwise, we recommend they investigate an alternative location for a dwelling on this property.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: DC 269-03
Ace Adkins

Judge John C. North, II
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

April 16, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2143: Elsbeth G. Wouters Variance Request

Dear Steve,

Thank you for the opportunity to review the above referenced variance request. The applicant proposes the development of a homesite on a grandfathered lot located in the RCA of Tar Bay. This lot is almost entirely constrained by the Critical Area Buffer, which has been expanded for contiguous nontidal wetlands.

This office does not oppose this request. We recommend that the variance approval include a condition that 3:1 mitigation be provided for the new disturbances to the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 265-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 16, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2146: Gregory G. & Patricia H. Strott, Lot 7

Dear Steve,

Thank you for the opportunity to review the above referenced variance request. The applicants propose the construction of a dwelling, driveway and bermed infiltration pond on a grandfathered lot located in the LDA of Little Choptank River. This site is almost entirely constrained by the Critical Area Buffer, which has been expanded for contiguous nontidal wetlands.

This office does not oppose this request. We recommend that the variance approval include a condition that the required 3:1 mitigation plantings be accomplished on-site to the extent feasible.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 267-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 16, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2146: Gregory G. & Patricia H. Strott, Lot 8

Dear Steve,

Thank you for the opportunity to review the above referenced variance request. The applicants propose the construction of a dwelling, driveway and bermed infiltration pond on a grandfathered lot located in the LDA of Little Choptank River. This site is entirely constrained by the Critical Area Buffer, which has been expanded for contiguous nontidal wetlands.

This office does not oppose this request, however, impacts could be reduced if the proposed development is located closer to Ragged Point Road. We recommend that the variance approval include conditions that:

- The development be located closer to Ragged Point Road;
- The required 3:1 mitigation plantings be accomplished on-site to the extent feasible.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole
Natural Resources Planner

cc: DC 268-03
Ace Adkins

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 15, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: 03-05 Philip & Linda Blackiston Variance Request

Dear Keith,

Thank you for the opportunity to comment on the above referenced variance request. The applicant is proposing to construct a replacement dwelling that will expand beyond the footprint of the existing structure. The is a grandfathered lot which is almost entirely constrained by the Critical Area Buffer, and is located in the LDA of Galloway Creek

This office does not oppose the granting of this variance request. We recommend that the variance approval include a condition that the required 3:1 mitigation plantings for new disturbances in the Buffer be accomplished on-site as described in the variance application.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: BC 259-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 14, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MNSP # 03-131-013 Swarey Pier & Mooring Piles Site Plan

Dear Theresa,

Pursuant to our phone call this morning, in which you provided information on existing conditions at this site, this letter serves to amend our previous comments, dated April 7, 2003.

The applicant proposes the construction of 2 mooring pilings, 5 finger piers, and a pier constructed over top an existing bulkhead for the purpose of providing 11 mooring berths. This work is replacement of existing facilities at a grandfathered parcel, whose site has been historically used to accommodate watermens'boats. Our office has no comment on this work.

Thank you for providing the updated information.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 230-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 14, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: CA Permit # 03-0627 Cooper Variance Request

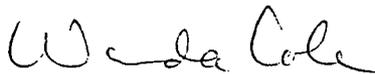
Dear Theresa,

Thank you for the opportunity to comment on the above referenced variance request. The applicant proposes to build an addition over the footprint of the existing porch on a grandfathered lot located in the LDA of Chesapeake Bay.

We do not oppose the granting of this variance. We recommend the variance include a condition that the required 3:1 mitigation for new disturbances in the Buffer be accomplished on-site.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,


Wanda Cole
Natural Resources Planner

cc: SM 251-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 7, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMSUB # 03-110-009 Thompson's Run Subdivision

Dear Theresa,

I have reviewed the above referenced subdivision located in the RCA of St. Thomas Creek. This is an 84.65 acre parcel with 29.04 acres located within the Critical Area. The applicant proposes to subdivide Farmstead 500-3 into four smaller farmsteads, with the majority of Farmstead 1 being located in the Critical Area.

The following comments are provided for your use:

1. Our office has no record of receiving notification from St. Mary's County of the subdivision titled, "Boundary Line Adjustment Plat & Farmstead Subdivision Plat, Land of Rodney Thompson and Richard M. Menard", as recorded in Libre 53, Folio 63 of the St. Mary's County plat records. This plat is dated June 11, 2001 and was signed by Ms. Ruth Glover on January 3, 2002. Why was this not sent to this office as required by COMAR 27.03.01? Please note that COMAR 27.03.01 states that if an application is not sent to the Commission, it is null and void.
2. The January 2002 plat indicates there are 62.80 acres located within the Critical Area; this subdivision shows 20.04 acres in the Critical Area. The 2002 plat does not provide information on the amount of State tidal wetland acreage that occurs within the parcel lines. It appears the State tidal wetlands acreage present on Parcel 65 exceeds 2.80 acres. Tidal wetlands must be shown and State tidal wetlands cannot count towards RCA density.
3. The parcel acreages stated on the plats for Riverwind and Thompson's Run don't match the acreages stated on the June 2001 plat.
4. The plat which has been submitted for April's TEC review is dated June 11, 2001. Is this date correct? Information must be provided regarding the State tidal wetland acreage and

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

the number of available RCA density rights.0000000

5. It appears there is only one RCA density right on Farmstead Lot 500-3. A note must be provided on the plat that no development activities may occur within the Critical Area portion of proposed Farmstead 2.
6. The Buffer must be delineated for the tributary streams on proposed Farmstead 1 and the Buffer expanded accordingly for any contiguous nontidal wetlands and/or steep slopes. The scale shown makes it difficult to read the contour information, which makes determination of the correct Buffer line equally difficult.
7. A development envelope should be identified for this lot; it appears this site may be almost entirely constrained by Buffer and steep slopes.
8. A determination letter regarding the presence of rare, threatened or endangered species must be obtained from the Wildlife and Heritage Service (WHS) and all concerns must be addressed on the plat. A copy of the determination letter must be provided to this office before any final approvals are granted.

We request a copy of the revised plat once it is available. We may have additional comments based upon the revised information and the WHS determination.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: SM 232-03
Lori Byrne

Judge John C. North, II
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

April 7, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMSUB # 03-110-008 Riverwind Farmstead Subdivision

Dear Theresa,

I have reviewed the above referenced subdivision located in the RCA of St. Thomas Creek. This is an 84.65 acre parcel with 33.76 acres located within the Critical Area. The applicant proposes to subdivide Farmstead 500-2 into five smaller farmsteads, with the majority of Farmsteads 4 and 5 being located in the Critical Area.

The following comments are provided for your use:

1. Our office has no record of receiving notification from St. Mary's County of the subdivision titled, "Boundary Line Adjustment Plat & Farmstead Subdivision Plat, Land of Rodney Thompson and Richard M. Menard", as recorded in Libre 53, Folio 63 of the St. Mary's County plat records. This plat is dated June 11, 2001 and was signed by Ms. Ruth Glover on January 3, 2002. Why was this not sent to this office as required by COMAR 27.03.01? Please note that COMAR 27.03.01 states that if an application is not sent to the Commission, it is null and void.
2. The January 2002 plat indicates there are 62.80 acres located within the Critical Area; this subdivision shows 33.76 acres in the Critical Area. The 2002 plat does not provide information on the amount of State tidal wetland acreage that occurs within the parcel lines. It appears the State tidal wetlands acreage present on Parcel 65 exceeds 2.80 acres. Tidal wetlands must be shown and State tidal wetlands cannot count towards RCA density.
3. The parcel acreages stated on the plats for Riverwind and Thompson's Run don't match the acreages stated on the June 2001 plat.
4. The plat dated February 5, 2003, which has been submitted for April's TEC review, must include information on the State tidal wetland acreage and the number of available RCA density rights after the State tidal wetland acreage has been deducted.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

5. Due to the scale and insufficient labeling of contours, it is not clear whether the Buffer has been properly expanded. The Buffer line needs to be clearly labeled.
6. The Buffer must be delineated for the tributary streams on proposed Farmstead 4. It appears the Buffer on Farmstead 4 must also be expanded for contiguous steep slopes.
7. A determination letter regarding the presence of rare, threatened or endangered species must be obtained from the Wildlife and Heritage Service (WHS) and all concerns must be addressed on the plat. A copy of the determination letter must be provided to this office before any final approvals are granted.

We request a copy of the revised plat once it is available. We may have additional comments based upon the revised information and the WHS determination.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: SM 232-03
Lori Byrne

Judge John C. North, II
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

April 10, 2003

To: Amber Widmayer, Resource Planning
From: *wdc*
Wanda Cole, Critical Area Commission

Subject: Replacement Gazebo at North Point State Park

Thank you for the opportunity to review Gary Haslam's description of this project. The following comments are provided for your use and follow-up:

1. Please provide a map showing the proposed location of the gazebo relative to the 100-foot Critical Area Buffer line and the existing structure. All development and redevelopment in the Critical Area requires Commission approval.
2. The Commission meets the first Wednesday of each month. Projects requesting Commission approval must be submitted with complete information no later than the third Wednesday of the month preceding the Commission meeting.
3. Please verify whether the gazebo will be placed in the same footprint as the existing metal frame shelter. If so, and if the gazebo is larger than the shelter, please describe the site conditions for the additional area that will be impacted. Please indicate whether the existing shelter is sitting on a concrete pad or similar impervious surface.
4. Will additional parking and access pathways be needed once this gazebo is put into use?
5. Will any tree removal be necessary to access the site or set the gazebo into place?

I look forward to working with you on this project. If there are any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 7, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MNSP # 03-131-013 Swarey Pier & Mooring Piles Site Plan

Dear Theresa,

Thank you for the opportunity to comment on the above referenced site plan. The applicant proposes the construction of 2 mooring pilings, 5 finger piers, and a pier constructed over top an existing bulkhead for the purpose of providing 11 mooring berths. This proposal is being requested in accordance with St. Mary's County Zoning Ordinance Use # 100- Marina.

We cannot support the approval of this site plan. Creating a privately owned marina in the RCA is not consistent with the County's Ordinance for Use # 100. In addition, COMAR 27.01.03.06.B prohibits new marinas in the RCA. Growth allocation can be used if the applicant wants to pursue a new marina.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 230-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Maryland Department of Natural Resources
ENVIRONMENTAL REVIEW
Tawes State Office Building, B-3
Annapolis, Maryland 21401

April 3, 2003

C. Ronald Franks
Secretary

W. P. Jensen
Deputy Secretary

Memorandum

To: Diane Evans, CCWS, EBPGM
Tim Larney, WHS
Marian Honecny, FORS
Arnold Norden, LWCS
Regina Esslinger, CBCAC
LTC Tammy Broll, NRP
Bob Beckett, FPS

From: Red
Ray C. Dintaman, Jr., Director, Environmental Review Unit

Subject: Proposed Rules for Safety/Security Zones around Cove Point LNG facility and certain vessels.

Please review the attached information and send any comments you may have relative to the Department's concern to me by April 11, 2003.

Please complete the following and return this memorandum with your response:

Check one:

Comments attached.

No comments.

Wendee Cole
Signature

Critical Area Commission
Agency

If no comments are received by April 11, 2003, it will be assumed that you have none.

CD:red
Attachment

RECEIVED

APR 7 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Judge John C. North, II
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

April 7, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: XRS 02-0020 Shores of the Mattawoman Revised Subdivision Plat

Dear Elsa,

Thank you for providing the revised plat for this proposed subdivision. Some of the comments in my letter dated April 1, 2002 have been addressed while others remain outstanding. Following is an updated list of comments for your use:

1. Our office has not received a copy of the Wildlife and Heritage Service determination letter regarding the presence of rare, threatened or endangered species. We must receive a copy of this letter prior to any final approvals being granted.
2. Information on forest cover must be shown and quantified. If afforestation is needed, a statement to this effect must appear on the plat.
3. The soils information shows the presence of soils with K factors greater than 0.35. The Buffer should be expanded on Lot 1, where highly erodible soils occur contiguous to the Buffer. However, expansion of the Buffer on Lot 1 would constrain most of the site. The lots may need to be reconfigured.

If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: CS 176-02

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 7, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMSUB # 03-100-005 Dugan Subdivision, Lots 1&2

Dear Theresa,

I have reviewed the above referenced subdivision, which is being proposed in the LDA of St. Thomas Creek and Patuxent River. This is a 6.50 acre parcel that is currently developed with one dwelling.

The following comments are provided for your use:

1. We recommend the development envelope for Lot 1 be located just east of the SRA so that no disturbances to the expanded Buffer will be necessary.
2. No final approvals may be granted until a copy of the Wildlife and Heritage Service (WHS) determination letter regarding the presence of rare, threatened or endangered species and/or their habitat (RTE) has been provided to this office. Any RTE concerns raised by WHS must be addressed on the plan. We request the opportunity to review and provide comments regarding the WHS letter if any concerns are raised.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 232-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 7, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: XRS 30007 Clarence B. & Nancy D. Lloyd Intrafamily Transfer

Dear Elsa,

I have reviewed the above referenced intrafamily transfer request to create two lots on a 23-acre parcel located in the RCA of Piccowaxen Creek and Potomac River. This request meets the County's provisions for intrafamily transfers within the Critical Area. While this subdivision proposes a change in use from agriculture to residential, the Buffer is already established in forest vegetation. The parent parcel contains 15% forest cover, therefore, afforestation is not necessary.

The Wildlife and Heritage Service (WHS) determination letter, dated April 1, 2003, indicates that a state rare fish species could occur in the unnamed tributary to Piccowaxen Creek. WHS recommends strict enforcement of all best management practices at this site. This could be accomplished by ensuring agricultural buffers are provided and maintained on the Residue of Parcel D, and by siting the future dwelling on Parcel D-1 as far from the top of the slope as septic setbacks will allow.

Thank you for the opportunity to review and comment.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: CS 236-03
Lori Byrne

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 7, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: John Marshall Site Plan

Dear Mr. Faasen,

Thank you for having provided the opportunity to visit this site with the property owner, Mr. John Marshall, the consultant, Mr. Wes Tomlinson, the Corps of Engineers hydrogeologist, Ms. Sandy Zelen, the builder, Mr. Larry Swan, and yourself. I have reviewed the revised site plan which has been provided in advance of an application for a variance. Mr. Marshall proposes the construction of a dwelling, garage, deck, driveway and sidewalk on a grandfathered lot located entirely in the Critical Area of Potomac River.

A variance is required as the proposed forest clearing is greater than 30% of the existing forest. Mitigation for this amount of forest clearing is required at a 3:1 ratio. We recommend the applicant consider opportunities to reduce the amount of clearing so that a variance is not needed. Mitigation for forest clearing greater than 20% but less than 30% is required at a 1.5 to 1 ratio.

We do not oppose the granting of a variance for this request. If a variance is granted, we recommend the variance include a condition that the required 3:1 forest mitigation be accomplished on-site to the extent feasible.

Please provide a copy of the written decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: CS 244-03
Wes Tomlinson

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 4, 2003

Ms. Sue Veith
St. Mary's County
Department of Planning and Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, Maryland 20650-0653

Re: ISUB # 00-140-039/SMA 26 Bohanan Property, Lots 500-1 & 500-2
ISUB # 00-100-058/SMA 27 Colton & Mossey Lea Subdivision, Lot 2
ISUB # 00-100-032/SMA 28 Prospect Hill, Lot 18

Dear Sue,

Due to the lack of a Critical Area Commission chairman at the April 2, 2003 Commission meeting, the growth allocations submitted by St. Mary's County as Program refinements have not yet been acted on by the Commission. There are two alternatives available for processing these growth allocation requests:

- The County can withdraw the refinements pending the appointment of a new chairman. The Commission's Program Subcommittee has already reviewed these proposals favorably. Once a chairman is appointed, the request could be presented to the Commission for their concurrence at its next meeting.
- Alternatively, the County can ask Commission staff to begin processing the request as a Program amendment. This would require a panel of Commission members to hold an advertised public hearing in St. Mary's County. The proposal could then be voted on by the full Commission at the first meeting following the public hearing.

Please let us know how the County wishes to proceed in processing these growth allocations. If you have any questions or concerns, please contact me at (410) 260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

April 4, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: 03-04 Joseph & Doris Eikenberg Variance Request

Dear Keith,

Thank you for the opportunity to comment on this variance request. The applicant is proposing to demolish an existing house, garage, greenhouse and crab house and to replace them with a single-family dwelling and garage. The stone wall and concrete walkways will remain. There will be an increase in the site's impervious surface areas by 297 square feet. Most of the proposed structure is located within the 100' Critical Area Buffer of Frog Mortar Creek and Middle River. This area is designated LDA and the lot is grandfathered.

This office cannot support the granting of this variance request as it increases the amount of development in the Buffer beyond what currently exists. It also places the bulk of this development closer to the shoreline than what currently exists. There appears to be ample opportunity to reutilize the location of the original dwelling, as well as that area between the existing dwelling and the southern edge of the County drainage easement.

In addition, the impervious surface limit for a grandfathered lot of this size is 15%. This proposal will result in 25% impervious surface areas, which exceeds the existing condition of 24.3% impervious area. An impervious surface variance is also necessary. It appears there are several opportunities to remove existing impervious surfaces in order to maintain the existing level of impervious surface and avoid a variance.

If this variance is granted, we recommend the variance approval include a condition that the required 3:1 mitigation for new disturbances in the Buffer be provided on-site within the Buffer. Please provide this office with a copy of the written decision made in this case.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: BC 234-03

Judge John C. North, II
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

April 4, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: SFD # 30122 Roy Robertson Lot 1

Dear Ms. Ault,

I have reviewed the above referenced site plan and find that information in the Critical Area Calculation notes on this plan contradicts the information found in the Critical Area notes of the subdivision plat by D.H. Steffens Co dated April 2002 and last reviewed by this office in October 2002. In addition, the information regarding required forest plantings is incorrect. The follow comments are provided for your use:

1. The acreage of Lot 1 was previously stated as 25.93 acres. This plan shows the acreage as 25.26 acres.
2. The Critical Area acreage on this lot was previously stated as 23.97 acres. This plan incorrectly states the acreage as 10.36 acres.
3. The existing forested area is stated as 10.36 acres with 3.0 acres proposed for clearing. This clearing represents 28.96% of the existing forest, which would require a 1.5 to 1 mitigation ratio. However, this clearing was unauthorized and the County issued a violation notice on November 25, 2002 which required 3:1 mitigation to satisfy the violation. This plan shows 1:1 mitigation. The planting plan must provide 3:1 plantings.
4. Development of this lot constitutes change in use. In accordance with the criteria for creating a new subdivision within the Critical Area, the Buffer must be fully established in forest vegetation. This plan does not indicate whether this will be accomplished. The plan must show the location and extent of any areas of Buffer establishment.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

A copy of our October 2002 comments are attached for the applicant's use. If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: CS 237-03

Judge John C. North, II
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

October 7, 2002

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: XRS 02-0036 Land of Roy Robertson

Dear Elsa,

I am in receipt of an Environmental Features Site Plan and a proposed plat, both of which show revised information regarding forest cover, impervious surfaces, the expanded Buffer line, and wetlands acreage. I found the various lines on the Environmental Features plan difficult to separate and the plat sheet easier to interpret. Therefore, the following comments are based upon the plat sheet dated April 2002 and titled, "Lots 1,2 & Parcel A Roy E. & Sharon A. Robertson, Jr.", where signature blocks have been provided at the top of the sheet for School Allocation(s) Granted and the Charles County Planning Commission.

1. The information regarding existing forest cover and impervious surfaces has been provided. The site is 32% forested, therefore 15% afforestation is not required.
2. The state tidal wetland acreage has been provided and deducted from the parcel acreage. The two RCA densities are correct. However, the plat states that type 51 tidal wetlands are above mean high water and are not owned by the State. Type 51 wetlands are *Spartina alterniflora*, which grow below mean high water, making them State tidal wetlands. The marsh that straddles both Lots 1 and 2 is a type 51 wetland. The State tidal wetland acreage for this area must be amended and the corrections noted on the plat.

I spoke with Mr. Richard Steffens regarding the acreage in this area. He advised this area is less than five acres in size. The amended wetland acreage will not affect the density nor the position of the expanded Buffer line. The corrections are necessary to calculate future site development requirements.

3. The Buffer has been expanded for contiguous nontidal wetlands and hydric (Tm) soils, and the plat states that there is a 100' protective buffer from all wetlands. As this subdivision represents a change in use from agriculture, the Buffer must be fully established.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

4. Although topographic information is not shown, the plat states that there are no slopes greater than 15%.

All of my previous comments have been addressed. If you have any questions, please don't hesitate to contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: CS 391-02
Richard Steffens

Judge John C. North, II
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

April 1, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: 03-03 Industrial Enterprises, Quad Avenue Variance Request

Dear Keith,

Thank you for the opportunity to comment on the above referenced variance request. This letter serves to reaffirm the telephone conversation between Ms. Patricia Farr, DPRM, and Ms. Regina Esslinger, CAC, on March 21, 2003, in which Ms. Esslinger indicated that our office has no concerns regarding this project.

The applicant proposes the construction of a regional distribution facility on a property located within the IDA of Moore's Run, a tidal tributary to Back River. The 100-foot Buffer does not occur on this property, nor are there any other Habitat Protection Areas except two isolated, manmade, nontidal wetlands located in the interior of the site. The applicant will be providing fees-in-lieu of mitigation to offset impacts to forest clearing, nontidal wetlands, and stormwater management that cannot be mitigated on-site.

This office does not oppose the granting of this variance. We understand that the variance includes conditions regarding the placement of a Critical Area easement over that portion of the property where forested and wetland areas will remain undisturbed.

Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: BC 202-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Critical Area Commission

STAFF REPORT

April 2, 2003

APPLICANT: St. Mary's County

PROPOSAL: Refinement- Bohanan Subdivision Growth Allocation

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 Location and Extent of Future Intensely Developed and Limited Development Areas

DISCUSSION:

St. Mary's County is requesting approval of the use of 7.341 acres of growth allocation to change the Critical Area overlay designation of Tax Map 58, Block 24, Parcel 18 from Resource Conservation Area to Limited Development Area. This parcel is located along the north side of South Snow Hill Manor Road in Park Hall, Maryland and lies entirely in the Critical Area of St. Mary's River. The County will have 1,550.359 acres of growth allocation remaining after this request is approved.

The change in designation of Parcel 18 will allow the County to approve a minor one-lot subdivision of Parcel 16, the John L. Bohanan, Sr. and John L. Bohanan, Jr. property. The proposed subdivision will create one new lot (500-2) and accommodate sewage reserve areas (SRA) for four adjacent lots. Adjacent properties on the south side of South Snow Hill Manor Road are designated LDA.

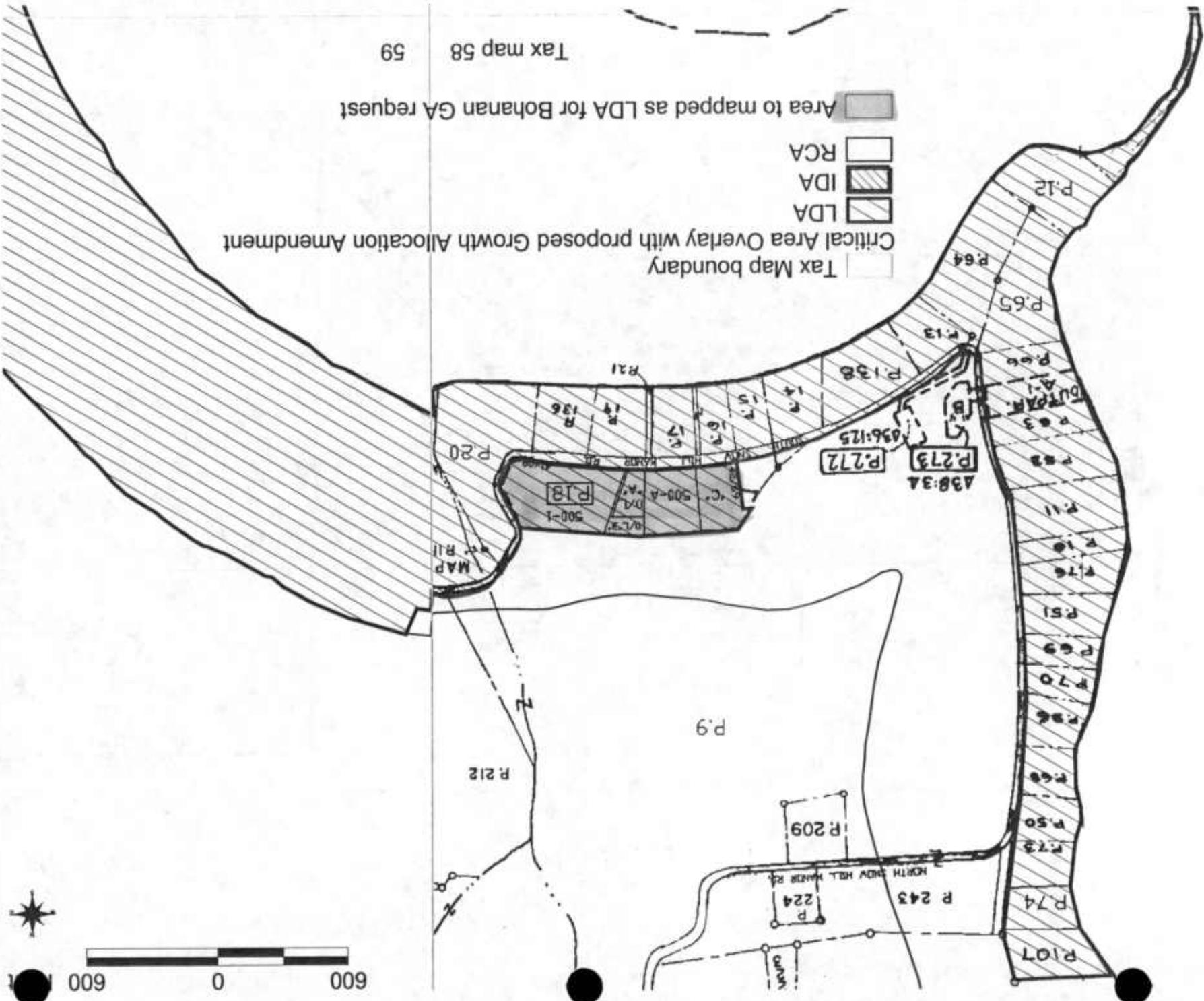
Parcel 18 was subdivided in 1992 to create Lot 1 and Parcel A. In 1995, Lot 1 was subdivided to create Lot 500-1, Outlot A to serve as a sewage reserve easement to Parcel 19 (SRA # 1), and Outlot B to serve as a sewage reserve easement to Parcel 136 (SRA #2). In 1996, Parcel A was subdivided to create Parcel 500-A to serve as a sewage reserve easement to Parcel 17 (SRA #3), and Parcel C to serve as a sewage reserve easement to Parcel 16 (SRA #4) owned by the Bohanans. The creation of septic systems in the RCA constitutes development, and Lot 1 used all available RCA density for Parcel 18; therefore, the outlots and parcels created in the Resource Conservation Area after 1992 can only be used as sewage reserve easements if growth allocation is granted.

