Robert L. Ehrlich, Jr.
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Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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December 29, 2005

Ms. Helen Spinelli
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Concept Plan, Club One Fitness Center
CP #05-05-12-0006-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced concept plan. The applicant proposes a new three-story commercial building to be used for offices and a fitness center on a parcel that is currently LDA. Subdivision and growth allocation would both be necessary for the project. A portion of the property received growth allocation several years ago.

1. We recommend that an overall development plan for the entire site be presented rather than move forward in the growth allocation/subdivision process in a piecemeal fashion for each portion of the commercial subdivision. Growth allocation and compliance with all Critical Area requirements must begin with an analysis of the property as it existed in 1989. As it stands, each development activity on the property must be reviewed on its own merits along with its implications on the rest of the property complying with LDA requirements. For example, subdivision of this new lot may then increase the impervious percentage on the remaining LDA land beyond the limit of 15%. Growth allocation would then be needed for the entire site regardless.

2. Nothwithstanding the above, information on the proposed subdivision is needed. Site statistics should begin with the entire property as it existed in 1989. Analysis of existing and proposed impervious for the areas remaining LDA is necessary. Ten-percent calculations for the entire area proposed to be IDA would also be necessary.

3. No stormwater management calculations were provided. As indicated above, overall compliance with the 10% requirement must be demonstrated.

While we do not oppose the proposal in any way, we strongly recommend that an overall development plan be submitted for the property as a whole. The piecemeal approach will only complicate and extend the development review process.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC821-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 29, 2005

Ms. Holly Tompkins
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Proposed Expansion at Camp Pecometh
Concept Plan: CP#03-05-12-0009C

Dear Ms. Tompkins:

Thank you for providing the concept plan on the proposed expansion of Camp Pecometh for our review. The applicants propose significant expansion of an existing institutional use within the Resource Conservation Area. Commission staff has reviewed the information provided and we have the following comments:

1. The grandfathering provisions of the Critical Area Criteria (COMAR 27.01.02.07) state the following in regard to intensification of existing uses within the Critical Area: "After program approval, local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has been abandoned for more than 1 year or is otherwise restricted by existing local ordinances. If any existing use does not conform with the provisions of a local program, its intensification or expansion may be permitted only in accordance with the variance procedures outlines in COMAR 27.01.011."

2. The County ordinance in §14:1-39(B)(3)(d) states that intensification or expansion of existing industrial, commercial, and institutional facilities and uses may be permitted in the RCA by the Planning Commission. This section continues to state that a variance must be granted if such expansion or intensification involves a use which the Planning Commission determines does not conform with the County Program or Ordinance.

3. The camp, as an institutional use, would not be permitted in the RCA as a new use in accordance with the list of permitted uses in §14:1-39(B)(3)(e). It is not evident that the Planning Commission can conclude that the proposal conforms with the County Program in terms of permitted uses in the RCA.

4. There are a number of options available for ensuring the project's consistency with the local Critical Area Program. First, the proposed new development could occur outside of the Critical Area. Second, growth allocation could be requested for a portion of the camp. We recommend that the applicant reconsider the proposal given the inconsistency with permitted uses in the RCA.

5. Notwithstanding the issues above, we have a number of concerns regarding the site plan. The need for protection of steep slopes and the potential for significant expansion of Buffers may significantly affect the proposal.

6. The 100-foot Buffer is incorrectly drawn. It must be drawn from the landward edge of tidal wetlands, which brings it further into the site. There are also significant slopes contiguous to the Buffer, which requires Buffer expansion. It is likely that Buffer expansion will affect the proposed location of the dining/meeting facility as well as some of the guest cottages.

7. Some of the areas shown as linear non-tidal wetlands may actually be streams. If they are streams, a minimum Buffer of 100-feet is required.

At this time, we cannot support approval of this concept plan. Thank you for the opportunity to comment. If you have any questions or concerns, or if you would like to meet to discuss these issues further, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC842-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 23, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – 305 South Ocean Drive, Richard White, File #10708

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to replace an existing mobile home with a buildover. The property is 4400 square feet in size and is subject to a 5-foot waterfront setback. Critical Area issues include stormwater management, Buffer mitigation and afforestation.

Commission staff has reviewed the information provided. It appears that the 10% requirement is adequately addressed by the proposed limit on impervious cover, the swales along the property lines and the pervious deck construction. Similarly, it appears that the proposed landscaping will address the Buffer mitigation and afforestation requirement. The proposal appears consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC786-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 23, 2005

Ms. Cathy Maxwell
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Variance Request, Dennis Crawford
Case No. V-120001

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance case. The applicant is requesting a variance from the front yard setback requirements in order to construct an addition to an existing garage. The property is designated LDA, Buffer Exempt and is currently developed with a single family dwelling.

Since the addition is proposed over existing concrete, no additional impervious surfaces will be created and there are no Critical Area Buffer impacts. Based on these facts, we have no comment on this front yard setback variance.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this request. Also, please notify the Commission in writing of the Board's decision in this case. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC800-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 23, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – 1582 Teal Drive, Phil & Marie Houck, File #10722

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down an existing dwelling and reconstruct a new single-family dwelling. The property is 22702 square feet in size and is subject to a 15-foot waterfront setback. Critical Area issues include stormwater management, Buffer mitigation and afforestation. After review of the information provided, we have the following comments:

1. An existing conditions plan should be provided which shows all existing site improvements.

2. It appears the 10% pollutant removal requirement is proposed to be addressed adequately on site. However, it was extremely difficult to determine the location and size of the proposed raingardens.

3. The plans provided contained conflicting information. One plan shows a curving concrete apron around the pool that intrudes into the setback. Other plans appear to show an expansive deck within the setback. This should be clarified. No impervious surfaces are permitted within the setback without a variance.

4. The landscaping plan seems to give credit for existing shrubs and trees. Buffer mitigation should be calculated based on new plantings only to offset the development within the Buffer. It appears that additional planting can and should be accomplished on site.

5. It appears that the 15% afforestation requirement is proposed to be addressed adequately on site.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC801-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 23, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Palm Isles Condominium, File #05-18100030

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to demolish existing structures and redevelop the site with 20 townhouse-style condominiums. The site is not waterfront and is 24,000 square feet in size. Critical Area requirements include 10% pollutant reduction and 15% afforestation. Commission staff has reviewed the information provided and we have the following comments:

1. It appears that all of the pervious pavers are proposed within the drive isles. This may (depending on the type of paver system) be inconsistent with the paving standards of the Town and the need for the subsoil to be permeable and moderately compacted at most. Documentation on the permeability of the underlying soils and compliance with the Town's paving standards must be provided. The full efficiency rating for the pavers may not be warranted.

2. In order to be considered a Best Management Practice, the proposed wet swale must be designed in accordance with the specifications of the MDE Stormwater Manual. A detailed cross-section is needed.

3. It appears that the 15% afforestation requirement is proposed to be addressed adequately on site.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC807-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 19, 2005

Ms. Faith Elliott-Rossing, Director
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Queen's Landing Marina

Dear Ms. Elliott-Rossing:

Our office was recently contacted to investigate possible violations of the State's Critical Area laws at the Queen's Landing Marina site. Questions have been raised as to the number of slips that have been installed at the community pier and whether the number exceeds the slips permitted under the State Critical Area Law.

It is our understanding that a plat of Queen's Landing was recorded in 1984 with "a Boat Slip Common Element" included as a non-residential condominium unit. At the time of recordation, there were no piers or slips in this "unit." Over the years, boat slips and finger piers have been installed. We are writing to gain an understanding of how improvements at this facility have been reviewed; how the County views the facility in terms of it being a community pier, commercial marina or some other category; and what sections of the County Code have been applied.

Thank you for your attention to this matter. A response in writing would be appreciated. Enclosed please find a copy of the correspondence we received that prompted this request. If you have any questions, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Stan Causey, MDE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 19, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Bayview South, 1st Street & Bayview Avenue, Permit Drawings

Dear Mr. Smith:

Thank you for providing the permit drawings and supplemental information on the above referenced site plan. The applicant proposes to tear down an existing restaurant and residential structures on two parcels and redevelop the sites with two condominium buildings. One property is waterfront with a ten-foot setback and the other is not waterfront. Critical Area requirements for this project include the 10% pollutant reduction requirement, the 15% afforestation requirement and Buffer mitigation. Commission staff has reviewed the information provided and we have the following comments:

1. On both sites, the 10% requirement will be addressed partially on site and partially through a payment of a fee in lieu. While this is consistent with the Town's Program, it does appear that additional treatment could be provided on site.

2. A substantial fee-in-lieu is required for Buffer mitigation. If possible, we recommend that additional plantings be provided on site.

3. In regard to 15% afforestation, proposed landscaping and amount of "plantable" area is sufficient for Site 1. However, Site 2, while enough landscaping is proposed, 15% of the site is not plantable. Based on previous policy and projects, this is inconsistent with the Town's Critical Area Program. We recommend that the site be redesigned to accommodate the 15% requirement or the applicant should apply for a variance.

Thank you for the opportunity to comment on these plans. If you have any questions or concerns, please contact me at (410) 26-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 14, 2005

Donald H. Sparklin
Deputy Division Chief
Project Planning Division
Maryland State Highway Administration
707 North Calvert Street
Mailstop C-301
Baltimore, MD 21202

Attention: Catherine Robbins

Dear Mr. Sparklin:

At its meeting of December 7, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays granted a conditional approval for the proposed MD 611 Hiker/Biker Path from the Verrazano Bridge to Bayberry Drive in Worcester County subject to the following conditions:

1. All necessary permits are acquired from the Maryland Department of the Environment (including Stormwater, Sediment and Erosion Control, and Wetlands) prior to any construction.

2. A signed planting agreement is provided to Commission staff within 30 days of Commission approval of the project.

Commission staff would like to express our appreciation for the thorough and complete project submittal and the responsiveness of SHA staff in answering our follow-up questions.

Thank you for your cooperation and assistance in obtaining Commission approval for this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: State Project 46-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 14, 2005

Mr. Steve Cohoon
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan, Kent Island Professional Center
MASP#04-05-06-0002(c), Love Point Road, L.P. – REVISION #2

Dear Mr. Cohoon:

Thank you for providing revision #2 of the above referenced major site plan. The applicant proposes to construct an office building on two parcels primarily within the Critical Area. The site is adjacent to the headwaters of Thompson Creek and is subject to the 100-foot Buffer. Commission staff has reviewed the information provided and we have the following comments:

1. The site information (acreage and proposed impervious acreage) contained in the revised 10% calculations do not match the site statistics shown on Sheet 1. This should be explained and/or corrected as necessary.

2. Notwithstanding the above, the calculations show a pollutant removal requirement of 4.94 pounds with the proposed extended detention wet pond removing 4.28 pounds. The non-rooftop disconnect is then listed as a BMP. This is incorrect.. The use of credits for purposes of the 10% requirement is explained in Section 4 of the Commission's 10% Guidance. Specifically, Table 4.3 defines how the credits are to be incorporated into the 10% calculations. Provided that the area "disconnected" meets all the MDE criteria for non-rooftop disconnect (e.g., maximum contributing impervious flow path length is 75 feet, etc.), that area of impervious is subtracted from the proposed impervious in Step 1. Disconnections should not be listed as BMPs. The calculations should be revised accordingly.

3. The area proposed for the disconnection credit must be clearly identified on the stormwater or grading plan.

4. The landscaping plan should be revised to account for any changes to the deficit in meeting the 10% requirement.

Thank you for the opportunity to review this submittal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC 389-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 14, 2005

Ms. Helen Spinelli
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Site Plan, Magothy Auto
MISP#04-05-07-0015-C – REVISION #2

Dear Ms. Spinelli:

Thank you for providing revision #2 of the above referenced minor site plan. The applicant proposes to construct an automobile repair shop and associated parking on a 0.936-acre parcel. A total of 0.464 acres are within the Critical Area with an IDA designation.

Commission staff has reviewed the information provided. Please provide a copy of the Heritage letter from DNR to complete our file. Provided that there are no habitat issues, we have no further comments on this proposal.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC 516-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 13, 2005

Ms. Cathy Maxwell
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Board of Appeals Case No. A-050005
Appeal of Major Subdivision – Southeast Creek LLC, File #03-04-05-0003-C

Dear Ms. Maxwell:

Thank you for providing information on the Board of Appeals imposed revisions made to the subdivision plat referenced above. The property is partially within the Critical Area with an RCA designation. The subdivision received approval for eight lots within the Critical Area portion of the property. One of the lots already contains a dwelling and numerous farm buildings.

Commission staff has reviewed the new information provided. Based on this review, it appears that the revisions have minimal effect on the proposed subdivision within the Critical Area portion of the property. The only change of note is the addition of a portion of Lot 31 in the Critical Area. The note which prohibits any new residential structures within the Critical Area portion of Lot 31 is appropriately provided. All other Critical Area aspects of the subdivision appear identical to what was previously approved. We have no Critical Area concerns regarding the Board of Appeals-imposed revisions to the plat.

Thank you for the opportunity to review this revision to this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Ms. Helen Spinelli
QC329-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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December 13, 2005

Mr. Russell Blake, City Manager
PO Box 29
Pocomoke City, MD 21851

RE: Drawbridge Villas – PHASE I – Review for 10% requirements

Dear Mr. Blake:

The developer of the Drawbridge Villas project has provided this office with copies of revised 10% pollutant reduction calculations for Phase I of the project. As you are aware, this site is within the portion of the City that was granted an exclusion from the Critical Area requirements. However, as established by Resolution 174 as signed in 1988, development within 1000 feet of the Pocomoke River or its wetlands, is to comply with the Critical Area Criteria insofar as possible whenever redevelopment occurs.

We have reviewed the revised calculations. The proposed stormwater management pond provides adequate stormwater treatment for Phase I, such that Phase I of the project is consistent with the criteria for development within the IDA of the Critical Area. Please note that future phases will require further review and that stormwater calculations for the project will have to be cumulative to ensure the project overall achieves compliance. In addition, landscaping on the site may also require adjustments if there is a need to further offset any deficits in meeting the 10% requirement.

Thank you for the opportunity to comment. If you have any questions or concerns regarding the above, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Joe Jackson, Worcester County Commission representative
Bob Shockley, Worcester SWM Review
Stephen Yuhas, Atlantic Group
PO580-05

Robert L. Ehrlich, Jr.
Governor

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December 9, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Merwin/Siedlecki, 14107 B & C Caine Stable Road

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct new deck additions on two existing townhouses. The property is 5,300 square feet in size and is waterfront with a 15-foot setback requirement. Commission staff has reviewed the information provided and we have the following comments:

1. While we recognize decks as pervious surfaces, we have serious concerns about a three level deck, especially with a screened-in second level, maintaining its perviousness. The Town must be prepared to inspect the proposed addition and check for compliance with the minimum spacing requirements for all levels of the deck. If it is found that the deck is impervious after construction, it will require removal as no impervious cover is permitted within the setback. Commission staff is unaware of the Town's experience in dealing with screened-in decks and compliance with the perviousness requirement.

2. In regard to the proposed Buffer mitigation, all mitigation must be new plantings in accordance with the Town's Critical Area Program. If all plantings shown on the landscape plan are new, it appears that the mitigation requirement is addressed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC773-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 9, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Robert LaFazia, 14107 Caine Stable Road

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new deck addition on an existing townhouse. The lot is 2597 square feet in size and is waterfront with a 15-foot setback requirement.

Commission staff has reviewed the information provided and we have the following comments:

1. Provided the deck is constructed to be totally pervious in accordance with the deck standards, the 10% requirement is addressed.

2. In regard to the proposed Buffer mitigation, it is unclear from the plan provided exactly what vegetation will be new and what vegetation is existing. All mitigation must be new plantings in accordance with the Town's Critical Area Program. Also, it appears that much of the vegetation listed is actually associated with different townhomes and should not count toward this project. At least 25% square feet of the setback on the subject property must be planted while it appears only 50 square feet remains truly plantable. Some revisions or further clarification to the plan is needed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC~~776~~772-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 9, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Mary Broderick, 1921 Marlin Drive

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new dwelling on a 7905 square foot lot. (Based on the information provided, it appears that there is or was an existing house and it will be replaced with the new house.) The lot is waterfront with a 15-foot setback requirement.

Commission staff has reviewed the information provided and we have the following comments:

1. While specific stormwater information was not included with the submittal, it appears that the proposed impervious level (50%), together with the raingardens will adequately address the 10% requirement.

2. In regard to the proposed Buffer mitigation, the proposed plantings are made up of primarily arborvitae, a large shrub, not a large tree. Therefore, the credits given for the arborvitae should be adjusted to $75 rather than the $200 claimed. Total mitigation provided totals $4900. A fee-in-lieu or additional plantings are needed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC776-05

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, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – William Allen, 317 South Heron Gull Court

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new dwelling on an existing vacant lot. The property is 11,224 square feet in size and is waterfront with a 15-foot setback requirement. Commission staff has reviewed the information provided and we have the following comments:

1. It appears that the proposed level of impervious cover, along with the pervious driveway and proposed raingardens, will address the 10% pollutant reduction requirement. However, please note that the landscaping plan may require modification to adequately provide space and plantings for all three 12 by 12 foot raingardens.

2. It appears that the proposed landscaping plan will meet the Buffer mitigation requirement. However, as noted above, some modification may be needed to ensure proper installation of the three raingardens proposed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC775-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 9, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Christopher Shanahan, 609 S. Pacific Ave.

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new dwelling on an existing lot. The property is 7,125 square feet in size and is waterfront with a 15-foot setback requirement. Commission staff has reviewed the information provided and we have the following comments:

1. It appears that the proposed level of impervious cover, along with the pervious driveway, swales and proposed raingarden, will address the 10% pollutant reduction requirement.

2. Please note that information shown on the proposed landscaping plan does not match that written in the Critical Area application. These should be consistent. (The plan shows $5610 in plantings while the application states $6135 is proposed.) Once these are reconciled and adjusted as necessary, it appears the Buffer mitigation requirement will be addressed on site.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC774-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 6, 2005 **VIA FACSIMILE**

Mr. Keith Lackie, Natural Resources Administrator
Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Seapoint, TM 27, Parcel 637, Outlot A

Dear Mr. Lackie:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct seven (7) duplexes and associated parking on a 2.35 acre parcel within the IDA. The site is currently undeveloped. Based on the information provided, we have the following comments:

1. Please forward a copy of the response from the Natural Heritage Division when it is received. The project should not receive final approval until a response is in hand and any necessary protective measures established.

2. The proposal appears to meet the 15% afforestation requirement through retention of existing landscaping and additional plantings.

3. In regard to the 10% calculations, there are several issues and concerns. First, the impervious area proposed on the plan (45,519 square feet or 1.04 acres) is different than that used in the 10% calculations (1.283 acres). This must be resolved. Second, Step 5 of the calculations shows two proposed best management practices (BMPs), a wet pond and a grass swale treating 137.4% of the site. This is incorrect as total treatment cannot exceed 100% of the site. The grass channels and the SWM basin appear on the plan but adequate detail is not provided to determine if the channels drain to the basin. If so, and if the channels are constructed in accordance with the specifications for a wet or dry swale in the MDE Stormwater Manual, the calculations should be revised to reflect the best management practices in a series. Information on calculating the removal from such a scenario can be found on pages 7-9 to 7-10 of the Commission's 10% Rule Guidance Manual. If the grass channels are simply a means

of conveying rooftop runoff to the basins, they provide pretreatment but cannot count as a BMP. The wet pond alone would fall short of meeting the 10% requirement by approximately 0.5 pounds. Offsets would be required to make up this deficit.

Thank you for the opportunity to review and comment on this site plan. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: WC487-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 6, 2005

VIA FACSIMILE

Mr. Keith Lackie
Worcester County Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Site Plan, Shore Point Business Center, TM 26, Parcel 424, Lots 1, 2 & 3

Dear Mr. Lackie:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct four commercial buildings and associated parking on a 4.66-acre property. A 1.78-acre portion of the site is within the Critical Area designated IDA. The Critical Area requirements include 15% afforestation and 10% pollutant reduction. Commission staff has reviewed the information provided and we have the following comments:

1. The 10% pollutant reduction calculations indicate a removal requirement of 2.74 pounds. The proposed best management practice (BMP) is listed as "MPA" and "MPB" with a 40% removal efficiency. Please explain what "MPA" and "MPB" refers to. There is one large stormwater basin shown on the plans.

2. The proposed BMP removes just 1.42 pounds, leaving a deficit of 1.32 pounds. While we do not oppose the use of <u>additional</u> plantings to offset the deficit, the proposed landscaping within the Critical Area portion of the site does not suffice. Additionally, credit for stormwater purposes cannot be claimed by retaining forest (that is otherwise protected anyway).

3. Additional clarification is needed in the landscape schedule. First, the applicant must specify the cultivar of *Juniperus chinesis* proposed as some receive a 75 square foot credit, while others receive a 50 square foot credit. Second, for the size of the plant material, the size for the crepe myrtles and junipers is listed as 6". Clarification is needed.

4. Notwithstanding the above, the square footage of plantings in the Critical Area portion of the site totals just 12,125 square feet as compared to the 40,380 square feet required (for 15% afforestation and 10% pollutant removal). This is not sufficient. If planting is proposed for stormwater offset purposes, it will have to be done off site as there is not sufficient space on the subject parcel.

Thank you for the opportunity to review and comment on this site plan. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: WC349-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 23, 2005

Ms. Helen Spinelli
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Chester Station Joint Venture – Concept Plan – REVISION #3
File CP#04-04-11-0002(C)

Dear Ms. Spinelli:

Thank you for providing Revision #3 of the above referenced concept plan. The applicant proposes to build 19 townhomes and associated amenities on a 10.847-acre parcel. The property is designated LDA and is waterfront. Commission staff has reviewed the information provided and we have the following comments:

1. Please forward a copy of the applicant's request for a shore buffer reduction and a copy of the findings of fact. While the applicant's response stated that it was enclosed with the submittal, it was not in our package.

2. Detailed stormwater management information, including details of any stormwater credits being claimed, must be provided early in the site plan review process.

3. The 100-foot Buffer should be established when the site is developed. A Buffer Management Plan, that includes provisions for eradication of existing Phragmites, should be included in the site plan submittal.

4. This office continues to be concerned about the proposed impervious coverage being within 0.1 acre of the 15% limit (without accounting for any decks, patios or sidewalks). Any increase beyond the 15% limit will require a variance. This office could not support such a request. This will be an area of intensive scrutiny if the project moves forward.

5. We strongly encourage the applicant to locate all units to ensure no intrusion into the shore buffer occurs. This includes disturbance during construction as well as any future additions.

Thank you for the opportunity to comment on this revision to the concept plan. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 23, 2005

Ms. Helen Spinelli
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision – Richard & Eleanor Altman
File 05-05-11-0005-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to relocate a lot line between two existing lots to transfer approximately 2.19 acres from one lot to the other. The lots are designated RCA and one of the two appears to be developed with a single family dwelling.

Commission staff has reviewed the plat. Provided that any future development on either of the lots is consistent with the development standards for the RCA, this office has no Critical Area concerns regarding the proposed subdivision.

Thank you for the opportunity to comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC765-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 23, 2005

Mr. Steve Cohoon
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Concept Plan – William & Jacquelyn Saunders

Dear Mr. Cohoon:

Thank you for providing information on the above referenced concept plan. The applicants propose to construct a commercial building and associated parking on a 0.458-acre parcel that is entirely within the Critical Area. The site is designated IDA and does not appear to be waterfront, although it is impacted by the 300-foot shore buffer.

Commission staff has reviewed the information provided. As a project within the IDA, compliance with the 10% pollutant reduction rule is required. The site plan shows the nearby wetlands as non-tidal while the resource maps show them as being tidal. This should be corrected. We have no comment on the request for reduction of the 300-foot shore buffer, though it would be helpful to know what currently exists between the site and the tidal wetlands.

Thank you for the opportunity to comment on this concept plan. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC708-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 23, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: The Gateway Grand, #2 48th Street, File #05-18100025

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down a number of existing motel/condominium buildings and redevelop the site with a 196-unit condominium and associated parking. The site is 4.31 acres in size and is not waterfront to the Coastal Bays. Critical Area requirements for this project include the 10% pollutant reduction and the 15% afforestation requirements. Commission staff has reviewed the information provided and we have the following comments:

1. The submittal must include a letter from the Maryland Department of Natural Resources to document any sensitive species that may exist in the vicinity of the project site.

2. A 20% reduction in impervious area, rather than a 20% increase in pervious, must be provided and properly documented. A simple statement in the report that says it will be done is not sufficient.

3. The 10% calculations contain a number of errors. First, the acreage of the site, 4.31 acres, must be used through all the steps of the calculations for site acreage (A). For some reason 0.95 acres was used in Steps 2 and 3. While it is likely that the requirement is still met, the calculations should be revised.

4. Additional information, including an accounting of all the proposed landscaping (properly showing square footage credit for each), must be provided on the landscape plan. At least 28,161.54 square feet of planting in plantable areas must be provided.

5. Soils information should be provided to document infiltration rates and depth to the water table.

Thank you for the opportunity to comment on this site plan. If you have any questions or concerns regarding these comments, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 22, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – 56th Street Condominium, File #05-18100029

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to demolish an existing gas station/convenience store and redevelop the site with a 24-unit condominium building. The site is not waterfront and is 26,336 square feet in size. Critical Area requirements include 10% pollutant reduction and 15% afforestation. Commission staff has reviewed the information provided and we have the following comments:

1. The Critical Area application states that 20 small trees and 40 small shrubs are provided. This does not match the site plan which shows only six trees and does not specify the number of shrubs.

2. In addition, the 10% calculations show the site is 88% impervious (after the credit for the small area of pavers). At least 85% of the site must be truly plantable, open to the sky, to receive credit. Approximately 7% of the site is plantable, which does not meet the minimum 15% afforestation requirement.

3. Areas that are pervious but under roof cannot be considered pervious for either planting or 10% purposes.

4. While the 10% calculations show that the reduction in impervious cover meets the requirement, it is not clear that the pervious areas have been calculated correctly. Depending upon the resolution of the above issues, the 10% requirement may necessitate stormwater management on site.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC741-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 22, 2005

Ms. Holly Tompkins
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, Andrew Blackwood
File #05-05-09-0011

Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to relocate lot lines associated with two (2) existing lots. Just a small portion of each lot is located within the Critical Area with an IDA designation.

Provided that any future development activity within the Critical Area portion of the lots is consistent with the development standards for the IDA, this office has no comments or concerns on this subdivision.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Science Advisor

cc: QC766-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 18, 2005

Mr. Jesse C. Houston, Director
Town of Ocean City, Planning & Community Development
PO Box 158
Ocean City, MD 21843-0158

RE: Community pier facilities at 17th Street Condominium

Dear Mr. Houston:

As you are aware, we have been corresponding regarding the proposed community pier facilities at the above referenced site for a number of months. The number of permitted slips is the outstanding question. The developer does not have necessary Tidal Wetland Permits from the Maryland Department of the Environment. A number of statements and discussion points have been raised that require clarification.

1. The developer seems to be under the impression that 25 feet along an existing parallel dock constitutes a grandfathered "slip." While Town and Commission staff (in 2003) discussed parallel docks and how they would be considered when looking at existing facilities under the Town's Critical Area Program, there was no agreement that 25 feet of parallel dock was equivalent to an existing slip. After consulting with MDE, we indicated to the Town that such areas could not be considered slips unless they had existing mooring piles and were obviously designed as a place to dock individual boats. There were no existing mooring piles along the shoreline of this property. Therefore, the Critical Area law and the Town's Critical Area ordinance control; one slip is allowed per fifty feet of shoreline.

2. The developer has raised the issue of what might have been historically permitted on the subject properties. The structures on the two former properties (the Englander Apartments and Shamrock) have been demolished, the properties combined, and a 15-unit condominium building is being constructed. What could have been approved on the properties previously is a moot point.

3. Based on information provided, it is our understanding that the developer received approval from the Board of Port Wardens for three perpendicular piers and 170 feet of bulkheading on Lot 49 when it was the Englander Apartments. (The developer had applied to the Board of Port Wardens prior to the effective date of the Town's Critical

Area Program, but received the approval after the effective date.) While some "grandfathering" consideration has been given to site plans that had received Planning Commission approval, but not permit approvals, prior to the effective date of the Town's Program, this situation is not similar. There was no pre-Critical Area approval from the Board of Port Wardens for the project as it is being proposed and constructed (i.e., with Lots 49 and 50 combined, etc.).

4. The 17th Street Condominium project, as it is being constructed, is considered a new residential development approved by the local jurisdiction for the Critical Area. (See Md. Ann. Code, Natural Resources Article §8-1808.5.) The new community pier associated with this development is subject to the limit on the number of slips contained in the Critical Area Law and the Town's Critical Area Ordinance in Section 30-556(e)(6) of the Town Code. With approximately 220 feet of shoreline, the project is permitted four (4) slips.

5. Please note that the Grandfathering provisions of the Critical Area Criteria contained in COMAR 27.01.02.07 specifically state that the grandfathering provisions do not alter the requirements for development activities covered under the Water Dependent Facilities and Habitat Protection Chapters of the Criteria.

6. It has come to our attention that the condominiums under construction are being advertised as condominium units with slips. Based on the issues raised above, this is incorrect. We recommend that the property deed or other legal documents be required to specify the permissible number of slips on the property.

In summary, the developer's proposal is inconsistent with the Town Code, the Critical Area Law and the Critical Area Criteria. Due to this inconsistency, the State Tidal Wetlands permit cannot be approved. If you have any questions or require any further clarification, please contact me or Ren Serey, the Commission's Executive Director, at 410-260-3460.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Spiro Buas, 17th Street Condominiums
Blaine Smith, Zoning Administrator
Mike Richardson, Chief Building Official
Marianne D. Mason, Assistant Attorney General
Gary Setzer, MDE, Wetlands and Waterways Program
Ren Serey, Executive Director
Joe Kincaid, MDE, Tidal Wetlands Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 14, 2005

Ms. Cathy Maxwell
Queen Anne's Co., Dept of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Variance Case #V-100029, Lawrence Haney

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit construction of an addition within the required front-yard setback. The property is approximately one-third an acre in size and is developed with a single-family dwelling.

Commission staff has reviewed the information provided. Provided that all Critical Area standards are met (including the limit on impervious surface coverage), we have no comment on this setback variance request. Any vegetation removed in the course of construction must be replaced on at least a 1:1 ratio.

Thank you for the opportunity to review this application. Please include these comments in the record for this request and please notify us in writing of the decision made by the Board. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC761-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 14, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Miramar and Miramar West Condominiums

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to demolish an existing motel and associated structures and redevelop the site with condominiums. In total, the area within the Critical Area totals approximately 0.73 acres. The site is not waterfront and Critical Area requirements include the 10% pollutant reduction requirement and the 15% afforestation requirement. Commission staff has reviewed the information provided and we have the following comments:

1. It appears that the proposed reduction in impervious surface meets the 10% requirement. The Town should ensure that areas of pervious pavers have appropriate subsoils to ensure perviousness.

2. It appears that the proposed landscaping on both properties meets the 15% afforestation requirement. However, some of the credits claimed for various plantings are inconsistent with previously accepted plans. We suggest that the Town develop a standard list to ensure consistency.

Overall, the project appears consistent with the Town's Critical Area Program. Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC722-05
OC725-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 10, 2005

Ms. Holly Tompkins
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative/Sliding Scale Subdivision, Herschell Claggett
File #03-05-10-0028-C

Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative/sliding scale subdivision. The applicants propose to relocate lot lines associated with two (2) existing lots. The lots are designated RCA and are waterfront. Both lots appear to be developed with dwellings.

It is our understanding that the original Tract 5 was subdivided in December 1989 into tracts A and B. Total Critical Area acreage is approximately 66 acres. While we have no comment on the relocation of lot lines and the creation of a smaller parcel for Tract 5A, it must be emphasized that RCA density cannot exceed one dwelling unit per 20 acres. In addition, there are a number of environmental issues that must be raised.

1. First, there are a number of areas labeled along the shoreline with the labels from the National Wetland Inventory maps. The areas of concern are labeled as E2EM5P, which translates into estuarine intertidal emergent narrow-leaved persistent irregularly flooded wetland. These are tidal wetland areas that should be delineated in the field and Buffered by the minimum 100-foot Buffer.

2. In addition, topographical information was not provided. Steep slopes contiguous to the Buffer may require Buffer expansion.

3. The forest information is unclear. At least 15% of the parcel within the Critical Area must be forested.

4. The linear area outlined directly north of the pond on Tract 5B is shown as a stream on Department of Natural Resources wetland maps and the County soil survey maps. It also requires a minimum 100-foot Buffer.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC718-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 10, 2005

Ms. Helen Spinelli
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Minor Subdivision, Milton Pierson
File #05-05-10-0025-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to subdivide an existing (though non-grandfathered) lot into two lots. The lot is approximately 20,000 square feet in size and is designated LDA.

Provided that all LDA development standards are met on both Lot 1 and Lot 3 and that the subdivision does not create any non-conformities, there do not appear to be any Critical Area issues of concern with this minor subdivision. However, sheet 2 is incorrectly numbered as sheet 2 of 3.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: QC717-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 1, 2005

Ms. Helen Spinelli
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, Jane Coppage
File #03-05-10-0011-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to relocate existing lot lines around an existing parcel. The subject property is designated RCA and is partially within the Critical Area. Commission staff has reviewed the information provided and we have the following comments:

1. The cover letter indicates that parcel 23 and parcel 23, parcel 1 are unimproved. Aerial photographs (enclosed) from 1992 and 1998 show that parcel 23 is developed with what appears as a dwelling (albeit across Spaniard Neck Road) and also show some type of development activity within the portion of the property that is the subject of this subdivision. This must be clarified.

2. Notwithstanding the above issue, the County should ensure that parcel 23, parcel 1 is a legally grandfathered lot. Evidence of recordation of any deed should be provided.

3. On Sheet 3, it appears that the relocated lot lines along the water are not actually at mean high water, essentially making parcel 1 non-riparian. This should be clarified.

4. Based on a review of the USGS quad and the soil survey, it appears that there may be some areas of steep slopes along the shoreline. Expansion of the Buffer may be necessary and we recommend that this be definitively determined prior to recordation of the parcel.

5. The USGS quad shows a blue line stream (the headwaters of Emory Creek) traversing parcel 23. While this is an administrative subdivision, recognition of natural features that require Buffers is needed.

6. All RCA development standards must be addressed upon development of either lot.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC696-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 31, 2005

Ms. Helen Spinelli
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, Karl & Shirley Giggenbach
File #07-05-10-0022-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to combine three (3) existing lots into two. The lots are designated LDA and are waterfront Buffer-exempt. One of the lots is developed with a dwelling and garage, while the other two appear to contain accessory structures that are proposed to be demolished.

Provided that all LDA development standards are met upon any further development activity on either Lot 1 or Lot 2, there do not appear to be any Critical Area issues of concern with this administrative subdivision.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC719-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 31, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan -- Harold G. Davis -- 107 Old Wharf Road

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct several additions on an existing single-family dwelling. The property is 9000 square feet in size and is waterfront with a 15-foot waterfront setback.

Commission staff has reviewed the information provided. It appears that the 10% requirement is adequately addressed through the removal of existing sidewalks and the proposed berm to control runoff. However, in regard to the proposed landscaping, the credits given for some of the landscaping are inconsistent with the Town's Critical Area Program. For example, daylilies, lirope, and Russian sage are herbaceous perennials rather than small shrubs. Similarly, some of the large shrubs (barberry, yucca, etc.) are very small. Also, credit should not be given for existing landscaping, but instead existing landscaping should be mitigated if it is removed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler
Science Advisor

cc: OC721-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 31, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – OP Land LLC – 1540 Teal Drive, Mallard Island

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down an existing home and replace it with a new one. The property is 14,132 square feet in size and is waterfront with a 15 foot waterfront setback.

Commission staff has reviewed the information provided. It appears that the 10% requirement is adequately addressed through the proposed swales and raingardens. However, the credits given for some of the landscaping are inconsistent with the Town's Program. For example, daylilies and lirope should be considered herbaceous materials and given a credit of 2 square feet rather than the 25 or 50 shown. The landscaping should be reassessed but it appears to primarily address the requirement on-site. Some fee-in-lieu may be needed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler
Science Advisor

cc: OC720-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 31, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Keith Laudenslager – 157 Pine Tree Road

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to install a new manufactured home on an existing concrete pad on a 3,672 square foot lot. The property has a 5-foot waterfront setback.

Commission staff has reviewed the information provided. It appears that the 10% requirement is adequately addressed through the berms and raingarden. However, it appears that impervious surface is proposed within the setback to the water. This is not consistent with the Town's Critical Area Program. The applicant must apply for a variance to permit impervious cover within the setback. The proposed landscaping plan should be more specific (include species), but it appears to meet the Buffer mitigation requirements.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC723-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 31, 2005

Mr. Steve Cohoon
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Minor Subdivision, Summit Point Trading Company
File #05-05-02-0009-C

Dear Mr. Cohoon:

Thank you for providing information on the above minor subdivision. The applicants propose to subdivide an existing one-acre lot into two lots. The property is partially within the Critical Area with an LDA designation.

All LDA development standards must be met if there is any development activity within the Critical Area portion of the property. The site statistics show that 20% of the existing woods in the Critical Area will be cleared, yet no forest replacement is shown. If clearing up to 20% occurs, reforestation at a 1:1 ratio must be provided. The Department of Natural Resources has noted the potential for Delmarva Fox Squirrel (DFS) habitat on this site. We recommend that the applicant minimize intrusion into the forest and preserve as many large trees on site as possible. Mitigation should be provided with species suitable for the DFS. Also, the Critical Area portion of the site is permitted 15% impervious cover. This should be noted on the plat. Lastly, the drainage ditch issue seems to be unresolved at this point in the review. Drainage improvements which involve activity in the Critical Area portion of the site must be accounted for in terms of mitigation or reforestation.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC698-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 28, 2005

Mr. Steve Cohoon
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Four Seasons At Kent Island (Phase One)
File #04-02-03-0002(C) – REVISION #3

Dear Mr. Cohoon:

This office has received resubmittal #3 for Phase One of the Four Seasons at Kent Island Project. Commission staff has reviewed the information provided and we have the following comments on each of the submittal documents:

DRAFT LEGAL DOCUMENTS

1. Page 1 of the Deed of Open Space, Shore Buffer and Forest Conservation Easement, states in the fourth paragraph that the Critical Area Commission approved the Buffer Management Plan on September 21, 2004. The correct date is September 1, 2004. Also, on page 2, the "Buffer Management Plan" should be defined as that plan entitled, "Buffer Management Plan, Revised and Approved September 1, 2004."

FINAL SUBDIVISION PLAT – PHASE ONE

2. The method utilized to delineate the landward edge of the private tidal wetlands along Cox Creek is incorrect. As indicated in previous comments, Sheet 16 of 17 shows the stormwater management easement for stormwater pond #1. It must be located outside of the 300-foot Shore Buffer from the landward edge of the tidal wetlands from Cox Creek. While it is certainly true that we met on site with staff from MDE on September 9, 2005, the private wetlands line as represented on the plat was not flagged in the field so there was no confirmation of the delineation. Rather, we discussed utilizing the Tidal Wetlands map as a guide in trying to determine where tidal wetlands exist on the site at present. The map showed that the landward limit of wetlands was mapped at the woods line. It is my understanding that the elevation of this spot (close to the Cross Island Trail bridge) was

determined and then extrapolated upstream to result in the private wetland line as shown on the plat. However, in some areas, the extrapolated line is lower than mean high water which makes no sense whatsoever.

The Buffer is measured from the landward edge of tidal wetlands as they exist at the time a property is developed. We recommend that the applicant confirm that there are flags in the field for both mean high water as well as the landward boundary of the private wetlands. Once we know that these lines have been flagged in the field, another site visit with MDE, County and Commission staff will be arranged. While we recognize that this issue may not be significant in regard to Phase I, it is significant to the project as a whole, given the extensive shoreline along Cox Creek.

LANDSCAPING PLANS FOR STORMWATER PONDS – McCrone, Inc.

No comments.

FINAL HARDSCAPE/LANDSCAPE PLANS - LandDesign

No comments.

10% RULE CALCULATIONS/STORMWATER MANAGEMENT

3. Through a combination of a modified grass channel credit, stormwater ponds, treatment of a small amount of off-site runoff, and disconnect credits, the proposed stormwater management for Phase I meets the 10% pollutant reduction requirement.

FINAL GRADING, SWM, AND SEDIMENT & EROSION CONTROL PLAN

4. As indicated in Comment #2 above, stormwater pond #1 may need to be moved further away from Cox Creek once the landward edge of tidal wetlands is properly established. This issue requires resolution before moving forward in the review process.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Stan Causey, MDE Tidal Wetlands Division
Four Seasons File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 26, 2005

Ms. Holly Tompkins
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, Michael & Helen Marshall
File #03-05-10-0018-C

Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to relocate existing lot lines between two existing parcels. The parcels are partially located within the Critical Area, are waterfront with an RCA designation.

It appears that the portion of the existing property line that is proposed to be relocated is outside of the Critical Area. (For clarity, the Critical Area line should be shown on the plat.) The proposal does not appear to create any Critical Area non-conformities or nor does it raise any other Critical Area concerns

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC694-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 26, 2005

Ms. Holly Tompkins
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Declaration of Administrative Subdivision, Keenan Bayol
File #04-05-10-0015-C

Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to combine three existing lots into one. The lots are designated LDA and are not waterfront.

Provided that all LDA development standards are met upon development of the new lot, there do not appear to be any Critical Area issues of concern with this administrative subdivision.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: QC695-05

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 26, 2005

Ms. Helen Spinelli
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, Frederic Killian, Jr.
File #04-05-10-0017-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to combine four existing lots into one. The lots are designated LDA and are not waterfront.

Provided that all LDA development standards are met upon any further development of the consolidated property, there do not appear to be any Critical Area issues of concern with this administrative subdivision.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: QC697-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 26, 2005

Ms. Helen Spinelli
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Site Plan - Appletree Custom Homes
File #04-04-12-0008-C – **Revision #2**

Dear Ms. Spinelli:

Thank you for providing information on the above referenced minor site plan. The applicant proposes to demolish an existing two-unit building and construct a three-unit condominium building with associated parking on a 0.451-acre parcel. The property is waterfront and Buffer Exempt. The Critical Area maps show it as partially LDA (including some tidal wetlands) and partially IDA.

1. Commission staff supports the proposal to use additional plantings in lieu of a stormwater management structure within the setback from the tidal gut. Site grading and drainage (i.e., downspouts) should direct runoff to these vegetated areas as much as possible.

2. We recommend adding additional herbaceous materials to the Buffer along Piney Creek. Adding native grasses (such as switch grass) and other plants (in lieu of turf grass) would greatly enhance the Buffer from a habitat and water quality standpoint but would not impact the view. It would also decrease the need for weekly maintenance, fertilizers and pesticides associated with a residential lawn.

3. We recommend that the small shed around the well be required to be removed upon service of the property with public water.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC504-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

VIA FACSIMILE

To: Chris Pajak, MDE, Non-tidal Wetlands Division

From: LeeAnne Chandler

Date: October 24, 2005

RE: MDE Permit Application #05-NT-2168, Long Point Partnership

This office has received a copy of the permit application for the project referenced above. Specifically, the applicant is requesting a permit to fill 4932 square feet of non-tidal wetland and disturb 15,130 square feet of non-tidal wetland buffer. Commission staff has reviewed the permit application as well as various resource maps. Based on a review of this information, it appears that the proposed fill activity is located within the expanded Critical Area Buffer. (The subject non-tidal wetlands appear to be contiguous to tidal wetlands. The 100-foot Critical Area Buffer must be expanded to include contiguous non-tidal wetlands.) Neither the Buffer nor the tidal areas are delineated on the permit application.

New development activities, including fill and grading, are not permitted within the Buffer under the Critical Area Law, Criteria and the local Critical Area Program. Due to this inconsistency, we recommend denial of the permit as requested.

Thank you for the opportunity to comment. If you have any questions or concerns, or would like to discuss these issues further, please contact me at (410) 260-3477.

cc: Steve Cohoon, Queen Anne's County Deputy Planning Director
Vivian Swinson, Permits

TTY for the Deaf
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Robert L. Ehrlich, Jr.
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Executive Director

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October 21, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – John & Gerry Spencer – 348 South Ocean Drive

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to build over an existing mobile home with a new single family dwelling. The property is 3600 square feet in size and appears to be across the street from the water.

Commission staff has reviewed the information provided. It appears that the 10% requirement is adequately addressed through the proposed swales and raingarden. Similarly, it appears that the proposed landscaping will meet the afforestation/Buffer mitigation requirement. The proposal appears consistent with the Town's Critical Area Program.

Thank you for the cpportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC680-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 17, 2005

Ms. Helen Spinelli
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Minor Subdivision, Primo Investments, LLC
File #05-05-10-0006-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced minor subdivision. The applicant proposes to subdivide an existing 0.5 acre lot into two lots. The lots are designated LDA and are not waterfront. There is an existing dwelling. Commission staff has reviewed the information provided and we have the following comments:

1. While it is true that the existing grandfathered lot has a 25% impervious surface limit, the grandfathering status will cease upon subdivision. The lots then are subject to impervious surface limits for new subdivisions, which allow 25% coverage on individual lots, **provided the total of the impervious surfaces over the entire subdivision does not exceed 15%.** (See §14:1-38(D)(8)(e) of the County's Critical Area ordinance.) It is not clear that these lots can both be developed without exceeding the 15% limit.

2. Existing trees and woodlands should be based on an on-site survey rather than 20-year old aerial photographs. Based on more recent infrared aerials, there are a number of mature trees on the property. Their location should be represented accurately on the plat. Any removal of trees should be mitigated at the appropriate ratio.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC664-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 17, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Broad Marsh Townhomes – 69th & 70th Street, Bayside

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to remove structures at an existing trailer park and redevelop the site with 78 townhomes. The parcel is 4.05 acres in size and is subject to a 25-foot waterfront setback.

Commission staff has reviewed the information provided. We have the following comments:

1. Documentation regarding Habitat Protection Areas must be provided.

2. The survey of existing conditions should identify which areas are vegetated and which are covered in impervious surfaces.

3. The applicants propose extensive areas of pervious pavers. Soil test results should be provided which demonstrate the permeability of the underlying soils.

4. Pervious pavers cannot be used for the actual travel portion of roads such as Seabay Drive. Also, pervious pavers/parking are not permitted within the 25-foot setback. The only such areas permitted will be the approach to the boat ramp. The waterfront portion of the site must be redesigned to eliminate all parking within the 25-foot setback.

5. The 10% calculations should be revised to account for a reduced area of pervious pavers.

6. The landscaping plan should be revised to provide more plantings within the setback. There is clearly an opportunity to provide a nicely vegetated Buffer on this site.

7. We recommend that the landscaping plan be revised to eliminate the use of Norway Maple, which has been identified as an invasive exotic species by the US Fish & Wildlife

Service and numerous other organizations. Native species should be used. Also, we recommend adding further variety to the plant list.

8. An assessment of how much of the pervious area is truly plantable is needed.

9. Waterfront improvements such as piers or walkways should be identified on the site plan and discussed as part of the overall redevelopment of the site. This will help avoid delays in the permitting process.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC674-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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October 17, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – OC Palm Beach Hotel – 803 Philadelphia Avenue

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down several existing buildings and redevelop a portion of the site with a hotel and restaurant building. The property is 1.15 acres in size and is not waterfront.

Commission staff has reviewed the information provided. We have the following comments:

1. There are conflicting site statistics in the various calculations. For example, the site plan shows the site as 30,000 square feet in size, while the Critical Area application states it is 50,000 square feet. These should be consistent. If the site is legally combined as one property (and density, parking, and taxes are shared) then the entirety of the property (even that which will remain as it exists today) should be used for all the calculations.

2. If an infiltration trench beneath pavers will be used as stormwater management, results of soils tests should be provided to support the full 65% efficiency rating.

3. With additional pavers/infiltration trench, it appears that a fee-in-lieu for the deficit in the 10% requirement could be avoided. As it stands, a fee of $4,220 would be required.

4. It seems that the planting requirements on the site plan were based on 30,000 square feet while the plantings themselves are spread amongst the properties making up the 50,000 square feet. As indicated in comment 1, this should be consistent.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Ren Serey
Executive Director

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October 17, 2005

Ms. Holly Tompkins
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, Daniel Callahan
File #04-05-09-0015-C

Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to relocate a lot line between two existing lots. The lots are designated LDA and are waterfront. There is an existing dwelling that crosses the existing lot line.

All LDA development standards must be met upon any development on either of the proposed lots. Please note that the waterfront boundary of the property should be consistent with the current mean high water line. The plat shows a bulkhead (which is also likely the mean high water line) up to 20 feet landward of the property line. Also, please note that the Buffer should be measured from the current shoreward extend of tidal waters or tidal wetlands rather than the property line. This should be corrected.

Also, please note that the County should ensure that the proposed lot line adjustment does not create any nonconformities in terms of meeting all requirements of Title 18. According to the plat, the existing dwelling crosses the existing lot line. As indicated in comments on similar administrative subdivisions, a Court of Appeals decision (Friends of the Ridge v. BG & E [352 Md. 645 (1999)]) introduces the concept of "doctrine of merger" whereby a property owner who utilizes contiguous lots in the service of a single structure essentially merges the two lots. Subsequent subdivision must be consistent with current zoning requirements. The County should ensure that this proposal meets all requirements of current zoning and should ensure it does not conflict with the doctrine of merger.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC652-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
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October 13, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Richard Thomas – 313 Tuna Lane

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct an addition and new sidewalk on an existing single-family dwelling. The lot is 5730 square feet in size and is waterfront with a 15-foot setback.

Based on a review of the information provided, it appears that that the proposed swale, pervious deck construction and the on-site plantings will address the stormwater requirements. In addition, the proposed landscaping will meet the Buffer mitigation requirements. The proposal appears consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC637-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 13, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – David Owens – 249 South Ocean Drive

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new home as a mobile home build-over. The lot is 4000 square feet in size and is waterfront with a 5-foot setback.

Based on a review of the information provided, it appears that that the proposed swales and raingarden will address the stormwater requirements. In addition, the proposed landscaping will meet the Buffer mitigation requirements. However, please note that approved landscape plan differs from the plan approved for stormwater management purposes in terms of the number and location of the plantings. This should be corrected as necessary. The proposal appears consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC668-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 13, 2005

Ms. Cathy Maxwell
Queen Anne's Co., Dept of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Variance Case #V-100001, John S.Schaffer, 503 Frederick Road

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit construction of a storage shed within the required front-yard setback. The property is approximately half an acre in size and is developed with a single-family dwelling.

Commission staff has reviewed the information provided. Provided that all Critical Area standards are met (including the limit on impervious surface coverage), we have no comment on this setback variance request. Any vegetation removed in the course of construction must be replaced on at least a 1:1 ratio.

Thank you for the opportunity to review this application. Please include these comments in the record for this request and please notify us in writing of the decision made by the Board. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC648-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 13, 2005

Mr. Steve Cohoon
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Ellendale – Preliminary Plat – **REVISION #1**
File #04-05-05-0008(c), Charles & Janet Breeding

Dear Mr. Cohoon:

Thank you for providing information on the above referenced subdivision. The applicants propose to subdivide a property and develop it with 106 single-family dwellings and 179 condominium units. The site is partially within the Critical Area. A portion of the Critical Area was awarded growth allocation in 2002. The Critical Area Commission approved the growth allocation with the condition that the Buffer Management Plan be reviewed and approved by Commission staff. Commission staff has reviewed the information provided and we have the following comments:

GENERAL

1. Please forward a copy of a revised jurisdictional determination when it is received.

2. Please forward a copy of an updated letter from DNR when it is received.

3. The Critical Area line is still missing from the site development, road and stormwater plans.

PRELIMINARY PLAT

4. The response to previous comments indicated that existing structures on remaining lands are to be removed. While notes have been added to the plat adjacent to each of the structures to the east of the future connector road, the structures to the west of the

future road do not have the same notations. Please clarify that all existing structures on the "remaining lands of Ellendale Farm" will be removed.

5. According to the notes on Sheet 3, the property lines are taken from a previous plat recorded in 1994. Further, the 1994 plat indicates that the wetlands on the subject property "were scaled from the national wetlands inventory map #15 for Queen Anne's County." This is not a reliable means of determining the mean high water line (i.e., the property line). The property line along Thompson Creek should be based on the current mean high water line. If in fact the vegetated wetlands are private wetlands, the mean high water line and property boundary could be easily identified as the current open water boundary.

6. Additional work is needed on the Buffer Management Plan. While we acknowledge that the County's Critical Area ordinance calls for reforestation at 70 whips per acre, this is below acceptable reforestation standards as well as Buffer establishment guidelines. A density of 400 stems per acre is sought for Buffer establishment and for any riparian Buffer planting used as an offset for the 10% pollutant reduction requirement. The Buffer Management Plan should also include a long-term monitoring and maintenance schedule, invasives management and provisions for any trails or water access. The applicant should be aware that Commission staff approval of the Buffer Management Plan was a condition of the award of growth allocation.

STORMWATER

7. Please explain how the proposed impervious cover within the Critical Area portion of the property has been determined in the 10% calculations. Estimates based on TR-55 modeling are not acceptable. Estimates should be based on actual house model footprints (and potential accessory structures) and represent a worst-case scenario in terms of future imperviousness.

8. The large drainage swale coming from the future Thompson Creek Road Connector still does not have a stormwater easement shown on the plat.

9. The stormwater manual requires landscaping around and sometimes within stormwater facilities (especially bio-retention areas). The landscaping plans provided for the stormwater ponds propose grass seed mixes for all of the hydrologic zones of the facility, with a few shrubs and trees added. In order to enhance the water quality and habitat functions of these facilities (as well as make them more aesthetically pleasing), we recommend that the plan be modified to take advantage of the varying hydrologic zones. More diverse herbaceous materials, ranging from more aquatic species such as Blue Flag Iris to shrubs such as Marsh Hibiscus, will make the stormwater facilities more attractive to many species, including the future residents.

10. There is still grading proposed within the 300-foot setback/RCA shown on sheet 6 of the SEC plans. Also, please explain what "B-2" means in terms of sediment control.

11. We recommend that the 300-foot setback be protected by a supersilt /safety fence along its entire length to avoid unintended disturbance.

Thank you for the opportunity to review and comment on these plans. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC 160-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 13, 2005

Mr. Steve Cohoon
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Chester Station Joint Venture – Concept Plan – REVISION #2
File CP#04-04-11-0002(C)

Dear Mr. Cohoon:

Thank you for providing the revised information on the above referenced concept plan. The applicant proposes to build 19 townhomes and associated amenities on a 10.847-acre parcel. The property is designated LDA and is waterfront. Commission staff has reviewed the information provided and we have the following comments:

1. Please forward a copy of the applicant's request for a shore buffer reduction and a copy of the findings of fact.

2. Detailed stormwater management information, including details of any stormwater credits being claimed, must be provided early in the subdivision review process.

3. The 100-foot Buffer should be established when the site is developed. A Buffer Management Plan, that includes provisions for eradication of existing Phragmites, should be included in the site plan submittal.

4. Proposed impervious coverage is within 0.1 acre of the 15% limit (without accounting for any decks, patios or sidewalks). Any increase beyond the 15% limit will require a variance. This office could not support such a request.

5. We strongly encourage the applicant to locate all units to ensure no intrusion into the shore buffer occurs. This includes disturbance during construction as well as any future additions.

Thank you for the opportunity to comment on this revision to the concept plan. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC810-00

Robert L. Ehrlich, Jr.
Governor

[illegible]ael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 11, 2005

Ms. Holly Tompkins
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, Daniel Callahan
File #04-05-09-0015-C

Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to relocate a lot line between two existing lots. The lots are designated LDA and are waterfront. There is an existing dwelling that crosses the existing lot line.

Provided that all LDA development standards are met upon any development on either of the lots, there do not appear to be any Critical Area issues of concern with this administrative subdivision. However, the County should ensure that the proposed lot line adjustment does not create any nonconformities in terms of meeting all requirements of Title 18. According to the plat, the existing dwelling crosses the existing lot line. As indicated in comments on similar administrative subdivisions, a Court of Appeals decision (Friends of the Ridge v. BG & E [352 Md. 645 (1999)]) introduces the concept of "doctrine of merger" whereby a property owner who utilizes contiguous lots in the service of a single structure essentially merges the two lots. Subsequent subdivision must be consistent with current zoning requirements. The County should ensure that this proposal meets all requirements of current zoning and should ensure it does not conflict with the doctrine of merger.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC652-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 7, 2005

Ms. Holly Tompkins
Queen Anne's Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Administrative Subdivision, L & R Properties, LLP
File #07-05-09-0014-C

Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to combine three existing lots into two. The lots are designated LDA and are waterfront.

Provided that all LDA development standards are met upon redevelopment of both of the new lots, there do not appear to be any Critical Area issues of concern with this administrative subdivision. However, the County should ensure that the proposed subdivision does not create any nonconformities in terms of meeting all requirements of Title 18. It is not clear if the existing dwelling has been removed or not. According to aerial photographs from 1998, the dwelling crossed all lot lines. As indicated in comments on similar administrative subdivisions, a Court of Appeals decision (Friends of the Ridge v. BG & E [352 Md. 645 (1999)]) introduces the concept of "doctrine of merger" whereby a property owner who utilizes contiguous lots in the service of a single structure essentially merges the two lots (or three as in this situation). The County should ensure that this proposal meets all requirements of current zoning and should ensure it does not conflict with the doctrine of merger.

Thank you for the opportunity to review and comment on this subdivision. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC654-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 30, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Pat Damiani – 709 S. Surf Road

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new single-family dwelling on an approximately 4,650 square foot lot. The property is waterfront with a 15-foot setback.

Based on a review of the information provided, it appears that that the proposed swales and raingarden will address the stormwater requirements. In addition, the proposed landscaping, with a supplemental fee-in-lieu will meet the Buffer mitigation requirements. The proposal appears consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC640-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 29, 2005

Mr. Vijay Kulkarni
Queen Anne's Dept. of Public Works
PO Box 56
Centreville, MD 21617

RE: Narrows Pointe – Disconnection of roofdrains

Dear Mr. Kulkarni:

This letter is a follow-up to our recent discussion and site visit to the Narrows Pointe site at Kent Narrows. The developer's representative has requested permission to allow the downspouts from the water-side of the dwellings to be disconnected from the piping that drains the rooftop runoff to the front of the buildings. Apparently the roofdrains, together with drainage from the sump pumps, is causing standing water between the units. As indicated in the field, the 10% pollutant reduction requirement was met on this site with a combination of the road-side swales treating runoff from the entrance road and the two stormwater ponds treating runoff from the remainder of the site. My concern was that reducing the impervious cover draining to the pond would cause non-compliance with the Critical Area 10% pollutant reduction requirement.

While reducing the impervious cover draining to the pond does reduce the pollutant load removed, a change in the design of the pond (raising the outfall riser) changes it into an extended detention pond, with a higher pollutant removal efficiency than previously claimed (60% as compared to 50%). If the downspouts from the water-side of the last five buildings (the only ones that are primarily within the IDA portion of the site) are disconnected, the pollutant reduction requirement is still addressed fully on-site, given the change in the design of the pond. The remainder of the buildings are located in the LDA, where only the County stormwater requirements apply.

If you have any questions or if you would like to discuss this matter further, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Tom Klamp, Green Touch Landscaping Company, Inc.
David Powers, McCrone, Inc.
Steve Cohoon, Dept. of Planning and Zoning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 27, 2005

Ms. Helen Spinelli
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Magothy Auto
File#04-05-09-0009-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to combine two existing lots into one for construction of an auto repair business. Commission staff reviewed the information provided. Note #4 is incorrect according to the accompanying minor site plan and the application. A portion of the site is within the Critical Area designated IDA. All IDA development standards must be met in redeveloping the property.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC 516-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 27, 2005

Ms. Helen Spinelli
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Site Plan, Magothy Auto
MISP#04-05-07-0015-C – REVISION #1

Dear Ms. Spinelli:

Thank you for providing revision #1 of the above referenced minor site plan. The applicant proposes to construct an automobile repair shop and associated parking on a 0.936-acre parcel. A total of 0.464 acres are within the Critical Area with an IDA designation.

Commission staff has reviewed the information provided. The letter from DNR was not included in the submittal as noted in the DMS letter. Provided that there are no habitat issues, we have no further comments on this proposal.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: QC 516-05

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 27, 2005

Ms. Tanya Krista-Maenhardt
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Concept Plan, Island Flowers
CP# 04-05-06-0013© - REVISION #2

Dear Ms. Krista-Meanhardt:

Thank you for providing revision #2 of the above concept plan. The applicant proposes to convert an existing residential dwelling into a flower shop. The property is partially within the Critical Area, with an IDA designation. The primary Critical Area requirement is the 10% pollutant reduction requirement. Commission staff has reviewed the information provided and we have the following comments:

1. While we generally do not oppose the use of plantings to offset small deficits in meeting the 10% requirement, this is usually done in conjunction with some on-site best management practice. It appears that there is an opportunity to provide some water quality benefits through the use of a bio-retention area in portions of the site that are required to be planted anyway.

2. If trees are planted to address water quality requirements, the trees should be planted in a location that will provide the most water quality benefits (e.g., an area that receives some drainage). Their location should be established on the site plan.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: QC 434-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 27, 2005

Ms. Tanya Krista-Maenhardt
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Concept Plan, Bay East Development Corporation
CP# 04-05-07-0005© - REVISION #1

Dear Ms. Krista-Meanhardt:

Thank you for providing revision #1 of the above concept plan. The applicant proposes to construct 49 townhouse-type condominium units on a parcel containing 6.223 acres of uplands. The site is designated IDA and is Buffer Exempt. Commission staff has reviewed the information provided and we have the following comments:

1. All IDA development requirements must be addressed. Due to the proposed anticipated level of impervious cover, the 10% requirement may be difficult to address fully on site.

2. A 50-foot shore buffer will be required. No disturbance of any kind will be permissible within 50 feet of the water. Further discussion is needed in regard to the proposed walkway. A parallel walkway at the shoreline does not minimize impacts to the Buffer. Significant on-site mitigation will also be required.

3. Based on the lessons learned from the nearby Narrows Pointe development, we recommend that all units be set back with enough space to provide decks entirely outside of the 50 foot Buffer. With the exception of plantings, no disturbance should be permitted within the Buffer.

4. We recommend that the applicant immediately consult with the Maryland Department of the Environment and the US Army Corps of Engineers regarding the proposed bulkheading around the entire shoreline. Based on recent practice, it seems highly unlikely that new bulkheading would be approved. This will affect the design of

shoreline improvements (including design of the community pier) and will also affect the location of the Buffer.

5. It appears that a portion of the property is open water. The applicant should demonstrate ownership over these areas.

6. How was the number of slips at the community pier determined?

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC 471-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 27, 2005

Mr. Vijay Kulkarni
Queen Anne's Dept. of Public Works
PO Box 56
Centreville, MD 21617

RE: Plantings for 10% Rule Compliance - UPDATE

Dear Mr. Kulkarni:

Since 2003, the County and staff of the Critical Area Commission have had an unofficial policy regarding the use of plantings as an offset for 10% pollutant removal requirements when an on-site facility cannot fully meet the requirements. We agreed that plantings can only be used in certain circumstances and only for 10% purposes (not for the standard stormwater requirements). We also agreed that plantings can be used to address no more than 0.5 pounds of Phosphorus removal. The planting rate established was 210 trees or shrubs per pound of Phosphorus removal.

Since that unofficial policy has been in use, the Critical Area Commission adopted a new "Critical Area 10% Rule Guidance Manual" that also provides guidelines for using plantings as an offset under certain circumstances. Recent project reviews have highlighted differences between what Queen Anne's County and staff had agreed to in 2003 and the new Guidance. In order to ensure consistency in the implementation of the Critical Area Law and Criteria, including the 10% requirement, we recommend that the County use the parameters for offsets as provided for in Section 6 of the 10% Manual.

In regard to planting as an offset in particular, the Manual recommends planting at a density of 400 trees per acre where up to 30 percent of the planting may be accomplished with shrubs with one tree equating to three shrubs. Planting one acre at this rate equates to a pollutant removal credit of two pounds of Phosphorus. See Section 6 of the Manual, particularly Options 4 and 5 for a more complete discussion of this offset. As always, the plantings for 10% offset purposes should be identified appropriately on the plans and should be in addition to any required mitigation, afforestation or landscaping. Standard guarantees must be required.

Please let me know if the County is amenable to adjusting its policy in accordance with the Commission's 10% Manual. If you have any questions, concerns, or would like to discuss this matter further, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Steve Cohoon, Dept of Planning and Zoning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 26, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Bahia Vista II, 1000 Edgewater Avenue – Landscaping Plan

Dear Mr. Smith:

Thank you for providing supplemental information on the above referenced site plan. The applicant proposes to tear down two buildings and associated parking and redevelop the 40,000-acre site with a condominium building. The site is not waterfront. Commission staff has reviewed the information provided and we have the following comments:

1. The landscaping plans show compliance with the 15% afforestation requirement and it appears that 15% of the site is "plantable." The Town should ensure that the "sundeck" is to be vegetated.

2. Due to the size of the property, the applicant should provide a copy of correspondence from the Maryland Department of Natural Resources regarding the presence or absence of any sensitive species on or near the site. This should be acquired prior to the issuance of any permits.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: OC567-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 26, 2005

Ms. Cathy Maxwell
Queen Anne's Co., Dept of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

VIA FACSIMILE

RE: Variance Case #V-090004, George M. Price, 114 Laird Benton Road

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit construction of an addition to an existing dwelling within the 100-foot Buffer. The property is 0.292 acres and is designated LDA.

Commission staff has reviewed the information provided and also visited the site with the County inspector. It appears that the existing structure was damaged by floodwaters in the recent past. It sits extremely close to the shoreline, where an older bulkhead is deteriorating. The structures along the shoreline shown on the site plan no longer exist. Instead, the only shoreline structure is the pier. The site contains numerous mature trees, two of which would have to be removed if the request is granted.

Based on the existing location of the structure and the proposed reconstruction (i.e., constructing a second floor for living space, with the first floor for storage only), it appears that the only new intrusion into the Buffer is the proposed second floor deck. It appears that the only ground disturbance will be the footers for the supporting posts. Ideally, the new construction would maintain the existing distance from the shoreline. However, provided the deck is constructed to be pervious, the proposal appears to be a reasonable request given the existing structure's location. If the variance is approved, we recommend mitigation a minimum 3 to 1 ratio for the square footage of disturbance within the Buffer.

Thank you for the opportunity to review this application. Please include these comments in the record for this request and please notify us in writing of the decision made by the Board. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC608-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 22, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Brian Cristiano – 142 Old Landing Road

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down and reconstruct a single-family dwelling on an approximately 6,000 square foot lot. The property is waterfront with a 15-foot setback.

Based on a review of the information provided, it appears that that the proposed swales and raingardens will address the stormwater requirements. In addition, the proposed landscaping will meet the Buffer mitigation requirements. The proposal appears consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: OC627-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 16, 2005

Ms. Helen Spinelli
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Site Plan, Angler's Restaurant
MISP #05-05-08-0019-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced minor site plan. The applicant proposes to tear down an existing fire-damaged restaurant and re-build it at a different location on the site. The property is approximately 1.44 acres in size, is designated IDA and Buffer Exempt. Commission staff has reviewed the information provided and we have the following comments:

1. The Environmental Assessment Report indicates that there is no shoreline buffer or resource protection restrictions within the IDA. This is incorrect. While the site is within a Buffer Exemption Area, there is still a Buffer that must be considered in redevelopment of the site. Similarly, if there are any nearby Habitat Protection Areas, they require the same protection as if the site were RCA.

2. We are opposed to the reduction of the shore buffer to zero feet. Existing structures associated with the restaurant, as well as the minimum setback from Tidal Wetlands within the WVC, is 15 feet.

3. Please provide a copy of the response from DNR on the Environmental Review when it is received.

4. The 10% calculations are required and have not been provided. For 10% purposes, the calculations should be based on the area of the property itself.

5. The triangular piece of land across the canal from the restaurant is shown as existing lawn on the existing conditions plan and as existing gravel on the proposed site plan. It appeared to be grass in the field.

6. We recommend that substantially more plantings be provided on site, especially between the development and the water. While we understand that the walkway will be pervious, the area of the setback is supposed to be established in vegetation according to the County's Buffer Exemption provisions. Also, there should be an obvious environmental improvement with redevelopment of the site. The areas along the shoreline currently contain grass on top of the gravel in many places and the grass does serve to slow runoff and help filter some pollutants. The areas that cause specific concern are those that extend from parking, to boardwalk to water, without any plantings whatsoever.

Thank you for the opportunity to comment on this proposal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC593-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

To: Joe Kincaid, MDE, Tidal Wetlands Division

From: LeeAnne Chandler

Date: September 14, 2005

RE: MDE Permit Application #200564724/ ADC Builders

This office has received a copy of the permit application for the project referenced above. Specifically, the applicant is requesting a permit to construct 725 linear feet of new bulkhead fifteen to twenty-five feet channelward of the existing mean high water line and to construct a twelve-foot wide walkway right along the water. It is my understanding that the property was formerly used as a concrete plant. Apparently, the site is proposed for redevelopment for residential uses.

All aspects of redeveloping the site, including shore erosion control and waterfront walkways, are subject to the Town's Critical Area Program. Commission staff has reviewed the information provided, including information on the nearby waterbird colony. No information has been submitted to us from the Town related to compliance with Critical Area requirements. We have the following comments:

1. It is our understanding that the applicant has proposed the bulkhead so far into the water due to concrete debris that has fallen into the water over the years. For Critical Area purposes, the existing bulkhead will be the basis for establishing the 25-foot setback, not the new bulkhead as it appears on the top of sheet 3.

2. It is my understanding based on conversations with Doldon Moore at the Board of Public Works that while some encroachment into State waters may be permitted, the title to the land under the water (and under the newly placed fill) remains with the State. The applicant cannot gain density via the proposed filling of State waters.

TTY for the Deaf
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

3. While we do not oppose the concept of a public bayside boardwalk, please be aware that the Town's Critical Area Program currently does not permit decks within the first ten feet landward of the shoreline. As you are aware, we have had discussions with the Town to discuss the concept in general and how such a use might be accommodated. However, since the meeting in early August, we have not had any further discussions. If it is in MDE's purview to approve or deny the walkway (due to its placement in the area of State water), we recommend that any approval be made conditional upon compliance with the local Critical Area Program.

4. In regard to the nearby waterbird colony, please be aware that such areas are designated as Habitat Protection Areas (HPAs) within the Critical Area. The Town's Critical Area Program requires applicants to prepare a Habitat Protection Plan for any HPAs that may be impacted by a proposed project. The Plan must identify measures that will be taken to conserve and protect the identified habitats. No such plan has been provided for the proposed project.

Please contact me if you have any questions or if you would like to discuss this matter further. I can be reached at (410) 260-3477.

cc: Jesse Houston, Planning Director
Blaine Smith, Zoning Administrator

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 14, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Gilbert Mobley – 14001 Loop Road

Dear Mr. Smith:

Thank you for providing information on the above referenced resubdivision. The applicant proposes to tear down and reconstruct a single-family dwelling on an approximately 6,500 square foot lot. The property is waterfront with a 15-foot setback.

Based on a review of the information provided, it appears that that the proposed swales and raingardens will address the stormwater requirements. In addition, with a fee-in-lieu, the proposed landscaping will meet the Buffer mitigation requirements. However, we encourage the Town to pursue further on-site landscaping (especially since the landscaping is an integral part of the raingardens) prior to accepting the fees-in-lieu proposed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: OC599-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 14, 2005

Mr. Richard Altman
2800 Bennett Point Road
Queenstown, Maryland 21658

RE: Four Seasons Site Plans reviewed in July 11, 2001 approval – Previously Missing Sheets

Dear Mr. Altman:

Accompanying this letter are copies of the sheets missing from our set of plans considered by the Commission in confirming its approval of the request for growth allocation for the Four Seasons project on July 11, 2001. We acquired these plans by sending a letter to the County requesting a copy from their files. Once we received them from the County, copies were made at Kinkos.

This completes our response to your August 5, 2005 reequest under the Public Information Act, Md. Ann. Code, State Gov't §§ 10-611 *et seq.*, and the regulations promulgated there under by the Maryland Department of Natural Resources (DNR), COMAR 08.01.06.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 12, 2005

Mr. Keith Lackie, Natural Resources Administrator
Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Snow Hill Storage Facility, TM 63, P 2

Dear Mr. Lackie:

This letter is a follow-up to the Critical Area Commission's previous comments submitted on the above referenced project, specifically related to the proposed stormwater management. As indicated in those comments, the Commission staff had a number of concerns related to the disconnection credits claimed on the referenced project. The proposed site plan has been presented recently to the Maryland Department of the Environment's (MDE) Sediment, Stormwater and Dam Safety Program, and we discussed the use of credits in general, and particularly, the use of grassed swales as a means of reducing the overall stormwater management required for this particular site.

As indicated in our previous comments, and as a result of discussions with MDE stormwater staff, the grassed swale credit is meant to be utilized in lieu of curb and gutter systems and receive runoff as sheetflow from the side of a roadway. The credits, if implemented properly, are meant to reduce the generation of stormwater from a site, and ultimately reduce the size and cost of best management practices that must be implemented. The use of the "disconnection" is supposed to be exactly that; i.e., permanently removing (by sending it as sheet flow over pervious vegetated surfaces in order to allow the runoff to infiltrate/filtrate) that portion of runoff from the overall discharge coming from the site. If implemented properly, the credits can help a project meet both the County stormwater requirements as well as the 10% pollutant reduction requirement.

As shown on Sheet S-1 of the Snow Hill Storage site plan, the proposed areas for disconnection/grassed swale credit are rooftops, parking spaces and drive aisles. The runoff coming from those areas is being directed into grassed swales for conveyance to the stormwater management wet ponds. The grassed swales do not separate runoff from the rest of the site's runoff but instead combine and convey it to the ponds. The swales can serve as pretreatment for

the runoff entering the ponds and may serve to meet the groundwater recharge requirement if deemed necessary. These swales are not properly disconnecting the runoff such that the impervious cover within those areas can be subtracted from the post-development impervious cover in the 10% calculations. If any of the disconnected areas can meet the mandatory requirements as listed in italics for rooftop or non-rooftop runoff disconnection credits as listed in Chapter 5 of the MDE Stormwater Manual, then the impervious cover can be reduced in the 10% calculations.

Thank you for your understanding and cooperation. For your information, enclosed with this letter is a copy of a letter sent by MDE Stormwater staff to answer an inquiry about the grass channel credit. Please note that I have not yet had an opportunity to discuss this issue with Bob Shockley. However, I have left him a voice message and anticipate speaking with him in the near future. If you have any questions or if you would like to discuss this matter further, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Bob Shockley, Worcester DRP
WO579-05

Dear Mr. Kobin:

Thank you for your interest in Maryland's stormwater management program. In your email, you have requested that the Maryland Department of the Environment (MDE) clarify the use of the Grass Channel credit as found in Chapter 5 of the 2000 Maryland Stormwater Design Manual (the Manual). This credit encourages the use of open section roads and conveyances to disconnect linear or small discrete impervious areas. Unfortunately, the Manual provides too little detail on the design of qualifying channels. Please consider the following:

The Manual states that the use of open grass channels will automatically meet the Re_v for impervious areas draining into the channel. Furthermore, grass channels that meet the additional criteria listed on page 5.14 may also be used to address WQ_v. What is typically overlooked when considering this credit are conditions provided in Figure 5.3 and implied throughout Chapter 5. First, please consider the plan view drawing on Figure 5.3. This detail is clearly marked "Channel length is directly proportional to roadway length". Second, sheetflow conditions are critical for water quality treatment in several of the credits, including this one. To ensure sheetflow, MDE limits the application of nonstructural practices to 1,000 square feet of imperviousness per single discharge point. This condition is outlined on page 5.9 (Non Rooftop Disconnection) and may be applied wherever sheetflow is encouraged. Other conditions that apply include the 75 foot maximum contributing impervious area flow path and that the length of disconnection be equal to or greater than the contributing length.

Although not explicit, there are limiting requirements placed on the use of grass channels, especially with respect to their use for treating non-linear blocks of imperviousness. In absence of better guidance, and in addition to the listed requirements (page 5.14), MDE currently recommends that the grass channels be used for linear imperviousness only and that the length of a qualifying channel be proportional (or 1:1) to the length of the contributing imperviousness. If grass channels are used to treat blocks of imperviousness (e.g., parking lots, buildings) then the maximum contributing length of imperviousness shall be 75 feet or less, maximum imperviousness to a single discharge point shall be 1,000 square feet or less, and the grass channel length must be greater than the contributing length.

I hope that this answers your question. If there are any other questions concerning this issue, please contact me.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 9, 2005

Mr. Steve Cohoon
Department of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: The Highlands (Home Farm Ltd.) – Major Subdivision – PHASE I
File #02-04-11-0010(c) – REVISION #2

Dear Mr. Cohoon:

Thank you for providing REVISION #2 of the above referenced major subdivision. The applicant proposes to subdivide an approximately 275-acre parcel into 50 lots. The plat indicates that just 6.85 acres are within the Critical Area with an RCA designation.

Since the effect to the Critical Area portion of the property is limited to the placement of the existing forest into a forest retention area pursuant to the Forest Conservation Act requirements, this office has no Critical Area concerns regarding this phase of the subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC861-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 9, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Resubdivision – Bayside Keys, Lot 202

Dear Mr. Smith:

Thank you for providing information on the above referenced resubdivision. The applicant proposes to subdivide an existing single-family residential lot of 6213 square feet into three townhouse lots. The property is developed with a single-family dwelling and attached garage.

Provided that all IDA development standards are addressed upon redevelopment of the property, this office has no comment on the proposed subdivision.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: OC566-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 9, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Howell, 729 Laurel Road – File #9389

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct an addition on an existing single-family home. The property is 10,725 square feet in size and is waterfront with a 15-foot setback requirement. Commission staff has reviewed the information provided and we have the following comments:

Provided that the deck is constructed to be pervious and the plantings are provided as shown on the landscape plan, it appears that the proposal is consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: OC566-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 9, 2005

Mr. Steve Cohoon
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Norman Point/Kopec
File #05-05-08-0013-C

Dear Mr. Cohoon:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to relocate existing property lines between three existing parcels. One parcel is the open space for a relatively new subdivision while the other two are existing undeveloped parcels. The critical Area portion of the properties are designated LDA.

Provided that all LDA development standards are addressed and that no non-conformities are created by the proposed lot line adjustment, this office has no comment on this proposal.

Thank you for the opportunity to comment on this proposal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC570-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 8, 2005

Mr. Steve Cohoon, Deputy Director
Queen Anne's County Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Award of Growth Allocation – RVG Management

Dear Mr. Cohoon:

At its meeting of September 7, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination that the award of growth allocation to the Critical Area portion of tax map 57, parcels 78 and 374 can be handled as a refinement to the County's Critical Area Program. The Chairman has approved the proposed map change and the deduction of 12.05 acres of growth allocation to change the Critical Area designation from LDA to IDA on the property for the purpose of constructing a Giant supermarket, retail space, associated parking and stormwater management. He placed two conditions on the approval. The conditions are as follows:

1. The 10% pollutant reduction requirement shall be addressed on-site with treatment of off-site runoff included as needed.

2. The applicant shall obtain necessary approvals from MDE for the stormwater outfall prior to final site plan approval.

Pursuant to Natural Resources Article 8-1809(o)(2), Annotated Code of Maryland, as amended, the County should make the approved change on the County's Critical Area Maps within 120 days of receipt of this letter. A revised map should be provided to this office when it is available.

Thank you for your help in processing this change to the County's Program. If you have any questions regarding this matter, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Mr. Joe Stevens, Esq.

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 8, 2005

Mr. Steve Cohoon, Deputy Director
Queen Anne's County Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Mapping Mistake Correction – Gibson's Grant Island

Dear Mr. Cohoon:

At its meeting of September 7, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination that the reclassification of the 1.3-acre island from IDA to RCA on the basis of a mistake can be handled as a refinement to the County's Critical Area Program. The Chairman has approved the request.

Pursuant to Natural Resources Article 8-1809(o)(2), Annotated Code of Maryland, as amended, the County should make the approved change on the County's Critical Area Maps within 120 days of receipt of this letter. A revised map should be provided to this office when it is available.

Thank you for your help in processing this change to the County's Program. If you have any questions regarding this matter, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Amendment File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 6, 2005

Mr. Gary Letteron
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, Maryland 21202

RE: Tidewater at Port Covington

Dear Mr. ~~Letteron~~ Gary:

We have received the revised site plan and 10% Rule calculations for the Tidewater at Port Covington project. The calculations are correct, and a fee-in-lieu payment is proposed. I note that the plans submitted to us in June 2005 showed two underground sand filters. The current application gives no indication as to why on site treatment is no longer proposed. As we discussed today, the local Critical Area regulations require an applicant to show that on site treatment is not feasible before fees in lieu can be considered. Without additional information regarding the sand filters, we cannot support the use of fees in lieu.

Thank you for the opportunity to review this project. Please call me if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Ms. Dawnn McCleary
BA410-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 6, 2005

Ms. Helen Spinelli
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan Amendment, K-Mart at Kent Landing Shopping Center
MASP #04-05-08-0011(c)

Dear Ms. Spinelli:

Thank you for providing information on the above referenced major site plan amendment. The applicant proposes to add a drive-through pharmacy lane at the existing K-Mart.

Since the entire shopping center has been constructed since the Critical Area requirements have been in effect and since the proposed work does not change the proposed amount of impervious cover for the project as a whole, this office has no comment on this proposal. We do recommend that any vegetation removed for construction be replaced on-site on an equal basis.

Thank you for the opportunity to comment on this proposal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC571-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 6, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Bahia Vista II, 1000 Edgewater Avenue – Permit Plans

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down two buildings and associated parking and redevelop the 40,000-acre site with a condominium building. The site is not waterfront. Commission staff has reviewed the information provided and we have the following comments:

1. There were no landscaping/afforestation plans included in the submittal. The 15% afforestation requirement must be addressed on site.

2. It appears that the 10% pollutant reduction requirement will be addressed partially on site, with the remainder being addressed through a fee-in-lieu. This will satisfy this requirement.

3. Due to the size of the property, the applicant should provide a copy of correspondence from the Maryland Department of Natural Resources regarding the presence or absence of any sensitive species on or near the site. This should be acquired prior to the issuance of any permits.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

September 6, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – McDonald's, 123rd Street

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down and reconstruct a McDonald's on an approximately one-acre site. The property is not waterfront. Commission staff has reviewed the information provided and we have the following comments:

1. It appears that the 15% afforestation requirement can be addressed on site. However, please note that an arborvitae should not be considered a small tree, but instead a large shrub. Some additional plantings are necessary to bring the site up to 15% afforestation.

2. It appears that the proposed reduction in impervious cover through the use of pervious pavers adequately addresses the 10% requirement.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: OC577-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 2, 2005

Mr. Keith Lackie, Natural Resources Administrator
Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Bali-Hi Park, Pool and Parking

Dear Mr. Lackie:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a swimming pool and associated parking at an existing campground. Commission staff reviewed the information provided and we have the following comments:

1. The 10% calculations are not included in the submittal. Also, it is unclear exactly how the 10% requirement will be addressed through plantings. Plantings are typically acceptable only in single-family development situations. Please forward 10% calculations when they are available.

2. The proposal appears to meet the minimum 15% afforestation requirement based on the provided landscape plan.

3. A Critical Area report and site plan should be provided along with a letter from the Department of Natural Resources documenting the presence or absence of any sensitive species.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: WC453-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 2, 2005

Mr. Keith Lackie, Natural Resources Administrator
Development Review & Permitting
One West Market St., Room 1201
Snow Hill, MD 21863

RE: Snow Hill Storage Facility, TM 63, P 2

Dear Mr. Lackie:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a mini-storage facility with an office on a 2.81-acre property outside of Snow Hill. The property is designated IDA and is not waterfront. The primary Critical Area concern is the 10% pollutant reduction requirement. Commission staff has reviewed the information provided and we have the following comments:

1. The 10% requirement is addressed through a combination of disconnections and two stormwater ponds. While the calculations show compliance, additional information may be needed on the proposed disconnections. Through several conversations with staff of the Maryland Department of the Environment Stormwater Division, it is our understanding that the grass channel credit is meant for roadside grass channels (i.e., in lieu of curb and gutter) rather than for rooftop and parking lot runoff. Staff will be seeing MDE staff on Wednesday, September 7th and would like to discuss this further with them at that time. I will contact you once I have additional information or comments.

2. A Critical Area report and site plan should be provided along with a letter from the Department of Natural Resources documenting the presence or absence of any sensitive species.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: WO579-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 2, 2005

Mr. Steve Cohoon
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Four Seasons At Kent Island (Phase One)
File #04-02-03-0002(C)

Dear Mr. Cohoon:

This office has received resubmittal #2 for Phase One of the Four Seasons at Kent Island Project. Commission staff has reviewed the information provided and we have the following comments on each of the submittal documents:

DRAFT LEGAL DOCUMENTS

1. Page 1 of the Deed of Open Space, Shore Buffer and Forest Conservation Easement, states in the fourth paragraph that the Critical Area Commission approved the Buffer Management Plan on September 21, 2004. The correct date is September 1, 2004. (The same error is made in #2 on Page 6.)

2. The correct full name of the Critical Area Commission is the "Critical Area Commission for the Chesapeake and Atlantic Coastal Bays."

3. While it is understood that the current document is specifically written for Phase One, it should be noted that some portions of the Buffer Management Plan for other phases are specific to a 100-foot Buffer or a 150-foot Buffer. The definition of the "shore buffer area" as only the 300-foot Shore Buffer may cause confusion in later phases.

4. Areas of the Shore Buffer have been identified as Community Open Space, Shore Buffer and Protected Forest Area. Some permitted activities in Open Space or Protected Forest Areas are not permitted in the Shore Buffer. Activities of particular concern are active recreation and clearing of understory for pedestrian pathways.

While we recognize that the most restrictive provisions would apply, the overlapping and sometimes conflicting rules would seem to create potential problems in the future.

FINAL SUBDIVISION PLAT – PHASE ONE

5. On Sheet 9 of 17, the private tidal wetlands on the property deeded to the County are incorrectly labeled as non-tidal wetlands.

6. On Sheet 11 of 17, there is a spelling error in the label for forest retention area #1-7CA.

7. Sheet 16 of 17 shows the stormwater management easement for stormwater pond #1. It must be located outside of the 300-foot Shore Buffer from the landward edge of the tidal wetlands from Cox Creek. The mean high water line and landward edge of tidal wetlands are not the same in this location. Establishment of the landward edge of tidal wetlands (as exists today) is necessary for accurate Buffer measurement.

LANDSCAPING PLANS FOR STORMWATER PONDS – McCrone, Inc.

No comments.

FINAL HARDSCAPE/LANDSCAPE PLANS - LandDesign

No comments.

10% RULE CALCULATIONS/STORMWATER MANAGEMENT

8. It is more appropriate to characterize the credits being claimed (i.e., the reduction in impervious cover being claimed) as disconnection of rooftop runoff rather than use of the grass channel credit. Through several conversations with staff of the Maryland Department of the Environment Stormwater Division, it is our understanding that the grass channel credit is meant for roadside grass channels (i.e., in lieu of curb and gutter) rather than for rooftop runoff. Grass channels receive runoff from roads as sheet flow while the disconnected areas shown will actually deliver runoff through roof downspouts. The disconnected areas should meet the specifications of the MDE Stormwater manual (such as limits on square footage per downspout, etc.).

9. Best management practices that are required under the County's standard stormwater requirements cannot be used as an offset for the 10% Rule. (Areas 1b and Area 20 are still required by the County to provide stormwater for the new development.)

Offsite treatment is treatment of offsite areas that would otherwise go untreated. The total load removed overall should be reduced by 11.09 pounds.

FINAL GRADING, SWM, AND SEDIMENT & EROSION CONTROL PLAN

10. As indicated in Comment #7 above, stormwater pond #1 may need to be moved further away from Cox Creek once the landward edge of tidal wetlands is established. This issue requires resolution before moving forward in the review process.

11. There is a floating "Shore Buffer" label on Sheet SP1-06.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

LC/jjd

cc: Four Seasons File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 1, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Anchors Aweigh Condominium, 1515 St. Louis Ave.

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to redevelop a property containing a dwelling with a condominium and associated parking. The property is 9500 square feet in size with a 10-foot waterfront setback. Commission staff has reviewed the information provided and we have the following comments:

1. It appears that the 15% afforestation requirement is adequately addressed on site but we do recommend that additional Buffer mitigation be provided on site.

2. If possible, we recommend that additional drainage be directed to pervious pavers to address the 10% requirement. If this is not feasible, the fees-in-lieu proposed will address the requirement.

3. The site plan does not properly show all proposed site improvements. It is my understanding that the developer proposes to construct slips for each condominium unit. This is inconsistent with the Town's Critical Area Program provisions for community piers. Any local approval that may have been granted should be made null and void due to inconsistency with the Town Code. Based on the length of shoreline, just two slips are permitted.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Mr. Joe Kincaid, MDE
OC568-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 1, 2005

Mr. Wesley E. Coleman, Jr., Chief
Civil Project Development Branch
Baltimore District, US Army Corps of Engineers
PO Box 1715
Baltimore, MD 21203-1715

RE: Mid-Chesapeake Bay Islands Environmental Restoration Project

Dear Mr. Coleman:

Thank you for providing information on the proposed Mid-Chesapeake Bay Islands Restoration Project. Commission staff has reviewed the information provided. It is our understanding that there are plans being developed to expand Poplar Island in addition to restoring James Island.

While we appreciate the information received to date, additional specificity is needed prior to Commission review and approval. Please forward a copy of the feasibility reports and environmental impact statements for the Poplar Island expansion, protection of Barren Island and the James Island restoration project when they are issued. At that time, we will be able to advise the Corps of any additional information needed to initiate the formal Commission review and approval process. Due to the islands falling under different ownership, review processes will vary. Work at Poplar and Barren Islands will be considered under COMAR 27.02.05 (State Agency Actions Resulting in Development on State-Owned Lands) while work at James Island will likely be considered under COMAR 27.02.04 (State or Local Agency Actions Resulting in Major Development on Private Lands or Lands Owned by Local Jurisdictions).

Please contact Regina Esslinger, Project Evaluation Chief, at (410) 260-3479 or myself at (410) 260-3477 if you have any questions regarding Commission review. Thank you.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Fran Flanigan
Meg Andrews
Frank Hamons

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 1, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – 17th Street Condominiums, Revised Plans

Dear Mr. Smith:

Thank you for providing the above referenced site plan to our office for review. The applicants propose to construct a 15-unit condominium on a 12,153 square foot property. The property is waterfront with a 10-foot setback. Commission staff has reviewed the information provided and we have the following comments:

1. On Sheet C2.1, there is a line labeled as "new Critical Area setback," located 10 feet from the landward side of the NEW bulkhead. This is incorrect. The Critical Area setback should be measured 10 feet from the landward side of the existing bulkhead.

2. The site plan does not properly show all proposed improvements on the parcel. Specifically, the water-dependent features of the project are completely omitted from the plans. However, we have received a copy of the MDE permit application. The request includes two perpendicular piers and a parallel dock along the entirety of the northern shoreline. This would provide many more slips than are permitted under the Town's Critical Area Program for community piers. Based on the length of the shoreline and the ratio of one slip per fifty feet of shoreline, no more than five slips are permitted. This should be made a condition of any site plan approval.

3. It is unclear if the Board of Port Wardens has issued an approval for the piers as they appear on the MDE permit application. If so, we recommend that the Town revoke the approval due to inconsistency with the Town's Critical Area Program.

4. As indicated in February, it appears that the 10% pollutant reduction requirement can be addressed on site. According to the plans and calculations, just 32% of the site

will be treated by the pervious pavers and there is an outstanding balance of 0.1387 pounds. However, if an area of additional pavers (with infiltration trench beneath) were added, then a fee-in-lieu would likely not be necessary. We encourage the applicant to address the requirement on-site with the fee-in-lieu option available only if it is demonstrated not feasible.

5. It appears that the 15% afforestation requirement is being addressed on site.

6. A substantial fee-in-lieu is proposed to be used for the Buffer mitigation requirement. Fees-in-lieu should be a last resort. As indicated in February, it is clear that additional plantings can and should be placed on site. Please note that some of the plantings are proposed under the overhang of the building. Also, the landscape plan should specify the species of "bush" proposed.

Thank you for the opportunity to review this site plan. If you have any questions or comments regarding these comments, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Mr. Joe Kincaid, MDE
OC58-05

Robert L. Ehrlich, Jr.
Governor

[illegible]ael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Mr. Russell Blake, City Manager
PO Box 29
Pocomoke City, MD 21851

RE: Drawbridge Villas

Dear Mr. Blake:

The developer of the Drawbridge Villas project has provided this office with copies of the site plan for our review and comments. As you are aware, this site is within the portion of the City that was granted an exclusion from the Critical Area requirements. However, as established by Resolution 174 as signed in 1988, development within 1000 feet of the Pocomoke River or its wetlands, is to comply with the Critical Area Criteria insofar as possible whenever redevelopment occurs.

We have reviewed the information provided. It is our understanding that the site likely would be considered an Intensely Developed Area, based on the conditions that existed as of 1985. The primary Critical Area concerns are stormwater (i.e., the 10% pollutant reduction requirement) and the 100-foot Buffer. The site does not front on the Pocomoke River, but the Buffer does extend onto the property.

First, in regard to stormwater management, existing impervious surfaces must be based on current conditions (rather than what existed as of 1985). The applicants have proposed using several methods of disconnecting runoff to lessen the impact of impervious surface. While directing rooftop runoff to raingardens or a grassed swale may be an accepted method of disconnection, the proposed use of planting as additional disconnect is not consistent with the MDE Stormwater requirements nor the Critical Area Commission's 10% Guidance. Therefore, the revised pollutant removal requirement (after adding 0.49 acres of disconnect back into the total proposed impervious cover) is 3.5 pounds of Phosphorus. The proposed wet ponds remove 2.94 pounds of Phosphorus, leaving a deficit of 0.56 pounds. The Critical Area Commission 10% Guidance does provide credit for implementing a riparian reforestation project. However, plantings should be in addition to the plantings called for in the MDE manual for stormwater facilities such as raingardens. (A raingarden requires plantings to function as such.) The

guidance gives a credit of two pounds of Phosphorus for every acre planted. With a deficit of 0.56 pounds of Phosphorus, at least 112 "extra" trees (or a combination of shrubs and trees) should be planted on site. There does appear to be ample space to provide additional plantings on site.

Second, in regard to the Buffer issue, it is likely that if the City had a local Critical Area Program, one aspect of the Program would be a Buffer Management (or "exemption") Area Program where Buffer requirements were made more flexible, given existing Buffer conditions as of 1985. Because this site has a roadway between it and the Pocomoke River, Buffer functions have been compromised. Ideally, all development on this site (with the exception of the sidewalk along Riverside Drive), would be outside of the 100-foot Buffer from the Pocomoke. The buildings closest to the River are set back between approximately 75 and 90 feet from the shoreline. While this does not meet the 100-foot Buffer requirement, it is consistent with the Commission's Buffer Exemption Area policy for multi-family development sites. However, we do recommend that the area of the Buffer on this site be heavily vegetated to provide a filter strip between the proposed development and the water as well as address the deficit in stormwater management as described above.

If you have any questions or concerns about any of the issues raised above, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: Joe Jackson, Worcester County Commission representative
Bob Shockley, Worcester SWM Review
Rob Plitko, Atlantic Group
PO580-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 26, 2005

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

RE: Use of Pervious Pavers

Dear Mr. Cohoon:

This office was recently contacted by a representative of a developer, inquiring about the use of pervious pavers for a proposed development project in Queen Anne's County. The Critical Area Commission has not established a statewide policy or position on the use of pervious pavers but instead has left the decision to the local jurisdictions. Certain factors involved with pervious pavers, including site-specific evaluation, inspection and maintenance, can require significant staff time and resources. I am writing to provide background and highlight certain challenges, as the County may need to establish a policy some time in the near future.

The project we were contacted about is in a Limited Development Area (LDA). In the LDA and Resource Conservation Area (RCA), the Critical Area Act restricts impervious surfaces to 15% of a development site, or 25% in the case of small, grandfathered, residential lots. These provisions of the Act exist to reduce the impacts on water quality and wildlife habitat that result when stormwater is not infiltrated into the soil and runs off into nearby water bodies.

In the LDA and RCA, the use of pavers or other similar materials can help increase the infiltration of stormwater runoff and the Commission encourages their use for that purpose. However, designating these materials as pervious or partially pervious for regulatory purposes is a different question. When a local government approves paving materials as pervious or partially pervious on grandfathered LDA or RCA lots, it recognizes the site constraints in these settings. Such approvals are consistent with the Legislature's intent to provide flexibility on grandfathered lots where needed. In many cases such flexibility can avoid the need for a variance or significantly reduce the requested variance. In contrast, it is not consistent with the Critical Area Act to consider these materials as pervious on non-grandfathered lots larger than one acre; in areas where they would receive heavy use, such as on commercial, industrial, or

multi-family properties; or in the development of newly created lots. In those situations, property owners or developers should be expected to accommodate their plans to a particular site and within the existing impervious surface limits.

In the Intensely Developed Area (IDA), developers and lot owners may find that pavers or other similar materials are useful as Best Management Practices to increase stormwater infiltration and improve the quality of runoff. As you know, the Critical Area Criteria do not limit impervious surfaces in the IDA. Water quality is addressed instead by the requirements to reduce pollutant loads in runoff 10% below existing levels, and to plant vegetation in permeable areas whenever practicable.

Certain technical factors must be taken into consideration as well. Researchers and some paving manufacturers emphasize that pavers are appropriate on only certain soils with a minimum infiltration rate, with the seasonally high water table no closer than 36" from the surface. Each particular brand of paver has specific specifications for design and installation. Periodic surface maintenance (i.e., vacuuming) is also necessary. If the County decides to assign a percentage of perviousness to paving products and allow their use in some situations, County staff will need to ensure that the products are installed according to manufacturer's specifications and located only in areas where the soils and slopes are acceptable.

I hope this information is useful. At your request, I can provide additional detail and copies of journal articles on the use and effectiveness of various pavers. Please contact me if you would like to discuss these issues further. I can be reached at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Faith Elliott-Rossing, Director
Vijay Kulkarni, P.E., DPW

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 25, 2005

Mr. Steve Cohoon, Deputy Director
Queen Anne's County Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: Mapping Mistake Correction – Gibson's Grant Island

Dear Mr. Cohoon:

This office has received the request for Commission review and approval of the reclassification of a 1.3-acre island from IDA to RCA on the basis that a mistake was make in the original mapping. We are accepting the map amendment request as a complete submittal. Chairman Madden will make an amendment/refinement determination within thirty days of the date of this letter. Commission staff will notify the County of his determination and the procedures for review by the Critical Area Commission.