Messrs. Bohanan, Sr and Jr applied for growth allocation in July 2001 and contiguous property owners were notified. The St. Mary's County Planning Commission held an advertised public hearing in March 2002 and recommended approval with conditions on April 22, 2002. The Board of County Commissioners held an advertised public hearing on July 16, 2002 and approved the use of 7.341 acres of growth allocation on August 20, 2002. Resolution No. Z02-04 was adopted on November 19, 2002. This resolution included conditions that Parcel 18 in its entirety be designated LDA; that the official zoning map include notes that no further subdivision may occur within the 7.341 mapped as LDA; and that the final subdivision plat shall conform to all other comments and requirements necessary to approve the final subdivision plat.

There are no known Habitat Protection Areas located on Parcel 18.

Staff recommends approval. The Chairman's determination of refinement will be sought at the Commission meeting as well as your concurrence with the Chairman's determination.

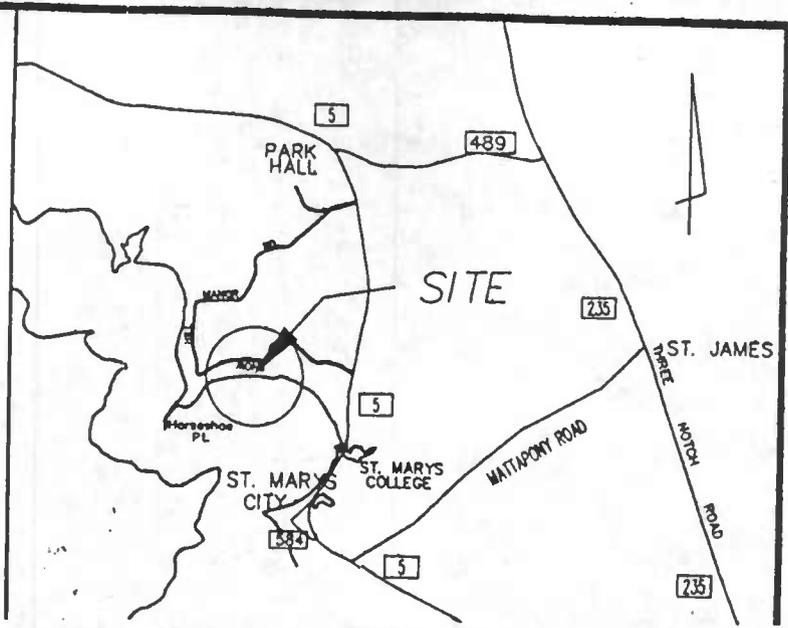
Tax Map boundary
 Critical Area Overlay with proposed Growth Allocation Amendment
 LDA
 IDA
 RCA
 Area to mapped as LDA for Bohanan GA request



Tax map 58 59

Bohanan Growth Allocation Map Amendment Request

St. Mary's Co. DPZ : 00-140-039
 2/19/03 sv



N/F A. B. HASKELL, ET AL
 MRB 37/431
 ZONED: RPD / RCA OVERLAY
 USE: AGRICULTURAL

(Former Parcel A
 of Former Parcel C)
 PB 42/69

N/F ALLRED
 CBG 22/88
 ZONED: RPD/
 RCA OVERLAY
 USE: RESIDENTIAL

N/F CLARK
 EWA 737/32
 ZONED: RPD/
 RCA OVERLAY
 USE: WOODED

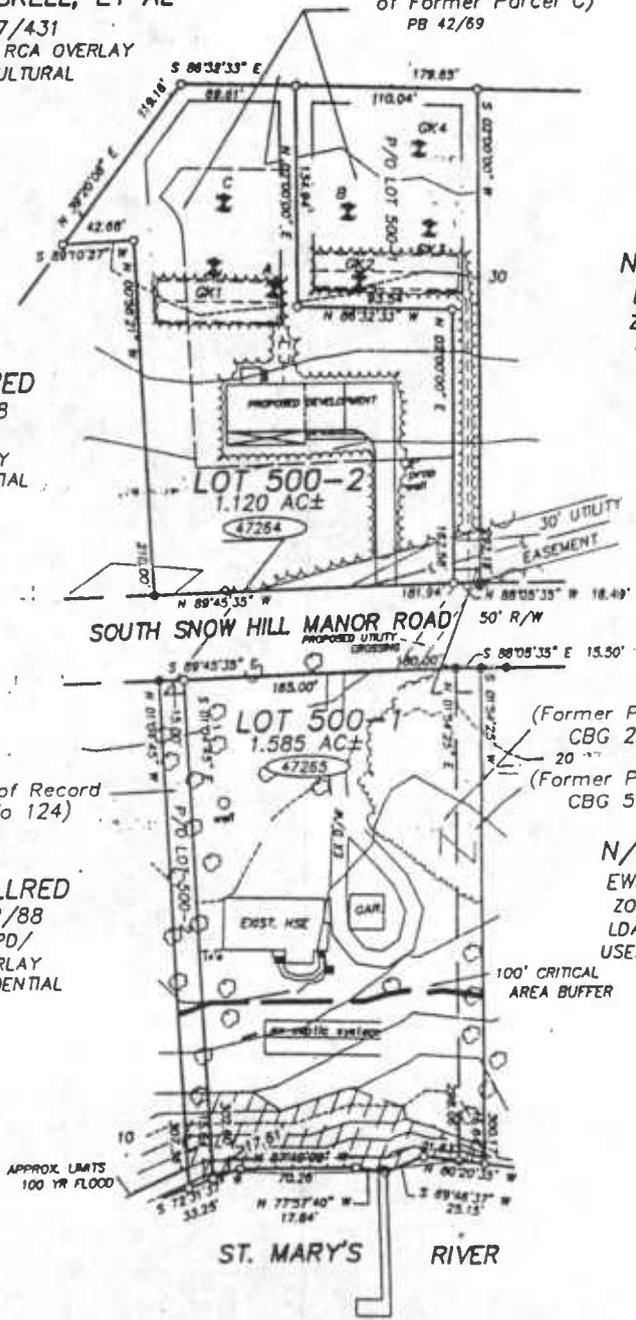
(Former Parcel of Record
 MRB 296 folio 124)

N/F ALLRED
 CBG 22/88
 ZONED: RPD/
 LDA OVERLAY
 USE: RESIDENTIAL

(Former Parcel of Record
 CBG 21 folio 354)

(Former Parcel of Record
 CBG 52 folio 503)

N/F CLARK
 EWA 875/84
 ZONED: RPD
 LDA OVERLAY
 USE: RESIDENTIAL



APPROX LIMITS
 100 YR FLOOD

ST. MARY'S RIVER

Critical Area Commission

STAFF REPORT

April 2, 2003

APPLICANT: St. Mary's County

PROPOSAL: Refinement- Thomas Colton & Mossy Lea Subdivision
Growth Allocation

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 Location and Extent of Future
Intensely Developed and Limited Development Areas

DISCUSSION:

St. Mary's County is requesting approval of the use of 11.51 acres of growth allocation to change the Critical Area overlay designation of Tax Map 38, Block 24, Parcel 33 from Resource Conservation Area to Limited Development Area. This parcel is a 97 acre tract located along the north side of Oakley Road in Avenue, Maryland. Only 11.51 acres lies in the Critical Area of Canoe Neck Creek and is the subject of this growth allocation. The County will have 1,538.849 acres of growth allocation remaining after this request is approved.

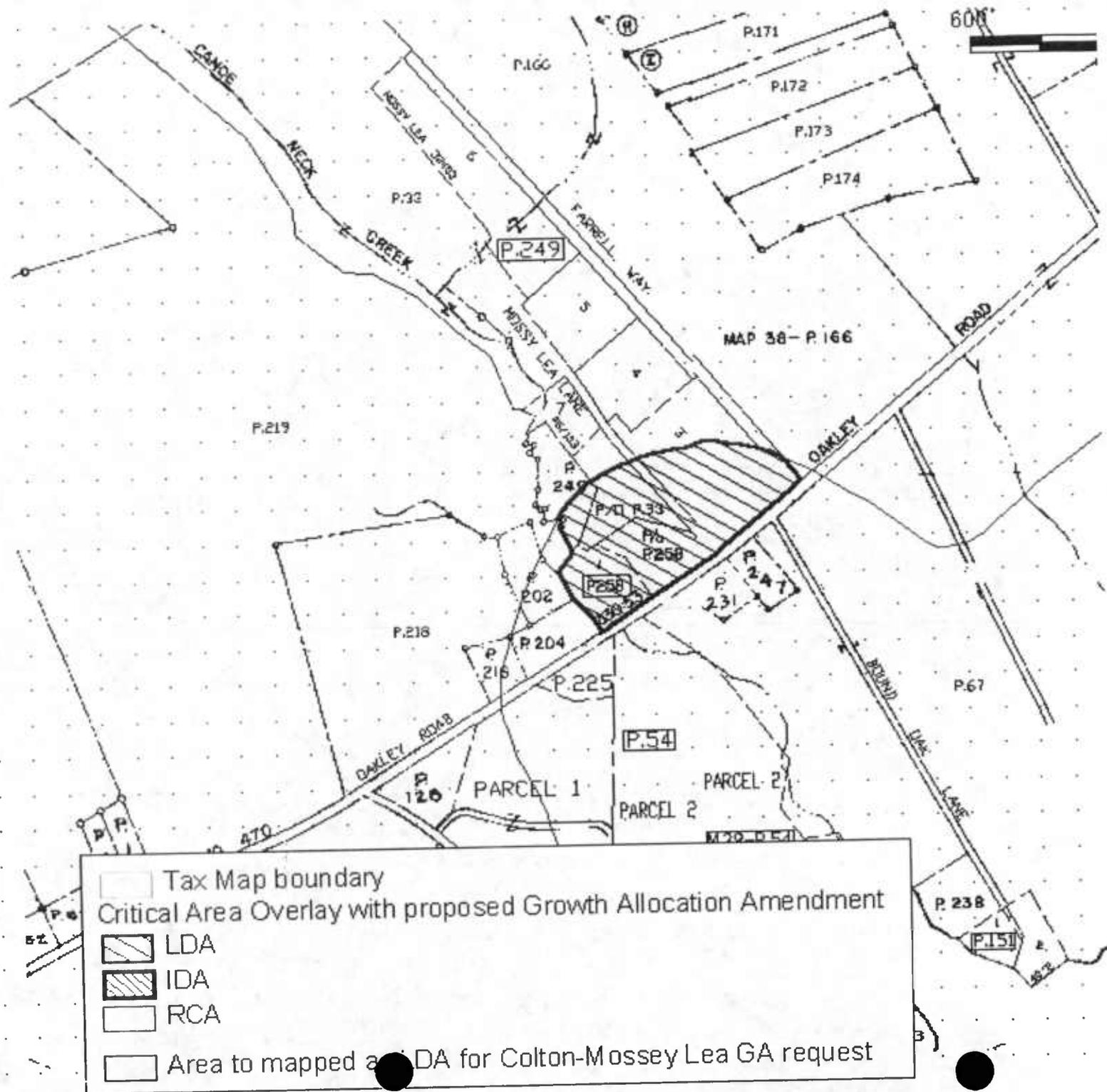
The change in designation of Parcel 33 will allow the County to approve a one-lot subdivision of an agricultural parcel owned by Thomas Colton. Mr. Colton wishes to provide a lot for his daughter to build upon. The subdivision proposes to create a new lot (Lot 2 Thomas Colton Subdivision) and adjust the boundary line of an existing RCA lot (Lot 2 "Mossy Lea") to add the balance of the agricultural residue. This minor subdivision would exceed the RCA density requirements of one dwelling unit per twenty acres. Adjacent properties in this area are designated RCA.

Mr. Colton applied for growth allocation in November 2000 and contiguous property owners were notified. The St. Mary's County Planning Commission held an advertised public hearing in March 2002 and recommended approval with conditions on April 22, 2002. The Board of County Commissioners held an advertised public hearing on July 16, 2002 and approved the use of 11.51 acres of growth allocation on August 20, 2002. Resolution No. Z02-03 was adopted on November 19, 2002. This resolution included conditions that the Critical Area portion of Parcel 33 be designated LDA; that the official zoning map include notes that no further subdivision may

occur within the 11.51 acres mapped as LDA; and that the final subdivision plat shall conform to all other comments and requirements necessary to approve the final subdivision plat.

There are no known Habitat Protection Areas located on this parcel with the exception of the 100' Buffer to a tributary stream. This Buffer does not occur on the area being proposed for subdivision and subsequent development. The requirements to provide 15% afforestation of the site will be addressed during final subdivision approval.

Staff recommends approval. The Chairman's determination of refinement will be sought at the Commission meeting as well as your concurrence with the Chairman's determination.



MAP 38 - P.166

P.219

P.218

P.204

P.225

P.54

P.120

PARCEL 1

PARCEL 2

PARCEL 2

P.231

P.67

P.238

P.151

P.166

P.171

P.172

P.173

P.174

P.33

P.249

P.249

P.233

P.250

P.250

P.202

P.216

P.470

P.6

P.2

P.3

P.3

P.3

P.3

PLANNING & ZONING
APPROVED
DIRECTOR
CHAIRMAN
ST. MARY'S COUNTY HEALTH DEPARTMENT
APPROVAL DATE
DIRECTOR, ENVIRONMENTAL HEALTH

⑦
"MOSSEY LEA"
PLAT. EWA 43/103

P. 219
N/F
RENIE O. QUADE
DBK 234/038
ZONED: RPD
USE: AGRICULTURAL

SE-
AY
ND
DULD

AL
F
EDGE.

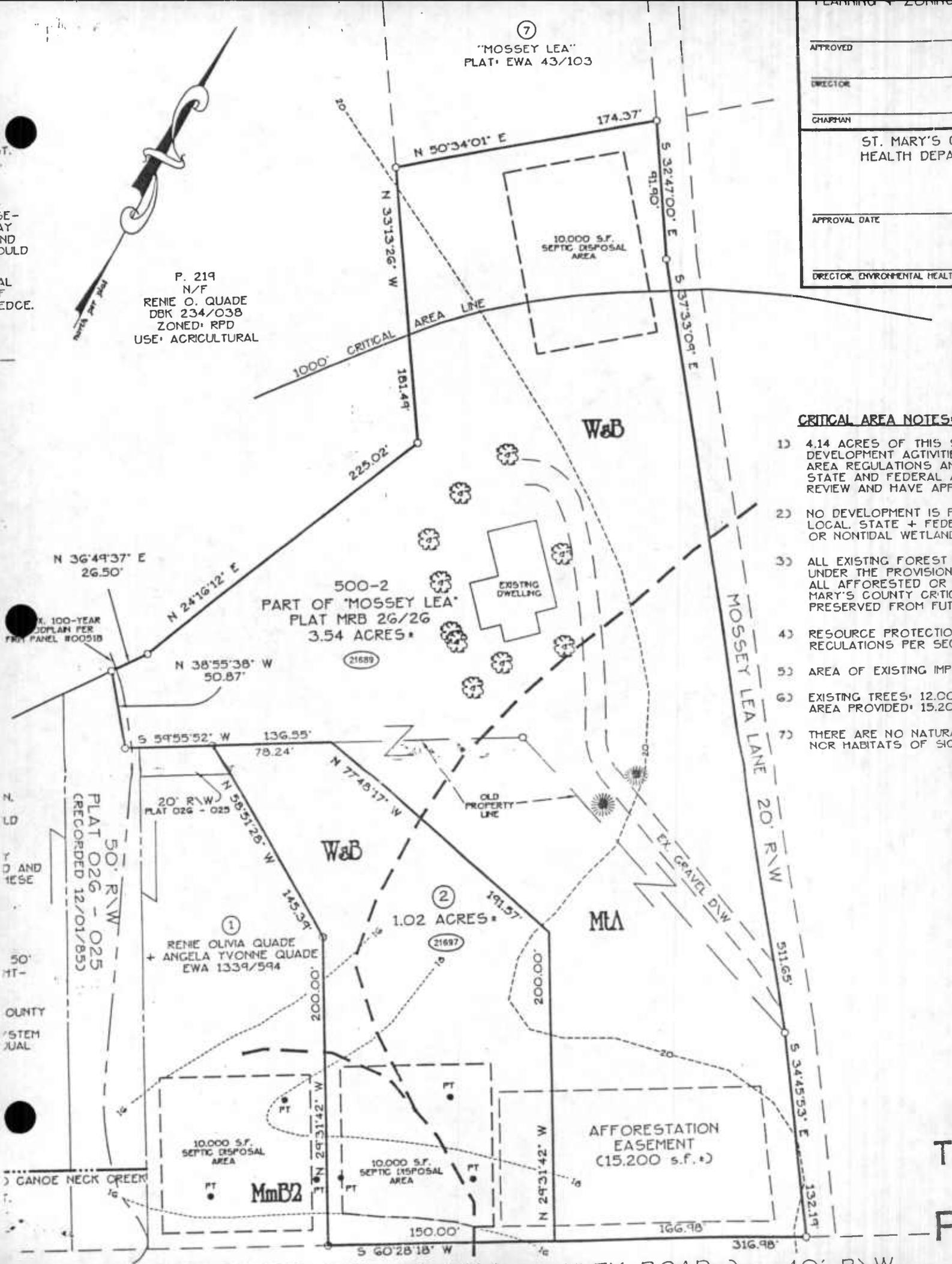


100-YEAR
DISPLAN PER
FRY PANEL #00518

N.
LD
Y
D AND
1ESE
50'
HT-
CUNTY
STEM
JUAL

CANOE NECK CREEK

MD STATE ROUTE 470 (AKA OAKLEY ROAD) 40' R/W



CRITICAL AREA NOTES:

- 4.14 ACRES OF THIS DEVELOPMENT ACTIVITIES AREA REGULATIONS AND STATE AND FEDERAL REVIEW AND HAVE APPROVED
- NO DEVELOPMENT IS PERMITTED UNDER LOCAL, STATE + FEDERAL REGULATIONS OR NONTIDAL WETLANDS
- ALL EXISTING FOREST AREAS UNDER THE PROVISIONS OF THE AFFORESTATION OR PRESERVED FROM FUTURE DEVELOPMENT
- RESOURCE PROTECTION REGULATIONS PER SECTION 2-201
- AREA OF EXISTING IMPROVEMENTS
- EXISTING TREES: 12,000 S.F. AREA PROVIDED: 15,200 S.F.
- THERE ARE NO NATURAL OR HABITATS OF SIGNIFICANCE

T
F

Critical Area Commission**STAFF REPORT**

April 2, 2003

APPLICANT: St. Mary's County

PROPOSAL: Refinement- Prospect Hill Outparcel B
Mark Henderson, Jr. Growth Allocation

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 Location and Extent of Future
Intensely Developed and Limited Development Areas

DISCUSSION:

St. Mary's County is requesting approval of the use of 4.374 acres of growth allocation to change the Critical Area overlay designation of Tax Map 40, Block 17, Parcel 92 and part of Parcel 94 (Outparcel B) from Resource Conservation Area to Limited Development Area. This 9.73 acre parcel is located along the south side of Knight Road in Leonardtown, Maryland and lies entirely in the Critical Area of Breton Bay. The County will have 1,535.669 acres of growth allocation remaining after this request is approved.

The change in designation of 3.18 acres of Outparcel B will allow the County to approve a minor one-lot subdivision that will create the 1.5 acre Lot 18, and an open space parcel measuring 1.68 acres. This minor subdivision would exceed the RCA density requirements of one dwelling unit per twenty acres. The balance of the outparcel's acreage will remain an RCA density reservation parcel for a previous subdivision of Lots 1-3. Adjacent properties are designated LDA.

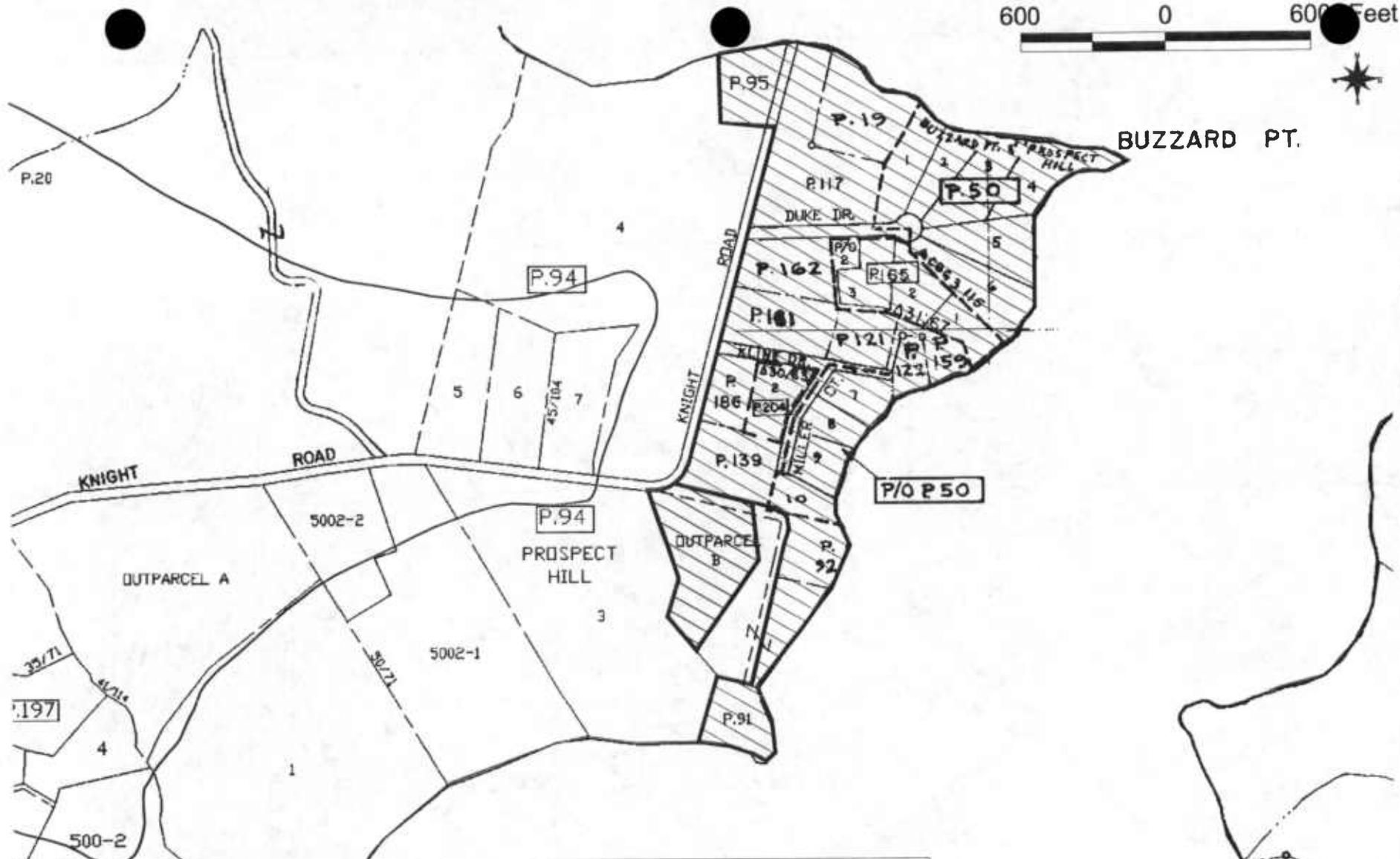
Mr. Henderson applied to the County for growth allocation in April 2000 and contiguous property owners were notified. The St. Mary's County Planning Commission held an advertised public hearing in March 2002 and recommended approval with conditions on April 22, 2002. The Board of County Commissioners held an advertised public hearing on July 16, 2002 and approved the use of 4.374 acres of growth allocation on August 20, 2002. Resolution No. Z02-05 was adopted on November 19, 2002. This resolution included several conditions addressing the relocation of an existing roadbed, the platting of a 300-foot Buffer where feasible, the location of areas of the parcel to be designated LDA, and the prohibition of future subdivision of the property.

Unfortunately, in reviewing the growth allocation request the County neglected to consider that portions of the acreage of Outparcel B were to maintain the RCA density of Lots 1, 5002-1, and 3 of Prospect Hill. Of the original 8.92 acres of Outparcel B, 5.24 acres must be platted as a density parcel for the other three lots in Prospect Hill; therefore, the area for Lot 18 that will be converted to LDA may not exceed 3.18 acres. In addition, the proposed configuration of Lot 18 leaves a small strip of RCA land almost completely surrounded by LDA land.

Commission staff is currently working with County staff to reduce the area of Outparcel B to be converted to LDA and to create a better configuration of remaining RCA lands. Additional information and a final condition of approval will be available at the Commission meeting.

Except for the 100-foot Buffer, there are no known Habitat Protection Areas located on Outparcel B.

Staff recommends approval with the condition that the County reduce the area of growth allocation deducted so the 5.42 acres of density reservation can be maintained, and that the configuration of the LDA area be amended to maintain a wider area of RCA.



	Tax Map boundary
Critical Area Overlay with proposed Growth Allocation Amendment	
	LDA
	IDA
	RCA
	Area to mapped as LDA for Prospect Hill GA request



Prospect Hill Growth Allocation Map Amendment Request

St. Mary's Co. DPZ : 00-100-032
2/19/03 sv

Judge John C. North, II
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

March 31, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: P&Z # 03-141-019 Cuckold Cove, Lot 500-4 Boundary Line Adjustment Plat

Dear Theresa,

I have reviewed the above referenced boundary line adjustment plat and have the following comments:

1. It is not clear where the original parcel lines for Lot 500-4 were located. However, there is existing development on this lot and any further development or subdivision would have to comply with the County's Critical Area Ordinances.
2. The 100' Critical Area Buffer line on Outparcel A falls on a slope greater than 15%. The Buffer must be expanded for contiguous steep slopes 4 feet for every degree of slope, or to the top of slope, whichever is greater. For this site, the slope appears to be greater than 15% until it reaches the 50-foot contour. While the Buffer does not appear to occur on Lot 500-4, for the purpose of recording this plat, which shows information related to Outparcel A, the plat should be revised to show the correct delineation of the Buffer.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 212-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 28, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: 02-11 Harold and Ellen Browning Variance Request

Dear Keith,

Thank you for the opportunity to comment on the above referenced variance request. The applicant is requesting a variance for a swimming pool constructed partially within the 100' Critical Area Buffer without a variance or building permit by the previous owner. This is a grandfathered lot located in the LDA of Tobasco Creek.

This office does not oppose the granting of this variance request. We recommend that the variance approval include the following conditions:

1. Provide 3:1 mitigation plantings for the disturbances that occurred within the Buffer by construction of the pool and its associated deck.
2. Provide a minimum 15 % afforestation on the property.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: BC 334-02

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 28, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: P&Z # 1017 Rulene Molock Intrafamily Transfer

Dear Steve,

Thank you for the opportunity to review the above referenced subdivision plat for a one-lot subdivision being created under the Critical Area intrafamily transfer provisions. This property is located along Fork Neck Road in the RCA of Middletown Branch. It is not clear whether the 100' Critical Area Buffer occurs on this property.

We do not oppose this intrafamily transfer provided the applicant adequately addresses all the Critical Area-related questions in your letter dated February 28, 2003. Please note that the Dorchester County Soil Survey maps 29 and 30 show tributary streams on or in the vicinity of the parent parcel. The location of these streams and their 100' Critical Area Buffers must be shown relative to the boundaries of the proposed lot, as it appears the Buffer may occur on the proposed lot.

The applicant must contact the Wildlife and Heritage Service (WHS) for a determination on whether new information on the presence of rare, threatened or endangered species has been found in this area. Comments by WHS must be incorporated into the final plat.

Please provide a copy of the revised plat when it is available. Please contact me at 410-260-3481 if I may be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: DC 171-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 27, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Parcel 4, Bremsmir Haven

Dear Mr. Dodd,

Thank you for your inquiries regarding Parcel 4 of Bremsmir Haven. You inquired as to whether Parcel 4 can be recognized as a grandfathered parcel, and commented on the appropriate width of the right of way.

Parcel 4 was platted and recorded in 1983, prior to the enactment of the Critical Area law. As such, it would be recognized as a grandfathered parcel. Development of the parcel must comply with local Critical Area criteria, as well as local health department standards.

The width of the right of way is a local standard. If development of a wider right of way does not cross Habitat Protection Areas or exceed the parcel's impervious surface limits, we would have no comments.

If I may be of any further assistance, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 27, 2003

Mr. Robert V. Tabisz, Chief
Wetlands and Waterways Program
Southern Division
Montgomery Park Business Center
1800 Washington Blvd, # 430
Baltimore, MD 21230-1708

Re: 200263186/02-WL-1515 Maryland Home Builders

Dear Bob,

Thank you for forwarding information and requesting our comments on the above referenced permit application, in which the applicant proposes to construct a stone sill channelward of mean high water and grade the bank so that the toe of slope meets the landward toe of the sill. This proposal appears excessive given the length of shoreline and the large impact that would occur within the 100' Critical Area Buffer and its forest vegetation. We recommend the applicant redesign the project to reduce impacts.

It is our understanding that the applicant applied to St. Mary's County Planning & Zoning for a grading permit and the permit was rejected. You may wish to contact Ms. Theresa Dent at 301-475-4670 to inquire whether there has been any change to the permit status.

Please contact me at 410-260-3481 if I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 24, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMSUB # 02-141-004 O'Brien Subdivision, Lot 500-1 Boundary Line Adjustment

Dear Theresa,

I have reviewed the above referenced boundary line adjustment, which proposes to add 0.51 acres to an existing 0.49 acre lot. The entire subject area is located in the RCA of Flood Creek. The lot is already developed with a dwelling, shed, sewage reserve area, and considerable driveway area.

We do not object to this boundary line adjustment. We would encourage the applicant to remove a portion of the gravel driveway to bring this lot into compliance with the 15% impervious surface limit for lots one-acre or greater. The new lot configuration, as drawn, will contain 18.2% in impervious surface areas. The 0.49 acre configuration is currently 56% impervious, which exceeds the maximum 31.25 % limit on grandfathered lots of this size.

Please verify the 0.49 acreage stated in Critical Area note # 1. Both the plat and the state tax assessment records show the existing lot as containing 1.00 acres. Adding 0.51 acres to a 0.49 acre lot should total 1.00 acres, however, the site plan for Lot 500-1 is labeled as 1.51 acres. If the existing acreage is 1.00, the lot contains 27.5% in impervious surface areas.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 166-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 24, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: XRS # 30007 Plat of Consolidation: J. Matthew Phelps

Dear Ms. Ault,

Thank you for the opportunity to comment on the above referenced plat of consolidation in which the applicant proposes to add Parcel A to Lot 1, resulting in a parcel measuring 18.39 acres after State tidal wetlands are deducted. This parcel is located in the RCA of Potomac River. The consolidation does not increase available RCA density nor reduce the Critical Area development standards that would apply to development at this site.

We do not object to this plat of consolidation. Since the Buffer is currently not located on Lot 1, we recommend a plat note stating that the Buffer on the consolidated parcel remain protected from development or any further disturbances except as provided by the County's Critical Area Program.

If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: CS 173-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 24, 2003

Mr. Michael Ewing, Deputy Director
Waterway Improvement Program
Boating Access Coordinator
Maryland Department of Natural Resources
Tawes State Office Building, E-4
580 Taylor Avenue
Annapolis, Maryland 21401

Re: City of Cambridge: Franklin Street Boat Ramp Renovations

Dear Mr. Ewing,

Thank you for providing information on the above referenced renovation project. I have reviewed the details of the project and find that it is consistent with the City of Cambridge Critical Area Program. This area of Cambridge is excluded from Critical Area requirements as permitted under the Annotated Code of Maryland, Natural Resources Article, § 8-1807(b).

We appreciate your participation in this process. Please contact me at 410-260-3481 should you have additional questions.

Please note our new mailing address is: Critical Area Commission
Chesapeake and Atlantic Coastal Bays
1804 West Street, # 100
Annapolis, MD 21401

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: 13-03
Roby Hurley

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 24, 2003

Mr. Roland Limpert
Environmental Review Unit
Maryland Department of Natural Resources
Tawes State Office Building, B-3
580 Taylor Avenue
Annapolis, MD 21401

Re: Wetlands Permit Application 200362524: Tony Ulehla, Jr.

Dear Roland,

I have reviewed the information you provided on the above referenced application for work in both tidal and nontidal wetlands. I would like to offer the following comments:

1. We have no objection to the proposed revetment, jetty, pier and beach nourishment project. However, the proposed driveway will cross the Critical Area Buffer which has been expanded for contiguous nontidal wetlands. A Critical Area variance from the Dorchester County Critical Area regulations by the Dorchester County Board of Appeals is required for the wetland crossing. In applying for a Critical Area variance, the applicant will need to address the following:
 - The proposed development must meet the standards for variances. For additional information regarding this requirement, the applicant will need to contact Mr. Steve Dodd, Planning Director, Dorchester County Planning and Zoning, at 410-228-3234.
 - Mitigation for impacts to the Critical Area Buffer is required at a 3:1 ratio.
2. Development is shown in the Critical Area but outside the Critical Area Buffer. Although it will not require tidal or nontidal wetland permits, the applicant should be advised to contact Dorchester County Planning & Zoning at the earliest opportunity regarding Critical Area requirements for grading and building permits. To assist the

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

County in their review of the building and grading permits, the site plan must include information on existing forest cover, forest cover to be removed, existing impervious surfaces, and proposed impervious surface areas. The proposed driveway will create a considerable amount of impervious surface area. Information on the path to the old house and old road should also be provided.

Thank you for the opportunity to comment on this application. If you have any questions, please contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Steve Dodd

Judge John C. North, II
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

March 21, 200~~3~~ 3

Ms. Sue Veith
St. Mary's County Department of
Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 206

**RE: Critical Area Program Growth Allocation Amendment
Bohanan Property, Lots 500-1 and 500-2 (ISUB#00-140-039)**

Dear Ms. Veith:

Thank you for providing information on the referenced growth allocation request to use 7.341 acres of growth allocation to change the Critical Area designation of several properties located on the north side of Snow Hill Manor Road from Resource Conservation Area to Limited Development Area. The Critical Area Commission received your letter on March 10, 2003 and is accepting the information as a complete submittal. This growth allocation request has been tentatively placed on the agenda for review by the Critical Area Commission on April 2, 2003.

You are welcomed to attend the meeting, which will be held at the People's Resource Center, Conference Room 1100A, 100 Community Place in Crownsville. If you would like a copy of the agenda or if you have any questions, please feel free to call me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 21, 2003/3

Ms. Sue Veith
St. Mary's County Department of
Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: Critical Area Program Growth Allocation Amendment
Thomas Colton and Mossey Lea Subdivision (ISUB#00-100-058)**

Dear Ms. Veith:

Thank you for providing information on the referenced growth allocation request to use 11.51 acres of growth allocation to change the Critical Area designation of the referenced property from Resource Conservation Area to Limited Development Area. The Critical Area Commission received your letter on March 10, 2003 and is accepting the information as a complete submittal. This growth allocation request has been tentatively placed on the agenda for review by the Critical Area Commission on April 2, 2003.

You are welcomed to attend the meeting, which will be held at the People's Resource Center, Conference Room 1100A, 100 Community Place in Crownsville. If you would like a copy of the agenda or if you have any questions, please feel free to call me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 21, 2001/3

Ms. Sue Veith
St. Mary's County Department of
Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: Critical Area Program Growth Allocation Amendment
Prospect Hill Subdivision, Lot 18 (ISUB#00-100-032)**

Dear Ms. Veith:

Thank you for providing information on the referenced growth allocation request to use 8.542 acres of growth allocation to change the Critical Area designation of a portion of the Prospect Hill Subdivision from Resource Conservation Area to Limited Development Area. The Critical Area Commission received your letter on March 10, 2003 and is accepting the information as a complete submittal. This growth allocation request has been tentatively placed on the agenda for review by the Critical Area Commission on April 2, 2003.

You are welcomed to attend the meeting, which will be held at the People's Resource Center, Conference Room 1100A, 100 Community Place in Crownsville. If you would like a copy of the agenda or if you have any questions, please feel free to call me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 18, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMSUB # 0 3-110-006 Lore's Estates, Lots 1 and 2

Dear Theresa,

I have reviewed the above referenced subdivision, which is being proposed around "existing" conditions created since April 11, 2000 by the applicant in the LDA of St. Jerome Creek. This 8.5 acre parcel has been developed with three dwellings, with two currently under construction.

The following comments are provided for your use:

1. A 1995 plat for a proposed aquaculture facility at this property shows no existing development at that time. Information on the plat indicates that Agricultural Parcels A and B were being proposed along with Lot 1, which was to be the location for the aquaculture pond. Our office provided comments on April 11, 2000 (copy attached) regarding the need to provide reforestation information.
2. A boundary line adjustment plat (BLAP) approved by St. Mary's County Planning and Zoning in November 2000 shows one single-family dwelling which, according to tax assessment records, was constructed in 1998. The 2000 BLAP does not show any subdivision.
3. Please provide a revised plat showing the following information:
 - How much of the existing forest was cleared for the construction of all three dwellings, their yards and driveways. Indicate how much mitigation was provided and where is it located.
 - This development represents a change in use from agriculture to residential, which requires that the 100' Buffer must be fully established in forest vegetation. The current plat does not show a fully-forested Buffer.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

- The plat indicates that the site is 7.2% forested. Afforestation up to 15% is required. If establishment of the Buffer and/or mitigation exceeds 15% of the site, the greater requirement shall prevail.

We request a copy of the revised plat once it is available. We may have additional comments based upon the new information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: SM 156-03

Judge John C. North, II
Chairman



Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 974-2426 Fax: (410) 974-5338

April 11, 2000

Ms. Sue Veith
Department of Planning and Zoning
22740 Washington Street
P O Box 653
Leonardtown, Maryland 20650

RE: St. Jerome Aquaculture
SPSP #00-130-027

Dear Ms. ^{Sue:} Veith:

I have reviewed the site plan for the St. Jerome aquaculture proposal. I have the following comments:

1. If the three proposed storage buildings are water-dependent, they can be located in the 100-foot Buffer without a variance. No information was provided as to the use of these buildings. Even if the buildings are water-dependent, this office recommends that they be pulled back from the edge of the riprap to allow some runoff infiltration into Buffer vegetation.
2. No information has been provided on reforestation requirements.

This office may have additional comments once this information is provided. Thank you for the opportunity to review this project.

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jjd

cc: SM148-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

Judge John C. North, II
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

March 18, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMSUB # 03-110-003 Harris Subdivision, Lots 1 & 2

Dear Theresa,

Thank you for the opportunity to review the above referenced subdivision which has been submitted for TEC review. The subdivision is being proposed around existing conditions in the RCA of Town Creek. This is a 3.226 acre parcel that has been developed with two existing dwellings. The following comments are provided for your use:

1. The plat must note that the parent tract for this subdivision includes the Jonathan Edwards parcel. The acreage for the Edwards parcel must be shown.
2. General note # 2 defines the site as 3.130 acres, however, the sum of the acreage shown for Lots 1 & 2 equals 3.22 acres. Please verify the correct information.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 155-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 17, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2141: Thomas C. Oliver, III

Dear Mr. Dodd,

Thank you for the opportunity to review the above referenced variance request. Thank you, too, for providing the additional information I requested to assist me in my review. The applicant proposes the construction of a dwelling which will be partially located in the 100' Critical Area Buffer. This property is a grandfathered parcel located in the LDA of Little Choptank River.

Despite its nearly 114 acres, the property is constrained by large areas of nontidal wetlands, a tidal pool, a nontidal pool, and their buffers. The remaining uplands are disjunct and low-lying. All but upland area "F" are not accessible without first crossing a wetland buffer.

This office cannot support this variance request at this time. Given the incomplete information provided on the site plan, we request that the decision on this variance request be deferred until a revised site plan is provided to show all the information necessary for conducting a proper review. In order to complete our review, the following items must be provided:

1. This project proposes a house, detached garage, and sewage reserve area. These disturbances alone measure 14,380 square feet. Access to the house and detached garage are not shown, and the clearing limits are not given. These additional disturbances, together with the disturbance to nontidal wetlands, will cause the project to disturb greater than 19,227 square feet in the LDA.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

2. As stated above, this plan does not show an access driveway to the proposed dwelling and garage. During the course of our review, we learned from Ms. Maria Lasek, US Army Corps of Engineers, that Lane Engineering had submitted an application to the Corps by Lane Engineering for a proposed driveway leading into the site from Indian Trail Acres Road. Ms. Lasek had advised that the proposed driveway would cross a nontidal wetland that occurs on this and extends onto the adjacent property. This nontidal wetland is contiguous to the 100' Buffer and must be delineated as an expanded Critical Area Buffer. Variances will be needed for each property where the driveway crosses the expanded Buffer. Disturbances to the 100' Buffer and expanded Buffer must be quantified. The planting plan for the required 3:1 mitigation or a statement of intent regarding compliance with this requirement must be included as a note on the plan.
3. The site plan provided by Lane Engineering for the nontidal wetland permit application only shows the driveway where it crosses the nontidal wetland. It does not show its alignment to the proposed dwelling and garage on the Oliver property. The driveway, parking pads, sidewalks, pathways and patios associated with these structures must be shown and the disturbance stated on the plan. Are any accessory structures such as decks, sheds, or porches to be included in the building permit application? The total amount of new impervious surface areas must be stated on the plan.
4. Aerial photography for this site shows that this property has a high percentage of woody vegetation. The amount of proposed clearing must be stated on the plan. Mitigation for forest clearing outside the Buffer is based upon the percentage of existing forest to be cleared. It appears less than 20% forest cover will be removed. The amount of required 1:1 mitigation must be stated on the plan and a planting plan or statement of intent provided on the plan.
5. The County's Critical Area Planner, Mrs. Karen Houtman, indicated during a telephone conversation that this parcel has two development rights as the parcel is divided into two tracts by deed. Is Parcel B the second tract? The full configuration and position of these two tracts within the 113.95 acre parcel must be shown on the plan. All approved perc sites and sewage reserve areas must also be shown. If development envelopes have already been identified, they must be shown.
6. It appears the proposed dwelling could be located in upland Area "F", which would negate the need for a Buffer variance and a nontidal wetland permit. The applicant must provide information why this alternative site was not pursued.
7. The purpose of the easement area that adjoins Susquehanna Road must be noted on the plan.

Thank you for your assistance in providing this additional information. Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

Wanda Diane Cole

Wanda Diane Cole
Natural Resources Planner

cc: DC 170-03
Ace Adkins
Maria Lasek
Lori Byrne
Scott Smith

Judge John C. North, II
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

March 17, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Local Case Number 2140 Bernard Thien Special Exemption to Surface Mine

Dear Mr. Dodd,

Thank you for the opportunity to review the above referenced special exemption request. The applicant proposes to surface mine a 26-acre parcel located in the LDA. This is an on-going operation and the applicant proposes to expand the operation by excavating an additional area.

This office does not oppose this special exception provided it is consistent with the County's Critical Area Program and Ordinances for such operations, and provided it has been authorized by a valid State Surface Mining Permit from Maryland Department of the Environment. If the proposed pond is a wash pond, it shall be reclaimed as soon as possible after the cessation of the sand and gravel operation.

If any tree clearing is required, we recommend that the special exemption approval include a condition that the required 1:1 mitigation be conducted on-site. We also recommend that if the site has less than 15% forest cover, a minimum 15% afforestation be provided on-site as part of the reclamation plan.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 169-03
C. E. Larrimore

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 17, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2139 Penelope Archibald

Dear Steve,

Thank you for the opportunity to review the above referenced variance request. The applicant proposes the construction of an addition to an existing dwelling located within the 100' Buffer on a grandfathered parcel in the LDA of Fishing Creek and Honga River.

This office does not oppose this request. We recommend that the variance approval include a condition that the required 3:1 mitigation plantings for new disturbances in the Buffer be accomplished on-site, preferably in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 168-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 17, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MNSP # 03-131-009 Cape St. Mary's Marina Change of Use

Dear Theresa,

Thank you for the opportunity to review and comment on the above referenced site plan. The applicant proposes freight terminal operations at this site in addition to the existing uses of boatel, boatyard, commercial dock, boat ramp, and marina. We do not oppose this change in use provided it is consistent with the St. Mary's County Critical Area Ordinances regarding uses in the LDA and water-dependent facilities.

The March 2003 TEC Review Cycle memorandum, dated February 19, 2003, does not include the applicant's second request, which is to establish a Buffer Management Overlay (BMO) area on the Commercial Marine portion of the property. The County is currently working on final changes to its Critical Area Ordinances, which will include a provision for establishing Buffer Exemption Areas. If a BMO for this site is desired, the County will need to submit a request for a program change to include this area as a BMO once the revised Critical Area Ordinances are adopted. Generally, this type of change can be handled as a refinement.

If you have any questions regarding these comments, please contact me at 410-260-3481

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 157-03
Mary Owens

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 12, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: CA Permit # 02-2867 Ho Nguyen Variance Request

Dear Theresa,

Thank you for the opportunity to comment on the above referenced variance request. The applicant proposes the construction of a 479 square foot deck onto an existing house located within the 100-foot Critical Area Buffer. This is a grandfathered parcel located within the RCA of Lucas Cove.

We do not oppose the deck, however, this proposal will also require a variance for exceeding the impervious surface limits. We cannot support an impervious surface variance. It appears there are opportunities to remove existing impervious surface areas in exchange for the impervious areas created by the deck.

We recommend that the variance include a condition that the required 3:1 mitigation for new disturbances to the Buffer be provided on-site, preferably in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 193-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

March 11, 2003

Ms. Christine Holmberg
Resource Planning, E-4
Tawes State Office Building
Annapolis, MD 21401

Re: Critical Area Commission Approval of Rosedale Manor ADA Accessibility Renovations
Greenwell State Park, St. Mary's County

Dear Christine,

I am pleased to inform you that on March 5, 2003, the Critical Area Commission unanimously approved the above referenced project in accordance with COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands. I have enclosed a Planting Agreement form to be completed for the mitigation plantings that are being provided. Please provide the appropriate information and signature, and return the form to me by March 25th. When the plantings have been completed, please contact me at 410-260-3481.

Thank you for your participation and assistance in this process. If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: 52-02
Fred Bedell

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Planting Agreement for State Projects

State Agency

Project Number

Agency Contact

Phone Number

Commission Approval Date

CAC Planner

Project Name

Project Location

Square Feet Cleared Outside 100ft Buffer

Mitigation Ratio for Clearing Outside Buffer*

Mitigation Calculation Outside Buffer

Square Feet Disturbed/Cleared Within 100ft Buffer

Mitigation Ratio for Disturbance/Clearing Within Buffer*

Mitigation Calculation Within Buffer

15% Afforestation Requirement Met?

Total Mitigation Required

Planting and Natural Regeneration Plan (attach additional sheets if necessary)

Planting Date

Year

First Site Visit Date

First Site Visit By

Second Site Visit Date

Second Site Visit By

Mitigation Completed?

* see back for explanations

Revised 4/28/99

1. Amount of Disturbance and Clearing

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

2. Plant Spacings and Mitigation Credits for Various Size Trees and Shrubs*

Credit Square Feet	Plant Size	Plant Spacing
100 sq. ft.	1 tree (2-inch caliper)	10-foot center
400 sq. ft.	1 tree (minimum: 2-inch caliper and either balled and burlapped or container grown) and understory vegetation (minimum: 2 small trees or 3 shrubs)	tree: 20-foot center understory: 10-foot center
50 sq. ft.	1 tree (seedlings)	7-foot center
50 sq. ft.	1 shrub	3 to 7-foot center

* The Critical Area Commission recognizes natural regeneration as a method for mitigation on appropriate sites. This will be determined on a case by case basis. All plantings will require protective measures to ensure that these areas remain planted in perpetuity.

3. Mitigation Ratios

Choose from the following for the mitigation ratios:

Mitigation Ratio for Clearing Outside Buffer

Clearing of Forest/Woodlands up to 20% in Critical Area 1:1
 Clearing of Forest/Woodlands up to 30% in Critical Area 1.5:1
 Clearing of Forest/Woodlands over 30% in Critical Area 3:1
 Clearing Violation 3:1
 Other
 N/A

Mitigation Ratio for Disturbance/Clearing Within Buffer

New Development / Redevelopment (non-BEA) 3:1
 New Development / Redevelopment (BEA) 2:1
 Shore Erosion Control 1:1
 Public Shoreline Access 2:1
 Clearing Violation 3:1
 Other
 N/A

4. Planting Date

The Planting Date should be either the spring or fall season following the approval of the project by the Critical Area Commission.

5. Site Visits

Two site visits will be conducted over a period of two years by Critical Area Commission staff. The objective of the site visits is to verify that the mitigation has been carried out as approved (i.e. species, number of trees/shrubs, location).