If you have any questions or concerns regarding this matter, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Amendment File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 25, 2005

Mr. Steve Cohoon
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Concept Plan, Annie's Paramount Steakhouse – REVISION #2

Dear Mr. Cohoon:

Thank you for providing revision #2 on the above concept plan. The applicant proposes to construct a restaurant and associated parking on a 3.988-acre parcel designated IDA. The parcel is nearly half tidal wetlands and is also designated Buffer Exempt.

Provided that all Critical Area IDA development standards are addressed in the site plan, we have no comments at this time.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC 440-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 24, 2005

Mr. Steve Cohoon, Deputy Director
Queen Anne's County Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

RE: RVG Management Growth Allocation request

Dear Mr. Cohoon:

This office has received the request for Commission review and approval of the award of 12.05 acres of growth allocation for the "Kent Island Crossing" project proposed by RVG Management. After receiving preliminary 10% pollutant reduction calculations, we are accepting the map amendment request as a complete submittal. Chairman Madden will make an amendment/refinement determination within thirty days of the date of this letter. Commission staff will notify the County of his determination and the procedures for review by the Critical Area Commission.

If you have any questions or concerns regarding this matter, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Amendment File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 24, 2005

Mr. Russell Blake, City Manager
PO Box 29
Pocomoke City, MD 21851

RE: Lowe's of Pocomoke City – REVISED STORMWATER PROPOSAL

Dear Mr. Blake:

We have received and reviewed revised information on the proposed Lowe's of Pocomoke City. As indicated previously, the proposed limits of disturbance are within the Intensely Developed Area (IDA), i.e., the portion of the site that received growth allocation in 1996. The primary Critical Area concern within the IDA is the 10% pollutant reduction requirement.

During the past two weeks, I have been in contact with a number of people involved with the overall development of this site. I also was able to review the subdivision file from 1996 and the old stormwater calculations. While the proposed subdivision showed compliance with the Critical Area requirements in 1996, it is not clear that the property has been developed and engineered in accordance with the approved plans. Changing stormwater standards and specifications have further complicated the matter. Without as-built information on the commercial development that has taken place thus far, it is not possible to conclude that the overall subdivision is in compliance with the 10% requirement. However, to expedite a resolution for the Lowe's, we have reviewed it as a stand-alone project.

We received a revised drainage plan and revised 10% calculations on August 23, 2005. The required pollutant removal remains 18.06 pounds of Phosphorus. The applicants are now proposing that some of the site drainage receive treatment in a series of best management practices including bioretention, a surface sand filter and then the extended detention stormwater pond. The revised calculations indicate that these extra measures

increase the pollutants removed by the necessary amount and thereby achieving compliance with the Critical Area requirements.

If you have any questions or concerns regarding the contents of this letter, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Joe Jackson, Worcester County Commission representative
Bob Shockley, Worcester SWM Review
Belinda Breakfield, Woolpert, Inc.
PO525-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 24, 2005

Ms. Helen Spinelli
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Frederic Krafft et ux.
File #03-05-08-0007-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced subdivision. The applicant proposes to relocate a lot line between two lots. The lots themselves, Tracts 5A and 5B, were created in December 1989. They are not grandfathered under the County's Critical Area Program. They are designated RCA and both appear to be developed with a single-family dwelling.

Commission staff has reviewed the information provided. Based on original Tract 5, with a total Critical Area acreage of approximately 66 acres, three dwelling units are permitted within the Critical Area portions of Tracts 5A and 5B (notwithstanding other zoning and subdivision provisions). We do not oppose the proposed subdivision. However, plat notes should be added which indicate that only one additional dwelling unit is permitted within the Critical Area portion of Tract 5B. Any further development must be fully consistent with the County's RCA development provisions.

Thank you for the opportunity to comment on this proposal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC564-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

August 24, 2005

Ms. Tanya Krista-Maenhardt
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan, Kent Island Professional Center
MASP#04-05-06-0002c, Love Point Road, L.P. – REVISION #1

Dear Ms. Krista-Maenhardt:

Thank you for providing revision #1 of the above referenced major site plan. The applicant proposes to construct an office building on two parcels primarily within the Critical Area. The site is adjacent to the headwaters of Thompson Creek and is subject to the 100-foot Buffer. Commission staff has reviewed the information provided and we have the following comments:

1. In Step 5 of the 10% calculations, the efficiency rating for the proposed wet pond is listed as 60%. This is incorrect. The efficiency rating for a wet pond is 50%. The load removed on-site is then decreased to 3.57 pounds and the load removed from off-site is just 0.05 pounds. There is a deficit in the pollutant removal of 1.32 pounds.

2. Even if the calculations were correct and 0.6 pounds was the deficit, plantings could not be used to make up more than a 0.5-pound deficit. This is in accordance with a policy decision by staff of the Department of Public Works, Planning & Zoning and Critical Area staff.

3. The applicant must explore additional options for addressing the 10% requirement on-site or propose additional offsets. Impervious surfaces could be reduced (by reducing the proposed parking to only that required, for example), rooftop or non-rooftop disconnections could be explored, and bioretention islands could be added to the parking lot with underdrains leading to the wet pond. These are just a few examples of how the deficit can be addressed.

Thank you for the opportunity to review this submittal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: QC 389-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 23, 2005

Ms. Helen Spinelli
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Kent Narrows Properties, LLC
File #05-05-08-0010-C

Dear Ms. Spinelli:

This office has received the submitted information on the above referenced administrative subdivision. The applicant proposes to consolidate two existing parcels into one by through removal of a lot line. The properties are designated IDA and are Buffer Exempt.

Provided that all IDA/Buffer Exempt development standards are met during any future development activities on the property, this office has no concerns regarding the proposed lot consolidation.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC 351-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 22, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – Tom Sparacino, 119 Channel Buoy Road, File #10361

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes construct an addition on an existing single-family dwelling. The property is 7500 square feet in size with a 15-foot waterfront setback.

It appears that the 10% pollutant reduction requirement will be adequately addressed by the proposed swale, disconnection of rooftop runoff and landscaping. Please note that the required mitigation plantings should be newly planted, rather than claiming credit for existing shrubs and trees. This should be clarified. Provided 27 new shrubs or trees are planted, buffer mitigation will be accomplished on site and the project will be consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: OC560-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 22, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: Site Plan – John Soltysiak, 3509 Canal Street

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes construct an addition and garage on an existing single-family dwelling. The property is 6420 square feet in size with a 10-foot waterfront setback.

It appears that the 10% pollutant reduction requirement will be adequately addressed by the proposed swales and the required raingarden. Also, it appears that the Buffer mitigation will be accomplished on site. However, please note that at least 25% of the setback must be landscaped with shrubs and trees. The landscape plan should be revised as needed.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: OC559-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 19, 2005

Ms. Tanya Krista-Maenhardt
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Sliding Scale Subdivision, Brian Morris
File #07-05-08-0001-C

Dear Ms. Krista-Meanhardt:

Thank you for providing information on the above referenced subdivision. The applicant proposes to divide a 15.212-acre property into two lots. The application indicates the property is designated LDA and is waterfront to the Chester River. It currently contains a double-wide structure. Commission staff has reviewed the information provided and we have the following comments:

1. Please provide a copy of the response letter from the Heritage Division at the Department of Natural Resources when it is received.

2. The section of the Environmental Assessment Report pertaining to wetlands indicates that an on-site wetland delineation has been performed on the property. However, it also states that the wetlands on Lot 1 have been scaled from the NWI maps. This does not make sense. The site plan should show the surveyed boundaries of field delineated wetlands on the entire property. Also, a more complete description of the wetlands on the property is needed. The description should include types of vegetation present.

3. Fifteen percent Forest Conservation is not appropriate. While it is true that a site in the LDA is required to be at least 15% forested, there are also strict limitations on clearing existing forest when a property is already forested. See §14:1-38(D)(6) of the County's Critical Area ordinance. Any clearing that takes place must be mitigated on at least a 1:1 ratio. Additionally, the balance of the forest is required to be placed under an easement to be recorded (§14:1-38(D)(6)(b)(1)).

4. There are extensive steep slopes on proposed Lot 2. Areas with a slope of 15% or greater should be delineated on the plan. Additional topographical information is needed on proposed Lot 1 as well. It is not clear that proposed Lot 2 would be buildable without a variance. This office would not support such a variance request.

Thank you for the opportunity to comment on this proposal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC540-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 18, 2005

Mr. Richard Altman
2800 Bennett Point Road
Queenstown, Maryland 21658

RE: Four Seasons Site Plans reviewed in July 11, 2001 approval

Dear Mr. Altman:

This letter responds to your August 5, 2005 correspondence in which you request information relevant to the Critical Area Commission's review of the Four Seasons project. Your request has been considered under the Public Information Act, Md. Ann. Code, State Gov't §§ 10-611 *et seq.*, and the regulations promulgated there under by the Maryland Department of Natural Resources (DNR), COMAR 08.01.06.

Enclosed please find copies of plans used by the Critical Area Commission in confirming its previous approval of the request for growth allocation for the Four Seasons project on July 11, 2001. The first plan is titled "Compliance Exhibit," and has a revision date of May 23, 2001. The second set of plans, also with a revision date of May 23, 2001, is titled "Sketch/Concept Plan" and, as originally received by the Commission, contained eight (8) sheets. Please note, however, that our files are missing sheet numbers 3, 7 and 8. Staff has repeatedly searched the project file as well as the official amendment file for the missing sheets, but has been unable to locate them. These sheets may have been removed from the original set and used as exhibits during the July, 2001 project presentation before the Commission. The complete set of eight sheets of the "Sketch/Concept Plan," together with the "Compliance Exhibit," were used as the basis for the Commission's approval of the Four Seasons project on July 11, 2001.

Staff has requested copies of the missing sheets from the County to complete our records. Once we receive them, we will forward copies to complete this response. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Steve Cohoon, Queen Anne's County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 18, 2005

Mr. Steve Cohoon, Deputy Director
Queen Anne's County Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Four Seasons site plan

Dear Mr. Cohoon:

As indicated in the enclosed letter, we recently received and responded to a request for information relevant to the Critical Area Commission's review of the Four Seasons project. Specifically, we were asked to provide a copy of the plans used by the Commission in confirming its previous approval of the request for growth allocation for the Four Seasons project on July 11, 2001. In the course of responding to the request, it was discovered that we are missing three sheets out of the set of eight of the Sketch/Concept Plan with a revision date of May 23, 2001. In order to complete our response to the information request, as well as fill this gap in our records, we hereby request a copy of sheets 3, 7 and 8 of the Sketch/Concept Plan prepared by McCrone, Inc. with a revision date of May 23, 2001. According to the stamp on the sheets we do have, the County received the set of plans on May 24, 2001.

Thank you in advance for your assistance with this matter. If you have any questions regarding which plans I am referring to or there is a problem in obtaining these copies, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Four Seasons file

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 18, 2005

Ms. Cathy Maxwell
Queen Anne's Co., Dept of Planning & Zoning
160 Coursevall Drive
Centreville, Maryland 21617

VIA FACSIMILE

RE: Variance Case #V-070001, Oliver, 1911 Cox Neck Road

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance application. The applicant is requesting an after-the-fact variance to permit construction of a fence within the 100-foot Buffer. The property is 5.2 acres and is designated LDA.

We recognize that a fence is a man-made structure within the Buffer, an area meant to provide transitional habitat between the land and the water. Structures within the Buffer have a negative effect on the use of Buffer areas as riparian habitat. Structures that are perpendicular to the shoreline, such as fences, effect species that may travel parallel to the shoreline. That being said, there are also many types of fences. Simple split rail or picket fences can have little or no impact to the movement of wildlife along the shoreline and could have similar impacts as a simple swing set. In contrast, a solid wall that would require a foundation and likely involve the use of heavy equipment would have much greater impact. The fence that is the subject of this variance request appears to fall in the middle of these two extremes. We defer to the County on this request. However, if any variance is granted, we recommend mitigation for any vegetation removed in the Buffer for installation of the fence, at a 3:1 ratio.

Thank you for the opportunity to review this application. Please include these comments in the record for this request and please notify us in writing of the decision made by the Board. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: QC464-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 12, 2005

Mr. Russell Blake, City Manager
PO Box 29
Pocomoke City, MD 21851

RE: Lowe's of Pocomoke City

Dear Mr. Blake:

We have reviewed the information provided on the proposed Lowe's of Pocomoke City. It appears that the proposed limits of disturbance are within the Intensely Developed Area (IDA), i.e., the portion of the site that received growth allocation in 1996. The primary Critical Area concern within the IDA is the 10% pollutant reduction requirement.

The 10% calculations provided by Woolpert, Inc. show a required pollutant removal of 18.06 pounds of Phosphorus, based on a site area of 19.92 acres with 56% impervious coverage. The proposed wet ponds remove 13.51 pounds. This leaves a deficit of 4.55 pounds. Below, I have listed a number of suggestions for both redesigning the proposed stormwater management as well as providing for offsets if the requirement cannot be addressed on site. Other alternatives may be found in the Commission's 2003 Critical Area 10% Rule Guidance Manual. The entire manual can be downloaded from our website: www.dnr.state.md.us/criticalarea/.

- In reviewing the site plan, it was noted that the proposed parking area exceeds the City's requirements by over 100,000 square feet. Reducing impervious cover is the simplest means of reducing the overall removal requirement.

- It may be possible to redesign the proposed wet pond into a wet extended detention pond or a multiple pond system. These alternatives provide greater pollutant removal efficiency, thereby increasing the total Phosphorus removed on site.

- It may be possible to provide stormwater management in a series of best management practices such that runoff receives treatment through two or more devices before leaving the site. This results in greater pollutant removal. (See page 7-9 of the Commission's 10% Manual for an explanation on how to calculate the load removed by best management practices in a series.) Possibilities for accommodating this on site include

creating bio-retention islands in the parking lot with underdrains beneath or using wet or dry swales as a means of conveying the runoff to the ponds.

- The applicant may explore options for providing off-site pollutant removal with the on site wet pond, i.e., direct runoff that otherwise remains untreated to the proposed wet pond.

- If the requirement cannot be addressed on site, the Commission's 10% Manual provides a list of options for "offsets" in Section 6. These include retrofitting to provide treatment in areas of the City that currently have unmanaged stormwater, removing impervious cover on an existing site, restoring a stream or wetland, or over-designing another pending project.

- A more practical approach may be the collection of offset fees based upon the deficit in pounds of Phosphorus. Recognizing that the City does not currently have an established fee, enclosed with this letter is a technical memo on this topic (that is also found as Appendix G of the Commission's 10% Manual). Fees collected in other Critical Area jurisdictions range from $20,000 to $35,000 per pound. If the Town does collect fees, there should be specific criteria established on how the collected fees will be spent and tracked.

We recognize that this is an important project to the Town. However, it is equally important that the project is consistent with Critical Area requirements, especially because the property received growth allocation. Approval of the growth allocation by the Commission assumes consistency with the Critical Area requirements for the IDA, whether the project is located within the County or on property annexed into the City.

If you have any questions or concerns regarding the contents of this letter, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

Enclosure

cc: Joe Jackson, Worcester County Commission representative
Bob Shockley, Worcester SWM Review
Belinda Breakfield, Woolpert, Inc.
PO525-05

APPENDIX G. ESTABLISHING AN OFFSET FEE BASED ON THE COST OF STORMWATER MANAGEMENT

TECHNICAL MEMO

To: Critical Areas Commission
From: Center for Watershed Protection

Re: Establishment of an Offset Fee for a Pound of Total Phosphorus Removed

Recommendation: Local governments should set an offset fee to fully recover the costs of stormwater management. Estimates of the cost of stormwater management are detailed within this memo and are based on either the equivalent cost method or the stormwater retrofit method, and escalate each year based on the construction cost index provided by Engineering News Record (2003).

Background: Until recently, there has been limited cost data available to estimate stormwater treatment costs. Brown and Schueler (1997) evaluated actual costs for 73 stormwater facilities in the mid-Atlantic region, and developed cost equations and cost per cubic foot of water quality storage provided. This study found that the costs to construct stormwater treatment at small sites (less than five acres) were dramatically greater than larger sites. This is an important finding since our initial research indicates that the vast majority of critical area stormwater applications consist of these smaller sites.

Developing an Offset Fee: We provide the basis for setting an offset fee that fully recovers the cost to remove phosphorus from a one acre of impervious cover, using two different methods to estimate costs. The first method calculates the equivalent cost to construct a stormwater treatment practice on the same site, whereas the second method calculates the cost to local government to construct a stormwater retrofit on a large site elsewhere in the Critical Area.

Basic Assumptions in Both Methods

1. P loading rate for one acre of impervious cover with C= 0.3 mg/l = 2.33 pounds/year

2. Assume 45% TP removal rate for BMP applied = 1.05 pound removed per year.

Equivalent Cost Method. Two estimates were prepared to compute the cost of constructing an equivalent stormwater practice on the existing site.

The first estimate uses Schueler (1997) overall construction cost equations for small sites which yields a median value of $20,000 per acre of impervious area treated. This cost must be updated to account for construction cost inflation since 1996, as measured by change in

Engineering News Record's construction cost index between December 1996 and July 2003. As a result the base construction cost must be multiplied by a factor of 1.19.

Next the costs for design, engineering and permitting (DEP) must be factored in. For these costs, we rely on cost surveys by Brown and Schueler (1997), which indicate that base construction cost must be multiplied by 1.32 to account for DEP related costs.

Thus, under this estimation method, the total cost to treat one acre of impervious cover would be $31,416.00. If we divide this by the 1.05 pounds of phosphorus removed by the practice, **we get a cost of about $29,920 per pound of phosphorus removed.**

The second method used to derive the equivalent cost of stormwater treatment is to use the cost equations for actual bioretention and filter practices, which are presented in Schueler and Brown (1997). These indicate the cost for bioretention to be $6.40 per cubic foot treated and for other filters $5.00 per cubic foot treated. Using an average of the two, we get $5.70 per cubic foot of stormwater treated as construction cost. After this cost is adjusted for construction cost inflation and DEP costs (per the same methods), we get a final cost of $8.95 per cubic foot treated.

This unit cost must then be multiplied by the 3267 cubic feet of stormwater that are produced from one acre of impervious cover, per the Maryland water quality sizing criteria. This yields a total cost of about $29,234 per acre of impervious area treated. If we divide this by the 1.05 pounds of phosphorus removed by the practice, **we get a cost of about $27,842 per pound of phosphorus removed.**

Based on these two methods, **the equivalent cost of constructing stormwater practices is estimated to be about $ 29,000 per pound of phosphorus removed, exclusive of maintenance.**

Stormwater Retrofit Cost Method. The second way to look at offset fees is to estimate the cost to a local government to remove the same pound of phosphorus using a larger stormwater retrofit elsewhere in the community. This approach takes advantage of the economies of scale inherent when treating larger sites (e.g., 5 to 100 acres in size). Local governments who construct stormwater retrofits want to ensure that all their costs are recovered: base construction, design and engineering, retrofit inventories and construction management. For these costs, we have recent unit cost data for retrofits from Brown (2003), as follows:

	Cost	Description
a	$ 1,400.00	Pro-rated cost for subwatershed analysis/retrofit inventory cost to find candidate site
b	$ 3,140.00	Design, engineering and permitting cost
c	$12,550.00	Cost per impervious acre treated: average of new facility and pond modification

d	$ 1,300.00	local government cost to administer and bid retrofit assessment, design and construction (7.5% of a+b+c)

Total: $18,390 per impervious acre treated. When divided by the 1.05 pounds of phosphorus removed by the retrofit, we get **$17,500 per pound of removed, excluding maintenance.**

Maintenance Costs: Both methods have neglected the cost of maintaining stormwater practices. Several municipalities suggest that any offset fee should fully recover future maintenance costs. Estimated maintenance costs are estimated to be 3 to 5% of base construction cost per year (Brown and Schueler, 1997). Using a midpoint value of 4%, and assuming the present value of a ten year stream of maintenance costs could capitalize future maintenance costs, suggests that the following additional costs should be captured in the offset fee.

Equivalent Cost Method:
$29,000 + 9,400 for maintenance = **$38,400 per pound of P removed**

Stormwater Retrofit Method
$17,500 + 5,000 for maintenance = **$22,500 per pound of P removed**

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 12, 2005

Mr. Blaine Smith, Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: The Gateway Grand, #2 48th Street, File #05-18100025

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down a number of existing motel/condominium buildings and redevelop the site with a 196-unit condominium and associated parking. The site is 4.31 acres in size and is not waterfront to the Coastal Bays. Critical Area requirements for this project include the 10% pollutant reduction and the 15% afforestation requirements. Commission staff has reviewed the information provided and we have the following comments:

1. The submittal must include a letter from the Maryland Department of Natural Resources to document any sensitive species that may exist in the vicinity of the project site.

2. The use of pervious pavers with infiltration trenches beneath has been accepted as being 100% pervious due to the unique soils in many parts of the town. However, we have concerns about considering the proposed porous asphalt as 100% pervious due to the high potential for clogging and the lack of a means of monitoring its function. Also, given that the asphalt is proposed for the entire satellite parking lot, the soils beneath will be compacted. This does not support a 100% pervious determination.

3. Soils information should be provided to document infiltration rates and depth to the water table.

4. It does not appear that the most recent paving standards are being used for the porous asphalt and the pervious pavers. It was my understanding that the existing soils were to be moderately compacted, not "95% modified proctor."

5. Information on the amount of "plantable" area should be provided. That is, pervious areas, open to sunlight that are available to plant. Such areas must add up to at least 15% of the site.

6. Please note that arborvitae should not be considered a small tree. They are considered a large shrub under the Worcester County plant list.

Thank you for the opportunity to comment on this site plan. If you have any questions or concerns regarding these comments, please contact me.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 5, 2005

Ms. Faith Elliott-Rossing, Director
Department of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Lots 1, 3 and 4, Parcel 444, Tax Map 57, Property of Downey Land Development

Dear Ms. Elliott-Rossing:

This letter is a follow-up to the discussion held on Tuesday, August 3, 2005 regarding construction of three individual single-family dwellings on the above referenced properties. Among other matters, we discussed the 1994 administrative subdivision of this property. This subdivision, while not creating any additional lots, did relocate previously grandfathered lot lines into the Resource Conservation Area (RCA). Lots 3 and 4 were moved entirely to the RCA, thereby setting up a potential conflict with the County's Critical Area ordinance and the Critical Area Law when a future developer applied for building permits.

The placement of dwellings on Lots 3 and 4 would exceed the permitted density of one dwelling unit per twenty acres within the RCA as clearly specified in §14:1-39(C) of the County Code. Exceeding this density is not permitted under the County's Critical Area Program or the Critical Area Law and Criteria. The County's Critical Area, as well as the Law and Criteria, regulate dwelling units, and not the creation of lots, within the RCA. Based on the RCA acreage and the single, grandfathered lot that existed in the RCA as of December 1, 1985, no more than one dwelling may be constructed in the RCA portion of current Lots 1, 3 and 4 without the use of growth allocation. If growth allocation is awarded to the site, variances will be needed to construct dwellings within the Critical Area Buffer.

I hope this letter is useful in answering the questions of the potential future property owner. If you would like to discuss this matter further, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: Rachel Eisenhauer, Asst. Attorney General
Ren Serey

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 5, 2005

Mr. Jesse C. Houston, Director
Town of Ocean City, Planning & Community Development
PO Box 158
Ocean City, MD 21843-0158

RE: Ordinance 2005-18, Text Amendments to Chapter 30, "Activities not permitted"

Dear Mr. Houston:

At its meeting of August 3, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination of refinement for Ordinance 2005-18. The Chairman approved the change to the Town's Critical Area ordinance.

Pursuant to Natural Resources Article 8-1809(p)(4), Annotated Code of Maryland, as amended, the Town must incorporate the change into its Critical Area ordinance within 120 days of receipt of this letter.

If you have any questions or concerns regarding this matter, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

chael 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 1, 2005

Ms. Faith Elliott-Rossing
Queen Anne's Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Conquest Farm – Habitat Enhancement/Shore Erosion Project Consistency Report

Dear Ms. Elliott-Rossing:

Thank you for providing information on the above referenced project. The project, as a state agency action on lands owned by a local jurisdiction, falls under the provisions of COMAR 27.02.02. These provisions require such projects to be consistent with the local Critical Area Program.

Based on a review of the information provided, as well as a discussion with Kevin Smith of the Maryland Department of Natural Resources, we concur with the County's finding of consistency for this project. Shore erosion control is clearly permitted under the County's Critical Area Program. The additional habitat enhancement and marsh restoration are also consistent with the goals of the Critical Area Program.

Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC526-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 1, 2005

Ms. Stacey Weisner
Worcester Co. – Dev. Review & Permitting
One West Market St. – Room 1201
Snow Hill, MD 21863

RE: Bay Point Plantation – Stormwater Calculations, Comments for TRC, August 3, 2005

Dear Ms. Weisner:

Thank you for providing the 10% calculations and stormwater drainage map for Bay Point for our review. Please note that many of our previous comments and concerns on the preliminary plat remain. I have reviewed the stormwater information provided and I have the following comments:

1. The 10% calculations contain numerous errors, the most basic of which is the site area upon which the calculations are based on. The site area used for the calculations should be the area of IDA only. This area may then be further broken down into separate drainage areas as needed. Existing and proposed impervious coverage should match that presented on the Critical Area plan previously submitted.

2. The drainage area map should be revised as well. The area of IDA should be shown and the drainage area map should be consistent with the revised 10% calculations.

3. Please take note of Table 4.3 in the Commission's Critical Area 10% Rule Guidance Manual. This table explains how stormwater credits, such as natural area conservation, are applied in the Critical Area and in the 10% calculations. All conditions listed in italics in the MDE stormwater manual must be addressed for the credit to apply.

Thank you for the opportunity to comment on this submittal. As always, if you have any questions, concerns, or a need for clarification on any of these comments, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Natural Resources Planner

cc: WC766-03

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 1, 2005

Ms. Tanya Krista-Maenhardt
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Declaration of Administrative Subdivision, Chester Haven Beach Partnership
File #04-05-06-0014

Dear Ms. Krista-Meanhardt:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to combine seven existing lots into one for the purpose of constructing a dwelling. The property is designated RCA and is waterfront to the Chester River.

We have a number of concerns regarding this proposal. It is our understanding that the subdivision was recorded a number of years ago. However, no lots have been developed to date. The subdivision was recorded without a delineation of any existing sensitive features such as wetlands or streams. Development of the property that is the subject of this lot consolidation will require some means of access through the entire Chesterhaven Beach subdivision. The sketch showing the lots to be consolidated show linear non-tidal wetlands that may make up part of a stream or drainage system. The shoreline information is dated March 2002. Given the extent of erosion, it is likely that the shoreline has moved landward since 2002. These issues must be addressed prior to any development of this property. The grandfather provisions of the County's Critical Area Program do not exempt any development or redevelopment from the provisions for Habitat Protection Areas.

In addition, while not a Critical Area issue, §18-1-166 of the County Code states that the administrative subdivision provisions apply to two to six existing lots while seven are involved here.

Thank you for the opportunity to comment on this proposal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler

LeeAnne Chandler
Science Advisor

cc: QC447-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 23, 2005

Mr. Joe Johnson
Office of Planning & Zoning
129 E Main Street, Room 300
Elkton, Maryland 21921

RE: Variance Application #3201
Nancy Jodlbauer

Dear Mr. ~~Johnson~~: Joe:

I have reviewed the variance application for the Jodlbauer property. The applicants are requesting a height variance to their dwelling to meet elevation requirements within the 100-year floodplain, a 5 foot side yard setback variance, and a Buffer variance to intrude 70 feet into the 100-foot Buffer. The applicants are proposing a new dwelling on a vacant grandfathered lot. The site is Buffer exempt and is in the LDA.

This office does not oppose the height variance or the side yard setback variance. However, based on the plans submitted, it appears there is further opportunity to reduce Buffer impacts to meet the 60 foot setback established by the adjacent properties. Please see attached drawing for one alternative. This office cannot support a Buffer variance when alternatives to reduce impacts exist.

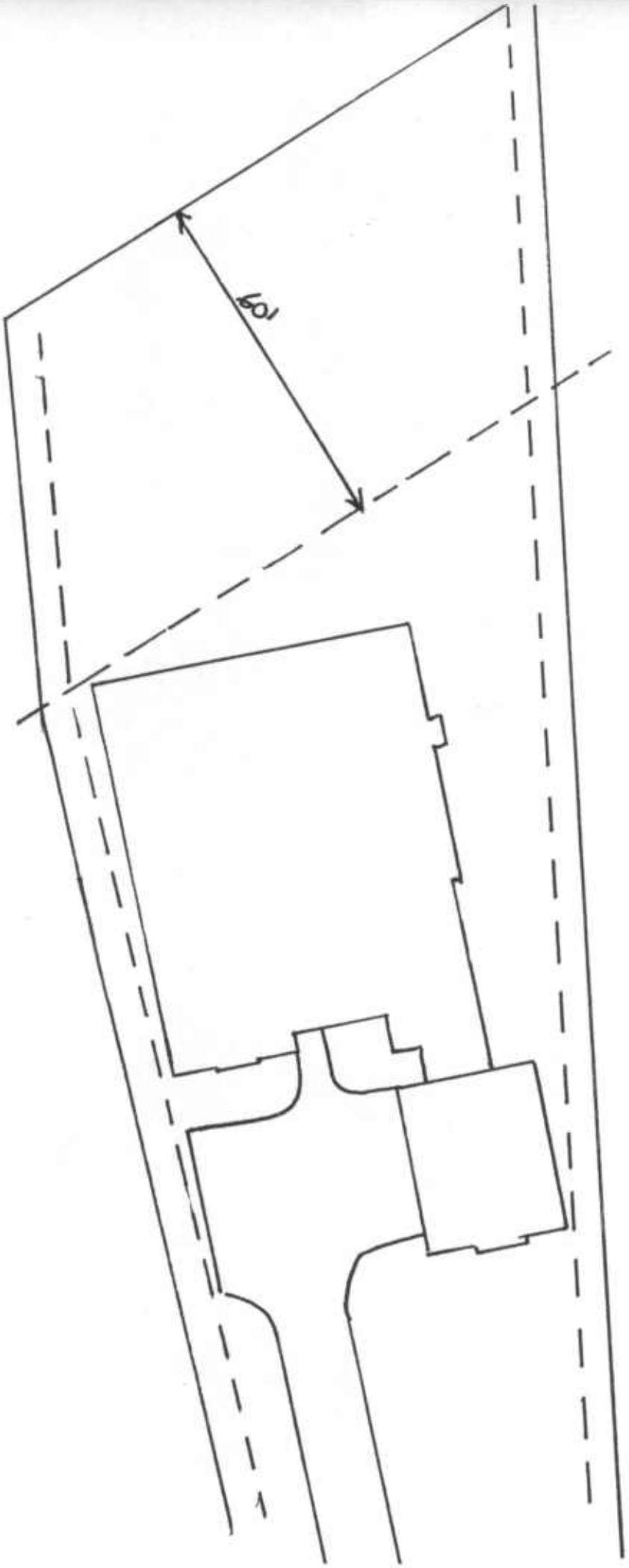
Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variance. Please notify the Commission in writing of the decision made in this variance.

Sincerely,,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd
Enclosure

cc: CE829-05



CASE #3201
ALTERNATIVE
DWELLING
LOCATION

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

December 20, 2005

Mr. John A. Hofmann
Town Hall
8916 Chesapeake Avenue, P O Box 99
North Beach, MD 20714

RE: North Beach Resort

Dear Mr. Hofmann:

I have received the North Beach Resort development proposal and have reviewed the plans for Phases I and II. These phases each consist of 40 condominiums, 7 townhouses, and commercial use. The site is 3.51 acres and is designated IDA. The residential component comprises 2.09 acres and the commercial component comprises 1.42 acres. Phase III will be submitted at a later date. I have the following comments.

1. The plans did not include an existing conditions plan; therefore it is difficult to determine exactly what is on the site now, but it appears a significant portion of the site is impervious. Please verify what the existing conditions are.

2. The application did not include an environmental report. The applicant should obtain a letter from the Department of Natural Resources Heritage division stating whether there are any impacts to threatened or endangered species.

3. The application indicates that a stormfilter will be used to meet the 10% phosphorus pollutant reduction requirement. However, the 10% calculations were not included with the submittal. Please forward this information for our review. The removal efficiency for a stormfilter is 50%.

4. In your conversation today with Mary Owens, you indicated that the site is not within the 100-foot Buffer. This information should be provided as a note on the plat.

I will provide additional comments once I receive the requested information. Please call me at (410) 260-3479 if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jd
c: NB790-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 14, 2005

Ms. Staci Merriman
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: Golden Beach Lot 328 Variance
#05-3310

Dear Ms. Merriman:

I have reviewed the variance application to put an addition onto an existing dwelling within the expanded Buffer. The lot is currently developed with a dwelling, driveway, and shed, totaling 21.9% impervious surface or 3454 square feet. The proposed addition will bring the impervious surface on site to 25.5% or 4026 square feet, below the limit of 4927 square feet. The Buffer is not shown on the site plan, so I cannot determine the extent of the intrusion. Nevertheless, it appears this is a grandfathered lot with a modest dwelling. This office does not oppose the variance.

If the variance request is approved, the Commission recommends that mitigation be provided, in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM806-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 14, 2005

Ms. Suzie Schappert
Anne Arundel Office of Planning & Zoning
3664 Riva Road, MS 6301
Annapolis, Maryland 21401

RE: 2005-0376-V, Hogendorp

Dear Ms. Schappert:

This office has received the current plans for the above referenced variance case. The applicant has relocated the dwelling to the approximate location that we recommended previously. There are still impacts to steep slopes and to the non-tidal wetlands buffer but they have been significantly reduced from the original application in 2002. Specifically, the plan shows a 50 by 28 foot dwelling with a 10-foot front deck located in the vicinity of where lots 23 to 25 and 33 to 35 come together. Only the deck footers impact the non-tidal wetland buffer. A front entry garage is proposed.

The subject property is designated LDA and is currently undeveloped. The property in question is made up of 23 small non-conforming lots. Its boundaries are irregular in shape and the layout and topography of the property necessitate a variance for any kind of development. There is a springhead in a ravine that drains to the subject property. The proposed mound system is in the pathway of this drainage system. Based on a review of on-site conditions and the site plan, it appears that the applicant has minimized impacts while gaining reasonable use of the property.

If a variance is granted, we recommend that it be contingent on the applicant meeting the following conditions. First, we recommend that the applicant install blaze orange safety fence (in addition to any required silt fencing) to identify the approved limits of disturbance (LOD). This will serve two purposes. It will ensure that no clearing occurs outside the LOD and it will also ensure that the lots not owned by the applicant are protected from any disturbance. Next, we recommend that reforestation be provided at a 3:1 ratio since clearing will be 39%.

This office had recommended in our October 10, 2002 letter that the applicant be required to conduct a "Drainage Area Study" to ensure that the mound system will not fail the first time we get a substantial amount of rain. We requested that the study include the acreage of the drainage area, information on the soils (permeability/erosive characteristics), geology and an assessment of the amount of impervious surface within the drainage area. Calculations of the runoff flow (how many cubic feet per second will be flowing down the ravine) can then be made for various types of storm events (e.g., 1-year, 2-year, 10-year etc.). We recommended this information be provided to the County Health Department to allow them to assess whether the mound system will be affected by this drainageway. If it will be affected, other septic alternatives should be explored. At this time, we have no information as to whether such a study was done and if the Health Department has determined that the proposed storm drains and swales are sufficient to protect the mound system. If so, we recommend that these drains and swales be cleaned out after storm events to prevent inundation of the mound system.

Thank you for the opportunity to comment. Please submit these comments for the record and notify us in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3479.

Sincerely,

Regina A. Esslinger

Regina A. Esslinger, Chief
Project Evaluation Division

cc: AA813-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 13, 2005

Ms. Lisa Thomas
Office of Planning and Zoning
129 E. Main Street, Room 300
Elkton, Maryland 21921

RE: Ritter Subdivision

Dear Ms. Thomas:

I have reviewed the subdivision proposal to create one new lot and remaining lands from a 3.066 acre parcel. The parcel currently contains an existing dwelling, shed, and drive on what is proposed to be the remaining lands. The site is designated RCA along the shoreline and LDA on the back portion of the site. I have the following comments.

1. No development is proposed in the RCA portion of Lot 1. The proposed house and primary septic reserve area are outside the Buffer; the proposed well and part of the secondary septic reserve area is in the Buffer. No new development is proposed in the RCA portion of the remaining lands. The existing house and shed are in the RCA. The existing septic reserve area will be relocated out of the Buffer.

2. It is my understanding, based on my conversation with Mr. Tim Larney of the Department of Natural Resources Heritage Division, that they are satisfied with this proposal as it relates to the tiger beetle habitat on site.

3. No information was provided as to afforestation or reforestation requirements. This information must be provided.

4. Impervious surface on each lot is limited to 15%.

5. It does not appear that growth allocation is necessary as there is no new development proposed within the RCA.

Thank you for the opportunity to comment. Please call me at (410) 260-3479 if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Mr. Tony DiGiacomo
Mr. Tim Larney
CE767-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 13, 2005

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

RE: Oakley Farm Minor Subdivision
#05-110-118

Dear Ms. ~~Veith~~: Sue:

I have reviewed the proposal to create Lot 1 from Tract A, which is 40.39 acres with 22.8 acres in the RCA. Lot 1 will be 20.9 acres. Tract A is part of a larger farmstead with 164.34 acres. I have the following comments.

Because there are only 22.8 acres in the RCA, a dwelling is not permitted on both Lot 1 and Tract A in the Critical Area. Tract A has two existing dwellings outside the Critical Area and two barns within the Critical Area. Lot 1 has a barn, sheds, and a proposed septic system outside the Critical Area.

If a dwelling is proposed in the Critical Area, information on impervious surface, clearing and associated mitigation must be provided.

A letter from the Department of Natural Resources Heritage Division must be obtained, verifying that there are no impacts to any rare, threatened, or endangered species, before final approvals are granted.

Thank you for the opportunity to review this subdivision. Please call me if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: SM784-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 13, 2005

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

RE: Nun's Oak Minor Subdivision
#05-110-115

Dear Ms. ~~Veith~~: Sue:

I have reviewed the proposal to create Lot 1 from Farmstead A. The total site is 139 acres with 60 acres in the RCA. Lot 1 will be 6 acres. I have the following comments.

General Note #27 indicates this subdivision is proposed as an intrafamily transfer. A "Density Parcel A" of 14 acres is shown on the vicinity map. It is not clear how this parcel relates to Farmstead A and whether it affects the ability to subdivide the parcel under the intrafamily provisions, which require the parcel to have been of record as of March 1, 1986 and less than 60 acres. In addition, no information is provided as to how many existing dwellings there are within the RCA. It appears there is at least one dwelling adjacent to the proposed Lot 1; no more than 3 dwellings are permitted in the RCA under the intrafamily transfer provisions. If this parcel qualifies, a note must be provided on the plat stating that it is an intrafamily transfer, providing the name of the recipient, and referencing the provisions in the Natural Resources Article, 8-1808.2

It appears some clearing may be necessary to access Lot 1 beyond the existing driveway. Mitigation must be provided for any clearing.

The site plan shows a stream on the southwestern portion of Lot 1 that traverses the expanded Buffer. A minimum 100-foot Buffer must be provided for intermittent and perennial streams

A letter from the Department of Natural Resources Heritage Division must be obtained, verifying that there are no impacts to any rare, threatened, or endangered species, before final approvals are granted.

Thank you for the opportunity to review this subdivision. Please call me if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division
cc: SM782-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 13, 2005

Mr. Bob Tabisz
MD Department of the Environment
Tidal Wetlands Division
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Dear Mr. ~~Tabisz~~: Bob:

RE: St. Mary's County Tidal Wetlands Projects

I have reviewed the Public Notice that includes information about the referenced project, and I have the following comments:

PN 05-50 Lake Services Inc.
It is my understanding that this project involves the repair of an 80-foot by 38-foot covered boathouse. As you are aware, new or expanded structures on piers can only be permitted in accordance with the provisions of §8-1808.4 of the Natural Resources Article of the Annotated Code of Maryland and the St. Mary's County Critical Area Program. The applicant should be prepared to provide documentation, in the form of photographs, that the proposed project is a repair of an existing boathouse.

This project also involves dredging and the placement of 4,800 square feet of dredge material in an upland disposal site on the applicant's property. It is not clear from the drawings included with the application if the proposed dredge disposal area is located within the 100-foot Buffer of tidal waters, tidal wetlands, or tributary streams. In accordance with COMAR 27.01.03.04.B.(7), dredged material cannot be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:

1) Backfill for permitted shore erosion protection measures;
2) Use in approved vegetated shore erosion projects;
3) Placement on previously approved channel maintenance spoil disposal areas; and
4) Beach nourishment.

As part of the local review and approval process, the applicant will need to provide additional information, so that the County can ensure that the placement of the dredge material complies with these regulations.

The applicant should also be advised that he will need an environmental permit from the St. Mary's County Department of Land Use and Growth Management. Additional information can be obtained from Ms. Staci Merriman at (301) 475-4200.

Thank-you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Reginald Esslinger

for Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Staci Merriman, St. Mary's County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 13, 2005

Mr. Bob Tabisz
MD Department of the Environment
Tidal Wetlands Division
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Dear Mr. ~~Tabisz~~: Bob:

RE: St. Mary's County Tidal Wetlands Projects

I have reviewed the Public Notice that includes information about the referenced project, and I have the following comments:

PN 05-50 Lake Services Inc.
It is my understanding that this project involves the repair of an 80-foot by 38-foot covered boathouse. As you are aware, new or expanded structures on piers can only be permitted in accordance with the provisions of §8-1808.4 of the Natural Resources Article of the Annotated Code of Maryland and the St. Mary's County Critical Area Program. The applicant should be prepared to provide documentation, in the form of photographs, that the proposed project is a repair of an existing boathouse.

This project also involves dredging and the placement of 4,800 square feet of dredge material in an upland disposal site on the applicant's property. It is not clear from the drawings included with the application if the proposed dredge disposal area is located within the 100-foot Buffer of tidal waters, tidal wetlands, or tributary streams. In accordance with COMAR 27.01.03.04.B.(7), dredged material cannot be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:

1) Backfill for permitted shore erosion protection measures;
2) Use in approved vegetated shore erosion projects;
3) Placement on previously approved channel maintenance spoil disposal areas; and
4) Beach nourishment.

As part of the local review and approval process, the applicant will need to provide additional information, so that the County can ensure that the placement of the dredge material complies with these regulations.

The applicant should also be advised that he will need an environmental permit from the St. Mary's County Department of Land Use and Growth Management. Additional information can be obtained from Ms. Staci Merriman at (301) 475-4200.

Thank-you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Regina Esslinger

for Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Staci Merriman, St. Mary's County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 8, 2005

Ms. Mary Ann Skilling
210 Inverness Drive
Church Hill, Maryland 21623

RE: Harborside Village

Dear Ms. ~~Skilling~~: Mary Ann.

I have received the conceptual subdivision plans for Harborside Village in North East. The site is 59.36 acres, and is designated LDA. Growth allocation is proposed for 27.6 acres, which will be developed with townhouses, condominiums, and villas. The plans are currently being reviewed for PRD approval. Without growth allocation, this proposal cannot meet the LDA requirements. I have reviewed the plans and have the following comments.

Lee Anne Chandler, the Commission's Science Advisor, met with the consultant on site November 18, 2005 to verify the Buffer delineation and determine whether Forest Interior Dwelling Bird (FID) habitat existed on site. It is my understanding that generally Lee Anne agreed with the Buffer delineation, with the exception of two small tidal guts where the Buffer needed to be adjusted. The site plan must be revised to reflect these Buffer changes. Lee Anne determined that the forest did not contain suitable habitat for FIDs.

The revised environmental assessment included with the plans (dated November 2005) includes the 10% phosphorus reduction calculations. I also have calculations labeled as "Revised: 11/8/05". It is not clear to me which calculations are most current; the two sets of calculations provide different amounts of phosphorus required to be removed and different responses as to whether the removal requirement has been met. Please indicate which set of calculations are correct.

Boat storage/overflow parking is shown in the northwest corner of the site. A portion of this area is within the Buffer. No boat storage or overflow parking is permitted in the Buffer.

Please clarify the open space requirements as they relate to the wetlands and Buffer. An extensive proposed 6' wide hiking trail is shown throughout the wetlands and Buffer. No information was provided as to trail surface and how much clearing may be necessary. Impacts

to the Buffer must be minimized. Authorization from Maryland Department of the Environment may be necessary for any boardwalks or bridges in the wetlands.

Thank you for the opportunity to comment. I will provide additional comments once I receive the requested information. Please call me if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Lee Anne Chandler
NE 755-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 8, 2005

Ms. Liz West
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Variance 2005-0297-V, revised
Erik Young

Dear Ms. ~~West~~: Liz:

This office has received revised plans for the above referenced variance following a meeting with the applicant and his consultants on November 16, 2005. This letter supercedes our previous letters. The applicant is requesting a variance to build a dwelling with attached garage with less expanded Buffer than required. The property is designated a Limited Development Area (LDA) and is currently developed with a single-family dwelling and detached garage. We have the following comments.

1. The site is 4.32 acres and has 12,898 square feet of existing impervious surface (6.9%). The revised plans reduce impervious surface to 12,244 square feet (6.5%), a reduction of 654 square feet.

2. The existing dwelling is almost entirely within the expanded Buffer; the existing garage is outside the Buffer. The proposed dwelling is partially over the existing footprint in the Buffer and partially outside the Buffer. The proposed garage is entirely out of the Buffer. The revised plans pull the dwelling further out of the Buffer than it currently exists and as shown on the earlier proposal. It is our understanding that the existing foundation is failing and cannot be reused. Existing impervious surface in the expanded Buffer is 2963 square feet. Proposed impervious surface in the expanded Buffer is 1915 square feet.

3. 840 square feet of the existing driveway loop is proposed for removal.

4. The applicant will be installing a nitrogen removing septic system.

5. The proposed well is within the expanded Buffer. The existing well within the expanded Buffer will be abandoned.

Provided this property is properly grandfathered, we do not oppose this variance. We recommend mitigation, at a 3:1 ratio for disturbance within the Buffer, be required. Mitigation plantings should be accommodated on the site to the extent possible.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: AA611-05

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 16, 2005

Ms. Ramona Plociennik
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Variance 2005-0394-V/2005-0395-V
Moreland, LLC

Dear Ms. Plociennik:

I have received the above referenced variance applications. The applicant is requesting variances to permit two dwellings on two lots, labeled as Site 1 and Site 2, and to permit greater clearing then allowed. The properties are designated as Limited Development Areas (LDA), are currently undeveloped, and contain a State Highway Administration perpetual easement along the western boundaries.

Site 1 contains a septic easement for Site 2. In the Buffer, Site 1 contains a proposed house, a portion of the attached garage, the well, a septic tank, part of the backup septic field, and part of the primary septic field for Site 2. 41.6% clearing is proposed.

Site 2 is almost entirely encumbered by the Buffer; the proposed house, attached garage, well, and a portion of the primary septic system will be in the Buffer on Site 2. 24.7% clearing is proposed.

Provided these properties are properly grandfathered, we do not oppose these variances. However, mitigation, at a 3:1 ratio for disturbance within the Buffer, should be required on Site 2 and 3:1 mitigation for disturbance in the Buffer and all clearing should be required on Site 1.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jjd
cc: AA760-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 16, 2005

Ms. Ramona Plociennik
Anne Arundel County Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: 2005-0392-V
Steven Trainor

Dear Ms. Plociennik:

I have received the above referenced variance application to permit a dwelling addition with less Buffer than required. The applicant is proposing to construct an addition, porch, deck, and replacement porch onto an existing dwelling. The existing dwelling is almost entirely within the expanded Buffer. The site is LDA and is currently developed with a dwelling, attached garage, septic system, and well.

Provided this lot is properly grandfathered, this office does not oppose the variance. We have the following recommendations:

1. Mitigation, at a ratio of 3:1 for disturbance within the Buffer, should be provided. Plantings should be accommodated on the site to the extent possible.

2. Stormwater from the dwelling should be directed to a stable outfall, away from the adjacent steep slopes, to provide water quality benefits on the site.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record. Please forward a copy of the decision made in this case.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd
cc: AA759-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 16, 2005

Ms. Wanda Cole
Dorchester County Planning & Zoning
County Office Building, P O Box 107
Cambridge, MD 21613

RE: John and Greta Davidson Variance
Case #2269

Dear ~~Ms. Cole~~: Wanda:

I have reviewed the variance application to build a driveway through the expanded Buffer. The proposed driveway will have 335 square feet of impacts to nontidal wetlands and an unspecified amount of impact to the expanded Buffer. The site is 49.4 acres, is designated RCA, and is currently undeveloped.

On September 29, 2005 this office provided comments on corresponding plan #0505 regarding the disturbance of greater than 5,000 square feet in the RCA (see attached letter). I reference comments #4 and #5, which remain applicable with this variance application. Comment #4 specifically questioned whether a Buffer variance for the driveway could be avoided by reducing its width to 10 feet. If that was not feasible, the letter requested justification of the house location when there appeared to be alternative locations that would not require a Buffer variance for access. Comment #5 stated that MDE authorization would be necessary for impacts to the nontidal wetlands and associated buffers. To date, we have received no information regarding any of these items.

Without this information, this office opposes the variance. If this variance is granted, we recommend mitigation at a 3:1 ratio, of native Buffer species, on site if possible.