CLEARINGHOUSE REVIEW

February 25, 2003

RECEIVED

FEB 26 2003

TO: Arnold Norden, Greenways and Resources Planning (E-4)
 Glenn Therres, Wildlife (E-1)
 Robert Beckett, State Forest and Park Service (E-3)
 Douglas DeLeaver, Natural Resources Police (E-3)
 Ray Dintaman, Environmental Review (B-3)
 Matthew Fleming, Education, Bay Policy & Growth Mgmt (E-2)
 Marian Honeczy, Forestry (E-1)
 Bill Hodges, Resource Assessment Services (B-3)
 Regina Esslinger, Crit. Area Cmsn. (1804 West St., Suite 100, Annap., 21401)

**CHESAPEAKE BAY
CRITICAL AREA COMMISSION**

FROM: *M. G. Ewing*
 Michael G. Ewing, Deputy Director, Waterway Improvement Program

SUBJ: DNR Clearinghouse Review for Franklin Street Boat Ramp Renovation

Project proposes to renovate the existing boat ramps including removal and disposal of existing 2 concrete ramps and an asphalt paved causeway, and replacing them with 3 new concrete ramps and two floating piers and to construct and backfill 168 feet of replacement bulkhead within a maximum of 18 inches channelward of a deteriorated bulkhead in the Choptank River at the north end of Franklin Street in Cambridge, Dorchester County. Note: The City of Cambridge has received permits from the U.S. Corp of Engineers and the Maryland Department of the Environment.

Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

CHECK

INITIAL

1. The project does not conflict with the plans, programs or objectives of this Agency.

WDE 02-27-03

2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.

3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

RECEIVED

FEB 26 2003

**CHESAPEAKE BAY
CRITICAL AREA COMMISSION**

Please return to Michael Ewing, Waterway Improvement Program, Tawes State Office Building (E-4) Annapolis, upon completion of review.

Judge John C. North, II
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

February 21, 2003

Mrs. Joan Ritchie
27255 Cat Creek Road
Mechanicsville, MD 20659

Re: Lot 16, Riverwood Farms/Bennett Property

Dear Mrs. Ritchie,

Thank you for your letter dated February 3, 2003, as well as your previous emails, regarding your concerns for a variance granted to allow development at the above-referenced lot. I have researched your concerns and my responses to each are listed below. In addition, I have enclosed copies of both the Critical Area Law and the State Critical Area regulations for your use.

1. Authority for Enforcement of the State's Critical Area Law. Natural Resources Article § 8-1808 (a)(1) states, "It is the intent of this subtitle that each local jurisdiction shall have primary responsibility for developing and implementing a program, subject to review and approval by the Commission." The Commission approved the County's Program in 1990, therefore, the County has enforcement authority.
2. Development on Grandfathered Lots. The Code of Maryland Regulations (COMAR) set forth Criteria which recognized that certain lots which were legally created and recorded prior to the enactment of the Critical Area Law, may not be able to meet the requirements of the law and Criteria due to their size, location, configuration, or other site conditions. COMAR 27.01.02.07 B allows local jurisdictions to "establish grandfather provisions as part of their local Critical Area programs." "A local jurisdiction shall permit a single lot or parcel of land to be developed with a single family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of the approved local program." Lot 16 was recorded prior to December 1, 1985 and as such, has one development right by law.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

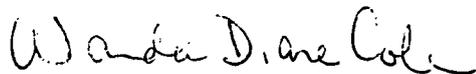
3. Variances for Development within the Buffer. COMAR 27.01.11.01.A allows local jurisdictions to make provisions "for the granting of variances to these criteria where, owing to special features of a site or other circumstances, local government implementation of this subtitle or a literal enforcement of provisions within the jurisdiction's Critical Area program would result in unwarranted hardship to an applicant." The owner of Lot 16 is entitled to one development right by law. The 100-foot Buffer on Lot 16, which has been delineated for the tributary stream and expanded for contiguous steep slopes, encumbers the entire lot. If the Buffer criteria were literally enforced, the owner of Lot 16 would be denied his/her development right by law. A variance to the Buffer provisions is necessary to allow the development of this lot. The request for a variance to permit development on Lot 16 meets the variance standards for unwarranted hardship. Despite its constrained site aspects, there is sufficient room to place a structure near the road, assuming the lot meets local health department requirements for sewage disposal. Regulations regarding sewage disposal requirements are implemented solely by the local health department pursuant to State Health Department mandates.

4. Critical Area Commission Review of Local Projects. In § 8-1811(b)(3), "The local approving authority may not process an application of which a copy must be sent to the Commission until the local approving authority has received written notice of receipt from the Commission..." This means that local governments are only required to notify the Commission that application has been made for certain types of projects, in this case, a variance request for development on a grandfathered lot located in the Buffer. Once we have received the application, the County is not obligated to send us revisions, although we encourage them to do so.

Under the notification process, the Commission may provide recommendations in the form of comments. The final decision regarding an approval rests with the local authority. The Commission was properly notified of the variance request and provided comments to the County. (See attached letter.) The Commission did not oppose the variance and the correction of the site plan to accurately show a tidal stream on the property did not change the Commission's position on the variance request because the lot met the County's grandfathering provisions.

I hope these responses have helped clarify the Critical Area requirements for projects such as this one. If you have any further questions, please do not hesitate to contact me at 410-260-3481.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: Theresa Dent
SM 76-00

Judge John C. North, II
Chairman



Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 974-2426 Fax: (410) 974-5338

February 28, 2000

Ms. Sue Veith
Department of Planning and Zoning
P.O. Box 3000
Leonardtown, MD 20650

RE: IBEZ #99-2773, Bennett Property
CBCAC # 76-00

Dear Ms. Veith:

Thank you for providing information on the referenced project. The applicant is seeking approval of a variance to place a mobile home in the Buffer and a septic system within the Buffer and on steep slopes. County staff have informed us that the lot is grandfathered according to St. Mary's County Critical Area Program (Article III).

Staff have no objection to the granting of this variance as it appears that the proposed mobile home will be located on the only flat area on the property and the septic system cannot be located out of the Buffer or off of steep slopes. However, if the variance is granted staff recommend that the applicant be required to mitigate adverse impacts to water quality and enhance habitat within the Buffer. In accordance with St. Mary's County Zoning Ordinance (Article III), we recommend that the applicant provide 3:1 mitigation for the area of new impervious surface in the Buffer and the forest cleared within the Buffer. Any forest clearing outside the Buffer will require 1:1 mitigation. Mitigation plantings should occur within the Buffer and native species should be used.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for the variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, you can contact me at (410) 260-7073.

Sincerely yours,

A handwritten signature in cursive script that reads "Tracy Batchelder".

Tracy Batchelder
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

Judge John C. North, II
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

February 14, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: PSUB # 03-120-004 Concept Plan: The Woods @ Myrtle Point, Section One, Phase Two

Dear Theresa,

Thank you for the opportunity to review the above referenced concept plan. As there is no development proposed in the Critical Area for this phase of the project, our office has no comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 64-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

February 14, 2003

Mr. Steve Dodd, Director
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613-0107

RE: Case # 2134 Robert and Elaine Buice Variance Request

Dear Steve,

Thank you for the opportunity to comment on the above referenced variance request. The applicant is requesting after-the-fact approval for boardwalk decking he has constructed adjacent to an existing bulkhead. In addition, the applicant proposes the construction of additional decking that will continue along the bulkhead to and along a riprap jetty. The decking will create 888 square feet of new impervious surfaces in the 100-foot Critical Area Buffer on a grandfathered parcel in the RCA of Choptank River.

This office opposes the granting of this variance request. The Code of Maryland Regulations and Dorchester County Ordinance both provide standards a local government must use when granting a variance. Those standards do not appear to have been met. I have outlined those standards below:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. The applicant has not provided information that would support this statement. Upon review of the site plan and a visit to the site, it appears the applicant has sufficient, unobstructed access to and along the bulkhead, as well as the jetty.
2. That a literal interpretation of this subtitle or the local Critical Area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction. Access between the house and shoreline at this property appears to be well-established. This decking is not water-dependent, nor is it necessary to provide access to the shoreline. Therefore, the applicant would not be deprived of any right currently being enjoyed by his neighbors.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area. If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in similar settings in the County's Critical Area. New development in the Buffer is prohibited.
4. The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property. The applicant built the initial decking in the Buffer, and did so without a permit, therefore, this circumstance has been caused by the action of the applicant. Had the applicant applied for a permit, he would have been advised that this activity in the Buffer was unacceptable without a variance.
5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations. This disturbance creates unnecessary impervious areas in the most sensitive portion of the Critical Area. The decking does not allow rainfall to properly infiltrate, thus diminishing the water quality function of the Buffer. It also shades the soil so that beneficial, native vegetation, which would provide vital riparian wildlife habitat, cannot become established. It should be noted that the owner has not yet provided mitigation for previous Buffer disturbances in this area.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,



Wanda Diane Cole
Natural Resources Planner

cc: DC 94-03
Marianne Mason

Judge John C. North, II
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

February 12, 2003

Mr. Dave Rhoades, Supervisor
Construction Projects
University of Maryland
Center for Environmental Science
Horn Point Environmental Laboratory
2020 Horn Point Rd
Cambridge, MD 21613

Re: Critical Area Commission Approval of Containerized Chemical Storage Structure

Dear Dave,

I am pleased to inform you that at its February 5, 2003 meeting, the Critical Area Commission unanimously approved the above referenced project in accordance with COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands.

Thank you for your participation and assistance in this process. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: 4-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

February 12, 2003

Mr. James W. Price, Director
Program Open Space
580 Taylor Avenue, E-4
Annapolis, Maryland 21401

Re: Local POS/CCP Project # 4239-9-93 Dorchester County
Galestown Community Center Park and Playground

Dear Mr. Price,

It appears the above referenced project may be located within the Critical Area of the Nanticoke River. If the replacement of facilities involves the expansion of existing footprints, creation of new impervious surface areas, and/or the removal of trees, the project will need to be reviewed for consistency with the local Critical Area Program. The Town of Galesville will need to contact Mrs. Karen Houtman at 410-228-3234 for guidance on Critical Area development criteria for projects on lands owned by local agencies. We encourage the Town to contact Mrs. Houtman early in the planning phase and prior to solicitation for bids for construction.

I may be reached at 410-260-3481 if you have questions about these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: Karen Houtman

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Critical Area Commission

STAFF REPORT **Date February 5, 2003**

APPLICANT: University of Maryland- Center for Environmental Science
Horn Point Environmental Laboratory

PROPOSAL: Chemical Storage Structure

JURISDICTION: Dorchester County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Wanda Cole

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

DISCUSSION:

The University of Maryland's Center for Environmental Science proposes the construction of a 12' x 32' pre-fabricated, containerized structure at its Horn Point Environmental Laboratory facility near Cambridge in Dorchester County. The structure will be located within the Critical Area outside the Buffer on land that is not considered to be intensely developed.

The one-story, steel boxcar-like structure will be used for chemical storage. It will be set on concrete slab at-grade and located adjacent, but not attached, to an existing, larger, storage building. The existing storage building currently houses the chemicals that will be stored in the containerized structure, however, 80% of the storage in this building is being used to warehouse old computers and research equipment. By relocating the chemicals into the containerized structure, there will no longer be the need to heat and cool the larger structure. The larger structure will then be converted into a warehouse.

The containerized structure is made of steel and self-contained in the event of a spill. The floor is composed of a metal grate over a 4-5" metal-walled sump area. The structure is required to store only that amount of liquid chemicals that the sump is capable of retaining. Chemicals to be stored are mild acids and low-level radioactive wastes. In the event of a spill, there is a chemical safety officer on-site who is trained in chemical waste cleanup.

The structure will be field-located on a grassy area. The site plan attached to this report is an overlay of the new work onto an excerpt from the plan for the existing, storage structure. The grass swale around the existing building leads to a drainage ditch that ultimately leads to a tributary stream to Lakes Cove, which outlets to the Choptank River.

The Horn Point Environmental Laboratory is situated on an 875-acre property located in the Critical Area of the Choptank River. The Critical Area boundary bisects that portion of the property located east of Horns Point Rd. The property is comprised of nearly equal areas of woodland, grassland, and fields. Several excavated ponds are located across the parcel, some of which provide stormwater management. The impervious surface area associated with the 48 existing structures and parking on-site is 27,000 square feet, or 0.72% of the property. The addition of 384 square feet of new impervious area will pose negligible environmental impacts.

There are no rare, threatened or endangered species at this site, nor any other Habitat Protection Areas. No trees will be removed to facilitate construction, therefore no forest mitigation will be required. As this is not considered to be an intensely developed area, compliance with the 10% Rule is not required. Maryland Department of the Environment considers this project exempt from stormwater management requirements as it is less than 5,000 square feet in size, involves less than 100 cubic yards of excavation, and will not increase the amount of impervious area by more than 10%. Therefore, no best management practices for stormwater management will be implemented. Roof runoff will flow across fairly level terrain and is expected to infiltrate prior to reaching the tributary stream to Lakes Cove. The soils in this area are Mattapex silt loams, primarily 0-2% slope, with a narrow margin of 2-5% slope paralleling the ravines.

cc: Dave Rhoades
4-03

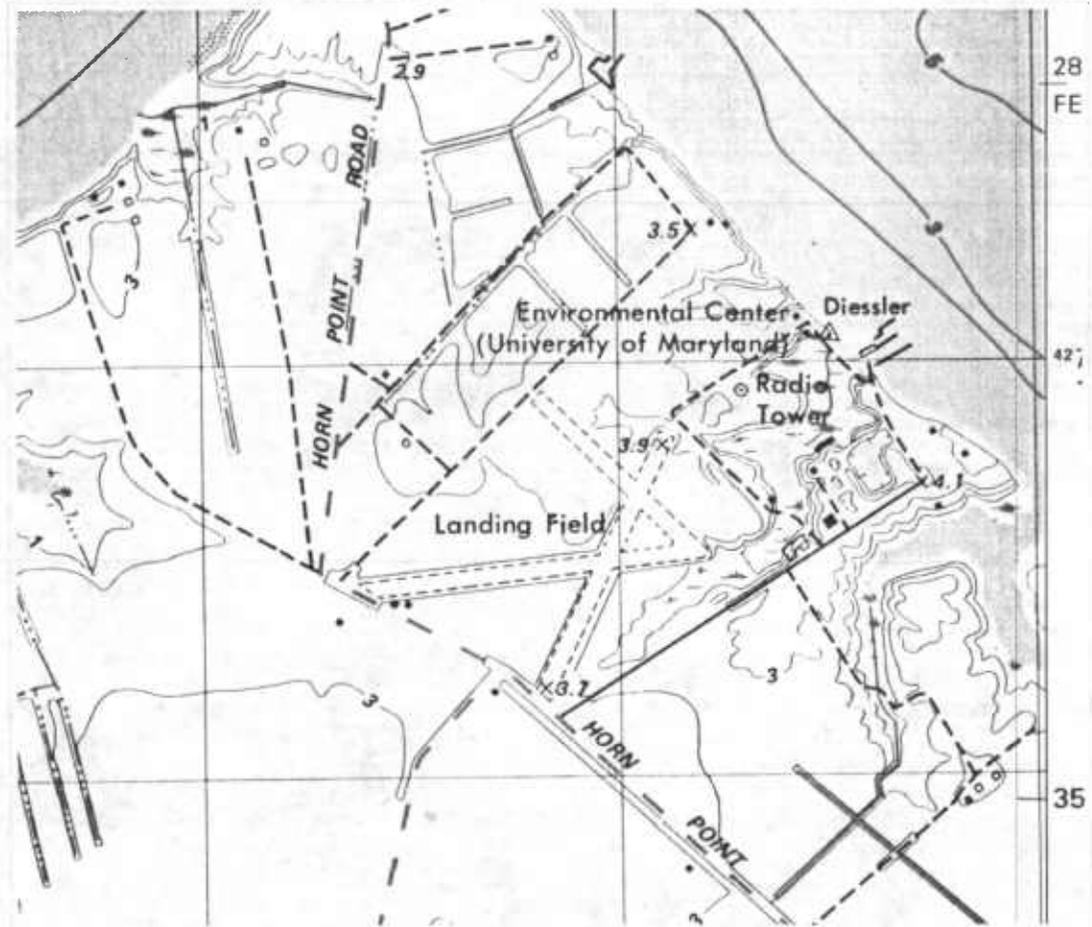
MERLIN Online Map - Topo for Horn Pt CEEs, Cambridge

Base Maps

3.75' Quarter Quad Grid



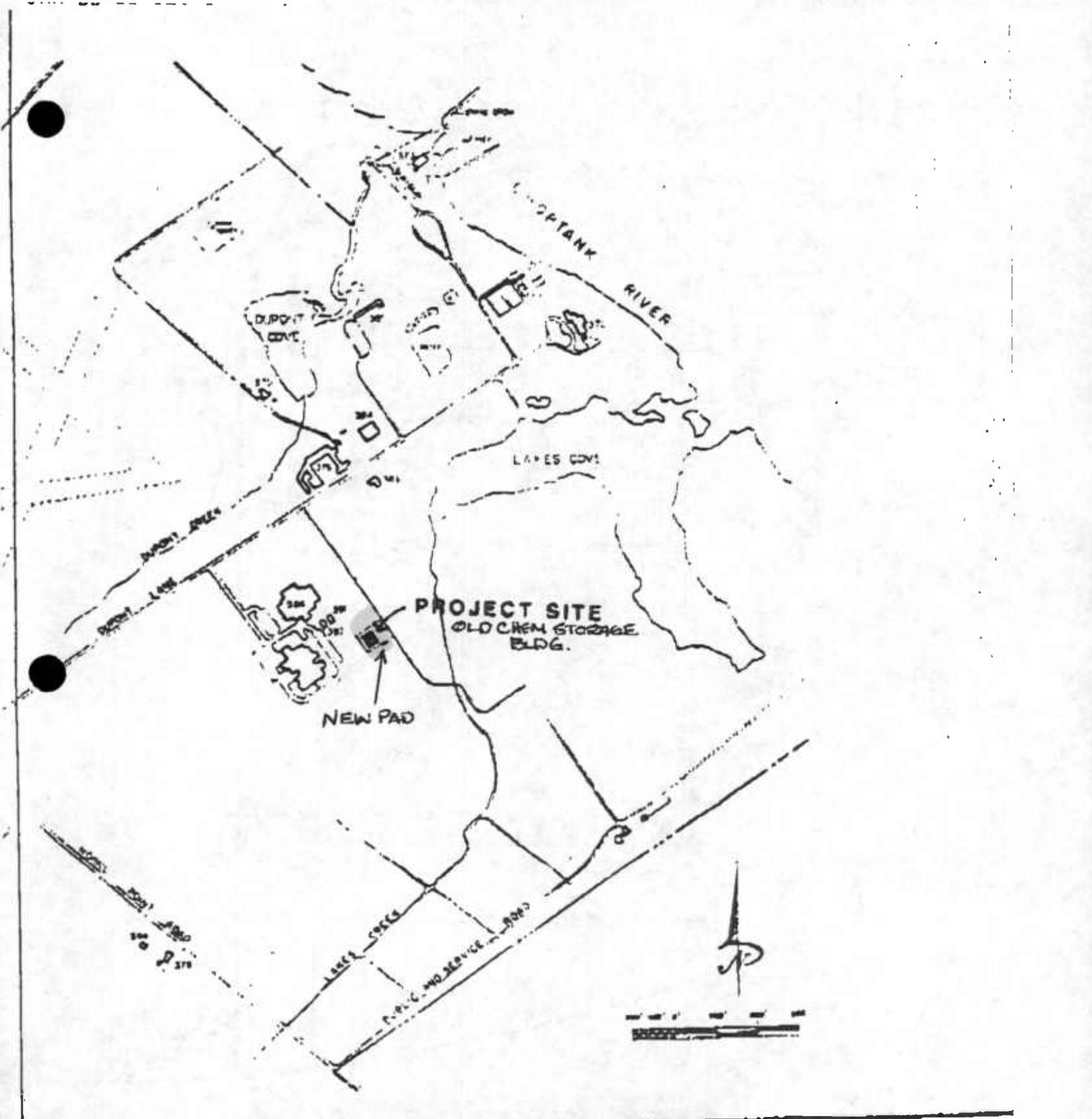
Church Creek Quad 7.5' Topo



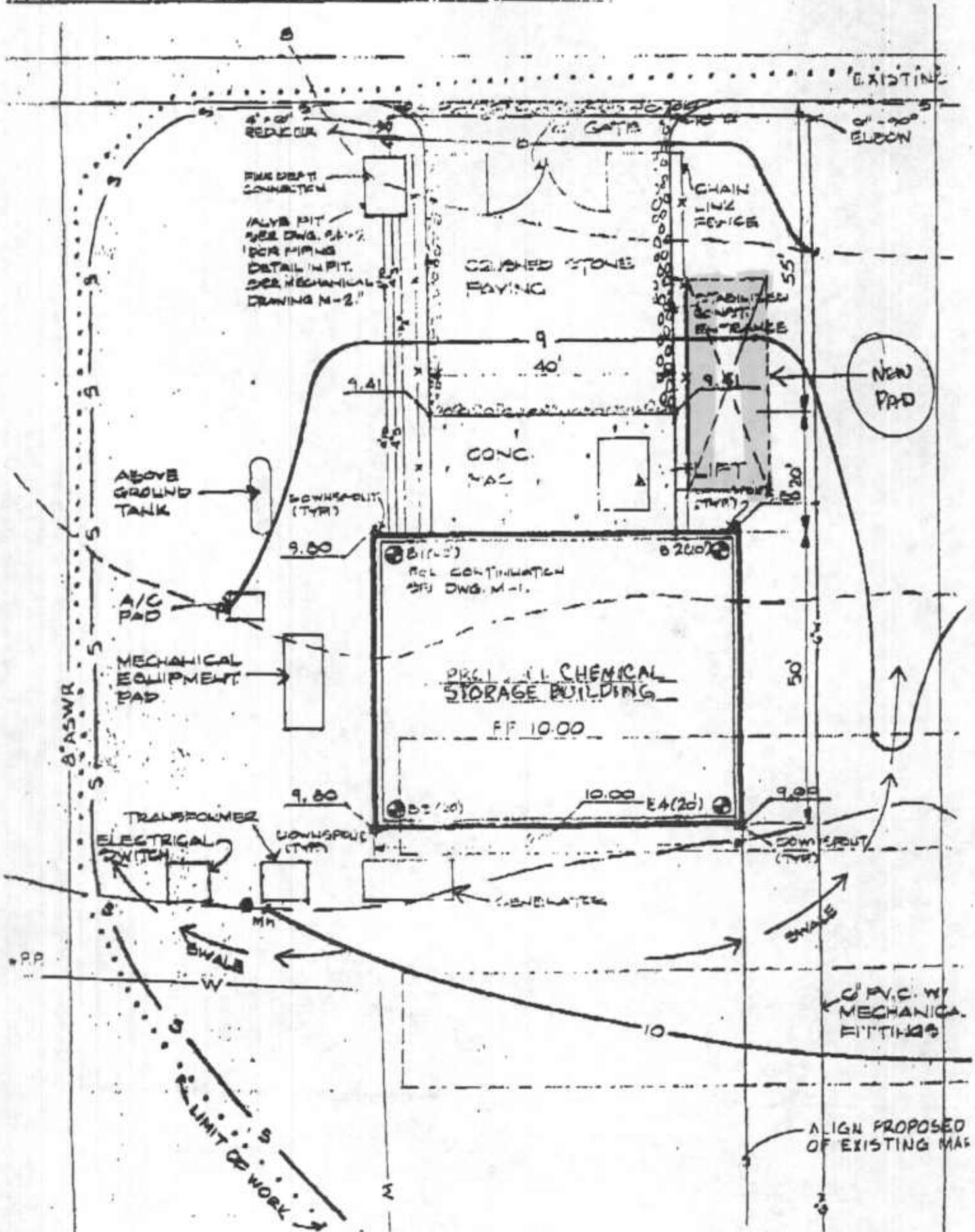
N 102920.89m E 475068.22m



Coordinates at center of image in Maryland State Plane, NAD 1983 meters
© Copyright 2002, Maryland Department of Natural Resources, www.mdmerlin.net
Created with TNTserver™ from Microlmages, Inc



Post-it* Fax Note	7671	Date	22 Jan	# of pages	2
To	DIANE COLE	From	DAVE RHODES		
Co./Dept.	CRITICAL AREA	Co.	UNIV. OF MD		
Phone #	410-260-3481	Phone #	410-221-8464		
Fax #	410-974-5338	Fax #	410-221-8390		



JAN-22-05 12:47 PM UNIV MD HORN POINT MAINT 410 221 0233 P. 01

Scale: 1" ≈ 22'

Judge John C. North, II
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

February 4, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2138 Robert Seely Variance Request

Dear Mr. Dodd,

Thank you for the opportunity to review the above referenced variance request. The applicant proposes to construct a 180 square foot addition and 80 square foot deck onto an existing house located on a grandfathered lot in the LDA of Goose Creek. This development is also located in the 100' Critical Area Buffer.

This office does not oppose this request. We recommend that the variance approval include a condition that the required 3:1 mitigation for new disturbances to the Buffer be accomplished on-site in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 95-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

February 4, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: # 1015 Marilyn H. Luthy, et al. Preliminary Subdivision Plat

Dear Steve,

Thank you for the opportunity to review the above referenced plat. The applicant proposes a one-lot subdivision in the RCA of Little Blackwater River. The following comments are provided for your use:

1. The plat must include a note detailing how many acres are located in the Critical Area of the parent parcel, how many density rights are associated with that acreage, and how many density rights, if any, have been utilized prior to this proposed subdivision. Large areas of State tidal wetlands appear on the County's Critical Area maps for this area. The net tract acreage cannot include the acreage for State tidal wetlands.
2. The plat is labeled "mean high water located Oct. 2002", however, the plat is not clear as to the location of the mean high water line.
3. This subdivision represents a change in use from agriculture to residential, therefore, the entire Buffer must be fully established in forest vegetation. If afforestation will be in the form of natural regeneration, the plat should show the 100' Buffer line marked with bluebird boxes, signs, fencing, or similar material to prevent future owners from inadvertently mowing the Buffer.
4. Please provide a copy of the determination letter from the Wildlife and Heritage Service indicating that no rare, threatened or endangered species or their habitats are located on this parcel.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

5. The applicant must verify that nontidal wetlands do not exist on this site. If applicable, the Buffer must be expanded accordingly. In addition, it appears the 100' Buffer must be expanded around the pond as it is contiguous to the State tidal wetlands shown there.

Thank you for your assistance with these items. If you have any questions regarding these items, please contact me at 410-260-3481.

Sincerely,



Wanda Cole
Natural Resources Planner

cc: DC 88-03

Judge John C. North, II
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

February 3, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: SMSUB # 03-110-001 Delahay Subdivision, Lot 2 & Farmsteads A-1 & A-2

Dear Theresa,

I have reviewed the above referenced subdivision, which proposes to create Lot 2 and Farmstead A-2, each of which is partially located in the RCA of Cecil Creek. As this is a proposed intrafamily transfer, a maximum of 3 lots may be created in the Critical Area. At this time, Farmstead A-2 is developed with a single dwelling located outside the Critical Area boundary. No development is being proposed at this time on Lot 2, however, the sewage reserve area is shown located within the Critical Area portion of the lot. The following comments are provided for your use.

1. The names and relationships of the immediate family members must be shown on the plat. In addition, statements must be added to the plan regarding the requirements for future bona fide transfers of these properties.
2. If the Critical Area intrafamily transfer provisions are not being utilized for this subdivision, only one development right is available, provided no previous subdivisions have already used that right.
3. Please verify that the 3.25 acres of existing forest on Farmstead A-2 is located inside the Critical Area as opposed to across the entire parcel. The required 15% afforestation inside the Critical Area for this proposal is 2.12 acres.
4. It appears the 100-foot Critical Area Buffer for a tributary stream has been correctly delineated and is established in forest vegetation.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 65-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

February 3, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: CCSP # 03-132-003 Bailey Property Banquet Facility Concept Plan

Dear Theresa,

Thank you for the opportunity to review and comment on the above referenced concept plan. The applicant proposes to construct a banquet hall on a grandfathered parcel in the IDA of White's Neck Creek. This parcel is currently developed with a crabhouse and parking. The 100-foot Critical Area Buffer encumbers approximately 60% of the site. The following comments are provided for your use.

1. The site plan shows considerable expansion of development in the 100' Buffer, which would require a variance. We cannot support a variance for this proposal as the development is too great for the site, given the location of the Buffer. Mitigation for all new disturbances to the Buffer must be mitigated at a 3:1 ratio.
2. Projects in the IDA must comply with the 10% Rule for stormwater pollutant removal. No information has been provided regarding how stormwater management will be addressed.
3. The limits of the existing parking and driveway areas must be clearly delineated. Does the existing parking also extend onto the "point" at the southwest corner of the parcel, or is a building located there?
4. The plan should show the location of the shoreline or state whether the shoreline is bulkheaded. Is the southeast corner of the proposed building intended to cross the property line and extend out over the creek?

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 63-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

February 3, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Case Number 1014 Phil Jones Boatyard, Hooper's Island Road

Dear Steve,

Thank you for the opportunity to review the above referenced site plan. This office has no comment on this site plan. The applicant proposes to add a 20-slip, commercial pier at an existing boatyard and marina. According to the Joint Public Notice for State Tidal Wetland License 02-WL-1514, the spoil material will be placed at an existing, on-site disposal area and subsequently used to fill low areas around the gravel boatyard. No new impervious surface areas will be created. This property is a grandfathered use located in the IDA of Back Creek.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 70-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 31, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Variance Case Number 2127 Robert A. & Michell W. Faulkner

Dear Mr. Dodd,

Thank you for providing the additional information I requested for review. After reviewing this information, it appears ample room exists on this site to bring this lot into conformance with the local Critical Area Program by moving the proposed house completely out of the 100-foot Critical Area Buffer. In addition, the proposed development increases the amount of impervious surface area in the Buffer. Therefore, we oppose this variance request.

If the Board grants this variance, mitigation at a 3:1 ratio for new disturbances to the Buffer should be provided on-site in the Buffer.

Please provide a written copy of the decision made in this case. If you have any questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 620-02

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 31, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: CA Permit # 02-1507 Hollen & Althizer Variance Request

Dear Theresa,

Thank you for the opportunity to comment on the above referenced site plan. The applicant proposes the construction of a dwelling, driveway and septic system on a grandfathered lot in the LDA of St. Jerome Creek. The majority of the proposed development is located in the 100-foot Critical Area Buffer which constrains approximately 70% of this 2-acre parcel.

We do not oppose this variance request. We recommend that the variance include a condition that the 3:1 mitigation for impacts to the Buffer be provided in the Buffer on this site.

Please note that the property boundaries extend channelward of the mean high water line. The net tract area needs to be verified to ensure it does not include State tidal wetlands when computing percentages of disturbance.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 89-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 31, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: CA Permit # 02-2663 Aaron Bowman Variance Request

Dear Theresa,

Thank you for the opportunity to comment on the above referenced site plan. The applicant proposes to construct a driveway, single-family dwelling and porch/deck located on a grandfathered lot in the RCA of Potomac River. A portion of the proposed development is located in the 100-foot Critical Area Buffer.

The maximum allowable impervious surface area at this site is 31.25% or 4,492 square feet. This project will utilize 4,444 square feet, leaving little opportunity to provide additional amenities, such as a patio, shed, or walkway to the shoreline. We recommend that a note be added to this plan to indicate the remaining balance of allowable impervious surface on this lot.

Otherwise, we do not oppose the granting of this variance. We recommend the variance include a condition that required 3:1 mitigation be accomplished on-site and in the Buffer.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 67-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 30, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: 03-02 Mary Lou Murphy Variance Request

Dear Keith,

Thank you for the opportunity to comment on the above referenced variance request. The applicant is proposing the construction of one, single-family dwelling and driveway within the LDA of Frog Mortar Creek. While this development is not located within the 100-foot Critical Area Buffer, it will impact forested, nontidal wetlands, a Habitat Protection Area (HPA), thereby creating the need for a variance. The one dwelling is to be constructed across two grandfathered lots which have been combined into one parcel in an effort to minimize impacts to the HPA.

The proposed impacts to existing forest cover exceed 30%. Mitigation using native forest plantings is required at a 3:1 ratio. We recognize that on-site mitigation is not practical. We encourage the applicant to explore off-site opportunities to provide this mitigation.

This office does not oppose the granting of this variance request. Please provide this office with a copy of the written decision made in this case.

Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: BC 68-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 30, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

RE: James & Michelle Terry Variance Request

Dear Theresa,

Thank you for the opportunity to comment on the above referenced site plan, which is being submitted for comment prior to being scheduled for a variance hearing with the St. Mary's County Board of Appeals. The applicant proposes to construct a garage, deck, and addition to an existing dwelling located in the LDA of St. George Creek. This grandfathered lot is located entirely in the 100-foot Critical Area Buffer.

We do not oppose the granting of this variance. Please note that the square footage for eight trees should be 3,200 square feet, not 3,600 square feet as currently shown on the afforestation plan.

Please provide this office with a copy of the written decision made in this case. If you have questions regarding these comments, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 90-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 23, 2003

Mr. Keith Kelley
Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Md 21204

RE: 03-01 Charlesmont Elementary School Replacement Playground Variance Request

Dear Keith,

Thank you for the opportunity to comment on the above referenced variance request. The applicant is proposing to construct a replacement playground within the footprint of an existing playground. The project is located within the 100' Critical Area Buffer of a tributary to Bear Creek. This is a grandfathered parcel located in the IDA.

This office does not oppose the granting of this variance request. Because there will be no new disturbances within the Buffer, no removal of forest vegetation, and the playground will maintain its pervious character, this project can be considered a maintenance item. Therefore, there will be no need to provide the 10% Rule calculations or mitigation.

Please provide this office with a copy of the written decision made in this case. Feel free to contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: BC 40-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

MEMORANDUM

TO: Ray Dintaman (ER and FS)
✓ Regina Esslinger (CBCAC)
Tim Larney (WHS)
Marian Honecny (FORS)
Arnold Norden (LWCS)

RECEIVED

JAN 14 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

FROM: Diane R. Evans
EBPGM *dre*

DATE: January 13, 2003

RE: DRAFT RESOLUTION TO AMEND COMPREHENSIVE PLAN,
ZONING MAPS, AND WATER AND SEWER PLAN FOR ST.
MARY'S COUNTY (LEXINGTON PARK CHRISTIAN SCHOOL,
INC.)

St. Mary's County has submitted a proposed resolution to amend their comprehensive plan, zoning maps, and water and sewer plan for our review and comment. It would be appreciated if you would evaluate their resolution for a determination of consistency within your Department's plans and programs. A copy of the documents is attached. If you have technical questions, please call me at 410-260-8722. In order to facilitate DNR's response to this request, please submit your comments to me **no later than January 24, 2003.**

CHECK ONE. INITIAL AND DATE

The plan does not conflict with the plans, programs or objectives of this agency.

CHECK INITIAL DATE
Project is not located in the Critical Area
✓ wdc 01-17-03

The plan does not conflict with this agency's plans, programs or objectives, but the attached comments are submitted for consideration.

The plan conflicts with this agency's plans, programs or objectives for the reasons indicated on the attachment.

Thank you for your assistance with this matter.

Judge John C. North, II
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

January 15, 2003

Mr. Reed Faasen
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: SFD # 02-1166 Hills Subdivision, Lots 17-20

Dear Reed,

Thank you for the opportunity to comment on the above referenced site plan. The applicant proposes to construct a dwelling, driveway, and well in the LDA of Neale Sound. I am providing the following comments for your use:

1. It is not clear whether the 100' Critical Area Buffer occurs on this site. The wetlands boundary on the site plan suggests a tributary stream may be present and, if so, the 100' Buffer will need to be delineated on the plan. The aerial image on the MERLIN database shows a large, palustrine forest wetland adjacent to this site. It is located within the drainage channel upgradient of a pond, whose supporting hydrology may be a stream. Claudia Jones and I would like to visit the site with you to determine if a tributary stream is present. In addition, an estuarine wetland lies between the palustrine forest wetland and the pond, suggesting intertidal action occurs through the culvert under Hill Road. The 100' Buffer would need to be delineated landward of the estuarine wetland.
2. The vicinity map must show the location of the 1000' Critical Area boundary.
3. This project will require a variance as more than 30% of the existing forest cover will be removed. I will comment on the variance request when it has been submitted. Removal of more than 30% of the existing forest cover requires mitigation at a 3:1 ratio. The amount of clearing could be reduced if the front setback requirements could be reduced so that the house may be located closer to the road. The planting plan will need to provide for 3:1 mitigation.
4. The forested area appears to be FIDS habitat. A determination on the presence of rare, threatened, or endangered species and/or their habitats must be obtained for this site. No

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

approvals should be granted until the determination has been provided and all comments addressed. We request a copy of the determination letter to this office so that we may review it and provide additional comments, if necessary.

If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: CS 32-03
Judy Cole
Lori Byrne
Wes Tomlinson

01-13-03

CLEARINGHOUSE REVIEW

January 07, 2003

TO : Arnold Norden, Greenways and Resources Planning (E-4)
 Glenn Therres, Wildlife (E-1)
 Robert Beckett, State Forest and Park Service (E-3)
 John Rhoads, Natural Resources Police (E-3)
 Ray Dintaman, Environmental Review (B-3)
 Matthew Fleming, Education, Bay Policy Growth Management (E-2)
 Marian Honeczy, Forestry (E-1)
 Bill Hodges, Resource Assessment Services (B-3)

FROM : James W. Price, Director, Program Open Space

SUBJ : POS # 4352-18-93

Northern County/Chaptico Park, St. Mary's County

Phase I development of this park to include roads, parking and utilities, clearing and excavation, a nine field soccer complex, restroom and concession facilities, and multiple use areas.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

1. The project does not conflict with the plans, programs or objectives of this Agency
2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.
3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

CHECK

INITIAL

wdc

Project is outside the Critical Area

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

RECEIVED

JAN 7 2003

CHESAPEAKE BAY
 CRITICAL AREA COMMISSION

01-13-03

CLEARINGHOUSE REVIEW

January 07, 2003

TO : Arnold Norden, Greenways and Resources Planning (E-4)
 Glenn Therres, Wildlife (E-1)
 Robert Beckett, State Forest and Park Service (E-3)
 John Rhoads, Natural Resources Police (E-3)
 Ray Dintaman, Environmental Review (B-3)
 Matthew Fleming, Education, Bay Policy Growth Management (E-2)
 Marian Honecny, Forestry (E-1)
 Bill Hodges, Resource Assessment Services (B-3)



FROM : James W. Price, ^{JWP} Director, Program Open Space

SUBJ : POS # 4150-18-91
Abell's Wharf Public Landing Expansion, St. Mary's County

This project proposes the acquisition of 10.933 acres of waterfront property adjacent to an existing County owned boat ramp and public landing.

The above referenced project has been submitted to this office for funding in accordance with the Outdoor Recreation Land Loan of 1969, and remains on file in this office. Please submit any comments you may have concerning this project within two weeks of the date of this letter. If no comments are received within two weeks, it will be assumed that this project does not conflict with the programs, plans, or objectives of your Agency. If you require additional information before you can complete your review, please contact the undersigned.

CHECK ONE AND INITIAL

1. The project does not conflict with the plans, programs or objectives of this Agency
2. The project does not conflict with this Agency's plans, programs or objectives, but the attached comments are submitted for consideration.
3. The project conflicts with this Agency's plans, programs or objectives for the reasons indicated on the attachment.

<u>CHECK</u>	<u>INITIAL</u>
<input checked="" type="checkbox"/>	JWP
<input type="checkbox"/>	
<input type="checkbox"/>	

Please return to Marti Sullivan or Judy Jones, Program Open Space, Tawes State Office Building (E-4) Annapolis, upon completion of review.

RECEIVED

JAN 9 2003
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Judge John C. North, II
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

January 13, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Case # 2132 Robert Paolucci & David O'Keefe Variance Request

Dear Steve,

Thank you for the opportunity to review the above referenced variance request. The applicant proposes to construct an addition to an existing house located on a grandfathered lot in the LDA on Middle Hooper Island. This addition will create 400 square feet of new impervious surfaces in the 100' Critical Area Buffer of a tributary to Chesapeake Bay.

We do not oppose this variance request. We recommend that the variance include a condition that the required 3:1 mitigation be provided on-site.

Please provide a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: DC 26-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 13, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Case # 2130 and 2131 Richard White/Bromwell's Adventure Lots 5A and 7A

Dear Steve,

Thank you for the opportunity to review the above referenced variance requests. The applicant proposes to construct a driveway and building pad in the expanded Critical Area Buffer on each lot. The Buffer has been expanded for contiguous nontidal wetlands located on these grandfathered lots in the LDA of Madison Bay.

In a letter dated November 8, 2001 to Mr. Ace Adkins at MDE from Mr. Ray C. Dintaman, Jr., DNR, habitat for Delmarva Fox Squirrel was identified. This letter goes on to state that provided the proposed conservation easement, "Deed of Conservation Easement to Protect Delmarva Fox Squirrel Habitat, Madison Bay Landing, Lot 11 and 12" is finalized and recorded, the impacts to Delmarva Fox Squirrel would be minimized and the remaining habitat protected. (Lots 11 and 12 are now numbered 5A & 7A.) This must be done to ensure the impacts to the wildlife HPA will have been met.

We do not oppose these variance requests. We recommend that the variances include a condition that the required 3:1 mitigation is to be provided at an off-site location since it cannot be accomplished on-site. We also recommend that the recordation of the conservation easement be required, if it has not already been recorded.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Please provide a copy of the written decision made in this case. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: DC 24-03
DC 25-03
Scott A. Smith
Lori Byrne
Ray Dintaman
Ace Adkins

Judge John C. North, II
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

January 10, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MNSP# 02-131-028 Marlay Taylor Facility Upgrade

Dear Theresa,

Thank you for the opportunity to review and comment on the above referenced site plan. The applicant proposes upgrades to existing facilities at this plant. Most of these facilities are located in the IDA of Chesapeake Bay, however, none of the development is proposed in the 100' Critical Area Buffer.

As this is a County project, St. Mary's County must provide a letter certifying that this project is consistent with the County's Critical Area Program.

We have no concerns regarding this project provided the proposed bioretention facility will meet the 10% pollutant removal requirement. Please provide a copy of the 10% calculation worksheet.

Some tree clearing is proposed, and while forest mitigation is not required in the IDA, we encourage the applicant to provide 1:1 replacement of the forest vegetation that will be lost. There appears to be opportunity to accomplish this in the area between Pine Hill Run and the facility, particularly in the area of the 100' Critical Area Buffer.

Please call me at 410-260-3481 if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: SM 21-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

MERLIN Online Map - Marlay Taylor WWTP 1993 Aerial View

Base Maps

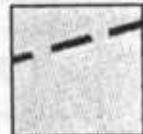
3.75' Quarter Quad Grid



Solomons Island SE 3.75' CIR 04/08/1993



Solomons Island Quad 7.5' Topo



N 66675.93m E 451289.00m



Coordinates at center of image in Maryland State Plane, NAD 1983 meters
© Copyright 2002, Maryland Department of Natural Resources, www.mdmerlin.net
Created with TNTserver™ from Microlimages, Inc

Judge John C. North, II
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

January 10, 2003

Ms. Karen Houtman
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Plan # 720-D Orchard Acres, Lot 15

Dear Karen,

Thank you for the opportunity to review the above referenced plan. The applicant proposes a revision to the location of the building envelope. This property is not a grandfathered lot and is located in the LDA of Warwick River. The 100' Critical Area Buffer does not occur on this lot.

We have no comments on the proposed revision provided the applicant provide 15% afforestation as stated on the 1991 subdivision plat.

Thank you for your assistance with these items. If you have any questions regarding these items, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: DC 23-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 10, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: Mark and Traci Murphy Subdivision

Dear Steve,

Tim Marshall provided a copy of the Chesapeake Forest Products plat, which shows the RCA acreage for calculating density that was available prior to subdivision. I spoke to Tim by phone on December 23, 2002 regarding the tidal wetlands acreage on this plat and he assured me that the lot lines excluded tidal wetlands. This information has adequately addressed my concerns regarding density in my February 12, 2002 letter.

I have also reviewed the Wildlife and Heritage Service determination letter regarding the Natural Heritage Area and FIDS habitat. Except for the SRA and access road, a development envelope is not yet shown. The applicant must contact Mr. Scott Smith and the US Fish and Wildlife Service to determine if future development of the parcel will affect the listed species of concern. No approvals should be granted before a determination of impacts has been made and all related comments have been addressed.

FIDS habitat has also been identified on the property. At this time, only the SRA appears to encroach into forest habitat. If there is sufficient area to locate the SRA outside the forested area, this impact can be avoided. The applicant must incorporate the site design guidelines found on pages 16-19 of *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area, June 2000*. If impacts to forest habitat cannot be avoided, the applicant must complete the FIDS Conservation Worksheet found in Appendix D and refer to pages 20-32 for guidance in calculating and providing the appropriate FIDS mitigation. Forest mitigation at this site must be accomplished as FIDS habitat. If you need assistance with these items, please contact me at 410-260-3481 or Claudia Jones at 410-260-3476.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Comments # 7 and 9 of my February 12, 2002 letter and Comment # 1 of my November 8, 2002 letter remain to be addressed. All other comments have been satisfactorily addressed. Please provide a copy of the revised plat once it is available.

Thank you again for your assistance with these items. Please do not hesitate to call me if you have questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: DC 70-02
Scott A. Smith
Lori Byrne
Claudia Jones

Judge John C. North, II
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

January 10, 2003

Ms. Colleen J. Bonnell
Planning Director
Commissioners of Leonardtown
41675 Park Avenue
PO Box 1
Leonardtown, MD 20650

Re: Case # 72-02 Robert C. Combs Variance Request

Dear Colleen,

Thank you for the opportunity to review and comment on the above referenced variance request. The applicant proposes the construction of an addition in the expanded Critical Area Buffer on a grandfathered lot located in the LDA of Breton Bay. This addition will create 727 square feet of new impervious surface, bringing the total impervious surfaces to 4,268 square feet, which is within allowable limits.

We do not oppose the granting of this variance. We request the variance include a condition that the required 3:1 mitigation for new disturbances to the Buffer be accomplished on-site in the Buffer. It appears there is opportunity to accomplish this on the slopes below the house.

Please contact me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: LE 27-03

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 10, 2003

Ms. Theresa Dent
St. Mary's County Department of Planning & Zoning
23150 Leonard Hall Drive
PO Box 653
Leonardtown, MD 20650-0653

Re: MSUB # 02-100-042 Luckland & Berry Lot, 2-lot minor subdivision

Dear Theresa,

Thank you for the opportunity to review the above referenced subdivision. As it is located outside the 1,000-foot Critical Area Boundary, I have no comments.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Diane Cole".

Wanda Diane Cole
Natural Resources Planner

cc: SM 742-02

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 10, 2003

Ms. Elsa Ault
Charles County
Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646-2150

RE: SFD # 20836 Christopher T. Kauffman, Revision # 3

Dear Elsa,

Thank you for providing a copy of the third site plan revision and Ms. Michelle Bolton's letter dated December 17, 2002. All of my previous comments have been addressed.

Please note that the percentages for forest cover and impervious surface are based upon net tract acreage after State tidal wetlands are subtracted. The total proposed impervious surface areas will be 4.8%.

The plan states that there are 1.03 acres of existing forest cover on this site. If this acreage includes only that area located between the limits of State tidal wetlands and the existing tree line, the site would be 25.1% forested and afforestation would not be required. As this development is a change in use from agriculture to residential, the intent to establish the Buffer in forest vegetation by allowing natural regeneration is the correct approach to providing the required forest conservation at this site.

If you should have any questions regarding these comments, please don't hesitate to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: CS 512-02

Judge John C. North, II
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

January 7, 2003

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
PO Box 107
Cambridge, MD 21613

Re: # 1012 Louis Biskach Revised Subdivision Plat

Dear Steve,

Thank you for providing a copy of the revised plat that you mentioned in our November 7, 2002 phone conversation, and for the copy of the Wildlife and Heritage Service determination letter. I am not providing additional comments on the revised plat at this time. I will await the revised plat that will be provided when the applicant has addressed the comments in my November 7, 2002 letter.

Please contact me at 410-260-3481 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

cc: DC 618-02

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

Judge John C. North, II
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

January 6, 2003

Ms. Karen Arnold
State Highway Administration
PO Box 717
Baltimore, MD 21203-0717

Re: General Approval for Projects BA792B21 & BA793B21
Remedial Repairs to Fifteen Bridges, I-695 and MD 702

Dear Karen,

Thank you for providing the vicinity map and list of bridges located in the Critical Area for Back River and Northeast Creek. State Highway Administration will be performing remedial repairs on these bridges. The impacts of these repairs will be insignificant. We concur that these repairs qualify with the scope of work described in Appendix A, Paragraph B of the General Approval Memorandum, dated June 27, 1995.

Thank you for your participation in this process. Please contact me at 410-260-3481 if I may be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

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. Douglas R. Stephens
1131 S. Salisbury Blvd.
Suite B
Salisbury, Maryland 21801

Dear Mr. Stephens:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable part of the law is Section §8-1804 (c) (b). It states:

"Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the Chairman shall forward the member's name to the Governor, not later than January 15 of the year following the non-attendance with the statement of the non-attendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you have attended 6 of the 11 (55%) meetings held by the Commission during Calendar Year 2003. The meetings that you were not in attendance are: April 2nd, June 4th, August 6th, September 3rd, and November 5th.

We greatly value your contributions to the Commission and would be happy to include a letter from you with the report to the Governor. If you wish to provide a letter, we will need to receive it by January 12, 2004. Thank you for your cooperation. If you have questions, or if your records differ from ours, please contact me or Ren Serey at 410-260-3462.

Sincerely,

A handwritten signature in cursive script that reads "Martin G. Madden".

Martin G. Madden
Chairman

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/

December 30, 2003

Mr. Paul J. Jones
P.O. Box 1928
36 S. Washington Street
Easton, Maryland 21601

Dear Mr. Jones:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable part of the law is Section §8-1804 (c) (b). It states:

"Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the Chairman shall forward the member's name to the Governor, not later than January 15 of the year following the non-attendance with the statement of the non-attendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you have attended 4 of the 11 (36%) meetings held by the Commission during Calendar Year 2003. The meetings that you were not in attendance are: March 5th, May 7th, August 6th, September 3rd, October 1st, November 5th, and December 3rd.