Thank you for the opportunity to comment. Please forward any additional information you receive and we will provide additional comments.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

Enclosure
RAE/jjd
cc: Mary Owens
DC730-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 15, 2005

Ms. Wanda Cole
Dorchester County Planning & Zoning
County Office Building, P O Box 107
Cambridge, MD 21613

RE: H. Claire Oates Variance
Case #2270

Dear Ms. ~~Cole~~: Wanda:

I have reviewed the variance application to build an addition onto an existing dwelling. The dwelling is entirely within the 100-foot Buffer and the proposed addition is also within the Buffer. The site is 87.21 acres and designated RCA. According to the additional information you provided yesterday, there is a tidal swale not shown on the site plans that comes up to the edge of the proposed addition. The applicant should provide a site plan that shows the swale and distances to the proposed addition.

While this office does not oppose the variance, it appears the addition could be reconfigured to have less impact to the Buffer. We recommend the applicant consider other configurations that would increase the distance from this tidal swale. If this variance is granted, we recommend mitigation at a 3:1 ratio, of native Buffer species, on site if possible.

Thank you for the opportunity to comment. Please forward any additional information you receive and we will provide additional comments.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: DC731-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 10, 2005

Ms. Wanda Cole
Dorchester County Planning & Zoning Office
County Office Building, P O Box 107
Cambridge, MD 21613

RE: Jerry Jarrell Variance
Case #2266

Dear Ms. ~~Cole~~: Wanda :

I have reviewed the variance application for a proposed addition to an existing dwelling within the 100-foot Buffer. The applicants are proposing a 569 square feet sunroom and entry over an existing patio. A small portion of the existing patio beyond the sunroom will be returned to pervious surface. The site is 3.28 acres, is designated LDA, is grandfathered, and is currently developed with a dwelling, detached garage, and outbuilding.

This office does not oppose this variance.

Thank you for the opportunity to comment. Please submit it as part of the record, and notify the Commission in writing of the decision made in this case.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: DC728-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 10, 2005

Ms. Wanda Cole
Dorchester County Planning & Zoning Office
County Office Building, P O Box 107
Cambridge, MD 21613

RE: Wayne Johnson LLC Variance
Case #2267

Dear ~~Ms. Cole~~: Wanda:

I have reviewed the variance application to build a replacement dwelling with attached garage in the 100-foot Buffer. The applicants are proposing a replacement dwelling in the same location as the existing dwelling. The site is 38.21 acres, is designated RCA, and is currently developed with a dwelling, pump house, and outbuilding. The existing driveway will be maintained and extended for the proposed garage.

The site plan shows "Limits of field located wetlands" but does not indicate whether these wetlands are tidal or nontidal. This information must be provided before any decisions are granted to ensure that the Buffer delineation is correct and the variance requested is accurate. If these wetlands are tidal, it appears the dwelling encroaches 50 feet into the Buffer.

This office does not oppose this variance. However, we recommend 3:1 mitigation of native Buffer plantings for all Buffer disturbance be provided, on site if possible.

Thank you for the opportunity to comment. Please submit it as part of the record, and notify the Commission in writing of the decision made in this case.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: DC729-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 10, 2005

Ms. Wanda Cole
Dorchester County Planning & Zoning Office
County Office Building, P O Box 107
Cambridge, MD 21613

RE: William Collier Variance
Case #2271

Dear Ms. ~~Cole~~: Wanda:

I have reviewed the variance application for a proposed addition to an existing dwelling within the 100-foot Buffer. The applicants are proposing a 320 square feet porch within 46 feet of the water. The site is 0.89 acres, is designated LDA, is grandfathered, and is currently developed with a dwelling and attached carport.

This office does not oppose this variance. However, we recommend 3:1 mitigation of native Buffer plantings for all Buffer disturbance be provided, on site if possible.

Thank you for the opportunity to comment. Please submit it as part of the record, and notify the Commission in writing of the decision made in this case.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: DC743-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 10, 2005

Mr. Steve Dodd
Dorchester County Planning & Zoning
County Office Building, P O Box 107
Cambridge, MD 21613

RE: Greenhawk & Associates Subdivision

Dear Mr. ~~Dodd~~: Steve:

I have reviewed the subdivision application for Lot 2. The applicant is proposing an intrafamily transfer lot of 6.25 acres in the RCA; the site contains an existing dwelling and two sheds. A 7.57 acre intrafamily transfer lot (Lot 1) was created in 2003 from the original 32.48 acre parcel. At that time the owners were Leonard E. and Theron E. Greenhawk. On the current proposal, the owners are shown as Greenhawk & Associates, Inc. As we've discussed, an incorporated entity does not have family members and therefore cannot qualify for an intrafamily transfer. The site does not contain enough acreage to allow for the creation of a new lot without the use of intrafamily transfer.

In addition, the application is missing information regarding soils, forest cover, impervious surface figures, driveway access to the existing dwelling, and review by the Department of Natural Resources Heritage division.

Thank you for the opportunity to comment. Please forward any additional information you receive and we will provide additional comments.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Marianne Mason
Ren Serey
DC690-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 7, 2005

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: Ragged Point Road Subdivision
622E

Dear Mr. ~~Dodd~~: Steve:

Thank you for providing information on the referenced project. I have reviewed the plan submitted, and I have the following comments:

1. Please provide additional information regarding the environmental features of the site including soil types and vegetative cover.

2. All existing features should be shown on the plan. No access to either existing dwelling is shown.

3. The plan should state whether clearing is proposed, particularly to access Lot 5A, and show any planting areas on the plan. A planting plan should be provided. 15% afforestation must be provided, if applicable.

4. Please provide a letter from the Department of Natural Resources Heritage Division regarding the presence of rare, threatened, and endangered species and other habitats. This information must be evaluated and addressed before the subdivision is approved.

Thank you for the opportunity to provide comments on this proposed subdivision. Please provide revised plats when these comments have been addressed. If you would like to discuss these comments, please call me at (410) 260-3479.

~~Sincerely~~,
Regina A. Esslinger
Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jjd
cc: DC714-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 2, 2005

Mr. William R. Watson
Planning and Zoning Administrator
8200 Bayside Road
P O Box 400
Chesapeake Beach, Maryland 20732

Re: Beach Elementary School Plan

Dear Mr. Watson:

We have received the site plan for Beach Elementary School. The applicant proposes to construct a kindergarten addition over an area that is partially impervious. The property is 6.1 acres and is designated an Intensely Developed Area. I have reviewed the plans and have the following comments.

1. No information is provided as the existing and proposed impervious surface. This information, as well as the 10% phosphorus reduction calculations, must be provided. The application must show how they will address the 10% Rule.

2. The Town must provide certification that the proposal is consistent with the local Critical Area regulations, as required in COMAR 27.02.02. Once we receive this certification, we will review and respond.

Thank you for the opportunity to provide comments for this project. Please contact me at (410) 260-3479 if you have questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: CB 689-05

CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

TO: Roland Limpert

FROM: Regina Esslinger

RE: James Bayard/Ordinary Point Farm
Cecil County
Tracking #200660272

DATE: October 28, 2005

I have reviewed the proposal to construct a sill, emplace riprap, and create marsh at the above referenced site within the Critical Area. The Permit Application Tracking Form indicates the site contains a rare/threatened/endangered species and is within a Wetland of Special State Concern. At this time I do not have any additional information on these items and therefore I am unable to determine whether any specific protection measures for the species and WSSC are necessary.

The photos attached to the application show many trees along the shoreline that will be removed with this proposal. The plans must reflect and quantify how much Buffer vegetation is proposed for removal. The Buffer planting plan shows a lot of site to be planted in meadow species and grasses under the Buffer Seed Mix category; we recommend that the planting plan provide more trees and shrubs and significantly less Buffer Seed Mix. Any clearing of trees on site will necessitate replacement under Cecil County's Critical Area regulations.

Thank you for the opportunity to comment. Please call me if you have any questions.

cc: Joe Johnson

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 25, 2005

Mr. Joe Johnson
Office of Planning & Zoning
129 E Main Street, Room 300
Elkton, Maryland 21921

RE: Rezoning #2005-16
Wapiti

Dear Mr. ~~Johnson~~ Joe:

I have reviewed the rezoning application for a portion of the Wapiti property. The applicants are requesting to rezone the area within the approved growth allocation from NAR to BI/BG. This office has no comments on the proposed rezoning.

Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variance. Please notify the Commission in writing of the decision made in this variance.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: CE713-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 21, 2005

Ms. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: BA 64-05V and BA 68-05V
(Tax Map 46, Parcel 273, Lot 1R and Lot 22)

Dear Ms. ~~Rhodes~~: Lori:

Thank you for providing information on the above referenced variance. The applicant is requesting variances to permit a dwelling on each lot with greater forest clearing than allowed. The property is designated a Limited Development Area (LDA) and is currently undeveloped. This office received supplemental information and revised site plans for these variance cases on April 7, 2005, April 22, 2005, April 27, 2005, and October 13, 2005.

Provided the lots are properly grandfathered, this office does not oppose the variances. Based on the information provided, we have the following comments regarding the development proposal and variance requests.

1) Because the proposed area of disturbance exceeds the threshold of 5,000 square feet, stormwater management must be provided for development of the lots. As reported in the variance applications, the lots have clay-rich soils (Shadyoak, SoA), which prevent implementation of stormwater infiltration practices on the site. For this reason, structural stormwater best management practices are proposed for these sites, including pretreatment trenches and collection of stormwater via underground pipes to a central discharge point at Whitehall Creek.

2) The applicant proposes to clear greater than the maximum limit of 6,534 square feet for a grandfathered lot of less than one half acre to construct a dwelling and facilities (Anne Arundel County Zoning Ordinance Article 28, 1A-105(i)). The lots are fully forested. On Lot 1R the applicant proposes 4,543 square feet or 25.7 percent impervious surface coverage (includes a longer driveway to access Canal Lane). On Lot 22, the applicant proposes 2,449

square feet or 15.9% impervious surface. In addition, the implementation of structural stormwater management practices and associated grading result in a substantial increase in the amount of clearing necessary for development. Based on the most recent site plan, it appears that the applicant has attempted to minimize the amount of clearing necessary for the stormwater management facilities and has proposed reforestation on the site.

3) Mitigation, at a ratio of 3:1 for forest clearing above 30%, should be required. Plantings should be accommodated on the site to the extent possible; however, mitigation alternatives will need to be addressed.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: AA 184-05

Robert L. Ehrlich, Jr.
Governor

[illegible]hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

October 19, 2005

Mr. Cliff Houston
Office of Planning & Zoning
129 E Main Street, Room 300
Elkton, Maryland 21921

RE: Variance #3178
Peter Tummillo, Jr.

Dear Mr. Houston:

I have reviewed the variance application for the Tummillo property. The applicants are requesting a variance to build four dwellings in the 110-foot Buffer on four lots. The four lots are currently developed with one dwelling, a carport, two sheds, and two concrete pads. The lots are in the LDA and are designated Buffer exempt. No site plan was submitted with the application showing the proposed dwellings in regards to their location or size; a site plan was included that shows an existing dwelling across Tract 1, Parcel 1 and Tract 2, Parcel 1, a carport on Tract 1, Parcel 1 and Tract 1, Parcel 2, two sheds on Tract 2, Parcel, a concrete pad on Tract 2, Parcel 2, and another concrete pad on Tract 1, Parcel 2.

Without a site plan showing the proposed development, it is impossible to determine whether the proposal can meet the County's Buffer exemption provisions, impervious surface limits, and the variance standards. We strongly urge the Board to require the applicant to provide all pertinent information prior to the hearing with sufficient time for this office to review the material and provide written recommendations.

We also recommend the Board consider the following cases from the Maryland Court of Appeals: *Friends of the Ridge v. BGE* [352 Md 645 (1999)] and *David H. Remes v. Montgomery County, Maryland et al*, 2005. These cases address the doctrine of merger on individual adjacent lots in common use, which appears to be applicable in this situation. I've enclosed the *Remes* case, which I discovered after we talked last week.

It has come to our attention that the Buffer on the property was recently cleared. (See attached photos.) I have talked to Mr. Joe Johnson in your office and he was not aware of any approvals to clear Buffer vegetation on site. No variances should be granted before this violation has been addressed.

Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variance. Please notify the Commission in writing of the decision made in this variance.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

Enclosures

RAE/jjd

cc: Joe Johnson
CE646-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 11, 2005

Ms. Liz West
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Variance 2005-0297-V
Erik Young

Dear Ms. ~~West~~: Liz:

This letter supplements my letter dated October 6, 2005. This office has received additional revised plans for the above referenced variance dated October 10, 2005. The most recent revision concerns the Buffer delineation; it shows the extent of the expanded Buffer as a line that bisects the proposed dwelling, with the proposed garage and driveway out of the expanded Buffer. The earlier Buffer delineation showed the entire existing dwelling and garage in the Buffer, with only a small oval area outside the Buffer.

The most recent information provided by the applicant indicates that the proposed impervious surface in the Buffer is 3537 square feet, not 2693 square feet as previously indicated. I have requested a breakdown of existing and proposed impervious surfaces in the Buffer to verify this figure. I may have additional comments once I receive this information.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

cc: Ms. Scarlett Breeding, Alt Breeding Schwartz
AA611-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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CHESAPEAKE AND ATLANTIC COASTAL BAYS

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October 6, 2005

Ms. Liz West
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Variance 2005-0297-V
Erik Young

Dear Ms. West:

This office has received revised plans for the above referenced variance following a meeting with the applicant and his consultants on October 4, 2005. This letter supercedes our September 28, 2005 letter. The applicant is requesting a variance to build a dwelling with attached garage with less expanded Buffer than required. The property is designated a Limited Development Area (LDA) and is currently developed with a single-family dwelling and detached garage. We have the following comments.

1. The site is 4.32 acres and has 14,080 square feet of existing impervious surface (7.48%). The revised plans reduce impervious surface to 13,042 square feet (6.9%), a reduction of 1038 square feet.

2. The existing dwelling and garage are entirely within the expanded Buffer. The proposed dwelling is partially over the existing footprint, and the proposed garage is almost entirely over the garage footprint. It is our understanding that the existing foundation is failing and cannot be reused. Existing impervious surface in the expanded Buffer is 2806 square feet. Proposed impervious surface in the expanded Buffer is 2693 square feet.

3. The applicant will be installing a nitrogen removing septic system.

Provided this property is properly grandfathered, we do not oppose this variance. We recommend mitigation, at a 3:1 ratio for disturbance within the Buffer, be required. Mitigation plantings should be accommodated on the site to the extent possible.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Ms. Scarlett Breeding, Alt Breeding Schwartz
AA611-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
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October 6, 2005

Mr. David A. C. Carroll, Director
Department of Environmental Protection and Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Baltimore County Council Bill 100-05

Dear Mr. Carroll:

The purpose of this letter is to officially notify you of the Critical Area Commission's action regarding Bill 100-05. On October 5, 2005, the Commission concurred with the Chairman's determination that the grandfathering changes to the County Code be approved as a refinement to the Baltimore County Critical Area program. As required in the Natural Resources Article 8-1809(p)(4), approved program refinements must be incorporated into the program within 120 days from the date of this letter. Please provide us copies of any revised pages to the Code.

If you have any questions, please telephone me at (410) 260-3479.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Pat Farr, DEPRM
Lisa Hoerger

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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October 6, 2005

Ms. Yvonne Chaillet
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: Lanedon Variance
Lot 8
#05-0781

Dear Ms. ~~Chaillet~~: Yvonne:

I have reviewed the after-the-fact variance application to clear more than 30% on Lot 8 of the Lanedon Subdivision. The lot was fully wooded. The clearing originally proposed was 29.9%; the clearing that occurred was 39.3%, an additional 1892 square feet.

If the variance request is approved, the Commission recommends that mitigation be provided, in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance, and first be directed on site in the areas of unauthorized clearing.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: SM649-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 5, 2005

Mr. David A. C. Carroll, Director
Department of Environmental Protection and Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Baltimore County Council Bill 100-05

Dear Mr. Carroll:

This office has received County Council Bill 100-05. It is our understanding that the purpose of this bill is to address issues regarding grandfathered lots, as we had discussed earlier this summer. The Critical Area Commission accepts this bill for processing. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

Thank you for your cooperation. If you have any questions, please telephone me at (410) 260-3479.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2005

Mr. Mark Kalmus
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: Carl Dubac BLAP
Lot 500-3 and Outparcel 5000-A
#05-141-050

Dear Mr. Kalmus:

I have reviewed the boundary line adjustment for Lot 500-3 and Outparcel 5000-A. Most of Lot 500-3 is outside of the Critical Area, and no development is proposed within the Critical Area. This office does not oppose the boundary line adjustment.

Thank you for the opportunity to review this proposal. Please call me if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: SM149-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2005

Mr. Mark Kalmus
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: St. George's Peninsulas at Piney Point
Coombs Point Lane
#05-141-051

Dear Mr. Kalmus:

I have reviewed the proposal to adjust the location where Coombs Point Lane meets Andover Estates Road. There will be no change in the Density Reservation Parcel acreage, nor in the acreage for Outparcel 5000-A. This office does not oppose the boundary line adjustment.
I
Thank you for the opportunity to review this proposal. Please call me if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: SM978-04

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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September 21, 2005

Ms. Mary Ann Skilling
210 Inverness Drive
Church Hill, MD 21623

RE: Beck's Landing Consistency Report

Dear Ms. Skilling: Mary Ann:

I have received and reviewed the consistency report for the Beck's Landing boardwalk and transient docking facility. I concur with your determination that the proposal is consistent with the Town's Critical Area program. Please notify us if the plans change, as we will need to review any revisions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: CY617-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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September 21, 2005

Ms. Colleen Bonnel
P O Box 1
Leonardtown, MD 20650

RE: Case #113-05

Dear Ms. Bonnel:

I have received the variance application for the Robert Combs property to disturb the expanded Buffer for a proposed dwelling. The lot is undeveloped and is grandfathered.

We do not oppose this variance. If the variance is granted, we recommend that mitigation for all Buffer disturbance be provided at a 3:1 ratio, with native species. We also recommend that the mitigation be planted adjacent to the existing Buffer vegetation on site to provide better water quality and habitat, rather than along the property lines and foundation as shown on the plan.

Thank you for the opportunity to review this variance. Please submit our comments for the record, and notify the Commission in writing of the decision made in this case.
Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: LE 598-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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September 20, 2005

Ms. Liz West
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: BA 110-04V Josh and Shannon Reedy
Variance 2004-0370-V

Dear Ms. ~~West~~: Liz:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling addition with less setbacks and Buffer than required and with disturbance to steep slopes. The property is designated a Limited Development Area (LDA) and a Buffer Exemption Area (BEA). The property is currently developed with a single-family dwelling.

Providing this property is properly grandfathered, we do not oppose this variance. Based on the information provided, we have the following comments regarding the current development proposal and variance request.

1) The applicant proposes to construct an addition on the road side of the site and a covered deck on the side of the house. Within the limits of disturbance shown on the site plan, two infiltration trenches will be installed between the dwelling and the shoreline.

2) Mitigation, at a ratio of 2:1 for disturbance within the Buffer, should be required. To minimize impacts, we recommend that mitigation plantings be used first to densely plant the Buffer between the dwelling and the shoreline. The remaining mitigation plantings should be accommodated elsewhere on the site to the extent possible.

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

Sincerely,

Regina A. Esslinger

Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jjd
cc: AA665-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 20, 2005

Ms. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Variance 2005-0276-V Brenda Schryer

Dear Ms. ~~Rhodes~~: Lori:

Thank you for providing additional information on the above referenced variance. The applicant is requesting an after-the-fact variance to permit a 10'x28' deck addition with less Buffer than required. The property is designated a Limited Development Area (LDA). The property is currently developed with a single-family dwelling. Tidal wetlands are 85' from the edge of the newly constructed deck.

Providing this property is properly grandfathered, we do not oppose this variance. However, mitigation, at a 3:1 ratio for disturbance within the Buffer, should be required. To minimize impacts, we recommend that mitigation plantings be used first to densely plant the Buffer between the dwelling and the shoreline. The remaining mitigation plantings should be accommodated elsewhere on the site to the extent possible.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd
cc: AA532-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 12, 2005

Mr. Ross Lee
48 Hillview Avenue
Chesapeake City, Maryland 21915

Dear Mr. Lee:

We have received the information Mary Ann Skilling sent us about your concerns over the clearing of trees on your property regarding a sanitary sewer line connection to lot 171 in the development known as Harbour View.

In response to your concerns, Ms. Skilling discussed the issues regarding tree clearing on your property and any additional clearing that would be necessary for the sanitary sewer line connection with Mr. Curtis and Mr. Johnson in Cecil County. We are also in receipt of the letter from the County to you regarding this issue.

After a thorough review of the information you presented and discussion with County officials, we believe the County has taken appropriate action in response to your concerns. The placing of the sanitary sewer line in the road right-of-way of a recorded subdivision is standard procedure to minimize impacts, both initially and for maintenance.

Regarding the encroachment on your property in running the sanitary sewer line, it is our understanding that the contractor/property owner (Gemcraft) will be providing mitigation for the tree removal under a Settlement Agreement. It is also our understanding that Joe Johnson will be working with you on the plan for tree replacement and to move the sewer line in a way to protect the large Pin Oak on your property.

We are available to assist you or Mr. Johnson with the mitigation plan if you desire. Please feel free to call Mary Ann Skilling at (410) 556-6262 or me at (410) 260-3479 if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

cc: Joe Johnson
Mary Ann Skilling

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 16, 2005

Ms. Wanda Cole
Dorchester County Planning and Zoning Office
County Office Building
P.O. Box 107
Cambridge, Maryland 21613

RE: St. Luke's Church Variance
Case #2262

Dear ~~Ms. Cole~~: Wanda:

I have reviewed the variance application for a proposed pavilion to exceed the impervious surface limits. The applicants are proposing to remove 648 square feet of impervious surface and add 600 square feet of impervious surface, thereby maintaining the coverage at 22%. The site is 5.29 acres, is designated LDA, and is currently developed with a church, parking lot, shed, sewage reserve area, and classroom. The Church was granted a variance in 2001 to exceed the impervious surface; 34,630 square feet of afforestation was required. The current application shows two "Landscaped Mitigation Areas" but it is not clear if these areas are actually planted.

This office does not oppose the variance provided that the 34,630 square feet of mitigation required for the previous variance was planted. If this mitigation was not provided, then this office opposes the granting of the variance.

Thank you for the opportunity to comment. Please submit it as part of the record, and notify the Commission in writing of the decision made in this case.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

cc: DC596-05

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 16, 2005

William R. Watson
Planning and Zoning Administrator
Chesapeake Beach
P.O. Box 400
Chesapeake Beach, Maryland 20732

Re: Chesapeake Village Critical Area Planting Plan

Dear Mr. Watson:

We have received the planting plans and schedule for the Chesapeake Village subdivision. I have reviewed the plans and generally they look good. I have the following comments.

1. Page L-2: 15 Wax Myrtle are specified, but 16 are shown on the plan.
2. Page L-4: 19 Pin Oaks are specified, but 20 are shown on the plan.
3. Page L-4: 22 American Holly are specified, but 21 are shown on the plan.
4. Arrowwood Viburnum is an acceptable species.

Thank you for the opportunity to provide review the planting plans. Please contact me at (410) 260-3479 if you have questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

cc: John Helms, Helms Landscape Design Services
Dean Wilkinson, R.A. Barrett & Associates, Inc.
CB 854-03 revised plan

Robert L. Ehrlich, Jr.
Governor

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Lt. Governor

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September 8, 2005

Ms. Theresa Thomas
Town of Elkton
100 Railroad Avenue
P O Box 157
Elkton, MD 21922-0157

RE: Union Hospital Expansion

Dear Ms. Thomas:

I have reviewed the revised 10% Rule calculations for the Union Hospital expansion and supplemental material provided by the applicant's consultant. The proposal addresses the phosphorus removal requirements. We have no further comments.

Thank you for the opportunity to review this proposal. Please call me at (410) 260-3479 if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Bob Morelock, Site Resources Inc.
EL 964-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 7, 2005

Mr. David A. C. Carroll, Director
Department of Environmental Protection and Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Baltimore County Council Bill 78-05

Dear Mr. ~~Carroll~~ David:

This office has received County Council Bill 78-05. It is our understanding that the purpose of this bill is to address issues regarding grandfathered lots, as we had discussed earlier this summer. The Critical Area Commission accepts this bill for processing. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

Thank you for your cooperation. If you have any questions, please telephone me at (410) 260-3479.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 12, 2005

Mr. Mark Kalmus
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: Golden Beach BLAP, Plat 1, Section 3
Lots 962, 963, 965, 966
#05-141-058

Dear Mr. Kalmus:

I have reviewed the proposal to combine Lots 962, 963, 965, and 966 to create Lot 500-962. Currently none of the lots are developed. The Department of Natural Resources MERLIN database indicates there may be wetlands on a portion of Lot 965. Any wetlands and appropriate buffers should be shown on this plan.

Thank you for the opportunity to review this proposal. Please call me at (410) 260-3479 if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: SM557-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 12, 2005

Mr. Mark Kalmus
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: Leverings BLAP, Lots 57 & 58
#05-141-056

Dear Mr. Kalmus:

I have reviewed the proposal to combine Lots 57 and 58 to create Lot 500-57. Currently neither lot is developed, and approximately half of the new lot is in forest cover. It appears that General Note #9 is incorrect; it states this adjustment plat will expand Lot 16. There is no Lot 16 shown adjacent to the site. It also appears that a proposed property line will run parallel to North Patuxent Beach Road, but this portion of the site is not labeled as a second lot. If the purpose of the BLAP is to combine Lots 57 and 58, this line should be removed.

Thank you for the opportunity to review this proposal. Please call me at (410) 260-3479 if you have any questions.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: SM556-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 12, 2005

Ms. Yvonne Chaillet
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: Aiken Variance
Lot 16-R
#05-1954

Dear Ms. Chaillet:

I have reviewed the variance application to place part of a septic reserve area within the 100-foot Buffer on Lot 16-R. The initial mound will be out of the Buffer, and no clearing is proposed within the Buffer. Currently the lot is undeveloped and is bisected by Holly Drive. The proposed dwelling will be on the west side of Holly Drive, away from the Buffer.

This office does not oppose this variance. If the variance request is approved, the Commission recommends that Buffer mitigation be provided in accordance with the County's Critical Area provisions.

Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variance. Please notify the Commission in writing of the decisions in this variance.

Sincerely,

Regina A. Esslinger

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: SM552-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 12, 2005

Ms. Yvonne Chaillet
Department of Planning and Zoning
23150 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: Aley Variance
Lot 14, Riverwood Farms
#05-2144

Dear Ms. Chaillet:

I have reviewed the variance application to replace a mobile home with a single family dwelling in the expanded Buffer for steep slopes. The site is wooded except for the area around the existing home. The proposed dwelling is in the same general vicinity as the existing dwelling, and will use the existing driveway and septic system. It is not clear if the backyard tree line shown on the proposed plan is the existing tree line or where clearing will occur.

This office does not oppose this variance. We recommend that clearing be minimized in the backyard as erosion of the steep slopes could quickly result. We also recommend that stormwater be directed to a stable, vegetated outfall, avoiding discharge to steep slopes. If the variance request is approved, the Commission recommends that Buffer mitigation be provided in accordance with the County's Critical Area provisions.

Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variance. Please notify the Commission in writing of the decisions in this variance.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jjd
cc: SM551-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2005

Mr. Robert A. Eckardt
434 Park Creek Road
Pasadena, Maryland 21122

Dear Mr. Eckardt:

At your request, I am writing to you to reflect our telephone conversations on several dates regarding the 100-foot Buffer on the lot adjacent to yours, 430 Park Creek Road, and a proposed septic trench. You provided me with a Grading and Sediment Control Plan (Sheet 1 dated April 2004, Sheet 2 dated August 2004) and a Septic Plan (dated February 2004) as well as copies of correspondence with County staff. The grading plan is sealed and signed by the surveyor, Ed Brown. Your question to me, as I understood it, was whether there were steep slopes within the 100-foot Buffer that would necessitate a Buffer expansion and thus a variance for the septic trench. Within the Critical Area, steep slopes are defined as 15% or greater slopes.

The site in question is a grandfathered lot with a proposed dwelling, well, and septic reserve area. Page 1 of the grading plan, under General Notes #9, states that the topography has been field run by the surveyor. Steep slopes are shown between the dwelling and the road on the plan. Page 2 of the grading plan shows a "shoreline" along Park Creek and "Ex Beach Sand" above the shoreline. "MHT" has been handwritten in at the top of the beach sand line. The grading plan does not show the 100-foot Buffer.

I measured and calculated slope percentages in the area between the septic trench and the shoreline. As we discussed, rise over run is the calculation used to determine percentage of steepness. I did not find any areas to be greater than 13%, and most of the areas were less than that. As we also discussed, this office does not have the technical expertise to verify that field run topography is correct; we must rely on the seal and signature on the plans.

I called the County to ascertain where they considered mean high water to be so that I could determine the extent of the Buffer. The Buffer is measured 100 feet from the landward extent of mean high water or tidal wetlands. The County told me they considered the landward extent of the beach sand to be mean high water. Measuring back 100 feet from this line, the septic trench is out of the Buffer. I faxed you a copy of the plan with my determination of where the Buffer is.

Based on this line and the topography shown on the plans, there is not an expanded Buffer on this site.

Sincerely,

Regina A. Esslinger

Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jjd

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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August 5, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road
Annapolis, MD 21401

RE: Robert Hammer Variance
2005-0234-V

Dear Ms. Plociennik:

Thank you for providing information on the referenced variance. The applicant is requesting a variance to allow an addition in the 100-foot Buffer. A copy of the site plan was not included with this transmittal sheet; we will provide comments once we receive a plan.

If you have any questions feel free to contact me at (410) 260-3479.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: AA494-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Ren Serey
Executive Director

STATE OF MARYLAND
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December 22, 2005

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

Re: Sheehan Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance for the purposes of constructing an addition to an existing non-conforming structure. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that no new impervious surface area is proposed as a result of the construction. Rather, the applicant is requesting to vertically expand an existing non-conforming garage structure in order to accommodate a second story loft and reading room. As the applicant's request appears to present no additional adverse impacts to the County's Critical Area, we do not oppose the granting of the variance.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC817-05

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 21, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3214 Triebell-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. This letter is on response to the latest site plan received on December 7, 2005.

In our previous letter, this office expressed serious concerns about the excessive footprint of the house (2,931 square feet), and the relationship between the dwelling size and the amount of disturbance proposed to the Buffer and steep slopes. Specifically, it appears as though the applicant's need for a variance to the steep slope requirements is largely driven by the design and size of the proposed dwelling. We requested that the applicant provide a revised site plan showing that minimization of impacts was considered a priority and that a realistic effort was made to keep the development off of steep slopes. While we acknowledge that the proposed well has been moved off of slopes and that the overall limits of disturbance have been decreased, it remains the position of this office that it is possible to develop the property without impacting steep slopes, and that a variance of a lesser degree is possible. With the combination of these factors, and the outstanding concerns regarding the adverse impacts of such a development on water quality, plant and wildlife habitat, it remains our position that the applicant is not able to meet the County's variance standards. As such we continue to oppose the granting of a variance as proposed. I have outlined each of the County's variance standards as it pertains to this case 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.*** While some degree of Buffer variance is necessary to develop this property, it remains our position that a variance to disturb steep slopes is unnecessary and that the need for a steep slope variance can be avoided with a minimized footprint and/or alternative design. Since reasonable and significant use of the property appears possible without disturbance to steep slopes, the applicant would not be denied an unwarranted hardship.

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. Where development on steep slopes can be avoidable in so far as possible, this office would not support similar variances on other properties within the County.

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.*** Conversely, the granting of variance to disturb steep slopes where it appears necessary to avoid them altogether would be conferring a special privilege on the applicant.

4. ***The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the requests arise from any condition conforming, on any neighboring property.*** While the need for a Buffer variance does not arise as a result of actions by the applicant, we continue to assert that the need for a slope variance appears to arise based on the excessive dwelling footprint and nature of the design.

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 contrast, the granting of a variance to disturb steep slopes where it is possible to construct a reasonable dwelling without a variance is not in harmony with the intent and spirit of the law. In addition, the development of steep slopes where it is otherwise avoidable creates undue stress on the surrounding water quality, plant and wildlife habitat, and is in contrast with the goals of the Critical Area program.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 549-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 21, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 04-3126 Gilbert-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance to construct a primary dwelling with disturbance to steep slopes. The property lies within a designated Limited Development Area (LDA), and is currently undeveloped.

As a result of the Board's previous deferred action on this case, the applicant has submitted a revised site plan which proposes a significant stormwater management feature, designed to manage the 10-year storm event. In addition, there have been minor reductions in the footprint of the proposed garage. We recognize that the applicant's property is a legally grandfathered parcel of record which appears to be unbuildable without some degree of variance. As a result, this office does not generally oppose the granting of a variance for steep slopes on the property. However, our previous review letter requested that the applicant also reduce the footprint of the dwelling in order to minimize disturbance to the steep slope. Given that the applicant is proposing to construct the equivalent of a three-story dwelling (with basement) this office questions whether further minimization of footprint and disturbance is possible. As a result of the documented stormwater management problems on this property as well as the potential for associated sediment runoff, we recommend that the Board evaluate whether further reduction in footprint of the dwelling is possible and/or warranted prior to the granting of a variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
CA 833-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 21, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3258 Zaremba

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance to the steep slope requirements for the purpose of constructing multiple deck structures. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the site plan, it appears that the applicant is requesting approval of a building permit for a total of four deck structures, as well as for a 110 square foot addition to the existing dwelling. While the majority of the proposed structures can be constructed without requiring a Critical Area variance, a portion of the 400 square foot porch and one of the proposed decks (100 square feet) encroach into an area of steep slopes, requiring a Critical Area variance. In evaluating the site plan, we note that the property is currently developed with a single-family dwelling, a large deck, and an extensive brick paver patio. As such, it appears that the applicant currently enjoys significant and reasonable use of the outdoor space on the property, and is therefore not able to meet the variance standard of unwarranted hardship. In addition, it appears that the applicant could construct some configuration of deck which does not proposes disturbance to steep slopes, and which remains in harmony with the spirit and intent and of the Critical Area Law. Consequently, we oppose the applicant's request to disturb steep slopes.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 20, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3235 Kla-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. Upon review of the revised application materials, this office remains opposed to the Buffer and clearing variances as proposed.

During the previous review of the variance request, this office expressed serious concerns regarding the magnitude of disturbance proposed in conjunction with the applicant's development proposal. While we acknowledge that the applicant has decreased the amount of total disturbance by 319 square feet and decreased the amount of impervious surface area by 524 square feet, the majority of our previous concerns remain outstanding. Specifically, this office is concerned about the recognition of the Buffer as a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. In evaluating the applicant's revised proposal, as well as in evaluating the environmental conditions of the site, it remains our position that the current proposal significantly exceeds that which would be necessary to provide reasonable and significant use of the entire lot. Specifically, the proposal of an accessory structure in addition to a dwelling, garage, and driveway within the Buffer seems excessive in contrast to that which would be necessary to provide relief.

In addition to our opinion that a further reduction in overall dwelling footprint appears feasible, it appears that the applicant could enjoy reasonable use of the property without the construction of an accessory workshop. Elimination of this feature would further decrease impacts to the Buffer, and allow the dwelling to be relocated towards the western property line. This shift would benefit the property by allowing the large tree on the property to remain, altogether avoiding the need for a clearing variance. Because we do not believe that the applicant is yet able to meet the County's variance standards, and because a variance of a lesser degree is possible, we oppose the request for a Buffer variance.

As previously stated, this office also remains strongly opposed to the granting of a clearing variance. Specifically, the large, mature tree near the eastern portion of the site provides significant environmental benefits to the property, including shading of a majority of the property, provision of valuable habitat opportunities, and provision of enhanced infiltration and absorption benefits for stormwater runoff. It

remains the opinion of this office that the clearing of this tree would be extremely damaging to the environmental conditions of the property. Furthermore, we note that opportunities appear to exist to construct a dwelling in harmony with the existing natural features, and that the need for a clearing variance appears generally unnecessary. Therefore, we remain strongly opposed to the applicant's request for a clearing variance. We recommend that the Board require the applicant to submit a site plan that avoids the need for a clearing variance altogether.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA726-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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MEMORANDUM

To: Patrick Meckley, Forest Stewardship Program Manager

From: Kerrie Gallo

Date: December 20, 2005

RE: Unauthorized Timber Harvest in the Critical Area

It has come to our attention that an unauthorized timber harvest has occurred within the Critical Area in Somerset County. Based on the existing Memorandum of Understanding (MOU) between the Critical Area Commission and the Forest Service, we are requesting your assistance in investigating the situation and in determining the best course of action to correct the violation. Below, please find a summary of the information we have on the situation to date and some potential courses of action based on the MOU and the Critical Area Regulations.

- In late August of this year, a citizen called our office, complaining that a timber harvest was occurring in close proximity to tidal waters in Somerset County.
- Critical Area staff contacted Somerset County Department of Technical and Community Services (who locally implement the Somerset County Critical Area Program) and John Jordan, the County Forester, to find out if any timber harvests were approved for the subject property, within the Critical Area.
- Both indicated that a standard timber harvest plan had been submitted and approved for the property, but that no timbering was proposed or approved within the Critical Area portion of the property.
- Commission staff contacted the MDE compliance inspector, who indicated that he had done a site visit and that the sediment and erosion control was consistent with the approved plan.
- The same citizen contacted Commission staff again in mid-November, asking about the investigation into the earlier complaint. Commission staff contacted John Jordan, requesting that he investigate to determine if timber harvesting had occurred in the Critical Area, beyond the approved boundaries of the approved plan.
- Commission staff received confirmation from the forester that the timber within the Critical Area on the subject property was cut without a timber harvest plan.

As you are aware, the MOU/Request for General Approval describes the process for approval of Timber Harvest Plans and the details of what those Plans must include. It gives approval authority to District Forestry Boards and the DNR Forester. Unfortunately, it does not include provisions on how to handle unauthorized timber harvests or violations of approved timber harvest plans.

The MOU does include provisions for requesting a variance from the requirements of the General Approval. One possible course of action would be to require the landowner to apply for a variance, because the requirements of the General Approval were not met.

It would be useful to know how the Forest Service handles unauthorized timber harvests outside of the Critical Area.

The Critical Area Law has a number of provisions enabling local jurisdictions to address violations and unauthorized tree clearing. These include imposition of fines, requirements for replanting or both. However, because of the General Approval granted to the Forest Service for timber harvests, it may not be appropriate to require the local jurisdiction to enforce the rules pertaining to Timber Harvests.

In summary, the situation requires some action to address the unauthorized activity within the Critical Area. We ask your assistance in confirming the details of what has occurred and in determining the appropriate way to proceed. Commission staff is available to meet with you to discuss this matter at your convenience. However, we must also be conscious of the timeliness of our response to the citizen who filed the complaint. Please contact me or Ren Serey at (410) 260-3460 if you would like to discuss this matter further or schedule a meeting. Thank you for your attention to this matter.

Cc: Ren Serey, CAC
LeeAnne Chandler, CAC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 20, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3257 Baratta

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer and the steep slope requirements in order to construct a primary dwelling. The property is a designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the site plan provided, we recognize that the site is severely constrained by the location of steep slopes as well as encompassed entirely within the 100-foot Buffer. In addition, it appears that the applicant has proposed a modestly sized dwelling (864 square foot dwelling and 288 square foot deck) and attempted to provide a minimized footprint. Provided that the applicant provides the required Buffer mitigation at the building permit stage, we do not oppose the granting of a variance. However, we note that the site plan indicates that 6 inches of gravel will be placed beneath the deck. While it appears that this note implies that pervious construction is intended for the deck, we recommend that this requirement be explicitly included as a condition, and that foundation plantings be incorporated surrounding the base of the deck to ensure enhanced infiltration opportunities.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA803-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 20, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3260 Hadley

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer and the cliff setback requirements in order to construct a 224 square foot patio. The property is a designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to construct a 224 square foot pervious patio underneath an existing deck structure. While it is unclear what methods are proposed to construct the patio as pervious, this office does not generally oppose the applicant's request for a Buffer variance. However, based on the site plan, it appears that the existing dwelling and proposed patio are in close proximity to the edge of a cliff and to tidal waters. In order to ensure that the proposed development does not present a threat to the stability and integrity of the cliff, as well as negatively impact water quality, we recommend that the proposed patio be set back as far from the cliff as possible. It does appear that it would be possible to construct the patio farther back from the cliff face than currently proposed. In addition, please ensure that the proper mitigation is provided based on the areal extent of disturbance to the Buffer.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA805-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 20, 2005

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

Re: A065 Woicke

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer for the purposes of constructing multiple additions to the existing primary dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to construct multiple additions to the existing primary dwelling, including a vertical addition. It is my understanding that all of the proposed additions will be located farther from mean high water than the closest point of the existing dwelling and that the property is well within the permitted impervious surface area limitations. Provided that the applicant implements the required mitigation for the total area of disturbance to the Buffer, we do not oppose the granting of the variance request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC686-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 20, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3259 Shoemaker

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct an addition to the primary dwelling, as well as an accessory deck structure. The property is a designated a Limited Development Area (LDA) and is currently developed.

Based on the site plan provided and the existing site constraints, this office would not generally oppose the granting of some degree of variance in order to accommodate a reasonably sized addition. However, in granting a variance, the Board must evaluate whether the applicant has met each of the County's variance standards as well as determine that efforts have been made to minimize disturbance to the Buffer. It appears that the applicant currently enjoys reasonable and significant use of the outdoor space on the property via the extensive existing deck. Therefore, it does not appear that the applicant could meet the standard of unwarranted hardship for the purposes of accommodating another 150 square feet of deck.

In response to the applicant's proposal to construct a 1,200 square foot addition to the existing primary dwelling, this office questions whether adequate attempts at minimization have been made. Again, it appears that the applicant currently enjoys reasonable and significant use of the entire property via the existing primary dwelling, as well as an attached garage. We recognize that the construction of a reasonably-sized addition is a right commonly enjoyed by others within the County and that the placement of the proposed addition is constrained by the location of the existing well, as well as steep slopes on the property. However, we note that the applicant bears the responsibility to ensure that the proposed development activity will not negatively impact water quality, as well as plant and wildlife habitat, and to ensure that every effort is taken to protect the integrity of the Buffer, remaining in harmony with the intent of the Critical Area Law. Therefore, we recommend that the Board consider whether the applicant could further minimize the amount of disturbance proposed within the Buffer, perhaps by the utilization of vertical construction or by the reduction of the proposed footprint. We note that the existing primary

dwelling is stated as a split level, and would therefore appear to accommodate a two-story addition. In addition, we recommend that the applicant be required to implement enhanced stormwater management measures to provide additional treatment of any new impervious surfaces placed within the Buffer. We believe this to particularly important given the close proximity of the proposed development to tidal waters.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA804-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 19, 2005

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-05-11-44 Yves Fedrigault-Revised
(Tax Map 44, Parcel 77)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the above referenced revised subdivision. Under the provisions set forth within COMAR 27.03.02, the Commission may request additional information from the local approving authority at any time if it is necessary for accurate evaluation of the proposed action. Based on this provision, please provide the Commission with a revised site plan and/or any comments submitted by the applicant, as well as any supporting materials which provide resolution to the outstanding issues below.

1) This office has significant concerns regarding the ability of the subdivision to remain within the 15% impervious surface area limit. While the applicant has stated that the actual square feet per lot will be established at the final plat stage, we strongly recommend that this be a requirement of preliminary approval. Specifically, it is my understanding that the County will require RD14-A to be included within the impervious surface area calculations, in addition to the inclusion of the 30' private lane. As a result, the total available impervious surface area for the lots appears to be 6,100, or approximately 1,525 square feet per lot. The inclusion of this limitation on the site plan is important in order to demonstrate that development of the subdivision is feasible within the applicable impervious surface limits.

2) In addition to comment #1, no information has been provided regarding the existing impervious surface area on the property. Please have the applicant include this information on the plat. If the existing structures are to remain, they must also be included within the impervious surface area calculations. If they are to be removed, this should be stated.

3) As previously stated, this office has not yet received notification of an evaluation of the property by the Department of Natural Resources' (DNR) Wildlife and Heritage Division. Please provide this office with a copy of the DNR letter once it is obtained. Should any rare, threatened or

endangered species be identified by DNR, the applicant will be required to submit a habitat protection plan which addresses any recommendations made by DNR.

5) The soils map included indicates that the property contains significant areas of highly erodible soils (Keyport and Mattapex series). The applicant's response to this comment indicates that the County has issued a waiver to the expanded slope requirement for highly erodible soils. If this waiver was issued, and a determination was made stating that the proposed development will not impact streams, wetlands, or other aquatic vegetation, please provide the Commission with a copy of this decision and/or waiver.

Thank you for the opportunity to provide comments for this revised subdivision plat. Please provide Commission staff with a revised plat or letter which addresses the above comments. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA706-05

CC: John Swartz, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 15, 2005

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

Re: SFD 50734 Forrest Builders (Clifton on the Potomac)

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a building permit in order to construct a single family dwelling with an attached garage. The property lies within a designated Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is proposing to clear approximately 8,611 square feet of forest cover in order to accommodate the construction of the proposed development activities. Based on this amount of clearing, the Charles County zoning ordinance requires mitigation at a 3:1 ratio. In addition, the State of Maryland's online mapping system, MERLIN indicates that the property lies within a sensitive species review area. Given this information, the applicant is required to have an evaluation of the property conducted by the Department of Natural Resources (DNR) for the presence of any rare, threatened, or endangered species. Once this evaluation letter has been obtained, the applicant will be required to address any recommendations made by DNR for protection the species. This should be accomplished via the submission of a habitat protection plan, as described within the County's ordinance. Once the habitat protection plan is submitted, please forward the information to Commission staff, as well as to DNR for review and comment.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 785-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 14, 2005

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

Re: Appeal #1406
Backcreek Capital, LLC

Dear Ms. Verdery:

This letter provides the comments of the Critical Area Commission on the above-referenced variance. Based on the information provided to us, we strongly oppose a variance in this case.

The applicant is requesting approval to construct an approximately 3,600 square foot building in order to accommodate the construction of an automotive repair shop. In addition, approximately 10,524 square feet of parking is proposed. The property is currently undeveloped and is designated a Limited Development Area (LDA). The proposed construction of the repair shop and parking on this undeveloped site will result in a developed parcel which is approximately 46% impervious. This far exceeds the 15% limit on impervious surface for LDA parcels under State law. State law provides that the impervious surface area limit for this parcel is *15% or 5,445 square feet, whichever is greater.*

On October 17, 2005, Commission staff provided comments on the site plan component of this proposal. We have not changed these comments. To reiterate: the parcel is currently undeveloped, and the proposed improvements far exceed the impervious surface area limits permitted in State Law (Natural Resources Article 8-1808.3) and in the Talbot County Zoning Ordinance. We believe that growth allocation will be necessary in order to allow development of the property as proposed. As such, we strongly oppose the granting of a variance.

As you know, the General Assembly strengthened the Critical Area variance standards in 2002 and 2004. In order to grant a variance, the Board of Appeals must make findings that the applicant has proved that he meets each one of the enumerated variance standards. Moreover, the legislature specifically required the local Boards of Appeal to evaluate variance requests under the presumption that "the specific development activity in the critical area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of" the State law, Critical Area Criteria, and the local Critical Area program. Annotated Code of Maryland, Natural Resources Article § 8-1808(d)(2)(i). I have addressed each of the County's variance standards below:

Mary Kay Verdery
Backcreek Capital, LLC
December 14, 2005

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.* While this site may not be large enough to accommodate the size of this proposed structure and parking lot, it does appear possible to develop the property within the permitted impervious surface area limits (15% or 5,445 square feet). Because denial of the variance would not deprive the applicant of reasonable and significant use of the entire parcel, the standard of unwarranted hardship cannot be met.

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 General Assembly placed the impervious surface limits in State law. There is no "right" to exceed these limits. On an undeveloped parcel, this office does not support similar variance requests to exceed the impervious surface area limits, unless the applicant presents the extraordinary circumstance in which he can meet each and every one of the variance standards. The information provided to us falls far short of meeting the variance standards. Moreover, the General Assembly and the County's zoning ordinance provide a process for applicants who wish to develop LDA parcels with a large amount of impervious surface. Growth Allocation is the mechanism by which the County may accommodate this development request. We reiterate that the granting of a variance to exceed impervious surface limits on an undeveloped parcel is not appropriate.

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 area, as well as in similar situations in the County's Critical Area. Again, the General Assembly placed the impervious surface limits in State law, and the applicant would receive a special privilege if the County allowed him to exceed these limits.

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.* It appears that the applicant has 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.* The granting of a variance to exceed the impervious surface area limits in State and County law on an undeveloped parcel is directly in contrast with the general spirit and intent of the Critical Area law and regulations. This is especially true where, as in this case, an alternative exists through the appropriate award of growth allocation. Impervious surface areas beyond those permitted in the law severely exacerbate the amount of stormwater runoff and sedimentation that occurs post-development on any given parcel. The granting of variance in this case will generate a quantity of sediment and stormwater runoff that is detrimental to water quality, as well as, fish, wildlife and plant habitat within the County's Critical Area.

Mary Kay Verdery
Backcreek Capital, LLC
December 14, 2005

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the applicant's request for a variance as proposed.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
TC742-05
TC682-05

cc: Marianne D. Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

December 13, 2005

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

Re: Penn-Rail, LLC-Revised
TM56, P10

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised major subdivision request. The applicant is proposing to subdivide a 131.857-acre parcel to create 6 new lots. There are approximately 128 acres within the Critical Area portion of the property, currently designated as a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments regarding this revised proposal.

1) It does not appear that a professional field determination of private versus State wetlands on the property has been made to date. As you are aware, a determination of wetland ownership cannot be made based solely on existing maps. This determination must be made in the field. This comment will remain outstanding until a field determination is provided, along with the name of the person performing the determination and a description of the process used.