We greatly value your contributions to the Commission and would be happy to include a letter from you with the report to the Governor. If you wish to provide a letter, we will need to receive it by January 12, 2004. Thank you for your cooperation. If you have questions, or if your records differ from ours, please contact me or Ren Serey at 410-260-3462.

Sincerely,


Martin G. Madden
Chairman

TTY For the Deaf

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



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. William J. Rice
29750 Revells Neck Road
Westover, Maryland 21871

Dear Mr. Rice:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable part of the law is Section §8-1804 (c) (b). It states:

"Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the Chairman shall forward the member's name to the Governor, not later than January 15 of the year following the non-attendance with the statement of the non-attendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you have attended 5 of the 11 (45%) meetings held by the Commission during Calendar Year 2003. The meetings that you were not in attendance are: March 5th, April 2nd, May 7th, July 2nd, October 1st, and December 3rd.

We greatly value your contributions to the Commission and would be happy to include a letter from you with the report to the Governor. If you wish to provide a letter, we will need to receive it by January 12, 2004. Thank you for your cooperation. If you have questions, or if your records differ from ours, please contact me or Ren Serey at 410-260-3462.

Sincerely,

A handwritten signature in cursive script, appearing to read "Martin G. Madden".

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
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. William M. Giese, Jr.
4275 Maple Dam Road
Cambridge, Maryland 21613

Dear Mr. Giese:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable part of the law is Section §8-1804 (c) (b). It states:

"Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the Chairman shall forward the member's name to the Governor, not later than January 15 of the year following the non-attendance with the statement of the non-attendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you have attended 6 of the 11 (55%) meetings held by the Commission during Calendar Year 2003. The meetings that you were not in attendance are: February 5th, July 2nd, October 1st, November 5th, and December 3rd.

We greatly value your contributions to the Commission and would be happy to include a letter from you with the report to the Governor. If you wish to provide a letter, we will need to receive it by January 12, 2004. Thank you for your cooperation. If you have questions, or if your records differ from ours, please contact me or Ren Serey at 410-260-3462.

Sincerely,

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

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
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 18, 2003

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

Re: Midlands/Miles Point Project

Dear Councilman Duncan:

Thank you for your letter of December 1, 2003 regarding the proposed Midlands/Miles Point Project in St. Michaels. At this time, the Commissioners of St. Michaels have not submitted a local program amendment to the Critical Area Commission concerning the use of growth allocation on the Miles Point site.

We will keep your letter on record should the matter come before the Commission for review. Additionally, the Critical Area Act provides for a public hearing, conducted by a panel of the Critical Area Commission, to be held in any jurisdiction proposing an amendment to their local Critical Area Program. You would certainly be welcome to participate in such a hearing and submit information you think would be relevant to the Commission's consideration of a proposed local amendment.

If you have questions about the Commission's procedures or need additional information, please contact me at (410) 260-3467 or Executive Director Ren Serey at (410) 260-3462.

Sincerely,

A handwritten signature in black ink that reads "Martin G. Madden".

Martin G. Madden
Chairman

cc: Honorable Robert T. Snyder
Marianne D. Mason, Assistant Attorney General
Ren Serey



COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND

TALBOT COUNTY GOVERNMENT BUILDING

142 N. HARRISON STREET
EASTON, MARYLAND 21601

PHONE: 410-770-8001

FAX: 410-770-8007

TTY: 410-822-8735

www.talbgov.org

THOMAS G. DUNCAN, President
PHILIP CAREY FOSTER, Vice President

PETER A. CARROLL
HOPE R. HARRINGTON
HILARY B. SPENCE

December 1, 2003

Hon. Martin G. Madden, Chair
Critical Area Commission
For The Chesapeake & Atlantic Coastal Bays
1804 West St., Suite 100
Annapolis, MD 21401

Re: Midlands/Miles Point Project

Dear Senator Madden:

Talbot County is writing to express its views in connection with a recent annexation and request for growth allocation in the Town of St. Michaels known as the "Hunteman Property". Although this request for growth allocation is currently before the Commissioners of the Town of St. Michaels, their decision has potentially far-reaching impacts on water quality in the Chesapeake Bay due to existing and well recognized problems with the Region II Wastewater Treatment Plant, which discharges directly into the Miles River. The County Council wanted the Critical Area Commission to be fully advised of the Council's position on this matter should it come before the Critical Area Commission at some later time for consideration.

The proposed Midlands/Miles Point project, of which the Hunteman annexation is proposed to be a part, is comprised of two parcels: the 72-acre Perry Cabin Farm parcel and the 18-acre Hunteman property. The Perry Cabin Farm portion of the proposed development is mapped as "S-2" in the County's Comprehensive Water and Sewage Plan. The Hunteman property portion of the project is not mapped for sewer service at all.

The Miles Point developer intends to construct 320 dwelling units that would be built out within a period of approximately 8 years, thereby increasing St. Michaels' existing housing stock by almost 50%. Currently, the County is addressing inflow and infiltration of problems in the Region II Wastewater Collection System but those problems are far from being solved. In addition, the County Engineer has stated that the capacity of the Region II Wastewater Treatment Plant is fully allocated to existing lots of record within the "S-1" (immediate priority for service)

areas, and additional capacity is needed for failing septic systems and commercial uses also within the existing "S-1" areas.

The existing capacity of the wastewater treatment plant is 500,000 gallons per day (GPD), with a projected increase in capacity to 660,000 GPD. There are substantial inflow and infiltration problems from surface waters in the existing collection system. The ultimate expense of correcting these inflow and infiltration problems is still under review and it is not known what the ultimate cost may be. The St. Michaels Commissioners have stated, "correcting the inflow and infiltration problem is not optional; it is a necessity." Until that happens, according to the Commissioners, the Town of St. Michaels "will continue to pump up to 2,000,000 GPD of wastewater into the Miles River during rain events."

Almost three years ago, in February 2001, the St. Michaels Commissioners advised the County Council that, "during extreme rain events, sewer manhole covers float and raw sewage flows into the streets." This problem has only gotten worse, with rainfall last winter resulting in more sewage in the streets, and the dumping of untreated wastewater into the Miles River necessitating an extended closure of shellfishing of beds by Maryland Department of the Environment. Further, that increased rainfall has caused the average daily flows at the plant to grow significantly during the past year.

Because of the significant impact of this proposed development on the ability of the Region II Wastewater Treatment Plant to properly process and treat sewage from existing properties and those already having an "S-1" designation for immediate service, the County Council requests that the Critical Area Commission not approve any award of growth allocation by the Commissioners of the Town of St. Michaels to the developer in connection with this project.

TALBOT COUNTY, MARYLAND


By: Thomas G. Duncan, President
County Council of Talbot County

cc: Robert T. Snyder, President
Commissioners of St. Michaels
P.O. Box 206
St. Michaels, MD 21663-0206

Commissioners of the Town of St. Michaels
R. Andrew Hollis, Talbot County Manager

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 18, 2003

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

Re: Midlands/Miles Point Project

Dear Councilman Duncan:

Thank you for your letter of December 1, 2003 regarding the proposed Midlands/Miles Point Project in St. Michaels. At this time, the Commissioners of St. Michaels have not submitted a local program amendment to the Critical Area Commission concerning the use of growth allocation on the Miles Point site.

We will keep your letter on record should the matter come before the Commission for review. Additionally, the Critical Area Act provides for a public hearing, conducted by a panel of the Critical Area Commission, to be held in any jurisdiction proposing an amendment to their local Critical Area Program. You would certainly be welcome to participate in such a hearing and submit information you think would be relevant to the Commission's consideration of a proposed local amendment.

If you have questions about the Commission's procedures or need additional information, please contact me at (410) 260-3467 or Executive Director Ren Serey at (410) 260-3462.

Sincerely,

A handwritten signature in black ink that reads "Martin G. Madden".

Martin G. Madden
Chairman

cc: Honorable Robert T. Snyder
Marianne D. Mason, Assistant Attorney General
Ren Serey



Martin G. Madden
Chairman

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

November 19, 2003

Mr. Otis Rolley, III
6700 Cross Country Boulevard
Baltimore, Maryland 21215-2505

Dear Mr. Rolley:

Congratulations on your appointment to the Critical Area for the Atlantic and Coastal Bays. You have joined a select group of citizens and government officials with a strong commitment to the protection and improvement of the Bay and its resources. The Commission members and staff join me in welcoming you.

The Commission meets on the first Wednesday of each month. Our next meeting will be held on December 3, 2003 at the People's Resource Center in Crownsville, Maryland, Conference Room 1100A. This is the location of the Maryland Department of Housing and Community Development. All the information that you will need for the meeting will be forwarded to you.

Ren Serey, the Commission's Executive Director, will be in touch with you prior to the meeting. If you have questions in the interim, you can reach Mr. Serey at 410-260-3462 or Peggy Campbell, the Commission's coordinator, at 410-260-3466.

We will serve lunch at noon. The full Commission convenes at 1:00 p.m. I hope you will be able to attend and I look forward to seeing you in Crownsville in December.

Sincerely,

Martin G. Madden
Chairman

1804 West Street, Suite 100 • Annapolis, MD 21401

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



Martin G. Madden
Chairman

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

October 29, 2003

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

Dear Councilman Duncan:

I enjoyed meeting you yesterday and want to thank you and your colleagues for your valuable time.

I feel our discussions were very productive and look forward to working with you in the future.

Please feel free to call on me, or any member of our Critical Area Commission staff, as you move forward on your important work.

Sincerely,



Martin G. Madden
Chairman



STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

Martin G. Madden
Chairman

October 29, 2003

The Honorable Hilary B. Spence
Councilwoman
Talbot County Council
142 North Harrison Street
Easton, MD 21601

Dear Councilwoman Spence:

I enjoyed meeting you yesterday and want to thank you and your colleagues for your valuable time.

I feel our discussions were very productive and look forward to working with you in the future.

Please feel free to call on me, or any member of our Critical Area Commission staff, as you move forward on your important work.

Sincerely,

Martin G. Madden
Chairman



STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

Martin G. Madden
Chairman

October 29, 2003

The Honorable Hope R. Harrington
Councilwoman
Talbot County Council
142 North Harrison Street
Easton, MD 21601

Dear Councilwoman Harrington:

I enjoyed meeting you yesterday and want to thank you and your colleagues for your valuable time.

I feel our discussions were very productive and look forward to working with you in the future.

Please feel free to call on me, or any member of our Critical Area Commission staff, as you move forward on your important work.

Sincerely,

Martin G. Madden
Chairman



Martin G. Madden
Chairman

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

October 29, 2003

The Honorable Peter A. Carroll
Councilman
Talbot County Council
142 North Harrison Street
Easton, MD 21601

Dear Councilman Carroll:

I enjoyed meeting you yesterday and want to thank you and your colleagues for your valuable time.

I feel our discussions were very productive and look forward to working with you in the future.

Please feel free to call on me, or any member of our Critical Area Commission staff, as you move forward on your important work.

Sincerely,



Martin G. Madden
Chairman



STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

Martin G. Madden
Chairman

October 29, 2003

The Honorable Philip Carey Foster
Vice President
Talbot County Council
142 North Harrison Street
Easton, MD 21601

Dear Councilman Foster:

I enjoyed meeting you yesterday and want to thank you and your colleagues for your valuable time.

I feel our discussions were very productive and look forward to working with you in the future.

Please feel free to call on me, or any member of our Critical Area Commission staff, as you move forward on your important work.

Sincerely,

Martin G. Madden
Chairman

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/

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

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 7, 2003

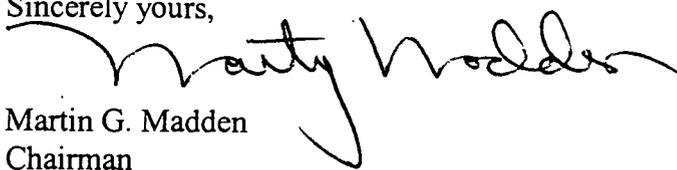
Ms. Theresa Dent
St. Mary's County Department of Land Use
And Growth Management
P O Box 653
Leonardtown, Maryland 20650

Dear Ms. Dent:

Thank you for your excellent presentation on effective enforcement and innovative implementation strategies at the recent Critical Area Commission Workshop. Your presentation was interesting and informative and highlighted how a small and competent staff can work out creative solutions to enforcement problems that accomplish the overall goals of the Critical Area Program.

As you know, local government enforcement efforts are necessary for effective Critical Area Program implementation and essential to the success of the Program. The Critical Area Commission greatly appreciates your time and effort in making this presentation. It is through efforts like yours that the Commission can better understand the challenges facing local governments and can work more effectively towards providing the support that is needed to address violations effectively.

Sincerely yours,


Martin G. Madden
Chairman

cc: Mr. Dennis Canavan

MGM/MRO/jjd

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

October 7, 2003

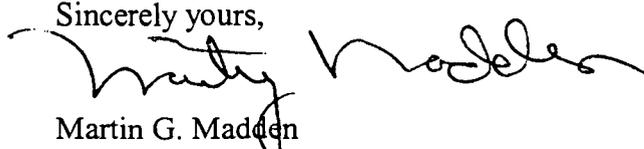
Mr. Ed Tudor
Worcester County Development Review and Permitting
One West Market Street, Room 1201
Snow Hill, Maryland 21863

Dear Mr. Tudor,

Thank you for your excellent presentation on effective enforcement and innovative implementation strategies at the recent Critical Area Commission Workshop. Your presentation was interesting and informative and highlighted how a comprehensive and flexible approach is necessary to accomplish the overall goals of the Critical Area Program.

As you know, local government enforcement efforts are necessary for effective Critical Area Program implementation and essential to the success of the Program. The Critical Area Commission greatly appreciates your time and effort in making this presentation. It is through efforts like yours that the Commission can better understand the challenges facing local governments and can work more effectively towards providing the support that is needed to address violations effectively.

Sincerely yours,


Martin G. Madden
Chairman

cc: Mr. Gerry Mason
Mr. Sonny Bloxom

MGM/MRO/jjd

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

October 7, 2003

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

Dear Mr. List:

Thank you for your excellent presentation on effective enforcement and innovative implementation strategies at the recent Critical Area Commission Workshop. Your presentation was interesting and informative and highlighted how the County has used various innovative strategies to address enforcement problems in a way that accomplishes the overall goals of the Critical Area Program.

As you know, local government enforcement efforts are necessary for effective Critical Area Program implementation and essential to the success of the Program. The Critical Area Commission greatly appreciates your time and effort in making this presentation. It is through efforts like yours that the Commission can better understand the challenges facing local governments and can work more effectively towards providing the support that is needed to address violations effectively.

Sincerely yours,

A handwritten signature in cursive script that reads "Martin G. Madden".

Martin G. Madden
Chairman

cc: Mr. David Carroll
Ms. Pat Farr

MGM/MRO/jjd



Martin G. Madden
Chairman

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

October 2, 2003

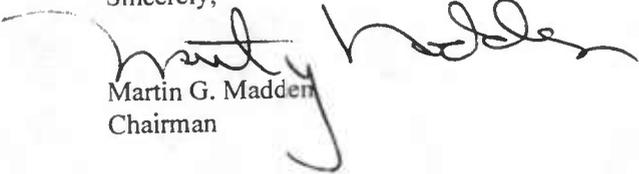
Shawn Orr
Captain, Sandusky Vessel
Hydrographics Division
Department of Natural Resources
Matapeake
Marine Academy Drive
Stevensville, Maryland 21666

Dear Mr. *Orr Captain;*

I enjoyed meeting you on September 30, 2003 when you took us out on the Severn River. We were able to see areas important to the General Assembly and to the Critical Area Commission as we try to strengthen the enforcement of our regulations.

We appreciate your efforts and that of the crew of the Sandusky. Thank you for a very productive tour.

Sincerely,


Martin G. Madden
Chairman

MGM/pc

Cc: Captain Sharon Brannick



STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

Martin G. Madden
Chairman

October 2, 2003

Spurgeon R. Eismeier, Sr.
Director
Department of Inspections and Permits
Anne Arundel County
2664 Riva Road
Annapolis, Maryland 21401

Dear Mr. Eismeier:

Thank you for joining us on the Severn River boat trip.

I appreciated hearing about Anne Arundel County's recent initiatives to make Critical Area enforcement more effective. I think the members of the Joint Legislative Oversight Committee were able to gain a better perspective on the challenges local governments face as well as the unfortunate but significant impacts that result from the actions of a few.

If you have any further thoughts on how to improve the situation please contact me, 410-260-3467.

Once again, thank you for joining us.

Sincerely,

Martin G. Madden
Chairman



Martin G. Madden
Chairman

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

October 2, 2003

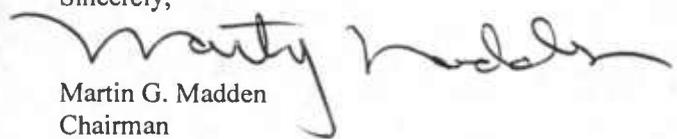
Mr. Fred Kelly
Severn River Keeper
329 Riverview Train
Annapolis, Maryland 21401

Dear Mr. Kelly:

Thank you for joining us on the Severn River boat trip. The members of the Joint Legislative Oversight Committee were able to see first-hand how illegal clearing activities affect the Critical Area and the river's water quality and habitats. I appreciate your willingness to devote your time to improving enforcement of the Critical Area regulations.

The role of "River Keeper" fits you quite well.

Sincerely,


Martin G. Madden
Chairman



Martin G. Madden
Chairman

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

October 2, 2003

Lt. Wayne Jones
Natural Resources Police
580 Taylor Avenue
Tawes State Office Building
Annapolis, Maryland 21401

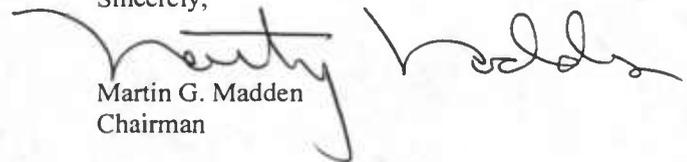
Dear Lt. Jones:

Thank you for your efforts in arranging for the Sandusky. We were able to see areas important to the General Assembly and to the Critical Area Commission as we try to strengthen the enforcement of our regulations.

Everyone aboard was very helpful and our trip went very smoothly.

Once again, thanks so much.

Sincerely,



Martin G. Madden
Chairman

MGM/pm

Cc: Colonel Scott Sewell

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 26, 2003

Mr. Denis Canavan
Department of Planning and Zoning
23150 Leonard Hall Drive
P O Box 653
Leonardtown, Maryland 20650-0653

Re: Critical Area Emergency Procedures in Response to Hurricane Isabel

Dear Mr. Canavan:

Thank you for contacting the Critical Area Commission regarding emergency procedures to help property owners deal with the effects of Hurricane Isabel. As you requested, here are several measures the 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. Denis Canavan
September 26, 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 find these measures will 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

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 24, 2003

Mr. Robert L. Walker
Land Use and Environment Officer
2664 Riva Road, 2nd Floor
Annapolis, Maryland 21401-7374

Re: Critical Area Emergency Procedures in Response to Hurricane Isabel

Dear Mr. Walker:

Thank you for contacting me regarding Anne Arundel County's proposed emergency procedures for helping property owners deal with the effects of Hurricane Isabel. In our telephone conversation you outlined several measures the County proposes to streamline individual permit reviews while ensuring compliance with Critical Area regulations.

I have summarized below my understanding of the County's intended actions.

- The County will 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 will determine whether the proposed location minimizes impacts to the Critical Area.

Mr. Robert L. Walker
September 24, 2003
Page 2

- Should an applicant propose to increase the dimensions of a damaged, relocated or rebuilt structure, the County will consider this a new application and will require compliance with Critical Area requirements.
- All permits approved under the emergency procedures will be valid for a reasonable period of time, and will ensure the County the right to inspect the property for compliance with the emergency procedures or other applicable County requirements.

I concur with Anne Arundel County's proposed plan of action to accommodate the requirements of the Critical Area program while responding quickly to property owners who have suffered storm related 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,

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

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

Dear Senator ~~Colburn~~ *Richard*,

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,

A handwritten signature in cursive script that reads "Martin G. Madden".

Martin G. Madden
Chairman



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/

August 26, 2003

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

Re: Hiring Exception Form

Dear Secretary Franks,

As you are aware, effective July 1, 2003, Veronica Moulis was transferred from the Critical Area Commission to the Department's Forest Service and reclassified to the position of Associate Director. I know that Veronica will do an outstanding job and that you are pleased to have her in the position on a full-time basis.

In that regard, the Commission must continue to meet its statutory responsibilities to 63 local governments and its administrative obligations as a unit of the Department. Therefore, I request that you submit the attached Hiring Freeze Exception form to the Department of Budget and Management.

The Commission has funded 100% of Veronica's salary since she started her dual responsibilities with the Forest Service in May 2002. Now that her PIN has been transferred, the Commission retains sufficient funding in its budget to fill her vacant Administrator II position. These funds are not part of the 7.5% budget reductions the Commission identified to meet the Governor's requests.

If you have questions concerning this request, or if you need any additional information, please contact me at your earliest convenience at (410) 260-3467.

Sincerely,

A handwritten signature in cursive script that reads "Martin G. Madden".

Martin G. Madden
Chairman



**DEPARTMENT OF BUDGET AND MANAGEMENT
OFFICE OF BUDGET ANALYSIS
Hiring Freeze Exception Request**

Date: August 26, 2003

Agency: **CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

Class Title: Administrator II	Grade/Step: 17/
PIN:	Date Vacant: July 1, 2003
Estimated Salary: \$39,766-\$61,794	Type of Position: Permanent (<i>click for choices</i>)

(If multiple PINS are requested for this job title, please itemize on page 2.)

What job function will this position serve?	This position will serve as the Administrative Officer of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. The position is responsible for coordinating all accounting, personnel, procurement, grant administration and Fiscal Officer responsibilities of the Commission, a Unit within the Department of Natural Resources (DNR). The position supervises a three-person administrative staff.
--	---

How are the job responsibilities of this PIN currently being fulfilled?	On May 1, 2002 DNR assigned this position similar and expanded duties within the Maryland Forest Service. The incumbent continued to serve as the Commission's Administrative Officer, and the Commission continued to fund 100% of the salary for the position's dual role. As of July 1, 2003 DNR reclassified the Forest Service portion of the position as Associate Director of Administration, assigning the position additional duties commensurate with that level of responsibility.
--	---

What are the consequences if the position is not filled?	If the position remains unfilled, the Critical Area Commission will be unable to carry out its administrative responsibilities listed above as a Unit within DNR; and will be unable to carry out its statutory obligations to provide and administer grants to 16 counties, Baltimore City and 46 municipalities for implementation of their local Critical Area programs.
---	---

Why can't the job responsibilities be performed by other staff?	Other Commission staff do not have the qualifications or experience to assume the responsibilities of the position. The Commission's former Administrative Officer, now Associate Director of the Forest Service, cannot continue to serve the Commission and carry out the requirements of the position in the Forest Service.
--	---

From where will the funds for these positions come?	The funds for this position are included within the Commission's current budget. The Commission was able to identify other funds, not including this position, to achieve budget reductions of 7.5% for fiscal year 2004.
--	---

At what stage in the hiring process is the agency for this position? Not Yet Advertised (*Click for choices*)

Other Comments:

Agency Head: Martin G. Madden, Chairman Phone: 410-260-3467

Agency Head Signature: 

(Submit hard or electronic copy Secretary DiPaula, although the electronic copy must be sent from the Agency Head's email account.)

Personnel Director:

Date Received: _____ Recommendation: Approve Deny Neutral
Comments: _____

Office of Budget Analysis Director:

Date Received: _____ Recommendation: Approve Deny Neutral
Comments: _____



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. Erin M. Fitzsimmons
P.O. Box 614
Ocean City, Maryland 21843

Dear Ms. Fitzsimmons:

Thank you for your kind words on my appointment as Chairman of the Critical Area Commission. After just three months on the job, I am tremendously impressed by the dedication of everyone involved in protecting the Chesapeake and Atlantic Coastal Bays, and I appreciate your efforts in that regard. To bring you up to date, I am focusing for the immediate future primarily on two issues: enforcing the laws already on the books; and ensuring the long-term viability of those laws in light of the recent Court of Appeals decision in the Lewis case.

You have asked about the local Coastal Bays Critical Area Programs and the attendance records of the two Coastal Bays members of the Commission. As you know, the Coastal Bays Critical Area Act of 2002 specified that both the Worcester County and the Ocean City local programs must be in effect by September 29, 2003. The Worcester County program became effective March 1, 2003; the Ocean City program became effective August 6, 2003. From June 1, 2002 until the effective dates, the Act required each jurisdiction, with respect to proposed development projects, to make findings that the projects would minimize impacts to water quality, and were designed to protect identified fish, plant and wildlife habitats. The jurisdictions were not required by law to provide these findings to the Commission, but we consulted with them on their local processes. In both jurisdictions, we believe good-faith efforts were made to satisfy the requirements.

Before the Worcester County program went into effect, the County required adherence to the Critical Area Buffer provisions insofar as possible. The County also required on-site planting mitigation for Buffer impacts. These measures were in addition to the on-going identification of sensitive species and their habitats, and design alterations the County required for their protection when necessary.

Ms. Erin M. Fitzsimmons
August 18, 2003
Page 2

In response to your questions concerning Ocean City, Ren Serey spoke to Jesse Houston, the Town Planning Director, about the 45th Street project and other development in the Critical Area. Mr. Houston said the Town had been enforcing all aspects of the draft ordinance except the fees-in-lieu of on-site mitigation for Buffer impacts. These fees could not be enforced until the local legislation was in place.

The Mayor of Ocean City, by statute, is an automatic member of the Critical Area Commission. In this capacity, Mayor James Mathias has attended 9 of the 13 meetings held since July 1, 2002. (There was no meeting held in January 2003). It should be noted that the Mayor is not permitted to send a designee to the Commission's meeting, unlike the 7 cabinet secretaries who are also automatic members. (Agriculture, Business & Economic Development, Housing & Community Development, Environment, Transportation, Natural Resources, and Planning). The second member from this area is Coastal Bays Program Director David Blazer. He has attended all 13 meetings held.

I look forward to working with you in the future. If you have questions or need additional information, please contact me at (410) 260-3467, or Ren Serey at (410) 260-3462.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin G. Madden". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Martin G. Madden
Chairman

ERIN M. FITZSIMMONS

P.O. Box 614
OCEAN CITY, MD 21843

410.524.6060
erin@beachin.net

July 9, 2003

Hon. Martin G. Madden
Chairman, Critical Area Commission for
the Chesapeake and Atlantic Coastal Bays
1804 West Street
Suite 100
Annapolis, MD 21401

Dear Chairman ^{Marty} Madden

First, I want to again congratulate you on becoming the Chairman of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. I look forward to your tenure and working with you on the very important issues ahead to protect our precious estuaries. Our commitment to protecting the environment is something we have long shared.

As you may know, I was very involved last year in working to pass the Atlantic Coastal Bays Protection Act and I am a member of the Commission's Coastal Bays Advisory Committee. I am quite pleased and proud to know Maryland's Coastal Bays now share the Critical Area protections long at work in the Chesapeake watershed. In addition to bringing the Coastal Bays under Critical Area protections, the 2002 law also added two members to the Commission as representatives of the Coastal Bays watershed.

The new law went into effect on June 1, 2002 with both Worcester County and Ocean City required to prepare and implement local Critical Area plans. I enclose a recent article from the Ocean City paper discussing an expansive proposed bay front project at 45th Street in Ocean City. Each day as I travel around town I see new bay front development and redevelopment ongoing, many of these projects approved since June 1, 2002. As far as I know, none of these projects comply with Critical Area protections since Ocean City has yet to adopt their plan.

As one who is committed to ongoing protection efforts in the Coastal Bays, I write today to ask you for an update on the status of the local plans for both Worcester County and Ocean City. I also ask for a report on the attendance

RECEIVED

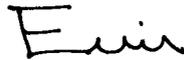
JUL 14 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

records of the two representatives to the Commission from the Coastal Bays over the year since their appointment last summer.

In closing, I must note the endless hours and attention your staff has dedicated over many years to the Coastal Bays. Their professionalism and commitment to the mission of the Commission is to be commended. I look forward to working with you and your staff in the years to come. Thank you for your time in responding to my inquiry.

Best regards,



Erin Fitzsimmons

cc: Ren Serey, Executive Director
Critical Area Commission for the Chesapeake and Atlantic Coastal Bays

Scope Of Massive 45th Street Project Expanded

OCEAN CITY - The colossal project in the works for the 45th Street Village was back before planners this week with more than 50 additional units and a never seen before recreational pier.

Local businessman Avi Sibony and Keith Iott, president of IOTT Architecture and Engineering, have been working on a \$60 million facelift for the aging 45th Street Village in hopes of turning it into an upscale multi-use resort.

The first step in the process is obtaining a planned overlay district, which eliminates many of the height, density and parking requirements and requires an informal discussion with planners to make sure developers are on track. The Mayor and City Council must ultimately approve a planned overlay district for the project.

After the initial meeting last month, Iott returned Tuesday for another informal discussion and introduced plans to further develop the parcel, which covers seven acres. The project contains more than a million square feet in a 17-story main building with 182-luxury suites in the conference center hotel, 130 bay front condominium units, six penthouses, eight executive apartments and almost 30,000 square feet of retail space.

Since the last meeting, Iott said Sibony has decided to incorporate

the northern most parcel in the plans for the overlay district. The northern most parcel currently is home to a Sunations retail store, fronting Coastal Highway, and The Shark Restaurant on the bay.

"It is our intention, depending on your response, to make the north parcel part of the overall overlay district at a public hearing within a matter of weeks," Iott said.

Although Commission President Dr. Geoff Robbins suggested lopping off the strip of land that juts out into the bay, Iott said they would like to create a recreation pier and build additional dwelling units.

Iott said the north parcel would be split into a 55-unit, 9-story condominium tower fronting the bay where The Shark sits currently.

Iott said Sibony would like to keep the peninsula of land on where The Shark is and build an unparallelled recreation pier with a large pool, a swim up clamshell bar, another bar and grill, a fountain with a kiddie pool, a stage and sun platform and seating for several hundred people. A floating pier to the south, a fixed pier with one finger pier to the western tip and a swim platform with two swim pods would flank the main pier.

"We really want to turn this into something special," Iott said. "The views are magnificent and the bay front recreation is certainly viable as

evidenced by Seacrets' success."

While there was no mention of the Critical Areas Legislation that is pending in Annapolis, Planning and Community Development Director Jesse Houston said the laws will not be applied locally until the Mayor and City Council pass the ordinance. "The legislation will most likely not be effective until late July or August," Houston said.

However, Houston said if any zoning application is made that will affect the critical area the proper agencies will have to make findings about the impact of the proposal.

Iott fielded some other requests by planners and presented them with a shadow study of the main building, which proved to project just slightly past their lot line due to the elevator and stair towers, which Iott said could be relocated inside the building.

Commissioner Peck Miller, whose Mellow Beach business on 46th Street is currently under contract to be transformed into residential redevelopment, was concerned about the impact to the neighbors from the enormous project. Iott assured Miller the northern property was taken into consideration, talks were ongoing, and as a result the existing Sunations store will be pushed 30 feet south of the northern property line.

Miller said he was also concerned

about the recent recommendation to reduce density that is in the hands of the Mayor and City Council. He said while the comprehensive plans call for less density on the bayside, the multi-use project seems to jive with the planners' intentions.

"I know we were trying to reduce density, but this makes sense because it is next to the convention center," Miller said.

Commissioner Pam Buckley said without the proximity to the convention center the project would not be in keeping with the commission's plan to reduce density. "We would not even be considering this without the convention center," she said.

Robbins said he did not like the scale of the new 9-story building and Iott was quick to note the number of units that could be developed at full potential if the developer chose to do so.

"I have seen this type of approach before. That is more or less of an implied threat," he said. "If you don't even think you would build them, then don't show it to us."

Ultimately planners asked Iott if there was any other way to address the addition of the new building and still gain what they were looking for, and Iott conceded that he would not jeopardize the retention of a planned overlay district for the smaller building on the parcel.

- Jennifer A. Dawicki



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 22, 2003

The Honorable Gerald W. Donovan
Town of Chesapeake Beach
P.O. Box 400
Chesapeake Beach, Maryland 20732

RE: Water Tower in Chesapeake Beach
CB 475-02

Dear Mayor Donovan:

I am writing in response to your letter regarding the mitigation for the water tower in Chesapeake Beach and our recent phone conversation.

In accordance with my letter dated July 17, 2003, Commission staff authorized the Town to proceed with final design and permits for the water tower at the agreed upon location with the understanding that the Town would diligently pursue the acquisition of forested TDRs for mitigation. On July 29, 2003, after reviewing the Town's proposed TDR locations, Commission staff provided detailed and specific direction to Town staff regarding the type of forested TDRs that would be appropriate.

After the Town reviewed the recommendations from Commission staff, it is my understanding that Town staff felt that researching the County's inventory of potential sites was too time consuming and labor intensive. Although considerable effort had been expended by Commission staff in assisting the Town with the forested TDRs proposal, the Town decided to abandon that effort and pursue the payment of fees-in-lieu to the County.

Commission staff agreed that payment of fees-in-lieu to the County would be an acceptable option, and determined that the rate per square foot of mitigation should be the rate that was approved by the Commission in February 2003 as a refinement to the County's Critical Area Program. This rate is \$0.30 per square foot, and fees in the amount of \$16,473 would be assessed for this project. Commission staff has indicated to County staff that this money would need to be directed to specific properties that generally meet the detailed criteria outlined in the Commission's letter dated July 29, 2003. In the event that appropriate mitigation planting could be accomplished for less than the amount collected, the Commission recommends that any excess funds be refunded to the Town.

Recently, in an effort to continue to provide as much assistance to the Town as possible to expedite this project, Commission staff has discussed the fee-in-lieu issue with County staff. County staff has indicated that they are willing to accept the funds (in the amount specified by the Commission) and to earmark them for specific sites that meet the mitigation criteria. Commission staff has also taken the time to contact Ms. Peg Nyland of the American Chestnut Land Trust regarding the availability of mitigation sites. Ms. Nyland has indicated that some land owned by the Trust within the Critical Area may be available for reforestation, and she has agreed to work with the County and the Commission to follow up on potential locations.

At this point, it seems that this matter could be most effectively resolved if staff from the County, the Town, and the Commission meet to finalize the mitigation strategy and document the Town's agreement to pay the \$16,473 and the County's agreement to expend the funds in the manner outlined by the Commission. It would also specify that the County would refund any funds in excess of those necessary to accomplish the mitigation.

Commission staff will prepare an agreement that can be signed by the County and the Town. Once this is executed, the Town can provide a copy of the final plans to the Commission, and the Commission can concur with the Town's determination that the project is consistent with the provisions and requirements of the Town's Critical Area Program and that the project complies with the Criteria for evaluation of local projects within the Critical Area as required by COMAR 27.02.02.

I hope that this letter clearly outlines how this matter can be expeditiously resolved. If you have any questions, please feel free to contact me on my direct line at (410) 260-3467.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin G. Madden". The signature is written in a cursive, flowing style.

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/

August 19, 2003

Ms. Judith M. Cox
28 North Queen Street
P.O. Box 460
Rising Sun, Maryland 21911

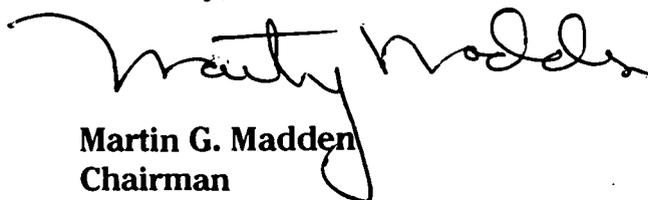
Dear Ms. Cox:

Congratulations on your appointment to the Critical Area Commission. You have joined a select group of citizens and government officials with a strong commitment to the protection and improvement of the Bay and its resources.

I was pleased to meet you in Crownsville at our August meeting and look forward to seeing you again in September. The Commission meets on the first Wednesday of each month. Our next meeting will be held in Crownsville at the People's Resource Center, Department of Housing and Community Development, Conference Room 1100 A, our regular meeting location. Lunch will be served at noon. The Commission members and staff join me in welcoming you.

Please call our offices for any assistance or information that you may need.

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/

August 18, 2003

Ms. Joan Kean, Director
Department of Technical and Community Services
Planning and Community Services Division
11916 Somerset Avenue, Room 211
Princess Anne, Maryland 21853

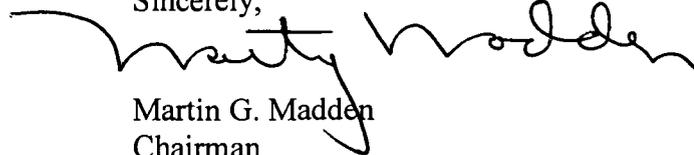
Dear Ms. Kean:

Thank you for your letter congratulating me on my appointment as Chairman of the Critical Area Commission. In my three months on the job I have been fortunate to meet many people who play important roles in protecting the Chesapeake and Atlantic Coastal Bays. I hope to be able to meet you in the near future.

One of the most important challenges of the position, as I see it, is to assist local governments in the enforcement of their Critical Area regulations. My staff informs me that you and other Somerset County officials have made every effort over the years to implement your local Critical Area program effectively and efficiently. Unfortunately, as I travel around the Bays and talk to people, I hear and see that better efforts are needed generally, and that is why I asked staff to request that local governments report regularly on Critical Area violations. I think this information will be significant in our joint efforts. You are certainly correct, however, that a request of this nature should have been sent directly to you.

If I can be of assistance in any way, please feel free to contact me at (410) 260-3467.

Sincerely,



Martin G. Madden
Chairman



SOMERSET COUNTY
DEPARTMENT OF TECHNICAL AND COMMUNITY SERVICES

Planning & Technical Services Division
Joan S. Kean, Director

July 24, 2003

Martin G. Madden, JJD
Chairman
Critical Area Commission
1804 West Street, Suite 100
Annapolis, Maryland 21401

Dear Mr. Madden:

First, let me congratulate you on your appointment to the Chairmanship of the Commission. I look forward to meeting you and working with you in the future.

Our Planner, Mr. Tom Lawton, has received a letter regarding changes the Commission would like to see in procedures for violations and notification to the Commission and passed it along to me. I have no problem with this request and will see to it that staff uses it in the future.

However, I would like to suggest that changes regarding policy, guidance and procedure should be sent to the Planning Director or equivalent rather than to just to staff. I have the ultimate responsibility for enforcement and wish to be officially informed, rather than have it passed on to me from a subordinate, no matter how able that individual might be. Of course, Critical Area staff responses on individual projects are suitably directed to the Planner.

Thank you for your consideration in this matter.

Sincerely,

Joan S. Kean
Joan S. Kean
Director

• meet with
MACO Planning
Directors
1st Friday

RECEIVED

JUL 28 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION



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 11, 2003

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

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
August 11, 2003
Page 2

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

Mr. Bernie Marczyk

August 11, 2003

Page 4

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:

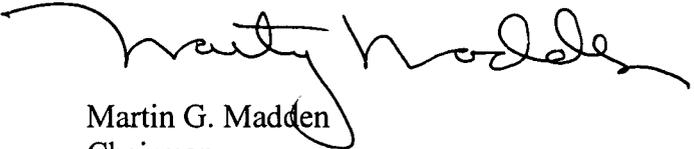
"In its inexplicable effort to allow property owners such as Lewis to do whatever they want on environmentally sensitive property, without regard to legal constraints or public policy, the Court throws established principles of administrative law to the wind, misconstrues the relevant

Mr. Bernie Marczyk
August 11, 2003
Page 6

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,



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/

August 11, 2003

The Honorable Roy Dyson, Co-Chair
Joint Legislative Oversight Committee on the Critical Area
James Senate Office Building
Room 102
Annapolis, Maryland 21401

Dear Senator *Roy Dyson*)

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 Honorable Roy Dyson
August 11, 2003
Page 2

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.

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

The Honorable Roy Dyson

August 11, 2003

Page 3

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

The Honorable Roy Dyson
August 11, 2003
Page 6

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 stroke at the end.

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/

August 11, 2003

Mr. Joseph M. Getty
Policy Advisor
Office of the Governor
State House
Annapolis, Maryland 21401

Dear Mr. *Joe*,
~~Getty~~

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. Joseph M. Getty
August 11, 2003
Page 2

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.

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. Joseph M. Getty
August 11, 2003
Page 6

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 cursive script, appearing to read "Martin G. Madden".

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/

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.

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.

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

The Honorable Barbara Frush
August 11, 2003
Page 6

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 written in a cursive style with a large, sweeping "M" and "D".

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/

August 11, 2003

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

Dear Mr. Masters:

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. Kenneth H. Masters
August 11, 2003
Page 2

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.

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:

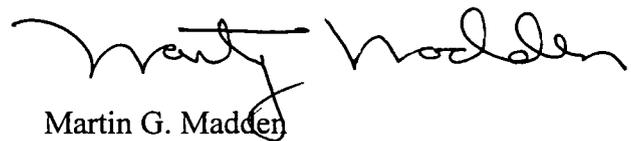
"In its inexplicable effort to allow property owners such as Lewis to do whatever they want on environmentally sensitive property, without regard to legal constraints or public policy, the Court throws established principles of administrative law to the wind, misconstrues the relevant

Mr. Kenneth H. Masters
August 11, 2003
Page 6

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 written in a cursive style with a large, sweeping initial "M".

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/

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.

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

Ms. Karen Smith

August 11, 2003

Page 3

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

Ms. Karen Smith
August 11, 2003
Page 6

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 written in a cursive style with a large, sweeping "M" and "D".

Martin G. Madden
Chairman



STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

Martin G. Madden
Chairman

August 8, 2003

Ms. Patricia Faulkner
Department of Housing and Community Development
100 Community Place
Crownsville, Maryland 21032

Dear Ms. Faulkner,

Congratulations on your appointment to the Chesapeake Bay Critical Area Commission. You have joined a select group of citizens and government officials with a strong commitment to the protection and improvement of the Bay and its resources.

I was glad to see you in Crownsville at our August meeting and look forward to seeing you again in September. The Commission members and staff join me in welcoming you. Please do not hesitate to call our offices for any assistance or information that you may need.

Sincerely,

Martin G. Madden
Chairman



STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

Martin G. Madden
Chairman

July 25, 2003

Colonel Scott Sewell
Superintendent Natural Resources Police
580 Taylor Avenue
Tawes State Office Building
Annapolis, Maryland 21401

Dear Colonel Sewell:

I have spoken with Lt. Gilmer of the Natural Resources Police regarding the use of an engineering boat for the express purpose of transporting the Joint Legislative Oversight Committee on the Critical Area, myself and the Commission's Executive Director - about 20 people - to view up close probable violations on the shorelines of the Severn and South Rivers - (points on the Howard and Luce Creek shorelines and Cool Spring Cove shoreline on the Severn River in particular, and Melvin Point on the Aberdeen Creek on the South River in particular).

I was advised to forward my formal request to you. Lt. Gilmer believes that the engineering boat is preferable to multiple cruisers. The scheduled day for this tour is September 30th from 9:00 a.m. until about 11:30 a.m.

I look forward to your reply. If you need any other information, please call me or my Executive Director, Ren Serey at 410-260-3462.

Many thanks for your consideration of this request.

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/

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
Page 2

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
RM

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 16, 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.

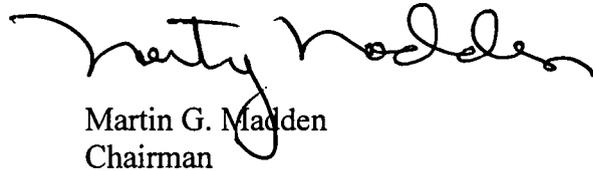
I would like to reiterate my thanks to Secretary DiPaula for approving our request for a Natural Resources Planner position to coordinate our work in the Coastal Bays region. The General Assembly extended our jurisdiction to this part of the State in 2002, adding approximately 10% to the land area we 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.

Ms. Laura Hilden
July 16, 2003
Page Two

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



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 16, 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.

Honorable C. Ronald Franks

July 16, 2003

Page 2

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, 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 16, 2003

MEMORANDUM

TO: Critical Area Commission Members

FROM: Martin G. Madden *MGM*

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
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.)



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 16, 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.

Honorable C. Ronald Franks

July 16, 2003

Page 2

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, 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

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/

July 15, 2003

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

Re: New Grant Reporting Procedures

Dear Ms. Owen:

Over the last year, the Critical Area Commission has become increasingly aware of problems regarding enforcement of the Critical Area regulations that local government staffs are experiencing throughout the State. These problems range from insufficient staff to investigate complaints to inconsistent application of required remedies to correct violations. The Commission is deeply concerned about the number and extent of the violations, many of which involve disturbance to the 100-foot Buffer and therefore are extremely visible during the summer months when use of the Chesapeake Bay and Atlantic Coastal Bays and their tributaries is at its peak.

In an effort to better understand the many challenges that face you and your colleagues in properly implementing and enforcing your local Critical Area regulations, I have directed Commission staff to collect information about all confirmed violations in the Critical Area. This will allow the Commission to work with the local governments on enforcement problems and identify those egregious cases that warrant further involvement at the State level.

In order to do this without unduly increasing your workload, I am requesting that starting with the quarterly reports for the fourth quarter (April 1, 2003 through June 30, 2003), you provide detailed information about all complaints and violations within the Critical Area. This information is currently reported under Task #4 in your quarterly reports which reads:

“Provide for enforcement of local Critical Area regulations by performing site visits, responding to complaints, issuing citations and ‘Stop Work’ orders, and following up on mitigation and remediation efforts.”

July 15, 2003
Page Two

Commission staff has prepared a form that includes the information that we feel is necessary to adequately determine that the local government is properly investigating complaints and suspected violations, that violations are being halted when they are identified, and that appropriate mitigation or restoration actions are being implemented within a reasonable time frame. Hopefully, you will find that the attached form will facilitate efficient collection of the data that we feel is necessary to ensure that local Critical Area Programs are being actively and effectively enforced. If you are already using a similar form, you may continue to do so as long as it includes the same information.

I want to thank you in advance for your cooperation with this very important effort. As you know, the success of the Critical Area Program is contingent on what actually happens on the ground, and strong enforcement is necessary to ensure that the citizens are not only aware of the Critical Area regulations, but aware of the serious environmental impacts associated with violations. If you have any questions, please do not hesitate to contact a member of my staff or me.

Sincerely,


Martin G. Madden
Chairman

MGM/jjd

Enclosure

cc: Mr. Joe Gill, Esq.
Ms. Marianne Mason, Esq.
Mr. Ren Serey
Ms. Mary Owens
Ms. Regina Esslinger
Ms. M. Claudia Jones
Ms. Julie LaBranche
Ms. LeeAnne Chandler
Ms. Lisa Hoerger
Ms. Wanda Cole
Ms. Dawnn McCleary



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 10, 2003

David W. Cooksey
8360 Dave Glen Place
LaPlata, Maryland 20646

Dear Mr. Cooksey,

As your tenure as a member of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays comes to an end, I want to personally extend my gratitude to you for your 8 years of service.

The staff and I will miss the expertise that you have provided. I want especially to acknowledge your service to the Commission above and beyond the conditions of an eight year tenure. You have certainly demonstrated your unselfish commitment to the Chesapeake Bay. Your willingness to devote so much of your time to meetings and hearing is a sterling example to us all of what it means to be a good steward. Your contributions during the development and implementation of the Critical Area program significantly enhanced the Commission's ability to effect changes necessary for the Bay's survival as a living resource.

We wish you well in your endeavors and want you to know that we will genuinely miss your integrity and your unrelenting dedication to the Bay.

Sincerely yours,

Martin G. Madden
Chairman

MGM/pm



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 10, 2003

Robert P. Goodman
109 McKendree Avenue
Annapolis, Maryland 21401

Dear Mr. Goodman,

As your tenure as a member of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays comes to an end, I want to personally extend my gratitude to you for your 7 years of service.

The staff and I will miss the expertise that you have provided. I want especially to acknowledge your service to the Commission above and beyond the conditions of an eight year tenure. You have certainly demonstrated your unselfish commitment to the Chesapeake Bay. Your willingness to devote so much of your time to meetings and hearing is a sterling example to us all of what it means to be a good steward. Your contributions during the development and implementation of the Critical Area program significantly enhanced the Commission's ability to effect changes necessary for the Bay's survival as a living resource.

We wish you well in your endeavors and want you to know that we will genuinely miss your integrity and your unrelenting dedication to the Bay.

Sincerely yours,



Martin G. Madden
Chairman

MGM/pm



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 8, 2003

**Frank W. Dawson
Administrator
Chesapeake & Coastal Watershed Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, MD 21403**

Dear Mr. Dawson: *Frank,*

Congratulations on your appointment to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. You have joined a select group of citizens and government officials with a strong commitment to the protection and improvement of the Bay and its resources.

I was glad to see you in Crownsville at our July meeting and look forward to seeing you again in August. The Commission members and staff join me in welcoming you. Please do not hesitate to call our offices for any assistance or information that you may need.

Sincerely,

**Martin G. Madden
Chairman**

MGM/pc



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 8, 2003

Honorable Thomas F. McKay
St. Mary's County Commissioner
P.O. Box 185
Hollywood, Maryland 20636

Dear Commissioner ~~McKay~~ *Tom*:

Congratulations on your appointment to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. You have joined a select group of citizens and government officials with a strong commitment to the protection and improvement of the Bay and its resources.

I was glad to see you in Crownsville at our July meeting and look forward to seeing you again in August. The Commission members and staff join me in welcoming you. Please do not hesitate to call our offices for any assistance or information that you may need.

Sincerely,

Martin G. Madden
Chairman

MGM/pc



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 8, 2003

**Honorable W. Daniel Mayer
Charles County Commissioner
P.O. Box B
La Plata, Maryland 20646**

Dear Commissioner Mayer,

Congratulations on your appointment to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. You have joined a select group of citizens and government officials with a strong commitment to the protection and improvement of the Bay and its resources.

I was glad to see you in Crownsville at our July meeting and look forward to seeing you again in August. The Commission members and staff join me in welcoming you. Please do not hesitate to call our offices for any assistance or information that you may need.