2) While the Buffer has been revised to reflect the presence of tributary streams on the property, there appear to be multiple areas where the Buffer has not been accurately measured. Specifically, the Buffer surrounding the tributary stream on the easternmost portion of the property appears inaccurate.

3) The applicant has identified multiple areas of steep slopes on the property. Where steep slopes lie contiguous with the Buffer, the Buffer shall be expanded four feet per every 1% of

slope, or to the top of slope, whichever is greater. Please have the applicant perform this measurement based on field run topography and adjust the Buffer where appropriate.

4) No information has been provided regarding the types of soils found on the property. In order to verify the presence and location of any hydric or highly erodible soils, please have the applicant provide this information.

5) The development standards section of the RC Development Data is incorrect in stating that there is a 50-foot Buffer for intermittent streams within the Critical Area. Within the Critical Area, both intermittent and perennial streams are included within the definition of tributary streams and are therefore subject to a 100-foot Buffer. Please amend this note.

6) The Department of Natural Resources (DNR) has identified the site as containing Forest Interior Dwelling Bird (FIDS) habitat as well as habitat for the state and federally listed Delmarva Fox Squirrel (DFS). As it appears impacts are proposed to both habitats, a habitat management plan must be submitted in conjunction with the requirements set forth in the County's zoning ordinance. Please provide Commission staff with a copy of this management plan when received. In addition, it appears that further consultation with the U.S. Fish and Wildlife Service (USFWS) may be necessary in order to ensure proper protection for the DFS. We strongly encourage the applicant to pursue coordination with the USFWS early in the planning process.

Thank you for the opportunity to provide comments for this revised subdivision request. Due to the significant resource issues present on the property, Commission staff requests the opportunity to conduct a site visit. In addition, please have the applicant address the above comments and provide a revised site plan as well as a habitat management plan. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 47-04

CC: Scott Smith, DNR
Mary Ratnaswamy, USFWS

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 13, 2005

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

Re: Appeal #1410 Sumner, LLC

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to the 100-foot Buffer requirements for the purposes of placing a 25 square foot accessory shed structure.

Based on the information provided, it appears that the proposed shed structure is requested in conjunction with the United States Secret Service, under authority from the Federal government to ensure the safety of those individuals protected by the Secret Service. As the proposal within the Buffer appears to be the minimum required to ensure adequate protection, we do not oppose the granting of the variance request. However, we recommend that the applicant be required to provide mitigation plantings at a 2:1 ratio for the area of Buffer disturbed as required within the County's zoning ordinance. In addition, we note that the Commission does not oppose the placement of the accessory structure within the Buffer based on the specific circumstances associated with the assurance of protection for those individuals protected by the United States Secret Service. We recommend that the Board consider the inclusion of a condition stating that the accessory structure will be removed from the Buffer should the property change hands and the authorized Federal protective provisions no longer be applicable.

Thank you for the opportunity to provide comments for this variance request. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie Gallo
Natural Resource Planner
TC787-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 13, 2005

Mr. Shawn Ryan
Maryland Department of Natural Resources
580 Taylor Avenue, D3
Annapolis, MD 2101

Re: Black Walnut Point Shore Erosion Control

Dear Mr. Ryan:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On December 7, 2005, the Critical Area Commission unanimously approved the County's proposal and site plan to construct shore erosion control measures at the Black Walnut Point property, located in Tilghman, Maryland. This approval included one condition:

1. The Department of Natural Resources shall obtain the necessary sediment and erosion control permits from the Maryland Department of the Environment prior to commencement of construction activities.

In fulfillment of the above condition, please provide Commission staff with a copy of all appropriate permits once they have been obtained. In addition, please notify the Commission once the mitigation plantings have been implemented. Thank you for your assistance in presenting this project to the Commission. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Cc: Tom Brower, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 9, 2005

Ms. Debbie Renshaw
Zoning Inspector
Town of St. Michaels
P.O. Box 206
St. Michaels, MD 21663

Re: Velo Variance

Dear Ms. Renshaw:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to the 100-foot Buffer requirements for the purposes of constructing a single family dwelling and accessory garage structure. The property lies within a designated Intensely Developed Area (IDA) and is currently undeveloped.

Based on the information provided, it is my understanding that the applicant's property is a legally recorded, grandfathered record of parcel. In addition, it appears that the majority of the parcel is located within the 100-foot Buffer, and that development of the property would not be possible without some degree of variance. The site plan indicates that the applicant proposes approximately 1,600 square feet of impervious surface area, with a 25-foot setback from tidal waters. Since the property is located within an IDA, the applicant has proposed a bioretention facility which appears to adequately address the 10% pollutant removal requirement for residential development within the IDA. In addition, it is my understanding that the applicant has agreed to provide mitigation plantings at a 2:1 ratio, based on the areal extent of disturbance to the Buffer. We recommend that this mitigation requirement be included as a condition of any variance approval and that a signed planting agreement be executed. Provided that the Board determines that the applicant has sufficiently met each of the variance standards detailed within the Town's zoning ordinance, we do not oppose the granting of the variance.

Thank you for the opportunity to provide comments for this variance request. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo DM

Kerrie Gallo
Natural Resource Planner
ST 789-05

Cc: Roby Hurley, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 22, 2005

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

Re: Swan Point Growth Allocation

Dear Ms. Dailey:

This letter is in response to our continuing review of the preliminary growth allocation materials provided by the applicants, United States Steel Corporation and Brookfield Homes, in regard to the above referenced project. It is the intent of this letter to provide preliminary comments on the Habitat Management Plan submitted, as well as provide a summary of any outstanding comments which must be addressed prior to, or in conjunction with the Commission's formal review of the growth allocation request.

As always, we will continue to provide additional comments as the proposal progresses through the approval stages.

Habitat Management Plan

Bald Eagle Habitat and Management

While we acknowledge the applicants' proposed management strategies for the eagle's nest located near the existing 8th green, no protection zones have been included on the map for the second nest, located on the adjacent County property. Past discussions regarding protections for this second nest focused only on the relationship between the development of the wastewater treatment plant and the eagle's nest, and did not consider development within Swan Point proper. Protection zones for both nests must be included on future plans. Commission staff is in the process of coordinating with the Department of Natural Resources (DNR) regarding the proposed protective measures for the existing nest on the golf course, as well as any additional requirements for the second nest. Additional comments are forthcoming pending this coordination effort.

Colonial Water Bird Nesting Colonies

The Habitat Management Plan and the appendix pertaining to colonial nesting water birds say slightly different things in terms of protecting these habitats. The plan states that there are eight

nests, while the appendix states there are nine. Both say there are two small colonies, made up of three individual nests each. The remaining two or three are solitary nests. In addition, the report in the Appendix titled, "Population Dynamics..." on pages 9-10 discusses the Swan Point development and how it will affect the herons. It states that the "remaining six nests and their associated protective buffers would be preserved." The Great Blue Heron Exhibit does not show the location of the individual nests, nor does it show any protective buffers around them. Clarification is needed.

Anadromous Fish Propagation Waters

The applicants' report is incorrect in stating that the water bodies surrounding Swan Point are not anadromous fish propagation waters. COMAR 08.02.15.03 establishes spawning rivers and areas for striped bass, and includes the Potomac River upstream of Point Lookout (COMAR 08.02.15.03(B)(10)). Where it designates the river, it also includes all tributaries to the river such as Cuckold Creek. Striped bass is one of the fish species mentioned in the Critical Area Criteria as an anadromous fish (COMAR 27.01.09.05).

Second, in reviewing the Environmental Atlas of the Potomac Estuary, Folio Map #7 "Spawning Regions of Common Fishes" clearly shows the areas around Swan Point (including both the Potomac River and Cuckold Creek) as spawning areas for a variety of species, including the anadromous fish species listed in the Criteria.

Lastly, the recent report cited in the plan, and the material in Appendix C, report on those nontidal areas where the Department of Natural Resources has data. They do not necessarily report only those areas where spawning has been documented. Cuckold Creek and the Potomac River are both tidal water bodies that are not sampled under the Maryland Biological Stream Survey. Resolution of this issue will remain outstanding until written comments have been received from DNR.

Waterfowl Staging and Concentration Areas

In addition to time-of-year restrictions to protect waterfowl, the number of proposed piers, along with the marina, may be an issue of concern. The Criteria, at COMAR 27.01.09.04(C)(2)(b)(ii) require new water-dependent facilities to be located to prevent disturbance to sites of significance to wildlife such as historic aquatic staging and concentration areas for waterfowl. The Criteria, in discussing community piers and other related noncommercial facilities, also state that disturbance to the Buffer [for these facilities] must be the minimum necessary to provide a single point of access to the facilities. The Habitat Management Plan did not discuss the potential impacts of the numerous piers, shore erosion control structures and the marina on waterfowl staging and concentration areas. The applicants will need to address these elements prior to the Commission's consideration of a formal growth allocation request.

Other Rare, Threatened, and Endangered Species (RTEs)

Written confirmation from DNR is required to ensure that the Buffer will provide adequate protection for the Great Purple Hairstreak Butterfly.

Forest Interior Dwelling Birds (FIDS)

Assessment of Existing Habitat – Issues for correction/clarification

a. The table in the report has a number of errors in math and also does not match the table on the "existing FIDS Exhibit." The table on the exhibit appears to be correct.

b. The numbers in the table were not used in the FIDS conservation worksheet. Area A was excluded as well as Area H. Area A is within the boundaries of the project should be included in all FIDS calculations.

c. If Area H (on the waste water treatment plant property) will be under separate ownership, it should be separated from the other FIDS information. If it remains as part of the FIDS conservation package, the habitat within the area should be reassessed. For example, no edge was drawn from the existing fields; some of the area shown as being forested is very sparse, contains some structures, and is likely not FIDS habitat.

d. The acreage of edge within the Critical Area in Area B is not correct. Estimated edge acreage is 30 or more acres rather than the 15 shown. This should be reviewed, measured and corrected.

e. It appears that the acreage on the triangular-shaped parcel owned by Frederick W. Davis is included in the area of edge habitat outside of the Critical Area in Area B.

Assessment of FIDs Habitat Disturbance – Issues for correction/clarification

a. While the "FIDS Disturbance Exhibit" shows the proposed limits of disturbance (LOD), with acreages of proposed edge/interior clearing, another exhibit is needed which shows the post development habitat remaining (i.e., what is being classified as remaining FIDS interior and edge). This new exhibit should directly correspond to the last step in the FIDS worksheet and show the same acreages for post-development. Please note that it is not a matter of simple subtraction, since some clearing will isolate pockets of forest so they would no longer qualify as FIDS habitat.

b. The "FIDS Disturbance Exhibit" does not show any LOD on the horse farm property.

Assessment of FIDs Mitigation

a. Mitigation is proposed consisting of conservation of 240 acres of existing forest, and planting 63 acres of new forest, for a total of approximately 303 acres. Notwithstanding other problems

with the proposal to follow, this proposal is not consistent with the Commission's 2000 Guidance document and the section beginning on page 26 titled, "What is acceptable as mitigation?" First and foremost, the area of direct forest habitat loss must be mitigated through the creation of new FIDS habitat. The worksheet (which will necessarily change) currently shows direct habitat loss as 128 acres (more than double the 63 acres proposed for reforestation). Second, once direct loss is adequately mitigated, mitigation of interior loss may be in the form of reforestation or through protection of existing FIDS habitat. When protection of existing habitat is used, it is given one-half credit due to the fact that all forests in the Critical Area are afforded some protection under the law. If the 240 acres of preservation proposed were all FIDs habitat, it would equate to 120 acres of mitigation.

b. Many of the areas proposed for protection do not qualify as FIDS habitat due to their small size and isolation. These small pockets of habitat add up to over 50 acres. Other portions of forest to be protected are almost entirely edge.

c. Of the proposed mitigation plantings, only a small percentage are proposed to be planted within the Critical Area. Further discussion regarding the location of the mitigation plantings is warranted.

Streams

A site visit and further discussion is necessary in response to the report's conclusion regarding tributary streams on the property. Commission staff is working to facilitate an on-site meeting with representatives from the Army Corps of Engineers (ACOE), the Maryland Department of the Environment (MDE), and County staff in order to provide resolution as to whether the existing water features delineated by the ACOE as "Waters of the US" and "tributary streams" meet the State definition of perennial or intermittent streams, which are afforded protection within the Critical Area. As previously noted, the purpose of the ACOE Jurisdictional Determination (JD) is solely to determine whether a water body qualifies as waters of the US. A JD does not make a determination as to whether a water body meets the State criteria classifying it as a stream.

Buffer Management Plan

- The report states that a small portion of Riverside Drive encroaches into the Buffer. As it appears that feasible alternatives exist to avoid impacts to the tidal wetland and Buffer for the placement of this road, the applicant should move the road outside of the Buffer.
- Further discussion of the proposed Buffer planting plans is warranted. At a minimum, the Buffer must be established to achieve water quality and habitat functions detailed within the County's Program and the State Critical Area Law.
- While we acknowledge that the applicant is currently undertaking an independent effort to map the existing soil conditions on the property, further discussion of the results is necessary. Commission staff will consult with representatives from the Natural

Resources Conservation Service (NRCS) to determine if the applicant's mapping efforts are acceptable per the standards of the NRCS. In addition, please note that information provided to Commission staff from the NRCS indicates that areas of hydric soils do exist contiguous with the Buffer on portions of the property. As a result, Buffer expansion may be required.

- Please note that areas of nontidal wetlands lying contiguous to the 100-foot Buffer require expansion of the Buffer to the landward edge of the nontidal wetlands.

General Outstanding Comments

1. As discussed at the November 18th inter-agency meeting with the applicants, as well as repeatedly provided via written communication, the proposed excavation of the Buffer for the purposes of creating a marina basin is inconsistent with both the Charles County Critical Area Program and the State Critical Area Law and Criteria. We strongly encourage the applicants to pursue alternative marina proposals, and are available to assist in this regard.

2. Section 297-131 of the Charles County Zoning Ordinance states, "When lands are subject to proposals for development or conversion to new uses, the Buffer shall be established through proper delineation. The Buffer shall be subject to management measures implemented to protect and provide natural forest vegetation in assurance of the Buffer functions set forth in Chapter 8 of the Charles County Critical Area Program." Chapter 8 of the County's Critical Area Program states, "The Buffer is required to be maintained in native vegetation and in cases where the land uses changes, a Buffer area must be established." As previously stated, the applicant will be required to fully establish the Buffer where forested vegetation does not currently exist.

3. Our understanding is that Cuba Island is not currently designated a BEA on the County's Critical Area maps, and is mapped as a Resource Conservation Area (RCA).

4. We continue to note that the County's Zoning Ordinance and the Critical Area Commission's Criteria specify the provision of a 300-foot setback for development activities in the RCA when using growth allocation. Historically, in reviewing projects with a 300-foot setback, the Commission has assured that all development activities are located outside of the setback.

5. Throughout written communications, the applicants repeatedly refer to a 25-foot setback within the Buffer Exemption Areas (BEA). It is not clear how this distance has been derived. Section 297-131.C.3 of the Charles County Zoning Ordinance states that new development or redevelopment shall not be located <u>less than</u> twenty-five feet from the line of mean high water or the edge of tidal wetlands. The ensuing rules (a-j) state that new multifamily residential, institutional, commercial and industrial redevelopment and new development shall be subject to the standards and mitigation requirements as specified in the Critical Area Commission's BEA policy. The Commission's policy then states that new development shall not be located closer to the water than the local setback for the zoning district or 50 feet, whichever is greater. Based on this language, further

discussion of the setback distance within the BEA is warranted and should not automatically be assumed to be 25-feet.

6. Our previous review letter included multiple features of concern regarding the general development plan. The following items are outstanding and must be addressed prior to the Commission's formal consideration of a growth allocation request.

    - Please include the missing Buffer areas on the GDP for the following areas: Harbour Village, and the existing BEAs near, and to the west of, the proposed yacht basin. While the existing BEAs have a reduced Buffer, no Buffer is currently shown.
    - There is a structure shown in the Buffer in the Harbour Village area. The structure must be located outside of the Buffer and should be moved on the plan.

Thank you for the opportunity to provide comments on the Habitat Management Plan materials, as well as outstanding general concerns. The preceding comments represent the preliminary review and evaluation of the project submittal by Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation and BEA designations. During its formal review, the Commission may request additional information or have additional comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Honorable Allan R. Smith, Charles County
Marianne Mason, Attorney Generals Office
Charles Schaller, Schaller & Gorski, LLP
Milt McCarthy, McCarthy & Associates

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 6, 2005

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

Re: Sulick Line Revision
Tax Map 52, Parcel 12

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicants are requesting a line revision to change the layout of lot lines on two existing lots. Both properties lie within a designated Resource Conservation Area (RCA). Lot 4-AA is currently developed with a single-family dwelling, while Lot 3-I is undeveloped.

Based on the information provided, this office has no specific comments in relation to the proposed lot line revision.

Thank you for the opportunity to provide comments. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC683-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 6, 2005

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

Re: S1002 Nave

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to create a one lot agricultural subdivision, partially within the Critical Area. On the newly created lot, 1.087 acres will lie within the Critical Area, while revised Parcel 7 will contain 111 acres within the Critical Area. The Critical Area portion of the property is designated a Resource Conservation Area (RCA) and is currently undeveloped.

We note that the Department of Natural Resources (DNR) has identified the site as containing potential Delmarva Fox Squirrel (DFS) habitat, as well as containing Forest Interior Dwelling Bird (FIDS) habitat. Should future development be proposed within the Critical Area portion of either parcel of the proposed subdivision, a habitat protection plan will be required addressing the recommendations for protection of the species identified by DNR.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 769-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 6, 2005

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

Re: L1013 Malloy
Tax Map 34, Parcel 46

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor lot line revision. The applicant is requesting a line revision to change the existing lot lines on Deed Parcels 1 and 2, resulting in a transfer of 6.112 acres of land from Deed Parcel 1 to Deed Parcel 2. The Critical Area portion of the parcel is designated a Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is proposing to transfer two development rights from Deed Parcel 1 to Deed Parcel 2. Please advise the applicant that utilization of these development rights may not occur within the Critical Area portion of the site. We recommend that a note be added to the plat stating this restriction.

Thank you for the opportunity to provide comments for this lot line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC768-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 2, 2005

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

Re: Zell Property-Revised
(Tax Map 22, Parcel 199)

Dear Ms. Verdery:

This letter is in response to the Critical Area Forest Preservation and Plant and Plant and Wildlife Enhancement Plan received in conjunction with the ongoing review of the above referenced subdivision.

It appears that the above referenced plan is intended to demonstrate the location of the afforestation areas in fulfillment of the 15% afforestation requirement within the Critical Area. While the plantings shown on the plan to meet this requirement are generally acceptable, we note that the plan does not include any references to the additionally required Buffer plantings. Provided that the applicant is aware that additional Buffer plantings are necessary to fully establish the Buffer, and that this additional Buffer establishment requirement is now included on the subdivision plat, we have no further comments.

Thank you for the opportunity to provide comments for this forest preservation plan. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 765-04

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 2, 2005

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

Re: Peninsula Regional Medical Center Expansion

Dear Mr. McKenzie:

Thank you for providing information on the above referenced site plan and development proposal. The applicant is proposing to convert an existing impervious parking lot into multiple medical buildings. The property is located within a designated Intensely Developed Area (IDA).

Based on the information provided, it appears that the overall impervious surface area on the property is being reduced from 5.23 acres to 5.04 acres of impervious cover. As a result of this decrease and the proposed wet ponds, it appears that the applicant has met the 10% rule requirement. Therefore, we have no further comments regarding the redevelopment proposal.

Thank you for the opportunity to provide comments for this site plan and development proposal. If you have questions, please call me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
SA667-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3249 Koza

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to construct a primary dwelling and accessory garage structure. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that there are multiple deficiencies within the site plan. Specifically, the site plan indicates that there is no clearing proposed on the lot, yet the lot appears to be fully forested in recent aerials. Information supplied on the application form states that 6,155 square feet of disturbance is proposed. Should the amount of clearing proposed be equivalent to the amount of disturbance listed, it appears an additional variance for clearing in excess of 30% will be required. In addition, available resource maps indicate that there appears to be a stream located near the depression or gully shown on the site plan on Lot 13. It is my understanding that the presence of this stream was field verified by County staff. As a result, it appears that a 100-foot Buffer may apply to the applicant's property, requiring a third variance. In light of the uncertainty surrounding the need for two additional variances, we recommend that the Board require the applicant to resubmit a site plan which reflects accurate site conditions and allows County and Commission staff the opportunity to review and comment on an accurate variance request.

Finally, it appears that the applicant is proposing an impervious surface area limit which surpasses that permitted within the County's zoning ordinance. While a 26.29% proposed impervious surface area limit would require yet another variance for the property, we recommend that the applicant revise the site plan to reduce overall impact, remaining within the permitted impervious surface area limit. This office would not support a future variance to exceed the impervious surface area limit on an undeveloped lot, particularly where it appears possible to avoid this situation.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA751-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3245 M&D Partners/Hallowing Point

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit an existing non-conforming use and density to be changed to another non-conforming use while maintaining the same non-conforming density. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it is my understanding the current variance request is solely for the purposes of evaluating whether a nonconforming use density can be maintained as the property is redeveloped. While we generally have no comments regarding the Board's evaluation of the local zoning use and density provisions, this office has concerns regarding the relationship between the proposed impervious surface area and the current variance request. Specifically, should the Board grant the variance to the applicants as proposed, a variance to exceed the permitted impervious surface area limits within the LDA would still be required. We note that impervious surface area is not grandfathered within the Critical Area where redevelopment of a site is proposed. Therefore, the current variance request should be considered separate and of no consequence to the amount of impervious surface area permitted post redevelopment of the site.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 747-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3247 Otto

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct an addition to the existing primary dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it that only a small portion of the applicant's proposed addition lies within the Buffer. In addition, it appears that the applicant has located the proposed addition in a manner which proposes the least impacts to the existing site conditions. In general, we do not oppose the applicant's request for a variance. However, as the proposed development lies in close proximity to multiple areas of steep slopes, we recommend that the Board consider requiring additional stormwater management measure which help to treat rooftop runoff from the proposed additions, and provide enhanced infiltration opportunities. In addition, given the large paved driveway proposed, we recommend that the applicants be required to return the existing gravel driveway to pervious vegetative cover.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA749-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 29, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3246 Langley

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a driveway in an area of steep slopes. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the State Highway Administration has denied the applicant access to the property from Rousby Hall Road. While this would be the preferred point of access, it appears that the applicant is unable to avoid impacts to steep slopes based on this constraint. Therefore, we do not oppose the variance as requested. However, given that the applicant's property does require disturbance to steep slopes and highly erodible soils, as well as proposes a significant amount of clearing to the property, we recommend that some form of stormwater management be required to provide additional infiltration opportunities.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
CA 748-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 29, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3248 Baker

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the100-foot Buffer and steep slope requirements in order to permit the construction of an attached garage and an extension of the existing driveway. The property is designated a Limited Development Area (LDA) and currently developed.

Based on the information provided, it appears that the applicant is proposing to construct a 1,280 square foot garage and driveway addition, entirely within the Buffer, and on steep slopes. In addition, the applicant is proposing to convert 2,954 square feet of a paved driveway to blue stone in order to accommodate the proposed addition and remain within the impervious surface area limits for the property.

In considering a variance request, it should be adequately demonstrated that every opportunity was made to locate the proposed garage as far away from mean high water, steep slopes and the Buffer as physically possible, and that the proposal is the minimum necessary to provide relief. Because it does not appear that any attempt has been made to minimize impacts to the Buffer and steep slopes, and because ample room appears to exist outside of the Buffer to accommodate some degree of a garage, we do not believe that the standard of unwarranted hardship has been met. Therefore, this office is able to offer support for the variance request as currently proposed. We recommend that the Board require the applicant to revise the site plan and explore every available opportunity to locate the garage addition outside of the Buffer and off on steep slopes.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 750-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 22, 2005

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

Re: Swan Point Growth Allocation

Dear Ms. Dailey:

This letter is in response to our continuing review of the preliminary growth allocation materials provided by the applicants, United States Steel Corporation and Brookfield Homes, in regard to the above referenced project. It is the intent of this letter to provide preliminary comments on the Habitat Management Plan submitted, as well as provide a summary of any outstanding comments which must be addressed prior to, or in conjunction with the Commission's formal review of the growth allocation request.

As always, we will continue to provide additional comments as the proposal progresses through the approval stages.

Habitat Management Plan

Bald Eagle Habitat and Management

While we acknowledge the applicants' proposed management strategies for the eagle's nest located near the existing 8th green, no protection zones have been included on the map for the second nest, located on the adjacent County property. Past discussions regarding protections for this second nest focused only on the relationship between the development of the wastewater treatment plant and the eagle's nest, and did not consider development within Swan Point proper. Protection zones for both nests must be included on future plans. Commission staff is in the process of coordinating with the Department of Natural Resources (DNR) regarding the proposed protective measures for the existing nest on the golf course, as well as any additional requirements for the second nest. Additional comments are forthcoming pending this coordination effort.

Colonial Water Bird Nesting Colonies

The Habitat Management Plan and the appendix pertaining to colonial nesting water birds say slightly different things in terms of protecting these habitats. The plan states that there are eight

nests, while the appendix states there are nine. Both say there are two small colonies, made up of three individual nests each. The remaining two or three are solitary nests. In addition, the report in the Appendix titled, "Population Dynamics..." on pages 9-10 discusses the Swan Point development and how it will affect the herons. It states that the "remaining six nests and their associated protective buffers would be preserved." The Great Blue Heron Exhibit does not show the location of the individual nests, nor does it show any protective buffers around them. Clarification is needed.

Anadromous Fish Propagation Waters

The applicants' report is incorrect in stating that the water bodies surrounding Swan Point are not anadromous fish propagation waters. COMAR 08.02.15.03 establishes spawning rivers and areas for striped bass, and includes the Potomac River upstream of Point Lookout (COMAR 08.02.15.03(B)(10)). Where it designates the river, it also includes all tributaries to the river such as Cuckold Creek. Striped bass is one of the fish species mentioned in the Critical Area Criteria as an anadromous fish (COMAR 27.01.09.05).

Second, in reviewing the Environmental Atlas of the Potomac Estuary, Folio Map #7 "Spawning Regions of Common Fishes" clearly shows the areas around Swan Point (including both the Potomac River and Cuckold Creek) as spawning areas for a variety of species, including the anadromous fish species listed in the Criteria.

Lastly, the recent report cited in the plan, and the material in Appendix C, report on those nontidal areas where the Department of Natural Resources has data. They do not necessarily report only those areas where spawning has been documented. Cuckold Creek and the Potomac River are both tidal water bodies that are not sampled under the Maryland Biological Stream Survey. Resolution of this issue will remain outstanding until written comments have been received from DNR.

Waterfowl Staging and Concentration Areas

In addition to time-of-year restrictions to protect waterfowl, the number of proposed piers, along with the marina, may be an issue of concern. The Criteria, at COMAR 27.01.09.04(C)(2)(b)(ii) require new water-dependent facilities to be located to prevent disturbance to sites of significance to wildlife such as historic aquatic staging and concentration areas for waterfowl. The Criteria, in discussing community piers and other related noncommercial facilities, also state that disturbance to the Buffer [for these facilities] must be the minimum necessary to provide a single point of access to the facilities. The Habitat Management Plan did not discuss the potential impacts of the numerous piers, shore erosion control structures and the marina on waterfowl staging and concentration areas. The applicants will need to address these elements prior to the Commission's consideration of a formal growth allocation request.

Other Rare, Threatened, and Endangered Species (RTEs)

Written confirmation from DNR is required to ensure that the Buffer will provide adequate protection for the Great Purple Hairstreak Butterfly.

Forest Interior Dwelling Birds (FIDS)

Assessment of Existing Habitat – Issues for correction/clarification

a. The table in the report has a number of errors in math and also does not match the table on the "existing FIDS Exhibit." The table on the exhibit appears to be correct.

b. The numbers in the table were not used in the FIDS conservation worksheet. Area A was excluded as well as Area H. Area A is within the boundaries of the project should be included in all FIDS calculations.

c. If Area H (on the waste water treatment plant property) will be under separate ownership, it should be separated from the other FIDS information. If it remains as part of the FIDS conservation package, the habitat within the area should be reassessed. For example, no edge was drawn from the existing fields; some of the area shown as being forested is very sparse, contains some structures, and is likely not FIDS habitat.

d. The acreage of edge within the Critical Area in Area B is not correct. Estimated edge acreage is 30 or more acres rather than the 15 shown. This should be reviewed, measured and corrected.

e. It appears that the acreage on the triangular-shaped parcel owned by Frederick W. Davis is included in the area of edge habitat outside of the Critical Area in Area B.

Assessment of FIDs Habitat Disturbance – Issues for correction/clarification

a. While the "FIDS Disturbance Exhibit" shows the proposed limits of disturbance (LOD), with acreages of proposed edge/interior clearing, another exhibit is needed which shows the post development habitat remaining (i.e., what is being classified as remaining FIDS interior and edge). This new exhibit should directly correspond to the last step in the FIDS worksheet and show the same acreages for post-development. Please note that it is not a matter of simple subtraction, since some clearing will isolate pockets of forest so they would no longer qualify as FIDS habitat.

b. The "FIDS Disturbance Exhibit" does not show any LOD on the horse farm property.

Assessment of FIDs Mitigation

a. Mitigation is proposed consisting of conservation of 240 acres of existing forest, and planting 63 acres of new forest, for a total of approximately 303 acres. Notwithstanding other problems

with the proposal to follow, this proposal is not consistent with the Commission's 2000 Guidance document and the section beginning on page 26 titled, "What is acceptable as mitigation?" First and foremost, the area of direct forest habitat loss must be mitigated through the creation of new FIDS habitat. The worksheet (which will necessarily change) currently shows direct habitat loss as 128 acres (more than double the 63 acres proposed for reforestation). Second, once direct loss is adequately mitigated, mitigation of interior loss may be in the form of reforestation or through protection of existing FIDS habitat. When protection of existing habitat is used, it is given one-half credit due to the fact that all forests in the Critical Area are afforded some protection under the law. If the 240 acres of preservation proposed were all FIDs habitat, it would equate to 120 acres of mitigation.

b. Many of the areas proposed for protection do not qualify as FIDS habitat due to their small size and isolation. These small pockets of habitat add up to over 50 acres. Other portions of forest to be protected are almost entirely edge.

c. Of the proposed mitigation plantings, only a small percentage are proposed to be planted within the Critical Area. Further discussion regarding the location of the mitigation plantings is warranted.

Streams

A site visit and further discussion is necessary in response to the report's conclusion regarding tributary streams on the property. Commission staff is working to facilitate an on-site meeting with representatives from the Army Corps of Engineers (ACOE), the Maryland Department of the Environment (MDE), and County staff in order to provide resolution as to whether the existing water features delineated by the ACOE as "Waters of the US" and "tributary streams" meet the State definition of perennial or intermittent streams, which are afforded protection within the Critical Area. As previously noted, the purpose of the ACOE Jurisdictional Determination (JD) is solely to determine whether a water body qualifies as waters of the US. A JD does not make a determination as to whether a water body meets the State criteria classifying it as a stream.

Buffer Management Plan

- The report states that a small portion of Riverside Drive encroaches into the Buffer. As it appears that feasible alternatives exist to avoid impacts to the tidal wetland and Buffer for the placement of this road, the applicant should move the road outside of the Buffer.
- Further discussion of the proposed Buffer planting plans is warranted. At a minimum, the Buffer must be established to achieve water quality and habitat functions detailed within the County's Program and the State Critical Area Law.
- While we acknowledge that the applicant is currently undertaking an independent effort to map the existing soil conditions on the property, further discussion of the results is necessary. Commission staff will consult with representatives from the Natural

Resources Conservation Service (NRCS) to determine if the applicant's mapping efforts are acceptable per the standards of the NRCS. In addition, please note that information provided to Commission staff from the NRCS indicates that areas of hydric soils do exist contiguous with the Buffer on portions of the property. As a result, Buffer expansion may be required.

- Please note that areas of nontidal wetlands lying contiguous to the 100-foot Buffer require expansion of the Buffer to the landward edge of the nontidal wetlands.

General Outstanding Comments

1. As discussed at the November 18th inter-agency meeting with the applicants, as well as repeatedly provided via written communication, the proposed excavation of the Buffer for the purposes of creating a marina basin is inconsistent with both the Charles County Critical Area Program and the State Critical Area Law and Criteria. We strongly encourage the applicants to pursue alternative marina proposals, and are available to assist in this regard.

2. Section 297-131 of the Charles County Zoning Ordinance states, "When lands are subject to proposals for development or conversion to new uses, the Buffer shall be established through proper delineation. The Buffer shall be subject to management measures implemented to protect and provide natural forest vegetation in assurance of the Buffer functions set forth in Chapter 8 of the Charles County Critical Area Program." Chapter 8 of the County's Critical Area Program states, "The Buffer is required to be maintained in native vegetation and in cases where the land uses changes, a Buffer area must be established." As previously stated, the applicant will be required to fully establish the Buffer where forested vegetation does not currently exist.

3. Our understanding is that Cuba Island is not currently designated a BEA on the County's Critical Area maps, and is mapped as a Resource Conservation Area (RCA).

4. We continue to note that the County's Zoning Ordinance and the Critical Area Commission's Criteria specify the provision of a 300-foot setback for development activities in the RCA when using growth allocation. Historically, in reviewing projects with a 300-foot setback, the Commission has assured that all development activities are located outside of the setback.

5. Throughout written communications, the applicants repeatedly refer to a 25-foot setback within the Buffer Exemption Areas (BEA). It is not clear how this distance has been derived. Section 297-131.C.3 of the Charles County Zoning Ordinance states that new development or redevelopment shall not be located <u>less than</u> twenty-five feet from the line of mean high water or the edge of tidal wetlands. The ensuing rules (a-j) state that new multifamily residential, institutional, commercial and industrial redevelopment and new development shall be subject to the standards and mitigation requirements as specified in the Critical Area Commission's BEA policy. The Commission's policy then states that new development shall not be located closer to the water than the local setback for the zoning district or 50 feet, whichever is greater. Based on this language, further

discussion of the setback distance within the BEA is warranted and should not automatically be assumed to be 25-feet.

6. Our previous review letter included multiple features of concern regarding the general development plan. The following items are outstanding and must be addressed prior to the Commission's formal consideration of a growth allocation request.

    - Please include the missing Buffer areas on the GDP for the following areas: Harbour Village, and the existing BEAs near, and to the west of, the proposed yacht basin. While the existing BEAs have a reduced Buffer, no Buffer is currently shown.
    - There is a structure shown in the Buffer in the Harbour Village area. The structure must be located outside of the Buffer and should be moved on the plan.

Thank you for the opportunity to provide comments on the Habitat Management Plan materials, as well as outstanding general concerns. The preceding comments represent the preliminary review and evaluation of the project submittal by Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation and BEA designations. During its formal review, the Commission may request additional information or have additional comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Honorable Allan R. Smith, Charles County
Marianne Mason, Attorney Generals Office
Charles Schaller, Schaller & Gorski, LLP
Milt McCarthy, McCarthy & Associates

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Executive Director

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November 21, 2005

Mr. David Umling
Planning Director
Charles County Planning and Growth Management
PO Box 2150
La Plata, Maryland 20646

Re: Critical Area Zoning Amendments

Dear Mr. Umling:

This letter is in response to the above referenced County request to consider multiple text amendments to Charles County's Critical Area Program and zoning ordinance. The amendments in Bill No. 2005-12 are proposed in response to the legislative changes enacted during the Maryland General Assembly's 2004 legislative session.

At this time, I wish to notify you that the County's request for consideration of the proposed text amendments has been accepted for processing. I have forwarded your request to Chairman Madden. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will notify you of his determination and the procedures for review by the Commission.

Thank you for your coordination on these text amendments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Cc: Aimee Dailey, Charles County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 21, 2005

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 00-08A Bresnik
(Tax Map 44, Parcel 127)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to create a two-lot subdivision on a .744-acre property. The property lies within a designated Intensely Developed Area (IDA). Proposed Lot 1 is currently undeveloped, while the proposed residue parcel is currently developed with a primary dwelling.

Based on the information provided, we have the following comments:

1. As the subdivision is for the purpose of creating buildable lots within the Critical Area, the applicant is required to have the property evaluated by the Department of Natural Resources' (DNR) Wildlife and Heritage Division for the presence of any rare, threatened, or endangered species. If present, the applicant will be required to address any recommendations made by DNR for the protection of the species. At this time, this office has not received notification of an evaluation of the property. Please ensure that the applicant has provided this information prior to recordation of the subdivision plat.

2. The Calvert County Zoning Ordinance requires that within the IDA, permeable areas shall be established in vegetation where practicable. As there appears to be ample opportunity to accommodate plantings on site, please have the applicant address this requirement.

3. We note that the applicant has indicated that compliance with the 10% pollutant reduction requirement will be addressed at the time of building permit application.

4. Note #17 does not appear applicable to this subdivision proposal, as Lot 3 does not appear on the plat.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA732-05

Cc: John Swartz, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 18, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Avenue, Room 102
Princess Anne, MD 21853

Re: Variance 05-818 Thornton

Dear Mr. Lawton:

Thank you for providing information on the above-referenced variance. The applicant is requesting after-the-fact approval for construction activity in the Critical Area Buffer. In 2004 the Maryland General Assembly clarified that a local Board of Appeals, when considering a variance application, may take into consideration the fact that an applicant proceeded with construction without first obtaining necessary approvals. The General Assembly was concerned with the issue in part because applicants who undertake such activity without permits deny the local staff the opportunity to work with an applicant, to provide guidance, and to assure that any disturbance to the Buffer is the minimum disturbance necessary.

The Board should consider whether the variance is the minimum necessary for the proposed purpose. If the Board makes this determination and the variance can be properly granted, we recommend that additional mitigation be required above the minimum 3:1 for permitted development activities in the Buffer.

Please make this letter part of the official record for this case and notify the Critical Area Commission of the Board's decision.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
SO 752-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 18, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-816 Mueller

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct an accessory structure. The property is located within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that 135 square feet of disturbance to the Buffer is proposed, and that the proposed accessory structure will not be located any closer to Mean High Water (MHW) than the existing primary dwelling. Provided that the property remains within the permitted impervious surface area limitations, we do not oppose the granting of a variance. As always, please ensure that mitigation is provided at a 2:1 ratio for all disturbance to the Buffer. To the extent possible, mitigation plantings should be implemented at an alternative location within the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO702-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

November 16, 2005

Ms. Joan Kean
Director
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: GA05-27
Peninsula Youth in Christ Community/Youth Center
Tax Map 23, Parcel 172

Dear Ms. Kean:

We have received your request for comments on the above referenced growth allocation proposal. The applicant, Peninsula Youth in Christ, is requesting the use of growth allocation to change the zoning of 2.981 acres from a Limited Development Are (LDA) to an Intensely Developed Area (IDA). The proposed growth allocation is located on Tax Map 23, Parcel 172. We understand that the requested growth allocation is for the purposes of constructing a community and youth center, as well as associated parking.

Based on our initial review of the preliminary site plan and growth allocation plan, we provide the following comments.

1. The applicant should provide the County with an environmental assessment report of the site as required in Somerset County's Zoning Ordinance, Section 15(b)(3). As a component of this report, the applicant should include a description of how the proposed subdivision meets the County's adjacency standards for locating a new IDA. The report should also address the growth allocation standards outlined in the County's Critical Area Program and the Critical Area Law and Criteria.

2. A more detailed site plan will be required prior to the Commission's formal consideration of the growth allocation request. This site plan must include all pertinent environmental features existing on the site, including any areas of tidal or non-tidal wetlands and their associated Buffers, as well as existing forest cover. The plans must also include details regarding the impervious surface areas existing and proposed, and details regarding proposed stormwater management facilities.

3. The DNR environmental review letter points out the potential for habitat on the site which supports the Federally and State listed Sensitive Joint Vetch, as well as the State listed Small-fruited Beggar-tick. It will be necessary for the applicant to provide information as to whether suitable habitat for these species is present on the site. If present, the applicant will be required to coordinate further with DNR to determine that adequate protection is provided.

4. Please have the applicant provide the 10% Rule calculations in accordance with the requirements for development within an IDA. While we recognize that the calculations may be preliminary at the growth allocation stage, it is necessary to ensure that adequate room exists on the site to accommodate any stormwater facilities required in association with 10% Rule compliance.

The preceding comments represent the review and evaluation of the materials that the applicant has submitted by Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal prior to the County's award of growth allocation. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource 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
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November 16, 2005

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

Re: Appeal #1401 Calvert

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a Buffer variance in order to construct an addition to the existing primary dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that 175 square feet of new disturbance to the Buffer is proposed for the construction of the addition. When complete, the proposed addition will lie 66.58 feet from Mean High Water (MHW) at its closest point. Provided that the applicant provides the required mitigation for the total area of disturbance to the Buffer, we do not oppose the granting of the variance.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 505-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 15, 2005

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-05-11-44 Yves Fedrigault
(Tax Map 44, Parcel 77)

Dear Ms. Vidotto:

This letter is in response to the above referenced subdivision. The applicant is proposing to subdivide a 1.75-acre property to create four new residential lots within the Critical Area. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling and an accessory shed structure.

Based on our review of the current revised site plan, we provide the following comments.

1) It is not clear where the tidal and non-tidal wetland limits were derived from. Tidal and non-tidal wetlands must be field delineated and cannot be taken from wetland maps. Please provide clarification as to whether delineation has been provided at this time.

2) No information has been provided regarding the proposed impervious surface area for the subdivision. Please advise the applicant that while each lot is permitted a 25% impervious surface area limit, the subdivision as a whole may not exceed 15% (10,251 square feet). We note that the private lane and driveways must be included within the impervious surface area calculations for the subdivision. Based on this information, please have the applicant provide information on the plat regarding the proposed impervious surface area for the subdivision and resulting lots.

3) The applicant will be required to obtain an evaluation of the property by the Department of Natural Resources' Wildlife and Heritage Division for the presence of any rare, threatened, or endangered species. If present, the applicant will be required to address any recommendations made by DNR for the protection of the species. At this time, this office has not received notification of this evaluation having been completed.

4) Please have the applicant provide clarification as to how the County's slope expansion language has been implemented or interpreted. It appears that the northern portion of the property contains steep slopes where the 100-foot Buffer line falls (contrary to the line shown on the plat). It is not

clear whether the Buffer shown represents that which is required by the County's ordinance. In addition, is not clear whether the topography shown was field run, and therefore accurate. Further information is needed.

5) The soils map included indicates that the property contains significant areas of highly erodible soils (Keyport and Mattapex series). As the County's ordinance requires expansion of the Buffer for contiguous highly erodible soils whose development may impacts streams, wetlands, or other aquatic environments, please have the applicant provide a plat that shows an expanded Buffer where appropriate, a plat showing that the highly erodible soils are not contiguous with the Buffer, or a formal waiver from the County verifying that the proposed development will not impact streams, wetlands, or other aquatic environments.

6) While the site does appear to contain 15% forest cover, we note that note # 11 is accurate. As the site lies within the Critical Area, it is not exempt from the 15% afforestation requirement (Per Section 8-3.02.B). Please have the applicant remove this note from the plat.

Thank you for the opportunity to provide comments for this subdivision request. Please provide Commission staff with a revised plat or letter which addresses the above comments. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA706-05

CC: John Swartz, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 15, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-812 Makibbin-Revised

Dear Mr. Lawton:

This letter is in response to the additional information received in regard to the above referenced variance request. At this time, the applicant has provided a professional field delineation of the tidal wetland limits on the property, as well as additional information which addresses the County's variance standards.

Upon review of the materials received, it appears that the applicant's proposal includes the construction of a 407 square foot garage addition, located approximately 90-feet from tidal wetlands. The need to locate the addition within the Buffer is driven in part by the applicant's desire to avoid the removal of several large trees in alternative locations on the property, as well as the location of existing garage and driveway. In addition, we note that the applicant is proposing to remove an existing shed in the same general location as the proposed garage addition. Based on the revised information provided, we do not generally oppose the applicant's variance request.

However, as with all new development activities within the Buffer, please ensure that mitigation is provided based on the areal extent of disturbance. In addition, we note that the pictures provided by the applicant indicate that a large amount of disturbance has already occurred in the proposed project area, prior to the granting of a variance. As a result, we recommend that the applicant be required to provide mitigation at a 3:1 ratio, utilizing native plant species. These plantings should be implemented at an alternative location within the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO632-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 10, 2005

Mr. Joe Kincaid
Maryland Department of the Environment
Eastern Shore Regional Office
407 Race Street
Cambridge, Maryland 21613

Re: Spiro Investments/Dream Homes Inc.
200562730/05-WL-1327

Dear Mr. Kincaid:

I am writing in response to the information received via fax on October 14, 2004, as well as the Maryland Department of the Environment (MDE) and Army Corps of Engineers (ACOE) Joint Public Notice dated October 15, 2005, for the proposed boat slip construction and excavation at the property known as 500 Riverside Drive in the City of Salisbury.

Based on the information provided, the applicant is proposing to create 12 boat slips, located within a private, community marina. The boat slips will be constructed via the excavation of approximately 11,000 square feet of upland. It is my understanding that via submission of this application material, the applicant is intending to fast track the construction of the marina portion of the proposed development, beginning construction prior to final approval of a site plan for the land-based development. In regard to this application, we have the following concerns.

First, it appears that the applicant is proposing to excavate an area significantly larger in extent than is required for the construction of the boat slips. In general, excavation within the Critical Area Buffer is permitted only where existing conditions prohibit construction of a marina waterward of Mean High Water (MHW) without excavation, where it can be sufficiently demonstrated that that the existing Buffer is impaired, that no feasible alternative exists, and that the excavation proposed is the minimum necessary. In this case, it appears that the limits of the proposed excavation are excessive and therefore inconsistent with the State and local Critical Area regulations. In addition, the applicant has stated that there are 12 slips proposed within a community marina. As you are aware, the number of slips must be consistent with the provisions found within 8-1808.5 of the Natural Resources Article for community piers and slips. At this time, specific information has not been provided which details the total linear feet of shoreline on the property. While the faxed site plan provides an approximate measurement of this area,

verification of the total linear feet of shoreline is necessary to ensure that the proposed marina is consistent with the law.

In addition to concerns specifically relating to the marina development, the worksheet provided in accordance with the 10% Rule compliance is inaccurate and cannot be applied as suggested by the applicant. Specifically, the 10% rule worksheet applies to the land-based portion of the development, and not the marina. Any new impervious surface areas associated with the marina development, occurring landward of MHW, will need to be included within the 10% rule calculations for the land-based development. As such, the pollutant removal credit proposed by the applicant is inaccurate and cannot be used in conjunction with future development of the site.

Finally, we note that the Commission will review the proposed development project comprehensively, and will consider the marina development to be directly tied to the land-based development of the site, particularly since the proposed marina impacts a significant portion of the Buffer. Also, please note that the Department of Natural Resources (DNR) has identified the site as lying within a sensitive species review area. At this time, our office has received no notification that an evaluation of the property has been completed by DNR. As the species in question may have an impact on the proposed marina development, we recommend that verification of this evaluation be provided to MDE and the CORPS prior to the issuance of any permits.

Thank you for the opportunity to provide comments regarding this permit request. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Ren Serey, CAC
Frank McKenzie, City of Salisbury
Ryan Mitchell, Bay Coastal Contracting
Brock Parker, Parker and Associates

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 10, 2005

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: AP 58453 Park Chesapeake

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit. The applicant is requesting an approval to construct a single family dwelling with greater than 15,000 square feet of forest clearing. The property is a designated a Limited Development Area (LDA) and is currently undeveloped.

As you are aware, the State of Maryland's online mapping system, MERLIN, indicates that there is a stream located on the parcel directly to the south of Lot 41-R. As the stream appears to lie in close proximity to the boundary line of Lot 41-R, there is concern that the resulting 100-foot Buffer, when properly expanded for the presence of steep slopes, will encroach onto the applicant's property. As such, we request that the applicant provide a revised site plan which includes the limits of the stream Buffer on Lot 41-R. Provided that the expanded Buffer does not encroach into the limits of disturbance shown on the site plan, this office would not oppose the granting of a building permit. As always, please ensure that mitigation is provided in accordance with the requirements of the Calvert County Zoning Ordinance.

Thank you for the opportunity to provide comments. Please call if you have any questions at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA638-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 7, 2005

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

Re: L1009 Sutphin
Tax Map 22, Parcels 307 &145

Dear Ms. Verdery:

Thank you for providing information on the above referenced line revision. The applicant is requesting a minor line revision to change the existing boundary of three existing lots. Existing Lot A-1 and A-2 are designated as Resource Conservation Areas (RCA), while existing Parcel 145 is designated as a Limited Development Area (LDA).

In general, this office does not oppose a revision to the lot lines as proposed. However, it appears that the 100-foot Buffer falls onto a portion of Revised Lot A-2, as shown on the accompanying map. This Buffer is drawn from the limits of the tidal wetlands found on neighboring Parcels 325 and 257. Based on the information shown on the plat, it appears that there may be development activities proposed on the Revised Lot A-2 within the 100-foot Buffer. Please have the applicant add this feature to the plat. In addition, please note that any development activities proposed within the Buffer will require a variance.

Thank you for the opportunity to provide comments for this line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC687-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 7, 2005

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

Re: Higgins Site Plan
Tax Map 47, Parcel 41, Lot 10

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is seeking approval to relocate an afforestation area. The parcel lies within a designated Resource Conservation Area (RCA), and is currently developed.

In general, this office does not oppose the proposed relocation of the afforestation area. However, we note that the clearing and proposed relocation appears to be necessary in order to accommodate construction of a structure. While the nature of the structure is not clear at this time, we note that no remaining development rights appear to exist for the property.

Thank you for the opportunity to provide comments regarding this site plan and afforestation relocation proposal. Please call me if you have any questions at 410-260-3482.
Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC685-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 7, 2005

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

Re: Maple Hall B&B/ Alice Stuart Rhine
Tax Map 44, Parcel 17

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is seeking after-the-fact approval to construct a 2,400 square foot pavilion structure. The parcel lies within a designated Resource Conservation Area (RCA), and is currently developed.

In general, this office does not oppose the approval of the site plan as proposed. However, we note that the applicant is currently proposing to utilize three non-native species as landscape plantings (2 species of Japanese Holly and *Clematis orientalis*). Particularly within the Critical Area, and the RCA, all plantings should be composed of species native to Maryland. In this instance, there are comparable native species which should be substituted. Specifically, American Holly (*Ilex opaca*) and *Clematis viorna* (Vasevine) or *Clematis virginiana* (Virginsbower) represent viable native alternatives which would result in similar aesthetic results.

Thank you for the opportunity to provide comments regarding this site plan and development proposal. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 165-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 7, 2005

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

Re: Kemp Subdivision-Revised
(Tax Map 24, Parcel 41)

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is requesting to subdivide a 79.26-acre parcel to create three Critical Area lots, the revised Deed Parcel 2, Lot 2 and Lot 3. The property lies partially within a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the revised information provided, it appears that the applicant is proposing to create an additional lot within the Critical Area, for a total of three lots. Since only two development rights exist within the Critical Area portion of the property, and both development rights appear to be in use in conjunction with proposed Lots 2 and 3, please advise the applicant that future development on the Critical Area portion of Revised Deed Parcel 2 is not permitted. Please have a note added to the plat referencing this restriction.

Thank you for the opportunity to provide comments for this revised subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 38-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 7, 2005

Mr. David Brownlee
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Calvert County Zoning Ordinance Changes-Article 8

Dear Mr. Brownlee:

Thank you for providing the above referenced changes to the Calvert County Zoning Ordinance. I have completed my review of the proposed changes and provide the following comments and questions for your consideration. Items recommended for addition are in bold and underlined. Items to be deleted are in bold and are shown in strikethrough style.

1. Section 8-1.02.A.2.a -[Page 2]: We strongly recommend that the following language, currently proposed for deletion, remain in place. **The following new development or redevelopment activities or facilities, <u>because of their intrinsic nature, or because of their potential for adversely affecting habitats or water quality,</u> are only...**The General Assembly originally included this language in the criteria with the intent of providing local governments the ability to determine that certain land uses or development projects would not be compatible with the goals of the Critical Area law and criteria. Without this language, it would appear that the County would not be able to fully utilize its decision-making authority regarding activities that may adversely affect water quality and habitats.

2. Section 8-1.03.C- [Page 23]: This section must include language referencing that the characteristics for designation of IDAs were based on existing characteristics at the time of original mapping. One way to include this is to add the following language prior to 8-1.03.C.1. **<u>At the time of the initial mapping, these areas shall have had at least one of the following features:</u>**

3. Section 8-1.03.F.2- [Page 24]: When referring to stormwater and the 10% Rule requirements in the IDA, the County must include either a reference to the Commission's <u>Critical Area 10% Rule Guidance Manual – Fall 2003</u> document or include information

about what other guidance or standards the County is using to evaluate and implement this requirement. Based on (e) below, it appears that the County is utilizing the Commission's guidance document.

4. Section 8-1.03.F.2.f- [Page 25]: The proposed changes to (f) result in inconsistencies with the Commission's 10% Rule Guidance. Specifically, it is unclear whether the statement in (f) is intended for use solely in relation to offsets, or intended as a blanket statement for 10% Rule compliance. The establishment of native vegetation in pervious areas within sites in the IDA is an independent requirement for general development in the IDA and not associated only with 10% rule compliance (see comment #5 below). On-site structural and non-structural BMPs and technologies, as well as off-site BMPs and technologies must always be the first priority in complying with the 10% rule. In certain instances, and on a case-by-case basis, plantings may be acceptable as an offset. The current phrasing appears to suggest that planting is the first priority in complying with 10%. Since the same effect is achieved by the IDA development criterion described in comment #5 below, we recommend the change to (f) be removed.

5. Section 8-1.03.F.2.f.~~3~~—[Page 25]: The deleted language must remain as a general development criterion within the IDA section. This is a requirement of site development in the IDA, independent of 10% rule compliance

6. Section 8-1.04.C- [Page 26]: As in comment #2 above, this section needs to state or reference that the LDA characteristics listed are based on the conditions at the time of original mapping. Please add this language or reference. Upon addition of this language, the proposed deletions in (C) should remain, as it describes mapping criteria for determining LDAs at the time of original mapping. Hence, add the following. They also contain areas of natural plant and animal habitats, **and the quality of runoff from these areas has not been substantially altered or impaired**.

7. Section 8-1.04.G.1.a- [Page 27]: The use of the term, "person" seems somewhat vague in this context. While the intent of this change is fully understood, Commission staff would like the opportunity to discuss this issue further with the Commission's legal counsel. In the interim, we recommend the following for consideration as an alternative. **For development or redevelopment, the owner, developer, consultant, contractor, or any other party identified by the County as partaking in or pursuing a specific development or landscape altering activity**....

8. Section 8-1.04.G.1.a.iv- [Page 28}: Add the following: The establishment of conservation easements, restrictive covenants...is required before final approval of the subdivision or **site development plan** may be granted. This provides additional protective measures for the County in the case of development which does not qualify as a subdivision (ie: condo development within the IDA).

9. Section 8-1.04.G.1.a.v- [Page 28]: The language proposed for deletion must remain. Add as follows: Development on slopes greater than 15 percent...to maintain or improve the

stability of the slope **and is consistent with the policies for development in LDAs as set forth within Section 8-1.04**.

10. Section 8-1.04.G.1.a.vi.b- [Page 28]: The language listed here is not consistent with that found in State law. The County may utilize the language directly from the law, use the table created by the Commission to facilitate clarity, or utilize both.

11. Section 8-1.04.G.1.b.i- [Page 29]: As in comment #7 above, the use of the term, "person" seems somewhat vague in this context. While the intent of this change is fully understood, Commission staff would like the opportunity to discuss this issue further with the Commission's legal counsel. In the interim, we recommend the following for consideration as an alternative. **For development or redevelopment, the owner, developer, consultant, contractor, or any other party identified by the County as partaking in or pursuing a specific development or landscape altering activity**....

12. Section 8-1.04.G.1.b.ii- [Page 29]: The language proposed for deletion must remain in place. Add the following, **Development activities shall be designed and implemented to minimize destruction of woodland vegetation.**

13. Section 8-104.G.1.c.i- [Page 30]: The changes made to this section are confusing and inconsistent with the provisions for clearing described in Section 8-1.09.B. The language should be amended to match that found within Section 8-1.09.B or alternative language should be provided.

14. Section 8-1.04.G.1.c.iii- [Page 30}: While discussion of the mitigation for all clearing within the Buffer has been moved to Section 8-1.09, we recommend that the mitigation requirement for clearing in the Buffer also be stated within this section in conjunction with the LDA and RCA clearing provisions. At a minimum, this section should provide a reference to the mitigation requirements for clearing within the Buffer as detailed within Section 8-1.09.C.

15. Section 8-1.04.G.1.c.iv- [Page 30]: Within the new language proposed, clarification must be incorporated which either describes the criteria for determining when "possible replanting" is applicable in addition to a fine. We recommend that the following be added. Clearing before required permits...and shall be subject to a fine **and where spatially possible, replanting of the site** based on four times....

16. Section 8-1.04.G.2.b- [Page 36]: The proposed changes eliminate the previous references to the stormwater and sediment and erosion control provisions within COMAR 08.05.05. In 2003, the Maryland Department of the Environment (MDE) updated its regulations in regard to this topic. These updated provisions must be referenced within the zoning ordinance and should remain located in this section.

17. Section 8-1.05.C- [Page 37]: Consistent with comment #s 2 and 6, the description of RCA characteristics must include a reference stating that the characteristics are based upon the conditions at the time of original mapping.

18. Section 8-1.05.D.2- [Page 37]: Amend as follows: In calculating the **one dwelling unit per** 20-acre density of development....

19. Section 8-1.05.G.1.d- [Page 38]: Amend as follows: Expansion or intensification of such uses may be permitted only ~~**if the criteria for development in the Resource Conservation Areas have been met**~~ **in accordance with the grandfathering or nonconforming use provisions within Section XXXX.**

20. Section 8-1.05.G.1.e.ii- [Page 38]: The proposed change adds the word "mitigated," but does not provide any information as to how the action would be mitigated, or provide a reference to any mitigation criteria or provisions within the ordinance. In addition, the word, mitigated, does not appear to be defined within Article 12. We recommend that some clarification be provided to determine how mitigation would be required, implemented, or enforced.

21. Section 8-1.05.H.4- [Page 39]: The proposed change uses the term "qualifying" family member as opposed to the "immediate" family member term used elsewhere within the intrafamily transfer provisions, yet there does not appear to be a definition for the term, qualifying, provided. We recommend that the County utilize the term "immediate family" because this is the term used and defined in the law. It is also recommended that the definition for "immediate family" be included in Article 12.

22. Section 8-1.05.K- [Page 41]: Please clarify the following. The third component of the proposed new language for the use of TDR within the Critical Area states, "Such lands shall be allocated one TDR for every four acres of land in the RCA." In order to ensure consistency with density limitations in the RCA, this statement must include some restriction on the transfer of the four-acre TDRs to other lands within the RCA. It is our understanding that any TDRs taken from land within or outside the Critical Area cannot be transferred to RCA lands within the Critical Area. Is this correct?

23. Section 8-1.06.A.ii- [Page 43]: While alteration of this language is possible, a reference to the process the County has used to accommodate the growth needs of the municipalities of North Beach and Chesapeake Beach should remain. Within the Critical Area, litigation is currently ongoing regarding the relationship between Counties and municipalities in respect to growth allocation and its distribution between the two entities.

24. Section 8-1.06.B.1-5- [Page 43-44]: The locational criteria for locating new IDAs and LDAs is required by the law, and is contained with the Annotated Code of Maryland, Natural Resources Article §8-1808.1(c). All references to the requirements of the Critical Area Commission within this section should be changed to reference the specific section of the law.

25. Section 8-1.06.B.5- [Page 44]: Amend as follows. Proof of this situation must be demonstrated to and approved by the Critical Area~~s~~ Commission, or in any ~~amended~~ Critical Area Program **amendment** approved by the Critical Area Commission.

26. Section 8-1.07.B- [Page 45]: Multiple portions of this section are proposed for deletion. We recommend that the County consider retaining portions of the grandfathering provisions in accordance with that which is demonstrated in the Commission's model ordinance (previously provided to the County). Please note that any grandfathering provisions permanently removed from the ordinance will no longer be permissible under the law within Calvert County.

27. Section 8-1.08.C.1- [Page 47]: As in comment #s 7 and 11 above, the use of the term, "person" seems somewhat vague in this context. While the intent of this change is fully understood, Commission staff would like the opportunity to discuss this issue further with the Commission's legal counsel. In the interim, we recommend the following for consideration as an alternative. **For development or redevelopment, the owner, developer, consultant, contractor, or any other party identified by the County as partaking in or pursuing a specific development or landscape altering activity**....

28. Section 8-1.08.C.2- [Page 48]: The discussion of Habitat Protection Areas (HPAs) must include language regarding the future designation of new species designated as rare, threatened, or endangered, or as important plant or wildlife areas by the Department of Natural Resources (DNR). We recommend adding as follows. **Other areas or species may be identified in the future by the Department of Natural Resources as rare, threatened, and endangered, or as important plant and wildlife habitat areas in need of conservation**.

29. Section 8-1.08.D.2.a- [Page 48]: Amend as follows: The Buffer shall consist at a minimum of the area 100 feet landward from the Mean High Water Line of tidal waters, **the edge of the bank of tributary streams, and the landward edge of** tidal wetlands, and shall be....

30. Section 8-1.08.D.2.b- [Page 49]: The proposed changes to this section are inconsistent with the State criteria and must be amended. Specifically, the language regarding the expansion of the Buffer for contiguous sensitive areas must include highly erodible soils. The County may develop a process to determine that on a case-by-case basis, for a specific development activity on a specific site, erodible soils may not impact streams, wetlands, or other aquatic environments, and therefore issue a formal waiver to the expansion criteria. However, the language cannot be altogether deleted as proposed.

    Additionally, the method proposed for expansion of steep slopes contiguous with the Buffer is not consistent with the State criteria and must be changed. Amend as follows: In the case of contiguous slopes of 15 percent or greater, the Buffer shall be expanded ~~to the top of the 15% slope plus 25 feet~~ **four feet for every one percent of slope, or to the top of the slope, whichever is greater.** As proposed in the County's changes, a more specific and

consistent approach to measuring the slope in accordance with the expansion criteria may be developed.

31. Section 8-1.08.D.3.b- [Page 49]: Insert the following as follows. New development activities...associated with water-dependent facilities or for **shore** erosion control.

32. Section 8 – 1.08.D.3.f – [Page 51] and Section 8 – 1.08.D.4.d – [Page 53] refer to "functions of the Buffer." These functions should be included in the ordinance.

33. Section 8-1.08.D.3.f – [Page 52]: It is strongly recommended that the County use the review and approval of a Buffer Management Plan or a similar permit to implement the permitted removal of vegetation in this section. Most jurisdictions use Buffer Management Plans for removal of vegetation within the Buffer in excess of certain thresholds, i.e. removal of two trees or more than 500 square feet of shrub/scrub.

34. Section 8-1.08.D.3.f.i – [Page 52]: The proposed change from "may" to "shall" will limit the County's ability to ensure minimal clearing with regard to water access and is not consistent with the Criteria.

35. Section 8 – 1.08.D.4.e.i - [Page 56]: and Section 8 – 1.08.D.4.e.ii - [Page 56]: This section outlines the mitigation required for development and redevelopment in the 100-foot Buffer in Special Buffer Management Areas. As stated, mitigation would only be required when impervious surfaces are created greater in extent than pre-existing impervious surfaces. This method of calculating mitigation is not consistent with the Commission's policy for Special Buffer Management Areas (Buffer Exemption Areas) or the Critical Area Criteria. Mitigation should be required for all redevelopment activities based on the area disturbed within the 100-foot Buffer. Often redevelopment sites are intensely developed with high levels of impervious surface coverage and redevelopment proposals involve changes in use that affect the entire site. Section 27.01.09.01.C(8) of the Criteria states that in designating these areas, "local jurisdictions shall propose other measures for achieving the water quality and habitat protection objectives of the policies [for the Buffer].

36. Section 8 – 1.08.D.4.e.v. - [Page 58]: This section includes provisions for subdivision within IDA Special Buffer Management Areas. Provisions for subdivision within Special Buffer Management Areas (Buffer Exemption Areas) are not addressed in the Critical Area Criteria, which refers to only the "*existing pattern* of residential, industrial, commercial, or recreational development." The Commission has allowed jurisdictions to include provisions allowing subdivision within these areas only in cases where it can be demonstrated that allowing subdivision of the properties will generally result in enhanced water quality and habitat benefits and will result in improved functioning of the Buffer on the project site over what would have resulted had subdivision not been permitted. Jurisdictions have met these standards by requiring additional restrictions, conservation measures, and mitigation for projects involving subdivision.

37. Section 8 – 1.08.E.2.b. -[Page 60]: Amend to state that, "No designation of habitat and protective measures **for new species** shall be accomplished unless the affected public ..." This clarification is needed because new habitats (locations) for currently listed species are periodically identified by DNR as part of their regular survey activities. Local governments are notified of the new locations of these Habitat Protection Areas; however, public notice or hearings are not required.

38. Section 8 – 1.08.E.3.c.iii. -[Page 61] and Section 8 – 1.08.E.3.c.vii. - [Page 61]: Amend as follows: " ... by the Maryland Department of Natural Resources ~~**Forest Service**~~ ..." The Forest Service does not administer the State's bald eagle conservation program.

39. Section 8 – 1.08.E.3.c.vi. - [Page 61]: Clarify that that the 330-foot protection zone is the zone located immediately adjacent to the nest site.

40. Section 8 – 1.08.D. –[Page 62]: Is this section codified correctly? Shouldn't it be Section 8 – 1.08.**F**.?

41. Section 8 – 1.08.D.2. –[Page 62]: This section should be amended as follows: "Delineation of FID habitat is based on the existence of forests **as described in the Critical Area Commission's guidance entitled, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area, June 2000*, or as identified by the Department of Natural Resources. Generally, these are forests greater than 50 acres** ~~**100 acres**~~ and riparian corridors greater than 300 feet wide."

42. Section 8 – 1.08.D.3.d – [Page 63]: Revise as follows: " ... forested areas within the Critical Area of **50** ~~**100**~~ acres or more ..."

43. Section 8 – 1.09.B – [Page 64]: Revise as follows: " ... or **Expanded** ~~**Extended**~~ Buffer the following ..." The term expanded is consistent with the Criteria and other provisions in the Ordinance.

44. Section 8 – 1.09.B.1 – [Page 64]: This language is different from the language in Section 8-104.G.1.c.i. The provisions in this Section are clearer and appear to cover all possible site conditions; therefore, amending the language is 8-104.G.1.c.i is recommended.

45. Section 8 – 1.09.E.1 – [Page 65]: The planting plan credits in this section are inconsistent with the Commission's current forest mitigation guidance. Although local governments can develop their own mitigation credit systems, the proposed planting credit of 400 square feet for a single canopy tree and 200 square feet of credit for understory trees and shrubs are not adequate to mitigate for replacement of equivalent areas of forest or vegetation removal. The following table is from the Commission's guidance, and has generally proven to result in sufficient plant coverage and/or effective establishment of replacement forest vegetation.

Recommended Credit (Local jurisdictions can determine planting credits)	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

46. Section 8 – 2.02 – [Page 66]: It is my understanding that the Heritage Division of the Department of Natural Resources has worked with the County on revisions to this section regarding the protection of cliffs that also provide habitat for the Tiger Beetle. Heritage Division staff have contacted Commission staff and would like to review and comment on these provisions; therefore, additional time is requested to provide comments on this section.

47. Section 8-2.04.C. – [Page 75]: These provisions are not consistent with the Critical Area Criteria for the protection of perennial and intermittent streams within the Critical Area. New development activities are not permitted within 100-feet of perennial and intermittent streams without a variance. Expansion of the 100-foot Buffer on perennial and intermittent streams is also required for contiguous steep slopes and may be required for highly erodible soils (defined as those soils with a K value greater than 0.35 and with slopes greater than 5 percent) if the County determines that development or disturbance of the areas will impact streams, wetlands, or other aquatic environments. It is recommended that this section be revised to indicate that the provisions apply outside the Critical Area.

48. Section 8-2.05.C.2- [Page 77]: The process outlined within this section is not sufficiently clear to ensure the protection of wetlands in accordance with State regulations. Further discussion is warranted.

49. Section 8-2.05.C.6- [Page 77]: This section provides an exception to filling wetlands for road crossings and stormwater management. It is not clear whether the provisions apply to tidal wetlands, non-tidal wetlands, or both. Within the Critical Area, tidal and non-tidal wetlands are regulated differently. In addition, it appears that the provisions within this section directly conflict with those found in Section 8-1.04.G.1.a.ii. Please note that the provisions allowing for impacts to Habitat Protection Areas do not include stormwater.

50. Section 8-2.06.B. – [Page 78]: Revise this section as follows: " or to the top of the steep slopes (25 percent outside the Critical Area ~~or 15 percent in the Critical Area~~); whichever is

nearer to the perennial or intermittent stream, shall be established. **Within the Critical Area, the minimum Buffer zone of undisturbed natural vegetation shall be 100 feet plus four feet for every one percent of slope or shall extend to the top of steep slopes (15 percent) whichever is further from the perennial or intermittent stream."** The provisions as written are not consistent with the Criteria.

51. It does not appear that the water dependent facilities criteria, shore erosion protection, surface mining, or natural parks criteria have been included within the County's Critical Area regulations. Please specify where these provisions are located within the zoning ordinance.

52. During the July 21, 2005 meeting between Commission staff and Calvert County Planning staff, the topic of impervious surface area "swapping" was discussed as it occurs in conjunction with redevelopment on small, grandfathered lots within the Critical Area. During this meeting, it was communicated that continuation of this practice within the Critical Area would require development of a formal policy or procedure by the County. Please clarify the status of this activity at this time.

53. It does not appear that the County has included the optional provisions which permit one additional dwelling unit to be considered part of the primary dwelling unit for density calculations in the RCA. If the County currently permits these types of additional dwelling units (commonly referred to as guest houses, tenant houses, accessory apartments, or caretaker residences), and wishes to retain this flexibility, the 2004 legislative changes enacted by the General Assembly must be incorporated into the County's ordinance. It is recommended that these provisions be added to the RCA section of Article 8.

54. Article12: Definitions for the following terms warrant further discussion because they have not been included in the list of definitions or because the definition seems unclear or inconsistent with regard to application within the Critical Area. The terms are: "Commercial Harvesting", "Development Activities", "Dwelling Unit", "Excess Stormwater Runoff", "Habitat Protection Areas", "Hydrophytic Vegetation", "Nonpoint Source Pollution", "Project Approvals", "Significantly Eroding Areas", "Steep Slopes", and "Stream Buffer".

General Comments

1. The three general goals for the Critical Area Program set forth in § 8-1808(b) of the Natural Resources Article of the Annotated Code of Maryland and the policies for IDA, LDA, and RCA set forth in COMAR 27.01.02.03.C., COMAR 27.01.02.04.B., and COMAR 27.01.02.05.B. must be included in the provisions regulating development activity in these areas. Although the language in these provisions may seem general, the provisions outline important standards that can serve to guide local decision-making.

2. Throughout the ordinance, references are provided to various divisions and sections within the Department of Natural Resources (DNR). The Department has undergone (and is likely to

continue to undergo) various reprogramming and reorganization efforts that shift responsibilities and result in changes to the names of various sections and divisions. Therefore, it is recommended that all references to DNR be stated as the "Maryland Department of Natural Resources."

3. In the sections pertaining to the Buffer and the 10 % pollutant reduction requirement, the term "offsets" is used to mean mitigation for Buffer impacts, as well as, the construction of stormwater treatment practices. Although, the term "offset" is defined as "structures or actions that compensate for undesirable impacts," the Commission's usage of this term has been primarily to address measures used for compliance with the 10% pollutant reduction requirement when traditional stormwater treatment practices cannot be installed or are inadequate to meet the pollutant removal requirement. Clarification or use of a different term is recommended to ensure consistency with the terms used in the *Critical Area Commission 10% Rule Guidance Manual – Fall 2003* and with general guidance provided by the Commission regarding mitigation for Buffer impacts.

Thank you for the opportunity to provide comments on this draft component of the ordinance revisions. These comments represent Commission staff review of the ordinance within the specified public comment period. There may be additional comments by Commission staff, the Commission's legal counsel and by the Commission during the formal review process. If you have any questions about these comments, please feel free to contact me at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

CC: Marianne Mason, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 3, 2005

Mr. Cabbie Dize
City Manager
City of Crisfield
P.O. Box 270
Crisfield, Maryland 21817

Re: Crisfield Water Pipeline

Dear Mr. Dize:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On November 2, 2005, the Critical Area Commission unanimously approved the City's proposal and site plan to construct a 4,335 linear foot replacement water pipe within the jurisdictional limits of the City of Crisfield. This approval included the following condition:

1. The City of Crisfield shall report back to the Commission's project subcommittee no later than the date of the Commission's February meeting (February 1, 2006) on the City's progress regarding a planting site, mitigation plan, and implementation of that plan.

In fulfillment of the above condition, please provide Commission staff with a mitigation planting plan for the 6,927 square feet of disturbance to the Buffer. Once this information is received and reviewed by Commission staff, the planting plan will be placed on the following month's Commission agenda for evaluation and approval by the project subcommittee. Please note that should any changes to the site plan be proposed for the installation of the pipeline, additional review and approval by the full Commission would be required. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 1, 2005

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

Re: Janda Special Exception/Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced special exception and variance request. The applicant is requesting a special exception to permit a cottage industry which stores seafood, fishing equipment and bait in a shed and two freestanding coolers. The property is designated as a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is requesting a special exception in order to legalize the use of multiple cooling and storage structures in accordance with a cottage industry. It is my understanding that the structures have existed in their current location since 1975 and that no new development is proposed at this time. Based on this information, we do not oppose the granting of a special exception.

Should the Board determine that a variance is required to maintain the existing structures, we note that the property appears to lie partially within the Buffer, and that the existing impervious surface area on the property is 35.8%. While we do not oppose a variance to retain the structures in their current locations, any movement of the structures on the property should be accommodated outside of the Buffer, or the appropriate Buffer mitigation provided. In addition, this office would not support a variance for additional impervious surface area beyond the existing 7,314 square feet.

Thank you for the opportunity to provide comments for this special exception and variance request. Please include this letter in your file and submit it as part of the record. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
TC 684-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 31, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3235 Kla

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the100-foot Buffer, steep slope, and clearing requirements in order to construct a replacement dwelling, garage and workshop. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on information provided by the applicant, as well as observations made during a site visit, we acknowledge that the majority of the property lies within the 100-foot Buffer, and is therefore non-buildable without some degree of variance. However, we also note that the Buffer is recognized as a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. In proposing development activities within the Buffer, the applicant bears the responsibility to demonstrate that impacts to the Buffer have been minimized, and that each of the county's variance standards has been met. These standards include that the granting of the variance will not negatively affect water quality, or adversely impact fish, wildlife and plant habitat within the County's Critical Area, and demonstration that denial of the variance would result in an unwarranted hardship to the applicant.

Currently, the applicant is proposing to construct a dwelling with a 3,883 square foot footprint, as well as construct multiple impervious accessory structures, all within the Buffer. Based on the site conditions, it is our position that the current proposal significantly exceeds that which would be necessary to provide reasonable and significant use of the entire lot. In addition, it does not appear as though the applicant has made any attempt to minimize impacts to the Buffer. Because we do not believe that the applicant has sufficiently met each of the County's variance standards, we oppose the Buffer variance as currently proposed. We recommend that the applicant be required to submit a revised site plan demonstrating minimization of impact. In addition to the request for a variance to the Buffer, the applicant has also requested relief from the steep slope and clearing requirements. While all impact to steep slopes may not be avoidable, it does appear that minimization of the dwelling footprint would also provide further minimization of impact to steep slopes. Therefore, it is our recommendation that the Board consider tabling the request for

a steep slope variance until the applicant can provide a revised site plan which demonstrates minimization of overall impact.

In regard to the requested clearing variance, it appears that the need for a variance is driven by the excessive dwelling footprint and the desire for multiple accessory structures. During a site visit, it was observed that the large, mature tree near the eastern portion of the site provides significant environmental benefits to the property, including shading of a majority of the property, provision of valuable habitat opportunities, and provision of enhanced infiltration and absorption benefits for stormwater runoff. It is the opinion of this office that the degree of clearing proposed would be extremely damaging to the environmental conditions of the property. Furthermore, we note that adequate opportunities appear to exist to construct a dwelling in harmony with the existing natural features, and that the need for a clearing variance appears generally unnecessary. Therefore, we strongly oppose the applicant's request for a clearing variance.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 28, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3234 Siegert/Langley Construction

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to construct a primary dwelling and accessory garage. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, as well as observations made during a recent site visit, it appears that the applicant's property is severely sloped over the majority of the site. As a result, we acknowledge that some degree of variance is required in order to develop the property. While the applicant has proposed a modest footprint, it does appear that an alternative dwelling design could be utilized which would allow for a significant decrease in the amount of disturbance to steep slopes. For example, by moving the proposed dwelling towards the northwestern property line, and by reconfiguring the location of the garage, impacts to steep slopes could be further minimized. For clarity, I have included a drawing demonstrating this configuration. As an alternative, elimination of the garage would also allow for greater flexibility in constructing the dwelling off of steep slopes.

Due to the environmental sensitivity of steep slopes and associated erodible soils, we recommend that the Board evaluate whether the applicant has demonstrated that the proposed impacts are the minimum necessary, as well as whether further minimization is possible. At a minimum, we recommend that the Board require the proposed earth berm to remain in perpetuity, assuring that the flow of stormwater runoff is slowed as it travels down slope. In addition, the inclusion of native shrub plantings at the base of the earth berm, as well as surrounding the base of the dwelling and deck would provide increased infiltration opportunities and further assure that impacts from stormwater runoff are minimized.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 19, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-815 Holland

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer and impervious surface area requirements in order to construct multiple additions to the existing primary dwelling. The property is located within a designated Limited Development (LDA), Buffer Exemption Area (BEA) and is currently developed.

Based on the information provided, it appears that the parcel is currently developed with a primary dwelling and multiple shed structures. The existing impervious surface area on the property is 7,597 square feet, or 34.2%. The permitted impervious surface area for the parcel is 15%. We acknowledge that the applicant has proposed to remove one existing shed, equivalent to 244.6 square feet. While we generally do not oppose the applicant's request to construct a reasonable addition to the primary dwelling, the County's zoning ordinance requires that redevelopment, or the intrusion within the BEA, be the least necessary. In this instance, the applicant is proposing the addition of 1,067 square feet of new impervious surface area. It appears that a majority of the proposed impervious areas is for the construction of accessory structures. Prior to the award of a variance to increase the non-conformity on the parcel, the applicant should have adequately demonstrated that the every attempt has been made to minimize the overall impervious surface area on the property, and that the variance request is the minimum necessary. Since it appears that opportunities exist to remove existing accessory structures and gravel areas, as well as minimize the footprint of the new accessory structures proposed, it does not appear that the applicant has adequately met this County standard.

In addition, the applicant must demonstrate that the denial of the variance would result in an unwarranted hardship. It appears that the applicant currently enjoys reasonable and significant use of the entire parcel, and that multiple opportunities exist to construct a residential addition in a manner which requires a lesser variance, and would result in less non-conformity than that

which is proposed. As a result of these concerns, we do not support the applicant's request for a variance as proposed.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO629-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 19, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-812 Makibbin

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct an addition to the existing garage structure. The property is located within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, the applicant is proposing to construct a 407 square foot addition to an accessory garage structure, approximately 35 feet from tidal wetlands. The applicant's property totals approximately 3.89 acres, and is currently developed with a primary dwelling and garage. As you are aware, in 2002 and 2004, the General Assembly reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, by strengthening the Critical Area Law. In particular, 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, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

Given that the applicant appears to currently enjoy significant and reasonable use of the parcel, including the use of an accessory garage, it does not appear that the denial of this variance would result in an unwarranted hardship. In addition, it appears that ample opportunity exists to locate the proposed accessory addition outside of the Buffer. As such, it is our position that the applicant's proposal is in direct conflict with the spirit and intent of the Critical Area regulations, and that the applicant has failed to meet each of the County's variance standards. Therefore, we oppose the applicant's variance request.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO632-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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October 19, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-810 Lilly-Revised

Dear Mr. Lawton:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct a primary dwelling. The property is located within a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the revised information received and an October 18, 2005 conversation with Mr. Thomas Lilly, the applicant is proposing to construct a 3,000 square foot dwelling, and an additional 450 square feet of sidewalks and porches, for a total impervious footprint of 3,530 square feet. It is my understanding that the 1,500 square foot driveway is to be constructed of a pervious sand material. The upland area on the property is approximately 2.4 acres, and the entire development proposal is located within the 100-foot Buffer. In evaluating the variance request, the Board must determine whether the applicant has met each of the County's variance standards, including the standard of unwarranted hardship, and the standard that the proposal is the minimum necessary to make reasonable use of the lot or parcel. While we recognize that the development of this parcel is not feasible without some degree of variance, it appears that a smaller impervious footprint could be achieved which still provides reasonable living space to the applicant, particularly if vertical construction is utilized. As the closest point of the building envelope to tidal wetlands is 26 feet, we recommend that the Board consider whether further minimization is possible, and whether adequate assurance has been provided that the proposed development will not negatively impact fish and wildlife habitat, nor further impair water quality. In addition, we provide the following comments for consideration by the Board.

1) The Department of Natural Resources (DNR) has identified the parcel as lying within the tertiary protection zone for a nearby Bald Eagle nest. As such, any construction must be completed outside of the December 15 through June 15 time of year restriction. We recommend that this restriction be added as a condition of any variance approval.

2) DNR has also identified the parcel as containing Forest Interior Dwelling Bird (FIDS) habitat. Protection of these species is mandated within the Critical Area. Protection guidelines for FIDS can be found within the Commission's guidance paper, A Guide to the Conservation of FIDS in the Chesapeake Bay Critical Area. In addition, please note that all construction activity must be completed outside of the April through August time of year restriction for FIDS. We recommend that this be made a condition of any variance approval.

3) Given the proximity of the proposed development to tidal wetlands, we recommend that the use of super silt fencing be required surrounding the limits of disturbance, including the area identified as the location of the sewage disposal area. We recommend that this requirement be included as a condition of any variance approval.

4) As the applicant has indicated the intent to retain a pervious sand driveway area, we recommend that this be included as a condition of any variance approval.

5) To aid in further reduction of impervious footprint, we recommend that the Board require the proposed decks and/or porches to be constructed in a pervious manner, with spacing between the boards, six inches of gravel substrate below the decks, and native plantings surrounding the base of the decks.

6) We note that mitigation for impacts to the 100-foot Buffer will be required at the time of development. This mitigation should be provided at a 2:1 ratio, measured by the areal extent of Buffer disturbance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO587-05

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 19, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-814 Orth

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct an addition to the primary dwelling. The property is located within a designated Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, the applicant is proposing to construct a 320 square foot addition to the primary dwelling. It appears that the proposed addition does not encroach any closer towards Mean High Water (MHW) than the closest point of the existing dwelling. Provided that the applicant provides the required mitigation for disturbance to the Buffer, we do not oppose the granting of the variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO628-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 17, 2005

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

Re: Zell Property-Revised
(Tax Map 22, Parcel 199)

Dear Ms. Verdery:

This letter is in response to our continuing review of the above referenced subdivision. Per the most recent plat received, the following comments remain outstanding.

1) The applicant has stated that the Talbot County Planning Officer has been asked to make a decision on the status of the streams on the property. To date, it remains the Commission's position that the feature running from west to east along the southwestern property line is a stream. This assessment was based upon conditions as they exist in the field, and on a detailed analysis of the best available historical information. Additionally, this feature appears to originate from a large pocket of non-tidal wetlands and outfalls to tidal wetlands. As a stream, this watercourse requires a 100-foot Buffer. For clarity, I have provided a highlighted copy of the site plan showing the water feature in question.

2) With the application of the 100-foot Buffer on the southwesterly stream referenced above, the portion of driveway shown on proposed Lot 2 appears to lie within the Buffer. In addition, it appears that the proposed location of the well on Lot 2 may encroach into the Buffer. Should it be determined that the Buffer is applicable to this portion of the site, the driveway and well should be moved, or a variance must be obtained.

3) *The following comment was unaddressed by the applicant.* Given that there is an existing dwelling on Lot 5, please clarify the intent of the proposed sewage disposal area on this lot.

4) It appears that portions of the Buffer will require establishment on each of the proposed lots. Please add a note which references this requirement.

Thank you for the opportunity to provide comments for this revised line revision and subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 765-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 17, 2005

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

Re: Backcreek Capital, LLC

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval to construct an approximately 3,600 square foot building in order to accommodate an automotive repair shop. In addition, approximately 10,524 square feet of parking is proposed. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the proposed improvements will result in a developed parcel which is approximately 46% impervious. The permitted impervious surface area limit for the parcel is 15% or 5,445 square feet, whichever is greater. Given that the parcel is currently undeveloped, and that the proposed improvements far exceed the impervious surface area limits permitted within State Law (Natural Resources Article 8-1808.3) and within the Talbot County Zoning Ordinance, it is the position of the Commission that a variance would not be appropriate in this instance. Therefore, it appears as though growth allocation will be necessary in order to develop the property as proposed.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this site plan. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

,hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 13, 2005

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-02-03-44 Bonnie's Bounty
(Tax Map 44, Parcel 157)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the above referenced subdivision. Based on the information provided, it appears that the majority of our previous concerns have not been addressed. As such, the following concerns remain.

1) It appears that the Buffer has still not been properly expanded per the language in the County's ordinance. When the limits of the 100-foot Buffer fall into an area defined as steep slopes, the Buffer gets expanded 4 feet for every 1% percent of slope, or to the top of the slope, whichever is greater. The required expansion distance is calculated, added to the end point of the 100-foot Buffer, and becomes the limits of the expanded Buffer. It does not appear that the applicant has consistently utilized a method that corresponds to the County's Buffer expansion language. Therefore, it is necessary to have the applicant clarify how the Buffer expansion was calculated and where this interpretation is derived from. In addition, it appears that the Buffer is currently measured from the property line, and not the edge of tidal wetlands. These issues should be resolved prior to any preliminary subdivision approval, as it appears there may be conflicts with the septic areas and the Buffer. Lots should not be created that cannot be developed absent variances.

2) *The following comment is exactly as shown in our previous comment letter and has not been addressed.* The current plat indicates that the property boundaries extend into Brooks Cove. State-owned waters and State tidal wetlands cannot be included within property totals for the purposes of generating density, calculating impervious surface area limits, or calculating forest cover requirements. In this situation the applicant must either:
    - Provide a field delineation and professional determination of private versus State-owned waters and wetlands, subtracting the State-owned areas from the calculations listed above; or

- Subtract the total area below the edge of tidal wetlands from the property (and each lot) totals for each calculation listed above.

3) *The following comment is exactly as shown in our previous comment letter and has not been addressed.* In accordance with the comment above, the applicant has stated that 0.70 acres of tidal wetlands exist within the property boundaries. It is not clear how this calculation was determined. Please refer to comment #2 above for the requested clarification procedure.

4) *The following comment is exactly as shown in our previous comment letter and has not been addressed.* The Department of Natural Resources (DNR) has identified the site as containing Forest Interior Dwelling Bird (FIDS) habitat. The Calvert County Critical Area Program (Conservation Manual, Section 5) requires that the developer must develop a Habitat Protection Plan (HPP) where FIDS habitat has been identified. This HPP should address all of the recommendations outlined with the letter from DNR and should clearly identify how the project complies with each. In addition, please have the applicant add a note regarding the presence of FIDS on this site. Additional guidance regarding FIDS can be found in the Commission's guidance paper entitled, A Guide to the Conservation of FIDS in the Chesapeake Bay Critical Area.

5) *The following comment is exactly as shown in our previous comment letter and has not been addressed.* The area labeled as Parcel A was formally called an unbuildable residue area. What is the intended use of Parcel A? Please have the applicant clarify whether this area is buildable.

6) *The following comment is exactly as shown in our previous comment letter and has not been addressed.* Prior to preliminary approval, the plat should contain information regarding the permitted impervious surface area totals for each lot. In addition, the plat should list any existing impervious surface area on a lot-by-lot basis. Please have this information added to the plat. As you are aware, the applicant will be required to remain within the 15% limit for each lot.

Thank you for the opportunity to provide comments for this revised subdivision request. Please provide this office with a copy of a revised site plan when submitted. In addition, it is our recommendation that the applicant be required to provide a written description of how each concern has been addressed. This would help to achieve quicker resolution to the outstanding issues. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA712-03

Cc: John Swartz, Calvert County
Dave Brownlee, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 13, 2005

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

Re: Burgess Buffer Management Plan
Shore Erosion Control

Dear Ms. Daily:

Thank you for providing information on the above referenced Buffer management plan. The applicant is requesting an after-the-fact permit to install multiple shore erosion control structures, including a proposal to grade a significant portion of the Buffer. The property lies partially within a Resource Conservation Area (RCA), partially within a Limited Development Area (LDA) and is currently developed.

While shore erosion control protective measures are generally permitted and promoted as a means to prevent sediment from entering the Bay, these measures must be constructed in a manner that is the minimum necessary, as well as, the most practical and effective means to stabilize the shoreline. These measures shall also be constructed with consideration to the ability of the measures to simultaneously provide for conservation of fish, wildlife, and plant habitat. As you are aware, the 100-foot Buffer is a Habitat Protection Area (HPA) within the County's Critical Area. As a component of the applicant's proposal, significant grading of the Buffer, and in some areas, grading beyond the Buffer, is proposed. Based on the guidelines found within the County's Critical Area Program and Zoning Ordinance, as well as in the State Law and Criteria, it is the Commission's position that the amount of Buffer grading proposed exceeds the scope of work necessary to provide adequate shoreline protection. As a result, the proposed activity will require a variance. As with all variances, the applicant will be required to meet all the variance standards, including the standard of unwarranted hardship.

Please note that I am including a copy of documentation from October of 2003, in which a similar proposal was discussed on-site with representatives of the Maryland Department of the Environment (MDE) and Charles County. As stated in the 2003 letter, it was then the Commission's position then that such a degree of grading to the Buffer would be inconsistent with the County's Critical Area shore erosion control provisions and Buffer protection measures,

and would therefore require a variance. Based on this 2003 letter, it seems that the applicant should have been sufficiently aware of the need for a variance.

Thank you for the opportunity to provide comments for this Buffer management plan permit request. I will provide additional and more specific comments regarding the details of the proposed shore erosion control and Buffer grading activities at the time of the variance application. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CS625-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 13, 2005

Ms. Tracey A. Johnson, Code CH22
Department of Navy EFA Chesapeake
1314 Harwood St, S.E. Bldg 212
Washington Navy Yard, DC 20374

Re: Agile Chemical Facility, Indian Head

Dear Ms. Johnson:

Thank you for providing information on the above referenced chemical facility improvement project. The project proposes to demolish multiple existing structures and to construct replacement structures. The proposed improvements will result in a net decrease in overall impervious surface area within the project boundaries.

We have reviewed the planting plans provided, which propose to mitigate approximately 32,000 square feet of forest clearing by providing approximately 80 large trees (minimum 2-inch caliper) and 160 small trees. Based on our review of the materials provided, as well as the accompanying mitigation planting plan, it appears that the proposed project is consistent with the State Critical Area Law and Criteria. Therefore, we have no further comment.

Thank you for the opportunity to review and provide comments on the proposed development activities. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Lane Frantz, Benham
Elder Ghigiarelli, MDE

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 11, 2005

Ms. Joan Kean
Director
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Rehobeth Village Growth Allocation
Lowell and Sharon Stolzfus

Dear Ms. Kean:

This letter is written in response to your recent request to process the proposed Rehobeth Village Growth Allocation as a refinement to the local Somerset County Critical Area Program.

As you are aware from our conversation earlier today, the information we received regarding the Growth Allocation and subsequent subdivision is incomplete. Therefore, we are unable to accept the Growth Allocation request for processing until the following outstanding environmental issues have been addressed.

1. Based on the site plan provided, it appears as though the private roads shown within Parcel 105, owned by the applicant, have not been included within the proposed growth allocation envelope. It is the Commission's policy that the development envelope shall include individually owned lots, required buffers, impervious surfaces, roads, utilities, stormwater management measures, on-site sewage disposal measurse, any areas subject to human use such as active recreation areas, and any additional acreage need to meet the development requirements of the Critical Area Criteria. Please include this acreage and submit a revised site plan which includes the appropriately revised impervious surface area totals.

2. The applicant is proposing to utilize the existing pond feature, in combination with a proposed forebay facility, to treat 95% of the stormwater for the site. The existing pond shown on the site plan is identified by the State of Maryland's online mapping system, MERLIN, as a non-tidal wetland. In addition, it appears as though the existing pond feature contains a spillway which empties directly into a tidal tributary. Given the potential for impacts to non-tidal wetlands, as well as tidal waters, further coordination with the Maryland Department of the Environment (MDE) is necessary prior to the Commission's acceptance of

this growth allocation request. While Commission staff can facilitate this coordination, the applicant should simultaneously consult with MDE to determine whether any permits are needed in relation to the proposed use of the existing pond as a stormwater management facility.

3. The site plan provided indicates that both hydric (Muck and Peat) and highly erodible (Mattapex Silt Loam) soils appear on the site, but no information has been provided as to the location of these soils. As you are aware, where hydric or highly erodible soils are contiguous to the Buffer, expansion of the Buffer may be required. Please provide a site plan which details the location of these soils.

4. The subdivision plat provided indicates that 6.98 acres will be afforested, but the accompanying environmental assessment states that 7.74 acres will be provided. In addition, the forest conservation plan provided indicates that 6.98 acres of afforestation is provided. When added, the total of the individually indicated afforestation areas is 6.88 acres. Please provide clarification.

5. While the proposed plantings generally appear to meet the requirements of the Somerset County Zoning Ordinance and Critical Area Program, we recommend that the plantings proposed within the 100-ffot Buffer be revised to represent three-tier vegetation, with a combination of canopy and understory species. As currently proposed, the Buffer appears to be managed to achieve a monotypic loblolly pine stand and may not achieve the optimal benefits of a Buffer managed for habitat and water quality benefits, as intended. Specifically, we recommend that the applicant implement a variety of 2-inch caliper trees on 20-foot centers, in combination with multiple shrubs on 10-foot centers, in lieu of the loblolly seedlings proposed.

We recommend that the applicant address the concerns detailed above and submit a revised site plan. At that time, the project can be reevaluated and reconsidered as a refinement to the Somerset County Critical Area Program. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 11, 2005

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

Re: L1006 Bratek/Presnell

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor lot line revision. The applicant is proposing to alter the lot lines on two existing parcels of record. Both properties are designated as Limited Development Areas (LDA) and both are currently developed.

Based on the information provided, it does not appear that the proposed lot line revision will result in any change in the acreage of each lot within the Critical Area. Also, it is my understanding that the request does not propose the addition of any new impervious surface area to the lots. Based on this information, we have no comments regarding this lot line revision request. Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC35-03

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 11, 2005

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

Re: L999 Buniski-Revised
Tax Map 54, P289, Lots 4A&4B

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised line revision. The applicant is requesting a minor line revision to change the existing boundary of two existing lots. The properties are designated as Resource Conservation Areas (RCA), and both lots are currently undeveloped.

In general, this office does not oppose a revision to the lot lines as proposed. However, we provide the following comments regarding the site plan.

1. It remains the recommendation of this office that the 100-foot Buffer boundary be shown consistently across both lots. While it is my understanding that the Buffer has been shown as it intersects with the Talbot County zoning side-yard setback restrictions, the Buffer extends across the entire lot, and not just the length of the building envelope. As currently shown, the limits of the Buffer are misleading.

2. There is no information provided regarding the ownership of the tidal wetlands shown within the property boundaries on revised Lot 4-A. Consequently, the impervious surface area calculations for revised Lot 4-A may be affected. To resolve this issue, the applicant should either have a professional determination of private versus state wetlands made, or subtract the entire area of wetlands from the acreage of Lot 4-A, providing revised impervious surface area calculations.

3. We note that the applicant has indicated that the existing grass driveway is to remain unimproved. To ensure clarity and consistency with State wetland regulations, we

recommend that a note be added to the plat stating this intent. The note should also include language indicating that should future improvement of the road (ie: paving or conversion to gravel) be proposed, a permit to impact non-tidal wetland buffers, as well as a Critical Area variance, will be required from the Maryland Department of the Environment (MDE), and Talbot County Planning and Zoning office respectively.

Thank you for the opportunity to provide comments for this line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC499-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 11, 2005

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MDS 95-12 and AP 54676 &54677
Engh Property

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit request. The applicant is requesting a building a grading permit in order to construct a dwelling and accessory barn structure. The property is a designated Resource Conservation Area (RCA) and is currently undeveloped.

In response to our concerns regarding the previous site plan submitted, it appears that the applicant has decreased the size of the proposed dwelling, enabling the proposed limits of disturbance to remain outside of the Habitat Protection Area (HPA). It is my understanding that the building envelope on the site plan is currently characterized as open lawn area and not forested as shown on the site plan. In addition, it is my understanding that all outstanding violations on this property have been, or are in the process of, being satisfactorily mitigated in coordination with County staff. Based on this information, we have no further comments regarding the applicant's request for a building and grading permit.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA363-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 7, 2005

Mr. Cabbie Dize
City Manager
City of Crisfield
P.O. Box 270
Crisfield, Maryland 21817

Re: Jersey Island Condominium Development
Critical Area Site Plan

Dear Mr. Dize:

This letter is in response to the above referenced land-based condominium plans received by this office on October 4, 2005. Please note that this letter represents a coordinated review effort between Tracey Gordy and Critical Area Commission staff.

The preliminary condominium site plan dated April 2005, and approved and signed by the City of Crisfield on October 3, 2005, appears to comply with the City's Critical Area Program and Ordinance. Please note that should any changes be made to the land-based site plans and/or condominium design, it will be necessary to resubmit a revised site plan to the Circuit Rider for Critical Area review and determination of compliance.

If you have any questions, please do not hesitate to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
CF-21-04

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 7, 2005

Ms. Joan Kean
Director
Somerset County Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Growth Allocation Text Amendments

Dear Ms. Kean:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced refinement. On October 5, 2005, the Critical Area Commission unanimously concurred with the Chairman's determination that the proposed growth allocation text changes could be approved as a refinement to the County's zoning ordinance and Critical Area Program.

Please incorporate this refinement into the County's zoning ordinance and Critical Area program within 120 days from the date of this letter. Also, please provide this office with updated sections of both documents once the changes have been made. Thank you for Mr. Lawton's and your assistance in presenting this project to the Commission. Please contact me at 410-260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 6, 2005

Mr. Wayne Cooper
President
County Commissioners of Charles County
PO Box 2150
La Plata, Maryland, 20646

Re: Swan Point Wastewater Treatment Plan

Dear Mr. Cooper:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On October 5, 2005, the Critical Area Commission unanimously approved the County's proposal and site plan to construct a wastewater treatment and reclamation facility at Swan Point, located in Issue, Maryland. This approval included three conditions:

1. The County Commissioners shall obtain permits from the Maryland Department of the Environment's (MDE) Non-Tidal Wetlands Division in order to impact the non-tidal wetlands and associated buffers. These permits shall be obtained prior to commencement of construction activities.