Sincerely,

**Martin G. Madden
Chairman**

MGM/pc



Martin G. Madden
Chairman

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

July 7, 2003

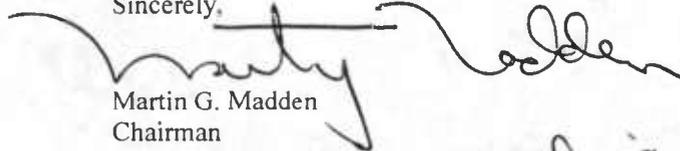
Honorable Lewis R. Riley
Secretary
Maryland Department of Agriculture
The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401

Dear Secretary Riley:

Thank you for your kind congratulations on my appointment to the Chairmanship of the Critical Area Commission. I am honored to have been appointed by Governor Ehrlich to lead this premier environmental agency for the protection of the Chesapeake Bay and I will work diligently to uphold the very high standards of the Commission.

I look forward to our partnership for achieving environmental excellence. Please, call on me if I can be of any assistance to you. My number in Annapolis is 410-260-3467.

Sincerely,



Martin G. Madden
Chairman

MGM/pc

*Jan,
I look forward to working
with you and your team.
Marty*

ROBERT L. EHRLICH, JR., Governor

MICHAEL S. STEELE, Lt. Governor

LEWIS R. RILEY, Secretary

JOHN R. BROOKS, D.V.M., Deputy Secretary



The Wayne A. Cawley, Jr. Building
50 HARRY S TRUMAN PARKWAY
ANNAPOLIS, MARYLAND 21401
Baltimore/Annapolis (410) 841-5700
Washington (301) 261-8106
Facsimile (410) 841-5914
MD Relay 1-800-735-2258
Internet: <http://www.mda.state.md.us>

STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE

June 25, 2003

Honorable Senator Martin G. Madden, Chairman
Critical Area Commission for the Chesapeake and Atlantic Coastal Bays
1804 West St, Suite 100
Annapolis, MD 21401

RE: Designation of a new representative to the Critical Area Commission

Dear Senator Madden:

By this letter, I revoke my designation of Louise Lawrence to serve as representative of the Maryland Secretary of Agriculture on the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. This revocation is effective as of the date of this letter.

I hereby designate Rowland Agbede to serve as the representative of the Maryland Secretary of Agriculture on the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. This designation is effective as of the date of this letter.

Thank you for your assistance in this matter and congratulations on your appointment as Chair of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

Sincerely,

Lewis R. Riley
Lewis R. Riley,
Secretary

Post-it® Fax Note	7671	Date	6/25	# of pages	1
To	Reagy Muckler	From	house lawrence		
Co./Dept	CAC	Co.	MDA		
Phone #		Phone #	410 841 5873		
Fax #	410 974 5338	Fax #			



Martin G. Madden
Chairman

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

July 7, 2003

Samuel Q. Johnson, III
7551 Tour Drive
Easton, Maryland 21601

Dear Mr. Johnson:

Thank you for going the "extra mile", or "miles" in this case, for the Critical Area Commission in attending the meeting on July 2nd, 2003. This is another demonstration of your unselfish commitment that goes above and beyond your service tenure. The expertise that you have provided has been invaluable.

Your willingness to devote so much of your time to meetings and hearings is a sterling example to us all of what it means to be a good steward. We wish you well in your endeavors and want you to know that we will miss your integrity and your unrelenting dedication to the Bay.

Sincerely,

Martin G. Madden
Chairman

MGM/pc

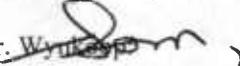


Martin G. Madden
Chairman

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

July 7, 2003

Samuel E. Wynkoop, Jr.
2900 Brock Drive
Upper Marlboro, Maryland 20774

Dear Mr. ,

Thank you for going the "extra mile", or "miles" in this case, for the Critical Area Commission in attending the meeting on July 2nd, 2003. This is another demonstration of your unselfish commitment that goes above and beyond your service tenure. The expertise that you have provided has been invaluable.

Your willingness to devote so much of your time to meetings and hearings is a sterling example to us all of what it means to be a good steward. We wish you well in your endeavors and want you to know that we will miss your integrity and your unrelenting dedication to the Bay.

Sincerely,



Martin G. Madden
Chairman

MGM/pc



**CALVERT COUNTY
BOARD OF COUNTY COMMISSIONERS**

Courthouse, 175 Main Street
Prince Frederick, Maryland 20678
Phone: (410) 535-1600 • (301) 855-1243

April 29, 2003

Mr. Martin Madden, Chairman
Chesapeake Bay Critical Area Commission
1804 West Street, Suite 100
Annapolis, MD 21401

Board of Commissioners
Gerald W. Clark
David F. Hale
Linda L. Kelley
Wilson H. Parran
Susan Shaw

Dear Mr. Madden:

The Board of County Commissioners of Calvert County, after holding a public hearing on March 18, 2003 and receiving recommendations from the Calvert County Planning Commission on the Comprehensive Review of the Calvert County Critical Area Program Phase II, has approved a number of the proposed amendments. The approved amendments are CATA 03-1, Criteria for subdivision of BEAs; certain parcels of CAMA 03-1, Buffer Exempt Areas in Solomons; and CAMA 03-2, use of growth allocation for the Allor property. Attached are the approved amendments for your consideration and review. You may consider these amendments as Part II of the Comprehensive Review of our Critical Area Program. Part III will follow. Please bring these amendments to the Critical Area Commission at their May meeting if possible. Upon receiving word of the Critical Area Commission's approval we will prepare and sign a resolution of adoption.

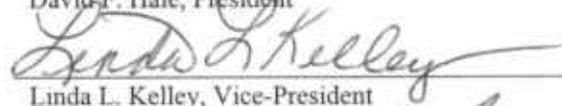
If you have any questions, please call Dr. Dave Brownlee at 410-535-1600 ext. 2338.

Very truly yours,

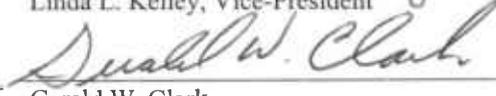
BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND



David F. Hale, President



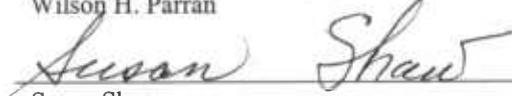
Linda L. Kelley, Vice-President



Gerald W. Clark



Wilson H. Parran



Susan Shaw

Attachments

cc: Frank Jaklitsch
Dave Brownlee
Julie LeBranche, Critical Area Commission
Mary Owens, Critical Area Commission

RECEIVED

MAY 1 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

**CATA 03-1. Criteria for Subdivision of
Buffer Exemption Areas (new wording in italics)**

Section 4-4.07.E.3 of the Zoning Ordinance, insert new subsection d.

- d. Subdivision within LDA Buffer Exemption Areas – Land in a LDA or LDA-3 buffer exemption areas may be subdivided and retain its buffer exemption status if it meets the following criteria.*
- i The parcel is less than 10 acres.*
 - ii Development meets the Criteria of Section c above.*
 - iii The setback from the shoreline for any structures must be a minimum of 50-ft.*
 - iv Property must be served by community sewer.*
 - v Offsetting requirements listed in Sections 4 and/or 5 below must be met.*
 - vi Housing density does not exceed 2 dwelling units per acre.*
 - vii Any future shore erosion control on the property shall be non-structural if it is practical and effective at the proposed site. Guidance from the Maryland Department of Natnral Resonrces and the Maryland Department of the Environment will be sought.*
 - viii A 10% reduction in pollutants from stormwater will be met or offsets provided. This requirement applies to all Critical Area overlays (RCA, LDA or IDA).*
 - ix Not zoned Marine Commercial.*

If land with buffer exemption status is subdivided, but does not meet the above criteria for subdivision in a buffer exemption area, only the parcel or lot that retains the original primary structure will remain buffer exempt. Any new lots or parcels would not be buffer exempt.

CAMA 03-1. County Approved Buffer Exemption Areas in Solomons Town Center

The following parcels have received County approval for buffer exempt status with some restrictions as described below.

- **Parcel 598, Oyster Bay** - Recommend CAC approve buffer exemption status for this parcel except for the area with trees located at the end of the north cove (see attached figure).
Recommendation is based on the following findings:
 - ◆ That there is an existing approved site plan that shows a 30 ft buffer,
 - ◆ Except for end of cove to north no naturally vegetated buffer exists,
 - ◆ Structures exist and additional ones have been approved in the 100 ft buffer, and
 - ◆ Property is bulkheaded.

- **Parcel 41, Watson Property** – Recommend CAC approve buffer exemption status for this parcel except for the forested area at the north end of the property (see attached figure).
Recommendation is based on the following findings:
 - ◆ Structures exist in the buffer,
 - ◆ Density would be reduced by half based on proposed criteria for subdivision of buffer exemption areas,
 - ◆ Except for north edge of the property, no naturally vegetated buffer exists,
 - ◆ Property is bulkheaded.

- **Parcel 196, Kersey Property** - Recommend CAC approve buffer exemption status for this parcel. Recommendation is based on the following findings:
 - ◆ Structures exist in the buffer,
 - ◆ Property is surrounded by condominium development,
 - ◆ Density would be reduced by half based on proposed criteria for subdivision of buffer exemption areas,
 - ◆ Natural vegetation does not exist in the first 50-60 feet of the buffer, and
 - ◆ Property has a stone revetment for shore erosion control.

- **Parcel 171, Quality Built Homes** - Recommend CAC approve buffer exemption status for this parcel. Recommendation is based on the following findings:
 - ◆ Foundation of structure exists in the buffer,
 - ◆ Density would be reduced by half based on proposed criteria for subdivision of buffer exemption areas, and
 - ◆ The interior portion of the buffer has been historically cleared and has been cleared every several years or so.

- **Parcel 294, Calvert Marina, Northeast Portion of Property** – Recommend CAC approve extending the Buffer Exemption Area to the north to and including the area in which there is an old, unused sewage holding tank existing in the buffer (see attached figure).
Recommendation is based on the following findings:
 - ◆ A old, unused sewage holding tank exists in the buffer, and
 - ◆ Property was originally a naval base.

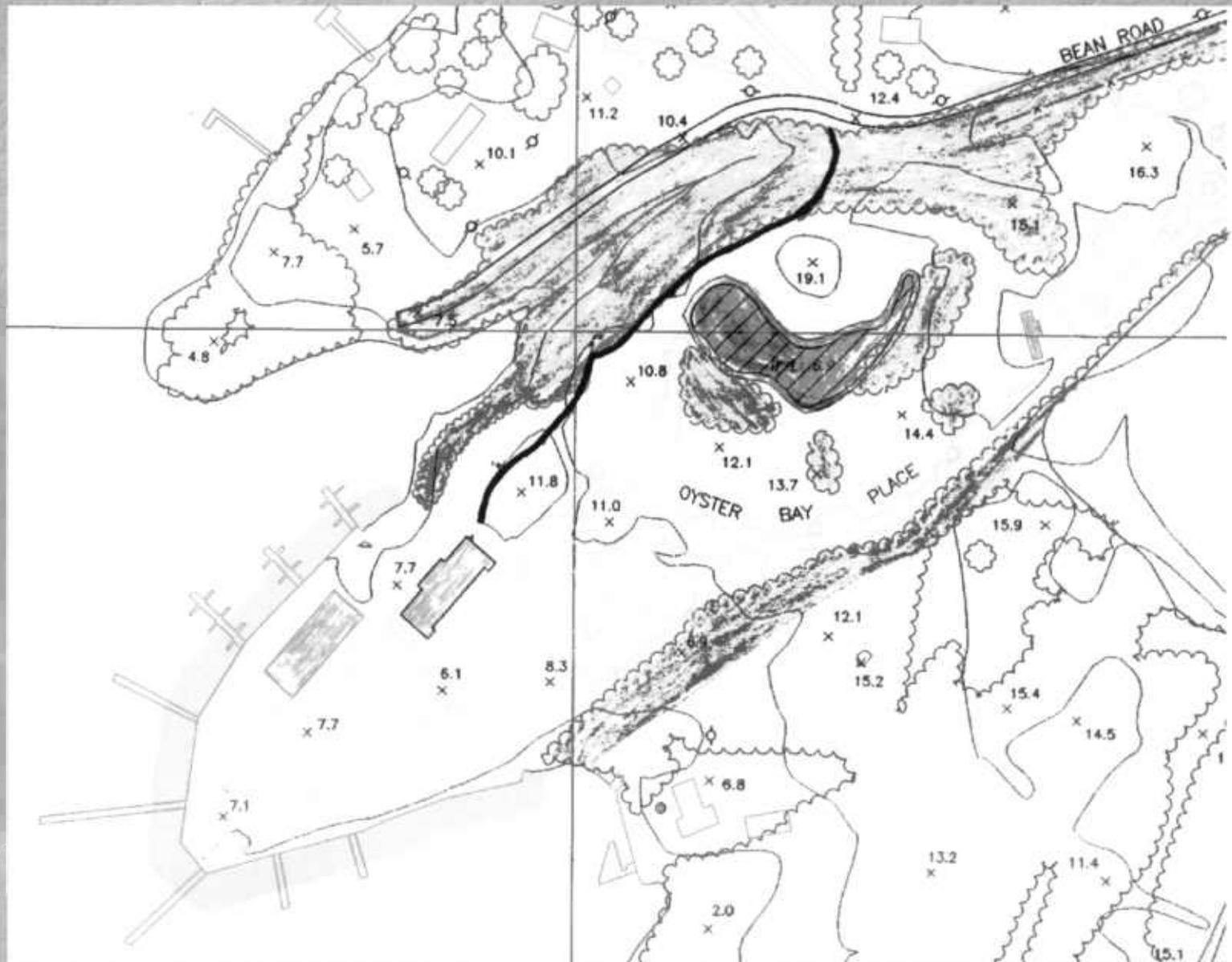
RECEIVED

MAY 1 2003

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

- **Parcel 294, Calvert Marina, Cove at Southeast Portion of Property** - Recommend approval of buffer exemption status (see attached figure). Recommendation is based on the following findings:
 - ◆ Structures and impervious surface exist in the buffer,
 - ◆ Property was originally a naval base, and
 - ◆ Natural vegetation exists only in the first 30 feet of the buffer.

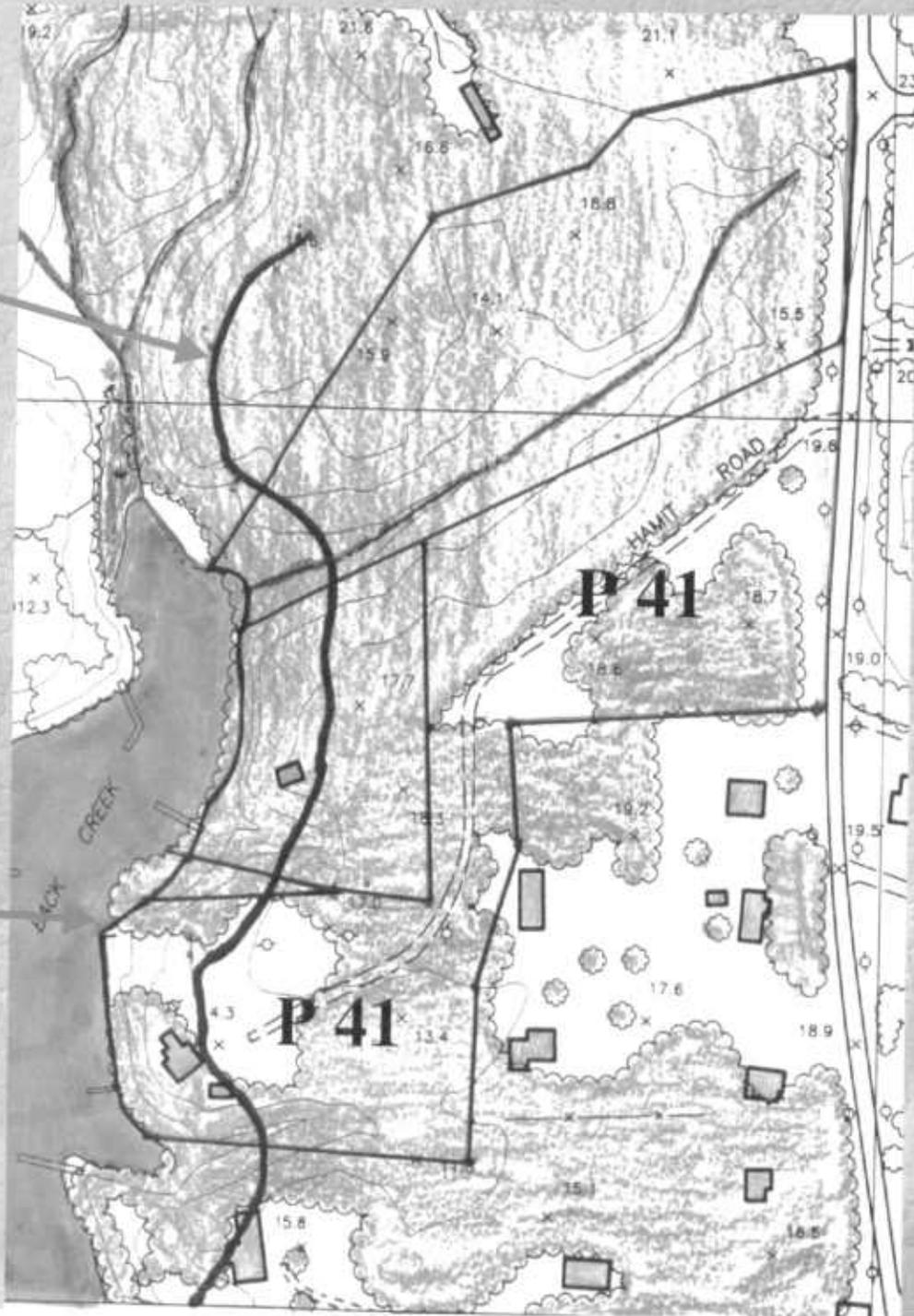
Oyster Bay, Parcel 598, Back Creek



100 ft Buffer

**Parcel 41,
Back Creek**

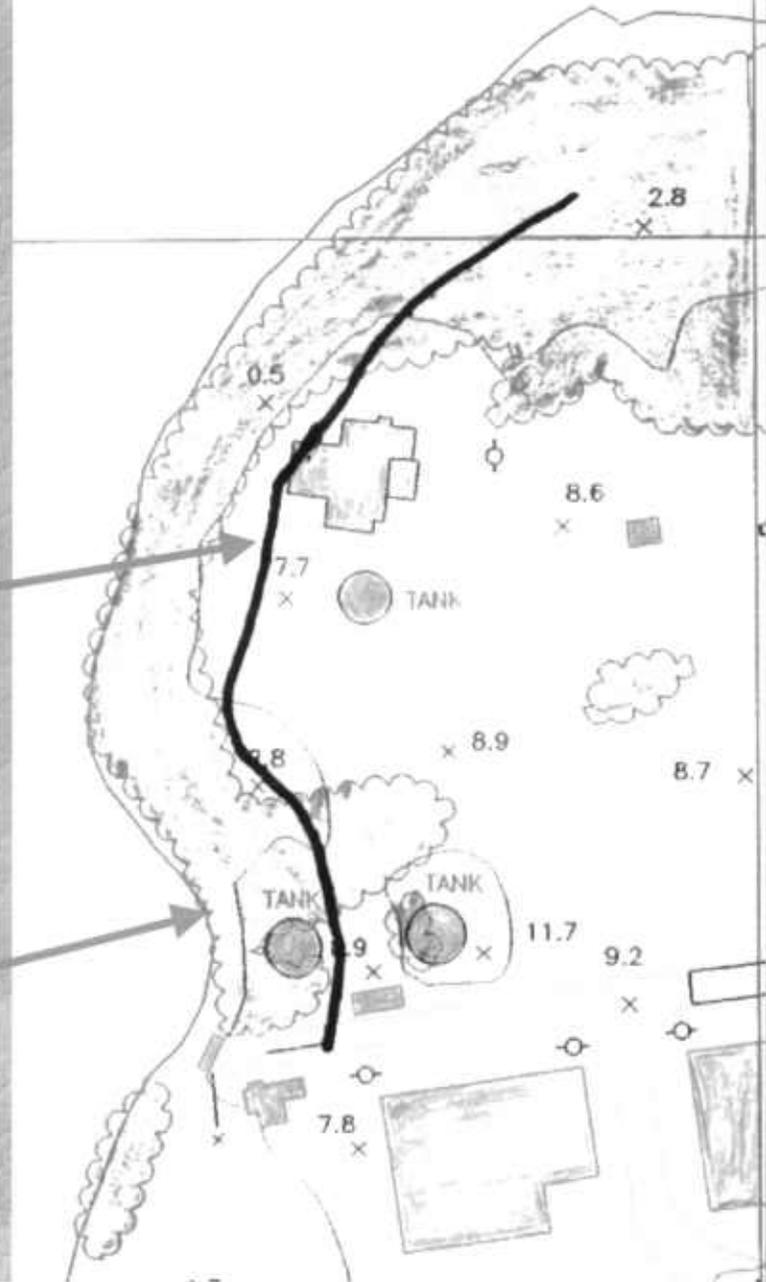
**Extend
Buffer
Exemption
north to this
point**



**Calvert Marina,
Northwest Corner,
Back Creek**

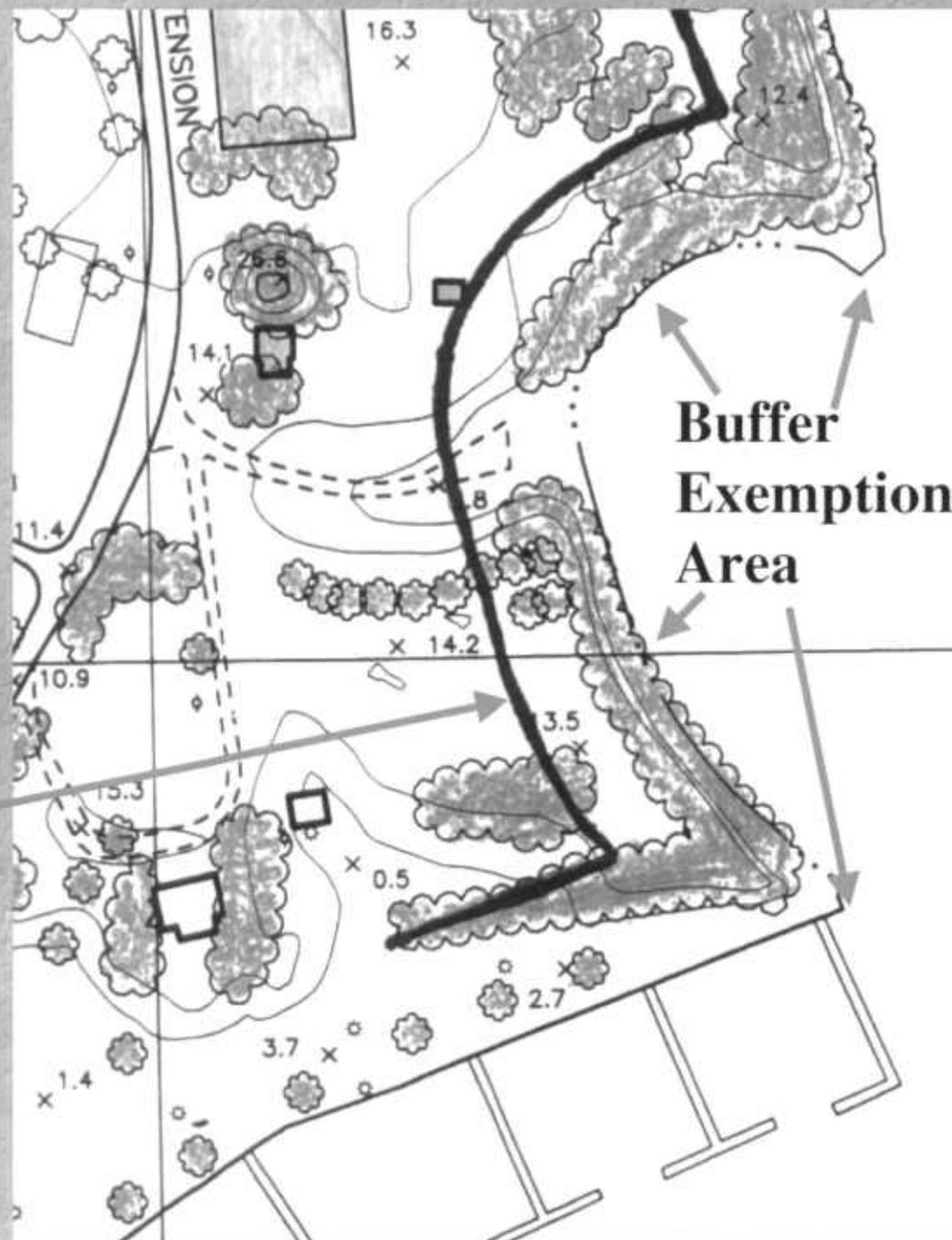
100-ft Buffer

**Extend Buffer
Exemption area to
this point**



Calvert Marina, Cove on Mill Creek

100-ft Buffer



CAMA 03-2. Allor Property on Williams Wharf Road

Recommend that the CAC approve using growth allocation to convert 18,828 sq. ft. (0.43 acres) of the Allor Property from Resource Conservation Area (RCA) to Limited Development Area -3 (LDA-3) as indicated by the hatched area on attached figure.

CAMA 03-2

Allor Property