2. The County Commissioners shall obtain the required stormwater and sediment and erosion control permits prior to beginning construction activities.

3. If the permitted discharge outfall is modified, the modification must be submitted to the full Commission for review and approval.

In fulfillment of the above conditions, please provide Commission staff with a copy of all appropriate permits once they have been obtained. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be

required. In addition, please notify the Commission once the mitigation plantings have been implemented. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Aimee Daily, Charles County
John Dunn, USX Realty
Judy Cole, MDE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

October 4, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3227

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer and cliff setback requirements in order to construct an addition to the primary dwelling. The property lies within a designated Limited Development Area (LDA), and is currently developed.

Based on the information provided, it appears that the applicant is applying for a revision to a variance originally approved in October of 2000. The original variance request proposed to construct a garage on the southern portion of the applicant's property, approximately 90 feet from Mean High Water (MHW). It does not appear that the proposed garage structure has been constructed to date. The applicant is currently proposing to construct a 228 square foot sunroom approximately 40 feet from the edge of the cliff. While this office does generally oppose a request to construct a sunroom in place of the proposed garage, there is concern regarding the location of new impervious surface area 40 feet from the cliff face and significantly closer to MHW than the originally proposed garage. Specifically, it is my understanding that while the toe of the cliff has been stabilized with revetment, there is active erosion occurring at the top of cliff.

In consideration of the sensitivity of an actively eroding cliff face, particularly where an increase in impervious surface area is proposed, and with regard to the potential location of the proposed addition within the Buffer, we recommend that the addition be located no further towards MHW than the existing impervious footprint. As the previously approved garage structure was to be constructed to the south of the existing dwelling, and no closer to MHW than the existing impervious footprint, it appears that the proposed addition could also be constructed in this manner. In addition to revising the location of the proposed addition, we recommend that the applicant be required to provide some form of stormwater management to prevent the increased runoff from the new impervious surface area from being directed towards the cliff face.

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

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
CA 495-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 4, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3214 Triebell-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the expanded Buffer and steep slope requirements in order to permit the construction of a single-family dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the revised site plan, it appears as though the site has been verified as lying entirely within the expanded Buffer for both a tributary stream, and tidal wetlands. Given this information, this office has multiple concerns regarding the revised site plan as submitted. Specifically, it appears as though the applicant's need for a variance to the steep slope requirements is largely driven by the design and size of the proposed dwelling. We note that the parcel contains 3.845 acres of net buildable area, and that it appears that a reasonably sized dwelling could be accommodated on the site with significantly less impact to steep slopes and the Buffer. With regard to our outstanding concerns, we provide the following comments:

1. The proposed footprint is 2,931 square feet, which does not appear to include the driveway. Based on the sensitivity of steep slopes and the Buffer, the proposed footprint seems excessive. Minimization, to the extent possible, should be demonstrated as a first priority.

2. The proposed septic area shown is approximately 122 feet long. Please have the applicant clarify whether this specific septic design and length is mandated by the Health Department, or whether feasible alternatives exist. A decrease in the length of the septic area would result in significantly more contiguous buildable area outside of steep slopes.

3. The proposed well is located on slopes 15% or greater. It appears that ample room exists directly to the east to site the well outside of steep slopes.

4. The Limits of Disturbance (LOD) shown on the southeastern portion of the site plan extend well into an area of 25% or greater slopes. Based on the proposed development activities shown, it appears that the septic box could be moved slightly to the west. It does not appear necessary for this LOD to extend beyond the edge of 25% slopes. We recommend that the applicant be required to tighten the LOD on the site.

In evaluating this variance request, the Board must find that the applicant has sufficiently met each of the County's variance standards, including the standard of unwarranted hardship. As it appears that ample room exists to construct a smaller dwelling which proposes significantly less disturbance to the Buffer and to steep slopes, we believe that the standard of unwarranted hardship has not been met. In addition, the excessive amount of disturbance and clearing on the property creates the potential for adverse impacts to plant and wildlife habitat, as well as, the potential for adverse impacts to the water quality of the tributary stream and tidal wetlands at the base of the slopes. As such, this office opposes the applicant's request for a variance as proposed. We recommend that the Board require the applicant to submit a site plan which includes a minimized footprint and demonstrates a realistic attempt to avoid disturbance to steep slopes.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 549-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 4, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3209 Baker-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the expanded Buffer, steep slope, and cliff setback requirements in order to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

While it appears that the applicant has attempted to address some of our previous concerns by providing a bioretention pond to capture stormwater runoff, the location of the proposed pond is of concern. As demonstrated by similar erosion problems on other properties within the County, there appears to be a direct relationship between the direction and location of concentrated stormwater flows and the ability of an unstable cliff face to support an excessive amount of development. That is, the greater the quantity of stormwater resulting in runoff, as opposed to being infiltrated, the greater the chances for continued cliff face slough and undercutting. Due to these outstanding concerns, we provide the following comments.

1. The footprint of the proposed dwelling does not appear to have been decreased as previously request. As stated, the size of the proposed dwelling footprint seems excessive, particularly given the location of the property within the Buffer, as well as the active erosion of the cliff face on the property. It appears that a smaller dwelling could be accommodated on the site which would still provide the applicant with adequate habitable space. This reduction in footprint would result in reduced impervious surface area on the site, would allow the dwelling to be located farther back from the cliff face, and would allow for adequate space on the northwestern side of the dwelling to relocate the proposed bioretention pond. We recommend that the Board require a revised site plan showing a smaller footprint.

2. While the proposed bioretention pond does provide storage of runoff and would help reduce the velocity of stormwater running over the cliff face, the pond should be located as far from

the eroding edge of the cliff as possible. Based on conditions observed during a site visit, it is our opinion that the soil conditions near the eroding gully cannot support the size and amount of water that would potentially be stored in the pond. However, since the pond is a highly desirable mechanism for the treatment of runoff, we recommend that it be relocated to the northwestern side of the proposed dwelling, as far from the eroding gully as possible. The applicant should then implement the proposed plantings so that they are located between the pond and the eroding gully. With a reduction in dwelling footprint, it appears that the site could support this stormwater facility design and more reasonably provide assurance of minimal adverse impacts.

As stated, this office has outstanding concerns with the current development proposal and information shown on the site plan. Because we do not believe that the applicant has overcome the burden to meet each of the County's variance standards, we cannot support the applicant's variance request. Specifically, because a dwelling of a significantly smaller size than the one proposed could be constructed, it does not appear that the standard of unwarranted hardship has been met. In addition, the applicant must prove that the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area. Due to the concerns associated with the location of the bioretention pond, we believe that this standard has not been met. We recommend that the applicant submit a site plan which demonstrates that impacts to the Buffer have been minimized and that addresses the outstanding concerns with the proposed bioretention facility.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA404-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2005

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

Re: A053 Finizio

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to construct an addition to the primary dwelling and an accessory deck structure. The property is designated a Limited Development Area (LDA) and is currently developed.

In general, this office does not oppose the granting of a variance for the applicant's proposal. However, we note that there are multiple inconsistencies within the site plan and application that has been provided. Specifically,

1. The vicinity map does not appear to accurately represent the location of the applicant's parcel.

2. The application states that the closest point of the proposed deck is 34.7 feet from Mean High Water (MDW), yet there does not appear to be a feature labeled as proposed deck on the site plan. It is not clear where this deck is proposed to be constructed, especially considering that the feature labeled as existing patio appears to located approximately 30 feet from MHW.

3. The allowed impervious surface area and existing impervious surface area calculations within the site statistics portion of the site plan are incorrectly labeled and should be corrected. In addition, the amount of impervious surface area proposed within the Buffer is stated as 576 square feet, yet the entire area of the proposed addition and porch appear to be within the Buffer. This information should be clarified and accurately represented prior to approval of a variance.

Prior to the approval of a variance, we recommend that the applicant provide the County with an accurate site plan. In addition, please ensure that mitigation is provided at a 2:1 ratio, as required.

within the County's ordinance. The mitigation should be provided using native species, and located within the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC93-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 28, 2005

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

Re: A064 Scott

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance in order to construct an addition to the primary dwelling, as well as a deck, both within the 100-foot Buffer. The property lies within a designated Limited Development Area (LDA), and is currently developed.

In general, we do not oppose the granting of this variance request. However, given the proximity of the proposed deck to the shoreline, we recommend that the applicant be required to utilize pervious construction measures. The Commission's impervious construction standards include wooden construction with spacing between the boards, six inches of gravel substrate below the entirety of the deck, and foundation planting surrounding the base of the deck. In addition, please ensure that the applicant provides 2:1 mitigation for the entire area of disturbance within the Buffer.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this administrative variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
T561-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 28, 2005

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

Re: Mistretta Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance in order to construct an addition to the primary dwelling within the front setback on the property. The property lies within a designated Limited Development Area (LDA), Buffer Management Area (BMA), and is currently developed.

Provided that the applicant provides the required mitigation for any clearing associated with the proposed construction, we do not oppose the granting of this variance request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC631-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 28, 2005

Mr. Richard Parks
Senior Vice President
The Arro Group
4750 Delbrook Road, Suite 101
Mechanicsburg, PA 17050

Re: Slavins/ Mattingly Park

Dear Mr. Parks:

This letter is in response to our continuing review of the above referenced project. Based on our review of the revised site plan received, we provide the following comments:

1. Currently, the site plan shows that the proposed impervious surface area on the property exceeds the 15% limit. However, it appears that the public roads have been included within the impervious surface area totals for the property. Due to the public designation of these roads, they do not need to be included, and should be removed from the calculations. Please provide a revised summary of the existing impervious surface area on site. Driveways and other gravel areas should remain within the calculations.

2. Where the areas of the riverwalk other pathways lie within the Buffer, every effort should be made to utilize pervious construction standards. These standards include wooden construction with spacing between the boards, six inches of gravel substrate beneath the entirety of the walkway, and native plantings surrounding the edges of the walkways. Currently, the proposed pathways are entirely impervious and designed to be paved. Please provide clarification as to whether portions of the walkways could be constructed as pervious, providing for minimization of impacts to the Buffer.

3. Further information is needed in regard to the mitigation proposed. The site plan states that 3 trees within the Buffer and 24 trees outside of the Buffer are proposed for removal. Based on the existing forest cover shown, it is unclear whether there is also understory being removed. Where there is disturbance to the understory, in addition to individual trees being cut, the area to be mitigated should be measured by the areal extent of disturbance. Where individual trees are removed without connection to the surrounding landscape, it is acceptable to include only the individual trees removed. Further clarification regarding the nature of the existing

vegetation and that being removed is necessary. We recommend that the applicant contact Commission staff to discuss the proposed mitigation.

4. The conditional approval worksheet and answers provided by the applicants are insufficient. For clarification, the Commission's conditional approval process for local agency actions is the equivalent of a variance at the local level. The document provided to the applicant, containing a list of six conditions [B(1-3) and C(1-3)], must be completely answered by the applicant. Each letter and number on the worksheet must be addressed, and will serve as the tool by which the Commission will evaluate whether the applicant has justified the impacts proposed by the project. Currently, the applicant has only provided answers to two of the six conditions.

5. Please clarify whether the fishing pier proposed within the Buffer will be constructed to pervious standards. Please note that the Critical Area criteria requires that disturbance to natural vegetation must be minimized in relation to the location of fishing piers within the Buffer. Based on the criteria, pervious construction should be utilized in so far as possible. Please refer to comment #2 for the standards of pervious construction.

Thank you for the opportunity to provide comments for this revised site plan. As you are aware, the project will require formal Commission approval. Please keep in mind that permits for stormwater management and sediment and erosion control must be obtained prior to the Commission's consideration of the project. Once all of the outstanding issues have been addressed, and proper permits obtained, I will place the project on the following month's agenda. Should you have any questions regarding the information provided above, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

CC: Ron Young, Town of Indian Head

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 27, 2005

Mr. David Brownlee
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Calvert County Zoning Ordinance Changes-Article 11

Dear Mr. Brownlee:

Thank you for providing the above referenced changes to the Calvert County Zoning Ordinance. As you are aware, in 2002 and 2004, the General Assembly made specific changes to the Critical Area Law. In order to ensure consistency with these changes, the language utilized by the General Assembly must be incorporated into the County's ordinance. Items recommended for addition are in bold and underlined. Items to be deleted are in bold and are shown in strikethrough style.

1. Section 11-1.01.B.3- The reference to the criteria set forth in subparagraph 'A.2" is problematic. Specifically, the County's variance standards must utilize the language unwarranted hardship, as opposed to undue hardship, which is the language utilized in A.2. In addition, A.2 contains the words, practical difficulties, which cannot be included within the Critical Area variance standards. Please amend the paragraph to avoid references to these specific terms. We recommend that the desirable components found within A.2 be made into a separate standard in section B, which avoids reference to, and utilization of, the above stated terms.

2. Section 11-1.01.B-Within B.2 or B.3, please include the following language, **In evaluating a variance request, the Board must determine that the applicant has met each of the County's variance standards.**

3. Section 11-1.01.B.3-Prior to the beginning of the first sentence, insert the following language. Please note that while some variations may be acceptable, we recommend that the following language be added verbatim as defined by the General Assembly.

A. **In considering an application for a variance, the County shall presume that the specific development activity in the Critical Area that this subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the County's Critical Area Program.**

B. **An applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in paragraph A above.**

C. **Based on competent and substantial evidence, the County shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established above.**

4. Section 11-1.01.B.3- Amend the following language to read and include, "A variance may be granted only if the criteria set forth in subparagraph 'A.2' are met, **and** the Board of Appeals makes the **written** findings required by subparagraph 'A.3'**. With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:**

   A. **The applicant;**

   B. **The County or any other government agency; or**

   C. **Any other person deemed appropriate by the County.**

   In addition, the applicant **must** demonstrate~~s~~ and the Board **must** find~~s~~:

   a. That special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship. **Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested."** (This amended definition of unwarranted hardship must exist either within this section as recommended or within the definition section of the County's ordinance.)

5. Section 11-1.01.B.3.d.-At the end of the last sentence, insert the following language: **If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, the County may consider that fact.**

6. Section 11-1.01.E-In general, any reference to a variance should be removed within this section. Instead, the special accommodations provisions should be an action or set of provisions available to the Board, independent of the variance process. By associating these provisions with the variance process, the applicant would be required to meet all other

variance standards. The intent of these provisions is to provide a separate mechanism by which the applicant could qualify for special consideration, without having to engage in the variance process. We recommend that the County reconfigure section E in order to avoid necessarily associating the special accommodations with the variance process and standards.

7. Section 11-1.01.E.2.a- Amend the language to read, the applicant or **the** ~~a perspective user~~ **property owner** ~~of the property~~ has a physical disability.

8. Section 11-1.01.E.2.b- Amend the language to read, that literal enforcement of the provisions of this ordinance would ~~prevent the applicant or a perspective user of the property from enjoying the property to the same degree that a person without the disability would be able to enjoy the property;~~**result in discrimination by virtue of such disability.**

9. Section 11-1.01.E.2.c- Amend the language to read, ~~a variance~~ **special accommodations** would ~~enable to the applicant or a perspective user of the property to enjoy the property to the same degree as a person without the disability; and~~ **reduce or eliminate the discriminating effect of the provision of this ordinance.**

10. Section 11-1.01.E.2.e- Amend as follows, …resulting from the ~~particular~~ **physical** disability of the applicant or ~~a perspective user~~ **property owner** ~~of the property~~.

11. Section 11-1.02.E- Amend as follows, …may grant an extension to the two-years ~~laps~~ **lapse**…

Thank you for the opportunity to provide comments on this draft component of the ordinance revisions. If you have any questions about these comments, please feel free to contact me at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

CC: Marianne Mason, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 26, 2005

Mr. Stan Causey
Maryland Department of the Environment
Water Management Administration
407 Race Street
Cambridge, Maryland 21613

Re: DNR Shore Erosion Control-200564623/05-Wl-1945
Black Walnut Point, Talbot County

Dear Mr. Causey:

I am writing in response to the Maryland Department of the Environment (MDE) and Army Corps Of Engineers (ACOE) joint public notice dated September 1, 2005. Specifically, this letter is in reference to an application by the Department of Natural Resources (DNR) to permit shoreline stabilization, via the placement of revetment, at the above referenced property in Talbot County.

Based on the information provided, it appears as though the applicant is proposing to construct a total of 440 feet of stone revetment in order to stabilize an eroding shoreline. Per the requirements outlined within COMAR 27.02.05, the proposed action qualifies as a State agency action resulting in development on State-owned lands. As such, the applicants will be required to obtain formal Commission approval of the proposed activity. In addition, in October of 2003, the Commission reviewed and approved a development proposal for the property which included the redevelopment of multiple cottage structures within the 100-foot Buffer. As a component of this approval, the Commission included a condition requiring 3:1 mitigation for the area of disturbance to the Buffer. In evaluating the proposed revetment project, the Commission will need to first verify that the conditions of the previously approved development activities on the site have been fulfilled.

Thank you for the opportunity to provide comments regarding this wetlands permit request. We recommend that the applicants work with Commission staff as early as possible in the planning stages. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: John Wilson, DNR
Tom Brower, DNR
Jean Lipphard, DNR
Mary Kay Verdery, Talbot County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Executive Director

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September 23, 2005

Mr. Alvaro Quintanilha
Zoning Inspector
City of Crisfield
P.O. Box 270
Crisfield, Maryland 21817

Re: Jersey Island Marina
Critical Area Site Plan / Building Permit Review

Dear Mr. Quintanilha:

This letter is in response to the final marina plan received by this office on September 20th and the marina building permit application received by the City's Circuit Rider, Tracey Gordy, on September 8, 2005. Please note that this letter represents a coordinated review effort between Ms. Gordy and Critical Area Commission staff.

The final marina plan dated June 2005, and approved and signed by the City of Crisfield on August 8, 2005, appears to comply with the City's Critical Area Program and Ordinance. As long as the marina is developed in accordance with the conditions outlined in Tidal Wetlands License No. 05-0276(R) and constructed as shown on the final marina plan, this office recommends that the City issue the building permit.

Please note that this recommendation is for the marina only, and does not include the land-based portion of the project. In addition, if any substantial changes are made to the marina design, it should be re-submitted to the Circuit Rider for Critical Area review and determination of compliance.

If you have any questions, please do not hesitate to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
CF-21-04

Cc: Tracey Gordy, MDP
Cabbie Dize, City of Crisfield

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 22, 2005

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

Re: Appeal #1395 Krasnowiecki

Dear Ms. Verdery:

Thank you for providing information on the above referenced allegation of error. The applicant has filed an application of error, alleging that the weed control section of the Talbot County Code was designed for in town properties and should exclude areas of multiple acreage such as agricultural lands that have been farmed in the past. The subject property lies within a designated Resource Conservation Area (RCA) and is currently developed.

While the Commission has no comments to offer regarding the interpretation of the County's weed ordinance, we note that the applicant's property lies entirely within the Critical Area, and in addition, contains a large area designated as the 100-foot Buffer. The goals of the State Critical Area program include the conservation of fish, wildlife, and plant habitat. The County's ordinance includes goals for the 100-foot Buffer such as the protection of riparian wildlife habitat and the maintenance of natural vegetation. At a minimum, we recommend that the Board allow the area of the property lying within the 100-foot Buffer to remain in natural vegetation. This will allow the property to retain a functional, vegetated Buffer, while providing essential habitat, enhanced stormwater runoff infiltration and absorption opportunities, and overall increased water quality benefits.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC581-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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September 22, 2005

Ms. Joan Kean
Director
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Growth Allocation Text Amendments

Dear Ms. Kean:

This letter is in response to the above referenced County request to consider multiple text amendments to Somerset County's Critical Area Program and zoning ordinance. The Commission received notice on September 6th, 2005 that the Somerset Planning and Zoning Commission voted to recommend the proposed amendments to the County Commissioners, who then approved the amendments at their September 20, 2005 meeting.

At this time, I wish to notify you that the County's request for consideration of the proposed text amendments has been accepted for processing. I have forwarded your request that this be treated as a refinement to the County's program to Chairman Madden. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will notify you of his determination and the procedures for review by the Commission.

Thank you for your coordination on these text amendments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 20, 2005

Mr. Reed Faasen
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: XPN 05-0010 Barber's Quarters-Revised

Dear Mr. Faasen:

This letter is in reference to our continuing review of the above reference subdivision proposal. While it appears that the majority of our concerns have been addressed, we provide the following comments in regard to the latest preliminary site plan received.

1. Critical Area note #6 should be refined. Based on the information shown on the plat, there are no dwelling units proposed within the Critical Area portion of the site. There are three lots, whose boundaries extend into the Critical Area, but no dwellings appear to be proposed within those lots.

2. We note that this review is intended to represent a preliminary plat review only, and that significant outstanding issues exist on the property which must be addressed prior to final plat review and approval. These include, but are not limited to, field delineation of tidal and non-tidal wetlands, field delineation of the 100-foot Buffer and contiguous hydric soils, and if necessary for the purposes of determining Critical Area density limitations, a professional determination of private versus State-owned tidal wetland areas, or resolution of the wetland ownership issue via certification of a valid land grant.

It is my understanding that the applicants are seeking preliminary plat approval without resolution of the above outstanding issues in order to facilitate the ability to apply for school allotments at the local level. While Commission staff does not object to proceeding in this manner in this case, and for this reason, we note that further discussions of the specific environmental features of the project may be warranted at a later stage in the project, particularly should any changes be proposed.

Thank you for the opportunity to provide comments on this revised major subdivision request. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 214-05

Cc: Heather Kelley, Charles County
Scott Burroughs, Lorenzi, Dodds & Gunnill

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 20, 2005

Mr. Reed Faasen
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Windsor Manor Subdivision-Revised Preliminary Plan
XPN 99-0033

Dear Mr. Faasen:

Thank you for providing information on the above referenced revised subdivision proposal. The applicant is requesting to subdivide a 42.94-acre parcel to create 91 single-family detached lots and 1 estate lot. There are 9.35 acres within the Critical Area portion of the property. The Critical Area portion of the property is designated as a Resource Conservation Area (RCA) and is currently undeveloped.

Based on the revised information provided, it appears that the applicants have addressed the majority of our comments. However, we note that the Department of Natural Resources (DNR) has identified the site as containing Forest Interior Dwelling Bird (FIDS) habitat. Please have a note referencing the presence of this habitat added to the plat. In addition, should future clearing be proposed within the Critical Area portion of the site, please advise the applicant that submission of a Habitat Protection Plan (HPP) and FIDS mitigation worksheet will be required.

Thank you for the opportunity to provide comments on this revised major subdivision request. Provided that the applicant adds the note to the plat as requested above, we have no further comments regarding the preliminary approval of this subdivision plat. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 205-05

Cc: Heather Kelley, Charles County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 16, 2005

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

Re: SFD 50507 Lot 9- Clifton on the Potomac

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a building permit to construct a single-family dwelling. The property lies within a designated Limited Development Area (LDA), Habitat Protection Area (HPA), and is currently undeveloped.

Based on the information provided, it is my understanding that the proposed development activities will occur approximately 900 feet from the location of an existing Bald Eagle's Nest. As such, the property lies within Zone 3 of the Bald Eagle protection zones. In accordance with the recommendations of the Department of Natural Resources (DNR), and those found within the County's zoning ordinance, the applicant has agreed to limit construction activities to the non-breeding season for Bald Eagles. In addition, it is my understanding that no tree clearing is proposed for construction of the proposed improvements. Based on this information, we do not oppose the granting of a building permit.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 572-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 16, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-810 Lilly

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct a primary dwelling. The property is located within a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, we have the following comments:

1) Information taken from the State of Maryland's online mapping system, MERLIN, indicates that portions of Parcel 20 may contain non-tidal wetlands in addition to the tidal areas shown. As shown on the maps included, the non-tidal wetland areas appear to overlap the location where a driveway is proposed, as well as possibly overlap the proposed building envelope itself. Where impacts to non-tidal wetlands are proposed, the applicant will be required to obtain a permit from the Maryland Department of the Environment (MDE). We recommend that a field delineation, conducted by a qualified professional, be required in order to evaluate the extent of non-tidal wetlands on the property prior to any variance approval. This will ensure that the extent of environmental features are clearly marked and identified prior to future development activities on the site.

2) MERLIN also indicates that Parcel 20 lies within a designated Sensitive Species Review Area. Prior to any development activities on the parcel, the applicant will be required to obtain additional information from the Department of Natural Resource's (DNR) Wildlife and Heritage Division regarding the specific species of concern. Upon obtaining this information, any recommendations made by DNR for the protection of the species identified will have to be addressed by the applicant via the submission of a Habitat Protection Plan.

3) The information submitted in the site plan states that approximately 3.5 acres of upland exists on Parcel 20. Measurements taken from MERLIN indicate that the upland areas may be significantly less. While we note that these measurements, as shown in the included maps,

are not intended to represent exact figures, it does appear that that the actual area of upland on Parcel 20 may be significantly less than the area indicated by the applicant. This is important as the buildable area maybe significantly decreased, affecting the ability to site a sewage disposal area or well on the property. In addition, the total amount of permitted impervious surface area may be affected. Given this discrepancy in information, we recommend that a field delineation of tidal and non-tidal wetland areas be performed prior to the approval of a variance.

In addition to the comments above, we note that the applicant is proposing to construct a dwelling with a 3,750 square foot footprint, along with various impervious accessory elements. The closest point of the proposed development is 26 feet from tidal wetlands. The total impervious footprint proposed is 4, 955 square feet. While we recognize that development of this property would not be feasible outside of the Buffer, and that some degree of variance will be required to develop the property, the Somerset County Zoning Ordinance and variance standards require that the variance be the minimum necessary to make reasonable use of the land, buildings, and structures. In addition, the County's variance standards also include the burden to prove that the granting of a variance will not impact water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area. Based on the environmental features of Parcel 20, it is the opinion of this office that the dwelling proposed is excessive, particularly in consideration of its location within and impact to the Buffer. It appears that a smaller dwelling and building envelope could be constructed which provides reasonable living space to the applicant, while also providing assurance that negative impacts to water quality will be minimized.

Because we believe that the applicant has not met each of the County's variance standards, and given the lack of knowledge surrounding the extent of tidal and non-tidal wetlands, habitat protection areas and general buildable areas, we cannot offer support to this variance request as proposed. We recommend that the applicant submit a revised variance request which addresses the environmental concerns associated with the site plan and general lack of information, and which demonstrates minimization of impact to the Critical Area.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO587-05

Enclosures

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-809 Melissa Dunn

Dear Mr. Lawton:

Thank you for providing information on the above referenced after-the-fact variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct a deck structure. The property is located within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided and conversation with Somerset County planning and zoning staff, it is my understanding that the applicant's property is a grandfathered lot, and that the proposed deck was constructed as pervious. While this office does not generally oppose the applicant's request to retain the deck structure, we note that the Commission's standard for pervious construction includes the installation of 6 inches of gravel substrate beneath the entire deck area, as well as foundation plantings surrounding the deck and spaces between each of the deck boards. This means of construction allows for stormwater runoff to infiltrate through the deck boards, and then be partially filtered by the gravel substrate. The foundation plantings serve to intercept the flow of stormwater and provide additional opportunities for absorption. I have included a graphic representation of this design standard.

Given that the deck was constructed prior to obtaining the proper permits, it is unclear whether the deck was actually constructed in compliance with these standards. As a result, we recommend that the Board evaluate the imperviousness of the deck as constructed and require the applicant to conform to the pervious construction standards provided. Should the deck not conform to these standards, mitigation at a 2:1 ratio for the entire area disturbed within the Buffer should be provided.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO 586-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: SE 05-2289 Zabarenko Special Exception
Tax Map 64, Parcel 374

Dear Mr. Lawton:

Thank you for providing information on the above referenced request for an after-the-fact special exception. The applicant is requesting a special exception to permit a bed and breakfast facility to operate within an existing primary dwelling. The property is located within a designated Limited Development Area (LDA) and is currently developed.

It is my understanding that the applicant's proposal does not involve the construction of any additional impervious surface areas on the property, and that the proposed bed and breakfast facility will be located entirely within the existing dwelling. As a result, the special exception request is solely for the purposes of permitting the change in use of the existing dwelling. Based on this information, we do not oppose the applicant's request for a special exception.

Thank you for the opportunity to provide comments for this special exception request. Please include this letter in your file and submit it as part of the record for this request. Also, please notify the Commission in writing of the decision made in this case. Please contact me at (410) 260-3482 if you have questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO565-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 14, 2005

Mr. Don Loeffler
University of Maryland Center for Environmental Science
PO Box 38
Solomon's, Maryland 20699

Re: Truitt Laboratory Extension

Dear Mr. Loeffler:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On September 7, 2005, the Critical Area Commission unanimously approved the improvements to the Truitt Laboratory facility at the University of Maryland's Center for Environmental Science campus, in Calvert County. As a component of the approval, please ensure that Commission staff is notified once the mitigation plantings have been implemented.

Thank you for your assistance in presenting this project to the Commission. Please contact me at 410-260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: John Menard, RMF Engineering

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
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September 14, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: SE05-2312 Synagro Mid Atlantic Inc.

Dear Mr. Lawton:

Thank you for providing information on the above referenced request for a special exception. The applicant is requesting a special exception to permit the spreading of treated municipal sewage on portions of two parcels within the Critical Area. Both parcels are designated Resource Conservation Areas (RCA).

It is my understanding that the applicant is proposing to spread treated municipal sewage along portions of the property for the purposes of fertilizing forest crops. Within the Critical Area, agricultural or horticultural use of sludge is permitted only under the appropriate approvals when applied by an approved method and at an approved application rate, as described within COMAR 27.01.02.F. The application of sludge is not permitted within the Buffer. While this office does not generally oppose the special exception request provided that the applicant can demonstrate compliance with the criteria found in COMAR, we provide the following comments which should be addressed prior to the granting of the request.

1. The applicant has not provided any information as to which portions of the parcels are intended to be treated with the sludge. Please ensure that the sludge spreading does not occur within the Buffer. In addition, we recommend that the Board require a site plan or some form of a more precise and descriptive document which clearly demonstrates the locations and/or limits of the proposed activities, and which provides assurance that no negative impacts to water quality will occur as a result of the proposed actions.

2. The State of Maryland's online mapping system, MERLIN, indicates that extensive pockets of non-tidal wetlands lie across the entire Parcel 147, and that limited pockets of non-tidal wetlands lie across Parcel 55. It is not clear whether the applicant has contacted the Maryland Department of the Environment (MDE) to determine that the proposed activity will not

adversely affect State-regulated non-tidal wetlands. At a minimum, we recommend that the applicant be required to provide a field delineation of the non-tidal wetlands on each parcel and that coordination with MDE be sought prior to the approval of such a request.

Thank you for the opportunity to provide comments for this special exception request. Please include this letter in your file and submit it as part of the record for this request. Also, please notify the Commission in writing of the decision made in this case. Please contact me at (410) 260-3482 if you have questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO585-05

CC: Steve Dawson, MDE

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 13, 2005

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

Re: Miles River Yacht Club Site Plan

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to construct multiple improvements to the existing clubhouse building. The property is designated a Limited Development Area (LDA) and a Buffer Management Area (BMA), and is currently developed.

Based on the information provided, it appears that the majority of the proposed improvements will be constructed over areas of existing impervious surface. In addition, it appears that the total impervious surface area for the site will be decreasing. Provided that any trees removed for the construction are replaced at a 1:1 mitigation ratio, this office has no comment on the proposed improvements constructed over existing impervious areas. For the area of new disturbance proposed within the Buffer, it appears that a variance will be required. This office will provide comments on the new disturbance to Buffer at the time of the variance application.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 541-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 13, 2005

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

Re: Cuneo Intrafamily Transfer & Subdivision-Revised
TM32, P29

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised intrafamily transfer request. The applicant is proposing to subdivide a 12.429-acre parcel to create 3 new lots, 2 of which are to be designated as intrafamily transfer lots. The property lies within a designated Resource Conservation Area (RCA) and is currently developed with an existing dwelling and multiple garage structures.

Based on the revised plat provided, it appears that the majority of our previous concerns have been addressed. However, please have the applicant provide further clarification on the comments below.

1) Based upon note #22, it is still unclear whether the proposed sewage disposal area shown on Lot 2 is intended to serve the existing development or whether an additional dwelling unit is planned. As it appears all permitted development rights will be utilized by the existing dwelling and the proposed dwellings on Lots 1 and 3, please have the applicant verify that no additional dwelling unit is proposed of Lot 2.

2) Please have the applicant clarify what the dotted line symbol on the northwestern portion of Lot 1 is intended to represent. This symbol does not appear to be included within the legend.

Thank you for the opportunity to provide comments for this revised intrafamily transfer and subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 92-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 13, 2005

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

Re: White Swan Subdivision-Revised

Dear Ms. Verdery:

This is letter is in regard to our continuing review of the above referenced subdivision proposal. The applicant is proposing to create two new lots within the Critical Area. The property is designated as a Resource Conservation Area (RCA) and is currently developed.

Based on the revised plat provided, we have the following comments.

1) As there remain outstanding discrepancies between the environmental features shown on the plat and those shown within MERLIN, this office has requested a site visit in order to conduct a field verification of the features delineated by the applicant's engineering representative. Pending the outcome of this site visit, further discussion of the existing environmental features may be necessary.

2) In regard to the three Bald Eagle nests on the property, the Talbot County Zoning Ordinance requires that a Habitat Protection Plan shall be prepared, and that this plan shall be reviewed, with specific comments, by the Maryland Department of Natural Resources (DNR). In addition, the ordinance specifically states that any activity within the protection zone for Bald Eagles should be consistent with the recommendations made by DNR. While a copy of the recommendations provided by Glenn Therres of DNR has been obtained, the applicant has not provided a HPP or clearly addressed Mr. Therre's recommendations. In contrast, the applicant has included only the County's standard Bald Eagle protection guidelines on the plat, as opposed to addressing the site specific, and less restrictive, recommendations provided by DNR. Should the note on the plat remain as stated, and no HPP be submitted, this office will assume that the applicant has elected to abide by the more restrictive

conditions listed on the plat, whereby the current location of the dwelling would appear to be problematic.

3) The plat includes a description of the dwelling on the proposed Lot 1 as under construction. Given that the proposed Lot 1 has not yet been approved or recorded, it is unclear how permits were obtained to construct a dwelling on the site. Does this also indicate that the proposed well and sewage disposal areas have been constructed prior to subdivision recordation? Please clarify.

Thank you for the opportunity to provide comments for this revised subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 37-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 12, 2005

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

Re: L1004 KOPI, LLC.

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing to revise the lots line on two existing parcels of record. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, we do not oppose the lot line revision and abandonment request. Please note that this letter is intended solely as a review of the proposed lot line revision. Given that no development is proposed as a component of this request, this office has provided no review and/comment relating to the development rights calculations or site specific environmental features. Should future development be proposed, additional review may be necessary.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC562-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 8, 2005

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

Re: A064 and Appeal #1328 Struthers-Revised Site Plan

Dear Ms. Verdery:

This letter is in response to the revised site plan received for the above referenced variance request. Previously, the applicant had shown a stormwater management swale located within the 100-foot Buffer, requiring an additional variance.

Based on the revised site plan received, it appears that the applicants have removed the swale from the Buffer. Therefore, our previous comments have been adequately addressed.

Thank you for your efforts in coordinating the review of this variance request. If you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC505-05

CC: Sean Callahan, Lane Engineering

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 8, 2005

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

Re: Snow Special Exception and Allegation of Error

Dear Ms. Verdery:

Thank you for providing information regarding the above referenced special exception and allegation of error. The applicant is requesting a special exception to permit the reconstruction of a boathouse structure which was destroyed by fire. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, the applicant has indicated that the replacement structure will be replaced in-kind, on the existing footprint, and that no new impervious surface area is proposed as a result of the reconstruction. Provided that the original boathouse structure was a legally grandfathered structure, we do not oppose the granting of this special exception request. In regard to the allegation of error, we have no comments to offer.

Thank you for the opportunity to provide comments for this special exception and allegation of error request. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC558-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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September 6, 2005

Mr. Lynn Thomas
Assistant Town Planner
Town of Easton
14 South Harrison Street
Easton, MD 21601

Re: West Glenwood Neighborhood Utility Work

Dear Mr. Thomas:

This letter is in response to the above referenced local project. As you are aware, this project represents a local agency action of local significance on private lands or lands owned by local jurisdictions. As such, the Town of Easton must demonstrate that the proposed project is consistent with the local Critical Area program, as detailed under COMAR 27.02.02.

Based on the information provided, it appears that the Town is proposing the construction of a series of improvements to the sanitary sewer and water connections within an existing developed neighborhood. The area proposed for the improvements consists of approximately 7.78 acres, is composed of eleven individual lots, and lies within a designated Limited Development Area (LDA). The end result of the Town's project will be to provide Town water service to the three units currently not serviced by the Town, connect all of the properties to the Town's wastewater treatment plant, install roads, sidewalks, street lighting and trees.

It is my understanding that the proposed improvements result in a minimal increase in impervious surface area (.25 acres), and that no clearing of trees is required for the construction. All of the proposed development activities will occur outside of the 100-foot Buffer, and there will be no impacts to any other Habitat Protection Areas (HPAs). In addition, it is my understanding that 12 trees will be planted as a result of the improvements project. Based on this information, this office concurs that the project appears to be consistent with the Town of Easton's Critical Area Program and with the regulations detailed within COMAR.

Thank you for your efforts in coordinating the review of this local agency action. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 6, 2005

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-05-8 Hance Subdivision-Lot 7-10
(Tax Map 19, Parcel 238)

Dear Ms. Vidotto:

Thank you for providing information regarding the above referenced subdivision. Based on the information received, it appears that the applicant is proposing to subdivide 22.37-acre parcel to create four new lots. Of the four new lots, one is located within the Critical Area. The property is currently designated a Resource Conservation Area (RCA) and is undeveloped.

Based on our review of the site plan provided, we provide the following comments.

1) Information taken from the State of Maryland's online mapping system, MERLIN, indicates that two streams exist on Parcel 238. Where these features lie within the Critical Area, please have the required 100-foot Buffer added to the plat, including expansion as necessary for contiguous steep slopes. I have included a map for your reference.

2) The Department of Natural Resources' Wildlife and Heritage Division had indicated that portions of Parcel 238 contain Forest Interior Dwelling Bird (FIDS) habitat. The Calvert County Critical Area program requires the development of a Habitat Protection Plan (HPP) where development is proposed within FIDS habitat in the Critical Area. Please have the applicant submit this HPP, as well as include a note on the plat referencing the presence of FIDS habitat. Additional guidance and information relating to protective measures for FIDS can be found in the Commission's guidance document, A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA538-05

CC: Paula Proctor, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 2, 2005

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

Re: Coghlan Habitat Protection Plan

Dear Ms. Kelley:

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

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

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CS40-05

CC: Katharine McCarthy, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3164 Ritzel-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot expanded Buffer and steep slope requirements in order to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears the applicant has addressed the majority of our previous concerns by minimizing the footprint, reducing the amount of clearing proposed, and providing enhanced sediment and erosion control measures. Based on this information, and in general, we do not oppose the granting of the applicant's variance request. However, given the steep slopes and the potential for adverse impacts to the tributary stream if extreme consideration is not taken during construction, we recommend that the Board consider including the following as conditions of approval.

1. The applicant proposes an earth dike during construction. We recommend that this feature be required to remain in perpetuity and that it be vegetated with native species post construction. This will offer the best opportunity to protect the slope from further degradation and erosion during storm events.

2. In addition to the six inches of gravel substrate provided beneath the proposed deck, the Commission considers foundation plantings to be a standard of pervious construction. We recommend that native plantings be required surrounding the foundation of the deck. These plantings will aid in the absorption and infiltration of stormwater runoff.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA196-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3207 Matyi-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the steep slope requirements in order to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Recently, this office reviewed a similar request by the applicant to construct a primary dwelling on an area of steep slopes. As a result of the previous review, this office noted that there is an existing road (Catalpa Road) and right of way on the north side of the property. As previously stated, it remains unclear why the applicant has not chosen to utilize this existing road in order to access the dwelling. By creating a driveway off of the existing Catalpa Road, the applicant could entirely avoid the need to disturb steep slopes and could minimize the amount of clearing within the Critical Area. Given that it appears possible to construct a driveway in a manner that does not require disturbance to steep slopes, it is our belief that the applicant has not met the standard of unwarranted hardship. Based on this information, we oppose the applicant's request for a variance to the steep slope requirements. We recommend that the Board require the applicant to relocate the driveway in a manner that entirely avoids disturbance to the steep slopes.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA476-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3214 Triebell

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements to permit the construction of a single-family dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the site plan provided and a site visit conducted on August 24, 2005, we provide the following comments.

1. The State of Maryland's online mapping system, MERLIN, indicates that the tidal wetlands on the property encompass a greater extent of the property than shown on the site plan. Based on the extent of tidal wetlands shown in MERLIN, it appears that a Buffer or expanded Buffer variance may be necessary in addition to the steep slope variance. Please have the applicant provide a field delineation of the wetland boundaries, as well as submit a revised site plan showing the revised Buffer areas as appropriate.

2. In addition to conducting a field delineation of the tidal wetland limits, a significant area of tidal waters and/or tidal marsh is shown within the property boundaries. Tidal wetlands lying below Mean High Water (MHW) are considered to be State-owned and cannot be used to calculate impervious surface area limits. Given the significant area of tidal waters shown within the property boundaries, a professional determination of private versus State-owned wetlands must be made in the field, or the entire acreage of tidal waters subtracted from the applicant's property.

3. The proposed impervious surface areas described on the site plan appear to be inconsistent with the amount of impervious actually proposed. Please have the applicant clarify the discrepancy.

Based on the outstanding concerns regarding the extent and ownership of tidal wetlands on the property, as well as the potential for the wetlands areas to affect the type of variance needed, we are unable to offer support for the applicant's variance request at this time. We recommend that the Board require further field delineations and a revised site plan to be submitted prior to considering this request. Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 549-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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August 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3225 Walker/Slezak

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer to permit the construction of a single-family dwelling and multiple garage structures. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the site plan provided and a site visit conducted on August 24, 2005, we provide the following comments.

1. It is not clear where the wetland boundaries shown on the site plan were taken from. The State of Maryland's online mapping system, MERLIN, indicates that the tidal wetlands on the property extend to the base of the steep slope around the entirety of the property. Observations made in the field regarding the existing vegetative types at the base of the cliff appear to support the tidal limits shown within MERLIN. Based on this information, it appears that the Buffer may not be accurately shown. A field delineation of the tidal wetlands on site must be performed in order to resolve this discrepancy.

2. In addition to conducting a field delineation of the tidal wetland limits, a significant area of tidal waters and/or tidal marsh is shown within the property boundaries. Tidal wetlands lying below Mean High Water (MHW) are considered to be State-owned and cannot be used to calculate impervious surface area limits. Given the significant area of tidal waters shown within the property boundaries, a professional determination of private versus State-owned wetlands must be made in the field, or the entire acreage of tidal waters subtracted from the applicant's property.

3. Based on the site plan, it is unclear why the proposed dwelling cannot be located outside of the Buffer, near the proposed second garage. In considering a variance request, the Board must evaluate whether the applicant has overcome the burden to prove that an unwarranted

hardship exists. Since there appears to be an area of outside of the Buffer which could accommodate a reasonably sized dwelling, it appears that the standard of unwarranted hardship has not been met. We recommend that the Board consider requiring the applicant to move the proposed dwelling outside of the Buffer in so far as possible.

4. In addition to moving the proposed dwelling outside of the Buffer, we recommend that the applicant be required to further minimize the proposed impacts to the Critical Area. For example, the proposed second garage seems excessive given the location of the property within the Critical Area and in close proximity to steep slopes.

5. It appears that the amount of impervious surface area stated does not match that shown on the site plan. Given that the proposed dwelling and garage is approximately 2,158 square feet, and the proposed second garage is 768 square feet, the amount of impervious surface area proposed appears to exceed the 2,257 square feet stated. In addition, it is not clear whether the proposed porches or decks have been included within these totals, and whether the driveway is proposed to remain in gravel or be paved. Please have the applicant clarify these items.

Based on the above comments and outstanding concerns, this office opposes this variance at this time. We recommend that the Board require the applicant to submit a revised site which addresses the above concerns. Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 05-550-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3221 Mauche

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the100-foot expanded Buffer and steep slope requirements in order to permit the replacement of a single-family dwelling and to construct an accessory pool structure. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on observations made during an August 24, 2005 site visit to the property, it was noted that the existing dwelling occupies an area on the property that is mostly level. With the exception of the driveway, the existing structures do not encroach into the steep slope areas. In addition, we note that the existing dwelling and accessory structures appear to provide reasonable use of the property with an existing impervious footprint totaling 6,454 square feet. The applicant proposes to raze the existing dwelling and to construct a replacement dwelling with a 3,000 square foot footprint, along with an accessory garage structure, and an accessory pool, for a total impervious footprint of 10,100 square feet. The proposed replacement dwelling and associated improvements require disturbance to both the expanded Buffer and steep slopes. In addition, the limits of disturbance propose significant grading into the Buffer and steep slope areas surrounding the dwelling. Based on the applicant's purpose of appeal statement, this grading appears to be for the purposes of accommodating a garden.

Upon our review of the applicant's proposal, it appears that the need to disturb both the steep slopes on the property is being driven by the excessive size of the applicant's proposed dwelling. As a result of the dwelling footprint, the garage structure is forced to be located on steep slopes 25% or greater in grade, and the proposed pool is located on slopes of 15% or greater, as well as within the Buffer. In evaluating this variance request, the Board must consider whether the applicant has overcome the burden to prove that each of the County's variance standards have been met. As you aware, in 2002 and 2004, the Maryland General Assembly strengthened the Critical Area Law, and reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values, emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent variance standards, including providing a refinement of the definition of "unwarranted hardship". The General Assembly

defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot". Because we believe that a dwelling with a smaller footprint could be constructed in a manner that avoids disturbance to steep slopes, and which allows the applicant to remove the garage from steep slopes entirely, we believe that the standard of unwarranted hardship has not been met. In addition, we note that pools are considered an accessory structure within the Critical Area. We believe that the denial of a variance for a pool would not constitute an unwarranted hardship since the applicant does and could continue to enjoy reasonable and significant use of the entire lot without this feature. Finally, the grading of earth within the Buffer and on steep slopes for the purpose of creating level land, or in order to accommodate a garden, is a use which we believe to be inconsistent with the intent of the Critical Area Law and regulations, particularly within the Buffer. For the reasons listed above, we oppose the applicant's request for a variance. I have addressed each of the County's variance standards as it pertains to this case 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.* It appears that a reasonably sized dwelling footprint could be accommodated on the site without disturbance to steep slopes. We acknowledge that a variance for some disturbance to the Buffer may be necessary, as it appears that the entire site may actually lie within the Buffer. However, as indicated, pools are considered accessory structures within the Critical Area, and are therefore not permitted within the Buffer. Denial of this variance would not constitute an unwarranted hardship as the applicant currently enjoys reasonable and significant use of the property, and could continue to do so in a manner that proposes significantly less disturbance to sensitive environmental features.

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 office would not support similar variance requests to construct a pool within the Buffer or on steep slopes within the Critical Area. In addition, the grading of steep slopes and Buffer in order to accommodate an accessory garage, a garden, or level area would not be permitted elsewhere in the County, particularly where less invasive alternatives exist.

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 area, as well as in similar situations in the County's Critical Area.

4. *The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.* It appears that the applicant has 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.* In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The applicant is proposing to a significant amount of disturbance to the Buffer and to steep

slopes, both of which are recognized as particularly sensitive environmental areas in the County's ordinance. The amount of disturbance proposed results in unnecessary grading within the Buffer, and results in an increased opportunity for erosion and sediment runoff. Given that an opportunity exists to construct a replacement dwelling without disturbance to steep slopes, and with significantly less disturbance to the Buffer, the approval of this variance would not be in harmony with the general intent and spirit of the law.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the applicant's request for a variance as proposed.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 547-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3220 Weems

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the100-foot Buffer and steep slope requirements in order to permit the replacement of a single-family dwelling and to construct an accessory pool structure. The property is designated a Limited Development Area (LDA) and is currently developed.

Provided the applicant provides the required 2:1 mitigation for all disturbance to the Buffer, including the proposed grading areas shown, we do not oppose the applicant's variance request as it relates to the construction of a replacement dwelling with a reduced Buffer setback of 93 feet. Due to the close proximity of the dwelling to tidal waters, we recommend that some form of stormwater management be required as a component of an approval. In regard to the applicant's request for a variance in order to construct a pool within the Buffer and on steep slopes, we strongly oppose this request.

In evaluating the request for a variance to the 100-foot Buffer and steep slope requirements, the Board must consider whether the applicant has overcome the burden to prove that each of the County's variance standards have been met. As you aware, in 2002 and 2004, the Maryland General Assembly strengthened the Critical Area Law, and reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values, emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent variance standards, including providing a refinement of the definition of "unwarranted hardship". The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot". Because the property contains sufficient area outside of the Buffer upon which an accessory pool structure could be constructed, we do not believe that the standard of unwarranted hardship can me met. While no justification of the County's variance standards was provided by the applicant, I have addressed each of the standards as it pertains to this case:

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.* As

indicated, pools are considered accessory structures within the Critical Area. Denial of this variance request would not constitute an unwarranted hardship as the applicant currently enjoys reasonable and significant use of the entire parcel, and ample room exists outside of the Buffer to accommodate a pool.

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 office would not support similar variance requests to construct a pool within the Buffer or on steep slopes within the Critical Area.

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 area, as well as in similar situations in the County's Critical Area.

4. *The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.* It appears that the applicant has 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.* In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The applicant is proposing to place a significant area of impervious surface area within the Buffer for the purposes of accommodating an accessory structure. This new impervious surface area and consequential disturbance to the land results in increased stormwater and sediment runoff within the Buffer, and results in the loss of essential infiltration opportunities. Given that sufficient room exists to locate a pool outside of the Buffer and off of steep slopes, the approval of this variance would not be in harmony with the general intent and spirit of the law.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the applicant's request for a variance to construct a pool.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 549-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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August 29, 2005

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

Re: Appeal # 1392 Miles River Yacht Club

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to the 100-foot Buffer and impervious surface area limits for the purposes of constructing a 2,680 square foot concrete walkway. The property is designated a Limited Development Area (LDA) and a Buffer Management Area (BMA), and is currently developed.

Based on the information provided, we acknowledge that the property is grandfathered in regard to the location of certain structures within the Buffer. In addition, we note that the existing parcel is 33.5% impervious in nature. In recognition of these factors, the property enjoys the flexibility of being designated as a BMA. As such, the proposed development activities must conform to Section 190-88.1 of the Talbot County Zoning Ordinance, Buffer Management Areas. In accordance with these regulations, new impervious surfaces shall not extend closer to the water than 50 feet except for water dependent activities, and new construction may not impact any Habitat Protection Area (HPA). Based on the site plan provided, it does not appear that the applicant has made an attempt to comply with these regulations as the Buffer, a HPA, is certainly impacted by the construction of the sidewalks, and no setback is provided between the sidewalks and the bulkhead. In addition, we note that walkways are not considered to be necessarily water dependent.

In considering the applicant's request, the Board must also evaluate whether the applicant has met each of the County's variance standards, including the standard of unwarranted hardship. In 2004, the General Assembly refined the definition of unwarranted hardship to read as follows: without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. In evaluating the materials provided, it appears that the applicant currently enjoys significant and reasonable use of the property. While this office does not generally object to the provision of walkways which waterfront access, it appears that the walkways could be

constructed in a manner which allows for the majority of the disturbance to be located outside of the Buffer, with perpendicular points of access leading to the water. This manner of construction would minimize disturbance to the Buffer, and assure that the integrity and quality of the waterfront is not compromised. In addition, the sidewalks could be constructed of a pervious material which provides for enhanced water quality benefits while still meeting the construction standards for aged or disabled individuals. As currently shown, the sidewalks appear to be in direct contrast to the goals of the County's Zoning Ordinance and BMA goals, and it appears as though the applicant has created a self-imposed hardship. Based on the above comments, and because this office does not believe that the applicant has sufficiently met the County's variance standards, we oppose the applicant's request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 541-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 29, 2005

Ms. Joan Kean
Director
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Somerset County Zoning Ordinance/Critical Area Program Amendments

Dear Ms. Kean:

Thank you for providing the above referenced proposed amendments to Somerset County's Zoning Ordinance and Critical Area Program. I have completed my review of the proposed amendments and recommend the following changes to ensure that the ordinance and Critical Area program are consistent with the State Critical Area Law and Criteria:

Amendments to Critical Area Program

1. Section 2D 13 Growth Allocation Process C, 2b, amended paragraph: Should the proposed language read, Proposed development plans that are **not** deemed to have adequate Economic Benefit…? It appears that the word, not, has been omitted.

2. Section 2D 13 Growth Allocation Process C, D, amended paragraph: Amend the last sentence of this paragraph to read, The submittal will follow the process outlined…and will use the Growth Allocation from the 100 acre **Growth Allocation Fund for Residential Development** ~~allotment~~ for the calendar year. Given that the bolded terms are used in previous sections as a result of the proposed changes, the lack of consistency in terminology is confusing.

Amendments to the Zoning Ordinance

1. Section 6.15. f. 3 (b) (i), amended paragraph: It appears that some language may be missing at the end of paragraph (i). Please clarify whether this is intended as shown or if an omission has occurred.

2. Section 6.15. f. 3 (c) (iv), amended paragraph: As in #2 above, amend as follows-The submittal will follow the process…and will use the Growth Allocation from the standard 100 acre **Growth Allocation Fund for Residential Development** ~~allotment~~.

Thank you for the opportunity to provide comments on the proposed amendments to the County's Zoning Ordinance and Critical Area Program. It is my understanding that the proposed changes will be brought in front of the Planning Commission and County Commissioners on September 1, 2005. If you have any questions about these comments, please feel free to contact me at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 26, 2005

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

Re: A064 and Appeal #1328 Struthers

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to reconstruct a primary dwelling located partially within the Buffer. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, we provide the following comments. The site plan shows a swale located partially within the Buffer on both the North and South portions of the property. While stormwater management is a desirable feature of the development proposal, the location of the swale within the Buffer will require a variance. Given the size of the property, it appears that the site plan could be reconfigured to avoid disturbance to the Buffer for the swale. The outfall from this stormwater management structure is permitted without a variance.

In regard to the proposed alterations to the primary dwelling, we note that a net decrease in impervious surface area within the Buffer is proposed. In addition, we note that the proposed overhang area at the north side of the dwelling results in an approximately 3-foot decrease in the Buffer setback. Provided that the required mitigation for all new disturbance to the Buffer is provided, we do not oppose the granting of this variance. However, please have the applicant submit a revised site plan and/or a variance request which addresses the location of the stormwater management swale.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC505-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 18, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: 05-807 Cheston Variance-Revised

Dear Mr. Lawton:

This letter is in response to the revised site plan received for the above referenced Buffer and impervious surface area variance request. Based on the information provided, we have the following comments.

The initial request to review this variance was received by this office on June 2, 2005. At this time, Commission staff opposed the applicant's variance request. In particular, it was the opinion of Commission staff that the 5,000 square foot proposed dwelling and garage footprint did not represent the minimum necessary to relieve an unwarranted hardship, giving particular consideration to the location of the property within a Resource Conservation Area (RCA), and the proposed location of the dwelling within the Buffer. On June 22, 2005, the applicant came to our office and met with Regina Esslinger and myself regarding the proposed development activity. During this meeting, the applicant supplied us with a revised site plan, showing a revised dwelling and garage footprint of 3,488 square feet, not including the proposed access drive, which consists of approximately 4,608 square feet of additional impervious surface area.

On June 25, 2005, Commission staff received a faxed request from Mr. Cheston to review another set of revisions to the original site plan. This submission proposed a 3,274 square foot garage and dwelling footprint, and an approximately 4,608 square foot driveway. In addition, a 35-foot setback from tidal wetlands was proposed. Upon reviewing this material, Commission staff provided a written response to Somerset County staff, dated June 30th 2005. On August 2, 2005, this office received an application from Somerset County staff requesting official Commission review of materials submitted to the County by Mr. Cheston on August 1, 2005. In evaluating the latest information received from the County, it appears that the total dwelling footprint remains 3,274 square feet, with a rear bump out placing the dwelling 25 feet from tidal wetlands.

We recognize that the applicants have made multiple revisions and reduced the overall footprint of the house from their original proposal of 5,000 square feet. The Board must evaluate whether the applicant has sufficiently proven that each of the County's variance standards has been met. These standards include assuring that the proposed development will not create an adverse impact on water quality, and fish, wildlife or plant habitat, and that the variance is the minimum necessary to relieve an unwarranted hardship. Should the Board approve this variance, we recommend that at a minimum, the applicants be required to provide some form of stormwater management which provides enhanced infiltration opportunities and intercepts rooftop runoff. Given the close proximity of the proposed development to tidal wetlands and waters, we believe that this type of stormwater management is extremely important. In addition, we note that the applicants are in the process of working with County staff to resolve the Buffer clearing violation on the property. We strongly recommend that a condition be included within any variance approval that requires the applicant to fully rectify the violation prior to beginning construction on the property. While it may be difficult to implement the entirety of the mitigation plantings on the property, the restoration of the Buffer is of utmost important, and should be a first priority, with payment of a fee-in-lieu secondary. This mitigation should be clearly detailed within a Buffer Planting Plan submitted to County staff.

Thank you for the opportunity to provide comments for this revised variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO357-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 18, 2005

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: 05-807 Cheston Variance-Revised

Dear Mr. Lawton:

This letter is in response to the revised site plan received for the above referenced Buffer and impervious surface area variance request. Based on the information provided, we have the following comments.

The initial request to review this variance was received by this office on June 2, 2005. At this time, Commission staff opposed the applicant's variance request. In particular, it was the opinion of Commission staff that the 5,000 square foot proposed dwelling and garage footprint did not represent the minimum necessary to relieve an unwarranted hardship, giving particular consideration to the location of the property within a Resource Conservation Area (RCA), and the proposed location of the dwelling within the Buffer. On June 22, 2005, the applicant came to our office and met with Regina Esslinger and myself regarding the proposed development activity. During this meeting, the applicant supplied us with a revised site plan, showing a revised dwelling and garage footprint of 3,488 square feet, not including the proposed access drive, which consists of approximately 4,608 square feet of additional impervious surface area.

On June 25, 2005, Commission staff received a faxed request from Mr. Cheston to review another set of revisions to the original site plan. This submission proposed a 3,274 square foot garage and dwelling footprint, and an approximately 4,608 square foot driveway. In addition, a 35-foot setback from tidal wetlands was proposed. Upon reviewing this material, Commission staff provided a written response to Somerset County staff, dated June 30th 2005. On August 2, 2005, this office received an application from Somerset County staff requesting official Commission review of materials submitted to the County by Mr. Cheston on August 1, 2005. In evaluating the latest information received from the County, it appears that the total dwelling footprint remains 3,274 square feet, with a rear bump out placing the dwelling 25 feet from tidal wetlands.

We recognize that the applicants have made multiple revisions and reduced the overall footprint of the house from their original proposal of 5,000 square feet. The Board must evaluate whether the applicant has sufficiently proven that each of the County's variance standards has been met. These standards include assuring that the proposed development will not create an adverse impact on water quality, and fish, wildlife or plant habitat, and that the variance is the minimum necessary to relieve an unwarranted hardship. Should the Board approve this variance, we recommend that at a minimum, the applicants be required to provide some form of stormwater management which provides enhanced infiltration opportunities and intercepts rooftop runoff. Given the close proximity of the proposed development to tidal wetlands and waters, we believe that this type of stormwater management is extremely important. In addition, we note that the applicants are in the process of working with County staff to resolve the Buffer clearing violation on the property. We strongly recommend that a condition be included within any variance approval that requires the applicant to fully rectify the violation prior to beginning construction on the property. While it may be difficult to implement the entirety of the mitigation plantings on the property, the restoration of the Buffer is of utmost important, and should be a first priority, with payment of a fee-in-lieu secondary. This mitigation should be clearly detailed within a Buffer Planting Plan submitted to County staff.

Thank you for the opportunity to provide comments for this revised variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO357-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Executive Director

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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Kerrie Gallo

Date: August 17, 2005

RE: POS Project #4724-19-66 Great Hope Golf Course, Somerset County
Restroom, Pavilion

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to complete a restroom facility on the back half of the golf course and to construct a pavilion near the existing clubhouse. Based on the information provided, we have the following comments.

Tax Parcel 18 lies partially within the Critical Area in an area designated as a Resource Conservation Area (RCA). Within the RCA, any development activity which proposes physical disturbance to the land, including the construction of accessory structures as indicated, requires review by the Somerset County Department of Community and Technical Services. In addition, those activities proposing greater than 5,000 square feet of disturbance within the RCA require additional review by the Critical Area Commission staff. Based on the limited information provided, it is difficult to assess whether the proposed activities lie within the Critical Area portion of the site. Further information regarding the project's location will be necessary to determine whether additional County or Critical Area review is required.

We recommend that the applicants or representatives for the proposed project work closely with the County Department of Technical and Community Services staff as early as possible in the planning process in order to determine any Critical Area review requirements. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tom Lawton, Somerset County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 16, 2005

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-99-28 Bishop Intra-family Transfer
Tax Map 42, Parcel 104

Dear Ms. Vidotto:

Thank you for providing information on the above referenced minor subdivision and intra-family transfer request. The applicant is proposing to create a 1.34-acre Lot. The parent parcel is approximately 16.37 acres and is located within a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments regarding the subdivision proposal.

1) There is currently no notation on the plat which indicates that this subdivision is proposed as an intra-family transfer request. Please have the applicant note this on the plat, as well as provide the name of the family member to whom the lot will be transferred.

2) There is no information provided regarding the existing impervious surface areas on Parcel 104. Please have the applicant provide this information, including the road areas and driveways. Please advise the applicant that the newly created lot (Lot 2) will be required to remain within the 15% impervious surface area limit.

3) Please have the applicant provide information on the plat as to the existing forest cover on proposed Lot 2. While the Critical Area Form submitted with the application indicates that 1.34 acres of the site exists in forest cover, the proposed lot is only 1.0139 acres in size. Please clarify the area that the 1.34 acres describes.

4) The applicant will be required to obtain an evaluation of the property by the Maryland Department of Natural Resources (DNR) for the presence of any rare, threatened or endangered species. If present, the applicant will be required to address any recommendations made by DNR for the protection of the species, via the submittal of a Habitat Protection Plan (HPP). Please note that MERLIN indicates that the property and proposed lot area lie within a sensitive species review area. I have included a copy of this map for your reference.

Thank you for the opportunity to provide comments for this subdivision and intra-family transfer request. Please have the applicant address the above concerns and submit a revised site plan as necessary. Please contact me at (410) 260-3482 if you have any questions.

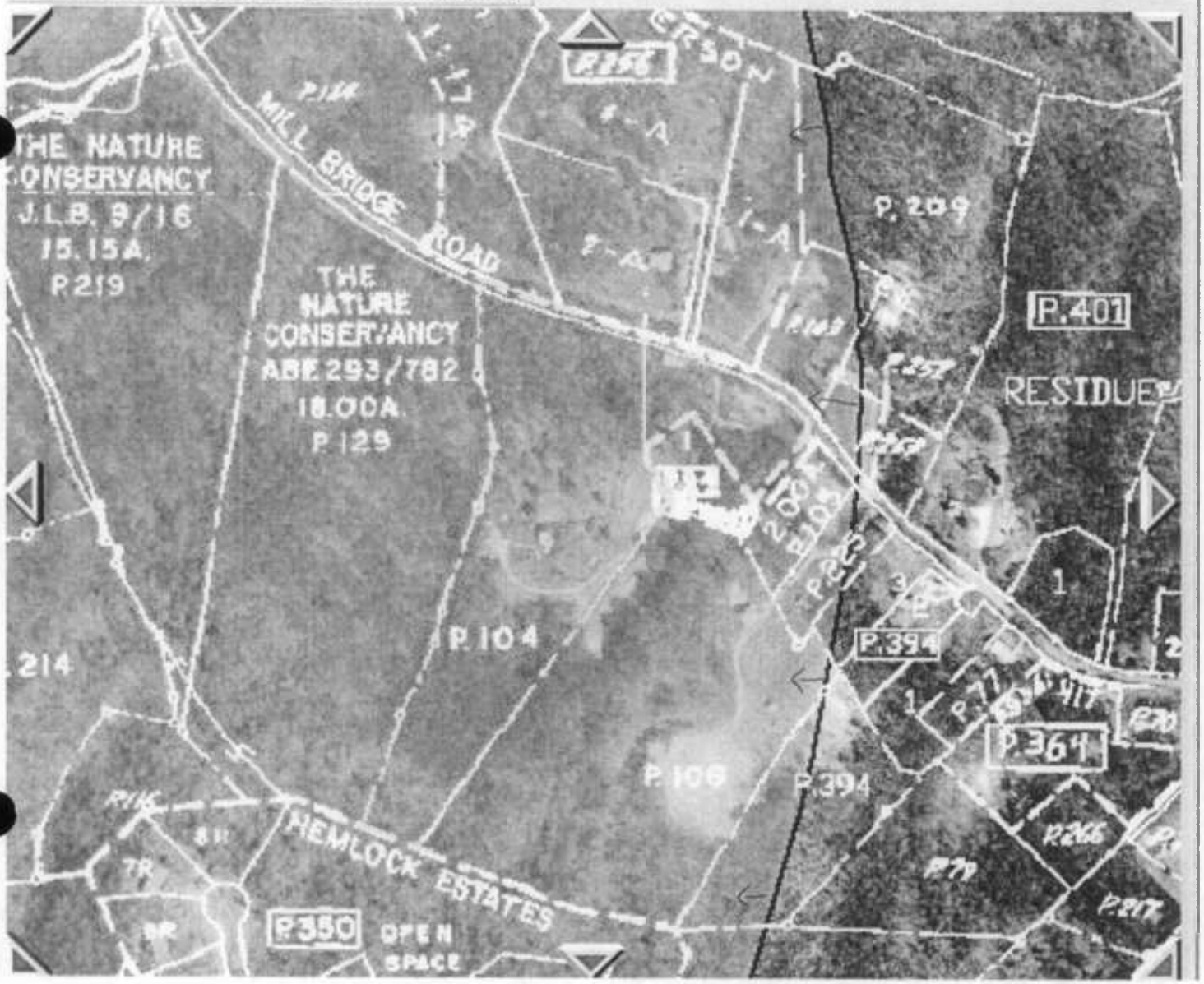
Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA539-05

Cc: Paula Proctor (Calvert County)

More information About Data Layers



Sensitive species review area in pink (pink ⇔)

Robert L. Ehrlich, Jr.
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Executive Director

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August 16, 2005

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-99-28 Bishop Intra-family Transfer
Tax Map 42, Parcel 104

Dear Ms. Vidotto:

Thank you for providing information on the above referenced minor subdivision and intra-family transfer request. The applicant is proposing to create a 1.34-acre Lot. The parent parcel is approximately 16.37 acres and is located within a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments regarding the subdivision proposal.

1) There is currently no notation on the plat which indicates that this subdivision is proposed as an intra-family transfer request. Please have the applicant note this on the plat, as well as provide the name of the family member to whom the lot will be transferred.

2) There is no information provided regarding the existing impervious surface areas on Parcel 104. Please have the applicant provide this information, including the road areas and driveways. Please advise the applicant that the newly created lot (Lot 2) will be required to remain within the 15% impervious surface area limit.

3) Please have the applicant provide information on the plat as to the existing forest cover on proposed Lot 2. While the Critical Area Form submitted with the application indicates that 1.34 acres of the site exists in forest cover, the proposed lot is only 1.0139 acres in size. Please clarify the area that the 1.34 acres describes.

4) The applicant will be required to obtain an evaluation of the property by the Maryland Department of Natural Resources (DNR) for the presence of any rare, threatened or endangered species. If present, the applicant will be required to address any recommendations made by DNR for the protection of the species, via the submittal of a Habitat Protection Plan (HPP). Please note that MERLIN indicates that the property and proposed lot area lie within a sensitive species review area. I have included a copy of this map for your reference.

Thank you for the opportunity to provide comments for this subdivision and intra-family transfer request. Please have the applicant address the above concerns and submit a revised site plan as necessary. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA539-05

Cc: Paula Proctor (Calvert County)

Robert L. Ehrlich, Jr.
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August 15, 2005

Mr. Bob Graham
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Bushhogging in the Buffer

Dear Mr. Graham:

I am writing this letter in response to your recent request for clarification regarding the types of clearing activities permitted and prohibited within the Buffer. Specifically, during a recent conversation, you asked that the Commission provide a written response as to whether the practice known as bushhogging is permissible under the Critical Area Law and Criteria.

In response to this request, I refer you to Section 190-93 of the Talbot County Zoning Ordinance, which details that a shoreline development Buffer, at least 100 feet wide, shall be established from the mean high-water line of tidal waters, edge of tidal wetlands, and from the edge of tributary streams. Within this Buffer area, the County's ordinance states that the clearing of existing natural vegetation is not allowed unless approved by the Office of Planning and Zoning, and is subject to the permitted clearing activities described in Section 190-88B(3). Furthermore, the County's Zoning Ordinance requires that the Buffer shall be managed to achieve six specific ecological goals. These include, minimization of the effects of human activities on wetlands, shoreline, stream banks, tidal waters, and aquatic resources, maintenance of a transitional habitat area between aquatic and upland ecological communities, protection of riparian wildlife habitat, and maintenance of natural vegetation.

It is my understanding that the practice of bushhogging constitutes by nature the clearing of existing or planted vegetation, an activity expressly prohibited within the County Ordinance without a permit. Where proposed within the Buffer, this activity poses a threat to the overall ecological integrity of the Buffer, as it clearly limits or controls the growth of woody vegetation and/or limits the successional growth of vegetated areas. Given the County's management goals for the Buffer, we believe that the general practice of bushhogging lies in sharp contrast. In addition, for the County to consider a permit request for such an activity within the Buffer, the specific activity must appear within the Zoning Ordinance listed as a permitted forest activity within the Buffer. Based on our review of the County's Zoning Ordinance, the general practice of bushhogging does not appear on this list as a stand-alone

permitted activity. Therefore, it is the Commission's position that the general practice of bushhogging is inconsistent with the intent of the Critical Area Buffer provisions, and is not generally considered a necessary, required, or desirable component of Buffer management.

In light of the information stated above, we recognize that in certain instances, particularly as it relates to the removal of invasive, monotypic vegetative stands, the County Planning and Zoning office may deem the practice of bushhogging an appropriate horticultural best management practice on a limited and site specific basis. In these instances, any bushhogging activity should be clearly detailed and submitted as a component of a County approved permit and Buffer Management Plan. Any participation in such an activity without the appropriate County permits and accompanying Buffer Management Plan constitutes a violation of the Critical Area Buffer provisions, and may be subject to fines and other remedial actions.

Finally, please note that in 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values. As a component of the General Assembly's continuing emphasis on the significance of the Buffer, the existing definition of a Buffer was moved from Natural Resources Article 8-1808.5 to the formal definition section of the law in Natural Resources Article 8-1802 (4). This action underscores the importance of the Buffer in regard to improving water quality and protecting habitat. The legislature defined the Buffer by stating, "Buffer means an existing, naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances." The legislature's action reinforced the idea that a fully vegetated Buffer is of utmost important in assuring the ecological integrity of the Chesapeake Bay.

I hope that this letter provides you with the clarification which you were seeking. If you have any questions, or if you would like to discuss the issue in greater detail, please feel free to give me a call at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: George Kinney, Talbot County
Mary Kay Verdery, Talbot County
Regina Esslinger, CAC
Ren Serey, CAC

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 12, 2005

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

Re: L1004 Rich Neck Manor/Guinness

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to abandon and relocate an existing right of way and road. The property is designated a Resource Conservation Area (RCA) is currently developed with multiple dwellings and accessory structures.

As communicated during the August 10, 2005 Technical Advisory Committee (TAC) meeting, we provide the following written comments in response to our review of the site plan provided.

1. Information taken from MERLIN, as well as from recent Talbot County aerials photographs, indicates that an area of tidal wetlands exists on Tax Parcel 66 to the immediate south of the proposed driveway. These wetlands must be field delineated and the appropriate Buffer shown on the site plan. As discussed, relocation of the proposed right of way will require a variance should the driveway encroach into the Buffer.

2. It appears that there are existing structures which are not shown on the site plan. As these structures have the potential to be affected by the proposed relocation of the right of way, please show them on future site plans.

3. It is not clear whether the existing private road will be removed. Please clarify. In addition, please clarify whether the proposed right of way and road will be impervious. Please have the amount of proposed impervious surface area added to the site plan.

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

Sincerely,

Kerrie Gallo

rrie L. Gallo
Natural Resources Planner
TC503-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 10, 2005

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

Re: Wilson/Delmarva Enterprises

Dear Ms. Verdery:

Thank you for providing information on the above referenced boundary line abandonment request. The applicant is proposing to abandon and existing parcel boundary line to create one 325.755-acre parcel. The property lies within a designated Resource Conservation Area (RCA) and is currently developed with an existing dwelling and multiple agriculture structures. The Critical Area portion of the site consists of 148.477 acres.

Based on the information provided, we do not generally oppose the lot line abandonment request. However, we provide the following comments based on the site plan provided.

1) The tidal wetlands areas as shown have been taken from the wetlands maps. Prior to future development or subdivision of the property, field delineation of wetland boundaries, as well as a professional determination of State versus privately owned wetland areas must be conducted. We note that the Critical Area development rights calculations are subject to change based on the outcome of a wetland ownership determination.

2) We note that MERLIN indicates discrepancies in several environmental features shown on the plat. As stated above, field delineations of the locations and extent of these features must be conducted prior to any future development proposed on the site.

3) Please clarify the County's interpretation of the note stating that a reservation of development rights agreement for the previously recorded agricultural subdivision is no longer effective upon recordation of this plat. It is not clear whether there are any

implications of the dissolution of this agreement in relation to the Critical Area development rights on the property.

Thank you for the opportunity to provide comments for this boundary line abandonment request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 500-05

Robert L. Ehrlich, Jr.
Governor

ichael S. Steele
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Martin G. Madden
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August 9, 2005

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

Re: L1003 Warner, Wells, Ball & Diamond
Tax Map 14, Parcels 29, 136 & 142

Dear Ms. Verdery:

Thank you for providing information on the above referenced line revision. The applicant is requesting a line revision to change the layout of lot lines on three existing lots. The property is designated a Limited Development Area (LDA). Parcels 142 and 29 are developed with primary dwellings, and Parcel 136 is undeveloped.

Based on the information provide, this office does not oppose a revision to the lot lines on these parcels. Thank you for the opportunity to provide comments for this line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC502-05

Robert L. Ehrlich, Jr.
Governor

chael 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 9, 2005

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

Re: L999 Buniski
Tax Map 54, P289, Lots 4A&4B

Dear Ms. Verdery:

Thank you for providing information on the above referenced line revision. The applicant is requesting a minor line revision to change the existing boundary of two existing lots. The property is designated a Resource Conservation Area (RCA). Lot 4A is currently undeveloped, while a primary dwelling is being constructed on Lot 4B at the current time.

In general, this office does not oppose a revision to the lot lines as proposed. However, we provide the following comments regarding the site plan.

1. The 100-foot Buffer must be delineated in the field prior to the development of the property. Given that a primary dwelling is currently under construction on Lot 4-B, this field measurement should have already been conducted. Please have the applicant show a consistent 100-foot Buffer line across both lots prior to the recordation of this plat. In addition, the note regarding the building restriction lines as measured from mean high water should be amended to reflect that a field measurement of the Buffer from mean high water, or the landward edge of tidal wetlands has been conducted at this time on Lot 4-B, and will be conducted on Lot 4-A prior to development.

2. It is not clear why the applicant has included a 125-foot Buffer, expanded for non-tidal wetlands, as stated on the plat. Absent the presence of hydric or highly erodible soils, it appears that the 25-foot non-tidal wetland buffer falls within the 100-foot Buffer and would therefore not require Buffer expansion.

Mary Kay Verdery
L999-Buniski
August 9, 2005

3. Please have the applicant clarify whether the existing grass driveway is to remain in grass or if paving is proposed.

Thank you for the opportunity to provide comments for this line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC499-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 9, 2005

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

Re: Helish Simplified Site Plan-Revised

Dear Ms. Verdery:

Thank you for providing information regarding the above referenced revised simplified site plan. The applicant is proposing to change the use of an existing structure from general retail to restaurant. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided on the revised site plan, we have the following comments:

1. The site plan indicates that there are wetlands present either within the applicant's property or within close proximity to the property. Please have the applicant clarify whether the wetlands are tidal and non-tidal, as well as identify the limits of the wetlands boundaries. Based on the type of wetlands present, the appropriate Buffers should be added to the site plan.

2. Our review of this site plan is based on the understanding that no new impervious surface areas are proposed as a component of the applicant's request, and that the only request being considered is a change in use. Should any physical changes be proposed to the property, further information and further review may be required.

Thank you for the opportunity to provide comments for this simplified site plan. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 302-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 8, 2005

Mr. Jay Parker
Town Manager
Town of Princess Anne
30489 Broad Street
Princess Anne, MD 21853

Re: Beckford Manor

Dear Mr. Parker:

This letter is in response to the above referenced property located within the Town of Princess Anne. I am writing this letter as a result of recent conversations with Tracey Gordy, Circuit Rider for the Town of Princess Anne. As you are aware, Ms. Gordy serves as the Critical Area Commission's representative planner for the Town. In this role, she works closely with Mr. Robert Wink, Princess Anne's Code Enforcement Officer, to ensure that all development activities within the Town's Critical Area are conducted in a manner consistent with the State and local Critical Area Regulations.

Recently, Ms. Gordy has brought a concern to my attention in regard to the impervious surface area limits within the Beckford Manor subdivision. Beginning in October of 2004, Ms. Gordy has provided repeated written requests to the Town for information regarding the approval of building permits issued absent the proper notification and review by the Critical Area Commission. On May 5, 2005, Ms. Gordy again requested that the Town forward site plans for all building permits that have been issued to date so that the proper after-the-fact review process can be completed. In addition, Ms. Gordy brought to Mr. Wink's attention a concern regarding the amount of impervious surface area within the subdivision as a whole, including roads, sidewalks, screened porches, building footprints, decks, and the existing Manor House. In response to this concern, Ms. Gordy has requested that the Town or the applicant provide a summary of all impervious surface areas existing and constructed to date. It is my understanding, that on August 1, 2005, some of the requested building permits for individual lots were forwarded to Ms. Gordy for after-the-fact review. Of those applications which were forwarded, the majority have arrived incomplete, and lacking the required accompanying site plans.

Additionally, none of the information requested regarding total impervious surface areas for the subdivision has been provided.

As you are aware, the Town of Princess Anne's Critical Area Program and Zoning Ordinance outlines specific procedures for review of development activities within the Critical Area. If there is confusion as to these procedures, or as to the Town's responsibilities under the State's Critical Area law, Commission staff, in conjunction with Tracey Gordy, will be happy to provide clarification. In regard to the Beckford Manor subdivision, Critical Area Law requires that the subdivision remain below the 15% impervious surface area limit as a whole. In order to make a determination as to the current impervious surface areas that have been constructed within the Beckford Manor subdivision, it is essential that Ms. Gordy be forwarded accurate building permit applications and site plans for all individual permits that have been issued to date, as well as the additional information requested relating to the overall impervious surface area totals for the subdivision as a whole. Please refer to Ms. Gordy's May 5th, 2005 letter to determine specific details regarding the information Ms. Gordy requires. Should the subdivision fail to comply with the 15% impervious surface area limits, it may be necessary for the Town to use growth allocation for this project. In order to assure that the Beckford Manor subdivision is in compliance with the State and the Town's ordinances, the requested information needs to be provided to Ms. Gordy by August 24, 2005.

Thank you in advance for your cooperation and prompt attention to this matter. Should you have any questions regarding what is needed in relation to the Beckford Manor subdivision, or in regard to the procedural requirements for building permit and site plan review by Commission staff, please contact me at 410-260-3482, or Tracey Gordy at 410-713-3460.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP
Robert Wink, Town of Princess Anne
Town of Princess Anne Commissioners
Ren Serey, CAC
Regina Esslinger, CAC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 5, 2005

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

Re: Callahan Special Exception

Dear Ms. Verdery:

Thank you for providing information on the above referenced special exception. The applicant is requesting a special exception to allow an existing pier to remain on a lot to be created by a pending subdivision. The newly created house will be unimproved at the time of subdivision, with the exception of the existing pier. The property is designated a Resource Conservation Area (RCA).

The applicant has stated that the existing pier has been in place for fifteen years, and that no new development activities are proposed in conjunction with this pier. In addition, it is my understanding that all other existing piers will be removed at the time of subdivision. Based on this information, we do not oppose the granting of a special exception for this request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this special exception. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
TC402-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

August 5, 2004

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

Re: L1002 Parish

Dear Ms. Verdery:

Thank you for providing information on the above referenced revision plat. The applicant is requesting a revision to change the location of the afforestation area. The parcel is located in a Resource Conservation Area (RCA). There is construction of a primary dwelling underway.

Based on the information provided, we have the following comments:

1. While the applicant has indicated that the wetland area on the property is a non-tidal wetland, MERLIN indicates that this area is actually a tidal wetland. Please have the applicant clarify this discrepancy.

2. It appears that the proposed relocated afforestation area is overlapping an area of wetlands. It is not clear whether this wetland area exists or is intended as a newly created wetland area. Further clarification is needed to determine whether the relocation of the afforestation area as shown is feasible based on the existing topography and wetland conditions.

Thank you for the opportunity to provide comments for this afforestation area relocation request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC501-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 4, 2005

Ms. Joan Kean
Director
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Stolztfus Growth Allocation Request

Dear Ms. Kean:

This letter is in response to the above referenced growth allocation request and development proposal. The applicant, J. Lowell Stoltzfus, is requesting the use of growth allocation to change the zoning of approximately 38.32 acres from a Resource Conservation Area (RCA) to a Limited Development Area (LDA). The proposed growth allocation is located on Tax Map 59, Parcel 105. It is my understanding that the requested growth allocation is for the purposes of constructing a 19-lot residential subdivision.

Per your request, and based on our initial review of the preliminary site plan and growth allocation request received, we provide the following comments. Please note that we have received limited information regarding the applicant's growth allocation request and development proposal at this time. Therefore, these comments are intended to serve as preliminary in nature. Future review and more detailed comments will be provided to the County pending submission of more detailed information and further discussion with the County.

1. The applicant should address each of the growth allocation guidelines and requirements outlined in the County's Critical Area Program and the Critical Area Law and Criteria, including a description of how the proposed development meets each of the County's standards for locating a new LDA.

2. Please refer the applicant to the Somerset County Zoning Ordinance, Section 6, Subsection 14, Site Plans, which outlines the required features of site plans for projects located within the Critical Area. At this time, this office has not received a site plan for the proposed development activity which meets the Critical Area site plan standards outlined in the above referenced section of the zoning ordinance. A more detailed site plan will be required for formal review of this growth allocation request.

3. We note that this office has not yet received information regarding stormwater management for the proposed growth allocation request and development proposal. This information will be required prior to the Commission's formal acceptance of the growth allocation request.

4. We note that comments received from the Department of Natural Resources Wildlife and Heritage Division indicate that there are records for five rare, threatened, or endangered species identified and known to occur within the vicinity of the project. The applicant will be required to coordinate further with DNR to determine whether suitable habitat exists to support any of the species identified, and whether this habitat will be affected by the proposed development.

5. The State of Maryland's online mapping system MERLIN indicates that the pond shown on the site plan is actually a non-tidal wetland. Field delineation by a qualified professional will be required to accurately determine the boundaries of this feature. Please advise the applicant that any impacts to the non-tidal wetlands or the 25-foot buffer will require authorization form the Maryland Department of the Environment. It appears that these nontidal wetlands are contiguous with the 100-foot Buffer. The Buffer must be expanded to include contiguous nontidal wetlands.

6. In general, it is not clear whether the limits of the tidal wetlands shown on the site plan have been delineated in the field. A field delineation of all tidal wetland boundaries is required, and field delineation should be used to determine the boundary between State and private tidal wetlands. State tidal wetlands should not be included within the boundaries of any newly subdivided, privately owned lot or parcel and cannot be used for density calculations, receive growth allocation, or be used to meet the performance standards for development within the Critical Area. If the wetlands are determined to be private tidal wetlands based on field evaluation, appropriate documentation should be provided so that the correct amount of growth allocation is awarded.

7. The limits of the 100-foot Buffer must be delineated in the field based on the limit of State or private tidal wetlands. As currently shown, there are multiple lots with septic reserve areas shown within the 100-foot Buffer. These features cannot be located within the Buffer and should be removed.

8. No impervious surface area information has been provided at this time. Please advise the applicant that the subdivision as a whole will be required to remain within the 15% impervious surface area limit, including all driveways, roads, and building footprints.

9. Section 15 of the Somerset County Zoning Ordinance limits the amount of growth allocation that may be approved in a single year to approximately 1/20th of the total County growth allocation. Based on information provided to the Commission by County staff, the use of 38.32 acres of growth allocation for this project will exceed the limit for

> this year. This section of the zoning ordinance also states, "The Planning Commission will monitor the annual demand for growth allocation, and if it is found that the annual allotment is not adequate to meet demand, shall recommend to the County Commissioners an appropriate increase in the annual allotment. The County Commissioners shall assess the recommendations and take action as they deem necessary."

The preceding comments represent the review and evaluation of the materials that the applicant has submitted by Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, it may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal prior to the County's award of growth allocation. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 2, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3202 Congedo-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot Buffer and steep slope requirements, and a variance to clear greater than 30% in order to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the revised site plan, we have the following comments:

1. The applicant has revised the location of the proposed dwelling, to be sited 16 feet closer to the road. While this change represents a beneficial reduction in impacts to steep slopes, our original comment regarding exploration of an alternative septic design remains outstanding. As previously stated, the adjoining property utilizes a drain field style septic system, allowing for a 45-foot setback from the road. It is unclear whether a similar septic design could be accommodated on the applicant's site, which would allow the dwelling to be brought 9 feet closer to the road, significantly reducing the impact to the slopes. Given that the lot lies within the expanded Buffer and contains steep slopes, every effort should be made to minimize impacts.

2. Our previous comment regarding the lack of structural stormwater management on the site does not appear to have been addressed. Given the sensitive nature of steep slopes, it is the opinion of this office that additional stormwater management measures are needed to insure that no adverse effects occur to water quality, or fish, plant and wildlife habitat. We recommend that the Board require additional stormwater management structures be included within the applicant's development proposal. These structures should provide added infiltration opportunities and direct rooftop runoff away from steep slopes.

3. We recommend that the Board consider requiring the addition of an earth berm and stone outlet structure during construction. These added sediment and erosion control features would help to ensure that the integrity of the stream and steep slopes are not compromised.

4. As the subject property is located within the expanded Buffer, the Calvert County Zoning Ordinance requires mitigation at a 2:1 ratio for the entire area of disturbance to the Buffer. This mitigation should consist of native replacement plantings, and should be located on-site. We recommend that the applicant utilize a portion of the mitigation plantings to provide additional stormwater filtration opportunities by locating them between the dwelling and the steep slope areas.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA407-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 2, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3211 Wagner/Habitat for Humanity

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the steep slope requirements in order to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

We note that this property was the subject of a previous variance request in January of 1998. During the 1998 Board of Appeals hearing, the Board denied the variance request, largely due to concerns about the impact to neighboring properties from stormwater runoff. Based on a review of the current development proposal, we note that changes have been incorporated which provide enhanced stormwater management, as well as a footprint that has been reduced by 720 square feet. We note that the subject lot is significantly constrained by the small size and presence of steep slopes. Based on this information, this office does not generally oppose the applicant's request for some amount of disturbance to steep slopes. However, we have outstanding concerns regarding the environmental impacts of the applicant's development proposal as shown on the site plan. We provide the following comments:

1. It appears that the footprint could be reduced even further by utilizing vertical construction. It is unclear whether the applicant has explored this option. While the proposed footprint is generally modest in size, the extremely small lot size and presence of steep slopes warrants that efforts at minimization be explored to the fullest extent possible.

2. The site plan shows an earth berm with a stone outlet structure. We recommend that the Board require the earth berm to remain in place in perpetuity. It is the opinion of this office that removal of the earth berm after construction will negate the water quality benefits provided by the stone outlet structure, rendering it ineffective. While a drywell has also been included, it does not appear that the location of the drywell could adequately service the amount of stormwater runoff draining

to steep slopes from the entire property. A permanent earth berm and stone outlet structure would significantly decrease the potential for negative stormwater impacts to neighboring properties, as well as preserve the integrity of the slope.

3. Please advise the applicant that the amount of clearing proposed requires mitigation be provided at a 1:1 replacement ratio. We recommend that the applicant locate the mitigation plantings between the proposed dwelling and the slope side of the property so as to provide additional stormwater filtration opportunities. These plantings should consist of species native to Maryland.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA477-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 2, 2005

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

Re: A063 Holland Administrative Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to permit the relocation and reconstruction of a deck lying partially within the Buffer. In addition, the applicant is requesting a variance to construct a pergola over an existing porch structure located within the Buffer. The property is located within a designated Resource Conservation Area (RCA), and is currently developed.

Based on the information provided, it appears that approximately 240 square feet of new disturbance to the Buffer is proposed. Provided that the applicant implements the required 2:1 mitigation for the entire area of disturbance within the Buffer, we do not oppose the granting of this variance. The Buffer mitigation should consist of native plantings to be located within the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC412-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 23, 2005

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: Local Case No. 05-110-117 Cryer Property Re-subdivision

Dear Ms. Veith:

Thank you for providing information on the referenced project. I have reviewed the plan submitted, and I have the following comments:

1) Four (4) lots will be created from Parcel 255. Lot 5000-2A is 15 acres and the entire lot is within the Critical Area including wetlands, streams, and buffers. Lot 5000-2B is 15 acres and 3.49 acres are within the Critical Area including expanded Buffer and wetlands. Lot 5000-2D is 2.36 acres and 1.11 acres are within the Critical Area. Lot 5000-2D contains a single-family dwelling and barn outside the Critical Area.

2) Since Lots 5000-2A, 2B, and 2D are within the RCA and the total Critical Area acreage is 19.59 acres, they can only have one dwelling in the Critical Area (e.g. one unit per 20 acres RCA density). Lots 5000-2B and 2D can not have any development activities (septic, dwelling, etc.) in the RCA portions of the lots.

3) Septic reserve areas need to be shown on revised plans.

4) Tidal and non-tidal wetlands need to be identified on revised plans.

5) Any impacts to wetlands and streams will require authorization from the Maryland Department of the Environment.

6) The Buffer appears to be incorrect on Lots 5000-2A and 2B. Revised plans will need to include Buffer areas from both wetlands and streams. In accordance with Section 71.8.a(1) of the St. Mary's County Comprehensive Zoning Ordinance, the Buffer shall be expanded to include contiguous sensitive areas such as nontidal wetlands and areas of hydric soils.

7) In accordance with Chapter 71.4.2 of the St. Mary's County Comprehensive Zoning Ordinance, a 100-foot Buffer shall be established from the edge of tributary streams within the Critical area. The stream Buffer must be shown on the plans.

8) Coordination will need to be provided from the Maryland Department of Natural Resources, Heritage Division to determine if federally listed or stated endangered species and unique habitat exist on the site.

9) The subdivision represents a change in land use from agricultural to residential use, which requires that the 100-foot Buffer be fully established in native forest vegetation. The Buffer must be established on all newly created lots.

10) In accordance with Section 72.3.1.c of the St. Mary's County Comprehensive Zoning Ordinance and Subdivision Ordinance, all forest and developed woodland shall be conserve red to the greatest extent practicable, and any trees removed shall be replaced in accordance with requirements of that section. Appropriate notes should be included on the revised plat.

Thank you for the opportunity to review this proposal. Please feel free to call me at (410) 260-3476 if you have any questions.

Sincerely,

Gary Green

Gary Green
Environmental Analyst
cc: SM158-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 15, 2005

Ms. Liz West
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0388-V Philip Hazen

Dear Ms. West:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a single-family dwelling, driveway, and well with less setback and Buffer than required on Lots 15 thru 18. The property is currently designated as Intensely Developed Area (IDA), is partially wooded, and includes tidal and non-tidal wetlands.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the dwelling, deck, and driveway; however, impacts must be minimized and the variance the minimum necessary. Based on the review of the site plans we have the following comments.

1) Because the property is designated an IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings.

2) The property is 0.197 acres (8,592 square feet) and the applicant proposes a total of 2,409 square feet of impervious surface coverage. The amount of allowable impervious surface coverage is 25% (2,409 square feet). 4,538 square feet will be disturbed and 668 square feet of clearing will occur. The amount of existing vegetation is 3,942 square feet.

3) Tidal and non-tidal wetlands and their associated buffers encumber almost all of the site. Moving the dwelling to avoid all impacts to the wetlands and buffers is not possible, but the total impact could be reduced somewhat if the proposed dwelling was moved to the front building reserve line.

4) The proposed development will disturb 969 square feet of non-tidal wetlands and 2,597 square feet of non-tidal wetland buffer. The applicant must secure authorization from the Maryland Department of the Environment for impacts to wetlands.

5) Mitigation, at a ratio of 3:1 for disturbance within the Buffer, should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

6) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls to provide water quality benefits on the site.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA758-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 15, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301

RE: Variance 2005-0404-V John Adam

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a ground level deck 510 square feet in the back of the dwelling with less Buffer than required and disturbance to steep slopes. The property is designated as Limited Development Area (LDA) and is currently developed with a single-family dwelling and deck on steep slopes.

Provided that the property is properly grandfathered, we do not oppose the variance.

If granted we recommend that the footers for the deck be hand dug to reduce impacts to the steep slopes and that mitigation at a ratio of 3:1 for disturbance within the Buffer should be required.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA796-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 15, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0405-V James Laprade

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of ground-level deck and second-story decks with less setbacks and Buffer than required. The site is currently designated as Limited Development Area (LDA) and is developed with a two-story, single family dwelling, walkways, detached garage, parking pads, shed , dock, and septic system.

Provided that this property is properly grandfathered, we do not oppose this variance.

Mitigation should be 3:1 for disturbance within the Buffer and should use native vegetation.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA797-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 15, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0422-V Randell and Susan Quall

Dear Ms. Ploceinnik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the constriction of a single-family dwelling with attached garage, porch, decks, and septic system on steep slopes with less setbacks and Buffer than required and are requesting a variance to impact steep slopes.. The property is currently designated as Limited Development Area (LDA), is Buffer exempt, and is developed with a single-family dwelling, decks, patio, driveway, and septic system, and is also heavily forested.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

1) As stated in the Critical Area report, steep slopes encumber about half of the entire property.

2) The property is 0.89 acres (38,780 square feet) and the applicant proposes a total of 5,690 square feet of impervious surface coverage. 5,412 square feet of impervious surface exists on the site. The amount of impervious surface coverage allowed on the site is 5,817 square feet. The amount of ground disturbance is 12,900 square feet with 3,150 square feet of vegetation to be disturbed or 14% of the total forest area.

3) The report did not indicate if the proposed attached garage could be reduced in size or if the pass-through area of the main house to the garage could be reduced or eliminated which in turn would reduce impacts to steep slopes.

4) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

5) Stromwater from the dwelling should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA799-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 15, 2005

Ms. Ramona Ploceinnik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0421-V Harun and Leyla Kazaz

Dear Ms. Ploceinnik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a two-story, single-family dwelling with attached garage, deck, well, and septic system with less setbacks and Buffer than required. The property is currently designated as Limited Development Area (LDA), is developed with a single-family dwelling with attached garage, sidewalk, well and septic system.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the dwelling, deck, well, and septic system; however, impacts must be minimized and the variance the minimum necessary. Based on the review of the site plans we have the following comments.

1) The property is 0.147 acres or 6,400 square feet and the applicant is proposing 1,941 square feet of impervious surface coverage. The amount of allowable impervious surface coverage is 25% (2,100 square feet). 2,218 square feet will be disturbed and 200 square feet of vegetation will be removed.

2) Mitigation at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on site to the extent possible.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA798-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 15, 2005

Ms. Ramona Ploceinnik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MD 6301
Annapolis, MD 21401

RE: Variance 2005-0402-V Alan and Day Weitzman

Dear Ms. Ploceinnik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a single-family dwelling, septic system, well, driveway, deck, and with less setbacks and Buffer than required. The applicant is also requesting a variance to exceed the impervious surface limits. The property is designated as a Resource Conservation Area (RCA), is Buffer exempt, and is developed with a single-family dwelling, driveway, porch, septic system, well, and bulkhead.

Provided that this property is properly grandfathered, we do not oppose a variance to develop the property; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance requests.

1) As shown on the site plan, much of the property is encumbered by Buffer and the existing and proposed structures are at the base of steep slopes. The proposed dwelling will not impact steep slopes.

2) The property is 0.15 acres (6,464 square feet) and the applicant proposes a total of 2,360 square feet of impervious surface coverage. 2,373 square feet of impervious surface coverage exists on the site. The impervious surface limit is 2,116 square feet

3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Mitigation plantings should be accommodated on the site to the extent possible.

4) Stormwater from the dwelling and driveway should be directed to a best management practice to provide water quality benefits on the site.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA795-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 15, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0409-V James Christie

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling addition (two decks) with less setbacks and Buffer than required. The property is designated as Limited Development Area (LDA), is Buffer Exempt, and is currently developed with a single-family dwelling and garage.

Provided that this property is properly grandfathered, we do not oppose this variance. We have the following comments regarding the current development proposal.

1) The proposal was presented to the Administrative Hearing Officer on October 14, 2003. It was recommended that the rear deck be reduced to 10'×12'. On January 25, 2005, the proposal was again presented to the Administrative Hearing Officer requesting a variance to permit an extension time for the implementation and completion the previously approved variance. The rear deck at that time was noted as being 12-feet by 24 feet and was not reduced to the recommended size of 10 feet by 12 feet.

2) The current site plans shows the back deck as being 10 feet by 12 feet

3) The 100-foot Buffer is not shown on the site plan provided. As estimated from the site plan, the deck in the back yard is partially within the Buffer and the deck in the front yard is entirely within the Buffer. The applicant should provide this information for the purpose of determining the required mitigation.

4) The decks should be constructed to be pervious, with a gravel or vegetated substrate and vegetative stabilization on the downslope end.

5) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Mitigation plantings should be accommodated on site to the extent possible, and be directed first to non-forested areas within the Buffer then to other areas on the property.

6) Stormwater runoff from the additions should be directed to a stable vegetated outfall to provide water quality benefits on the property.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA570-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 2, 2005

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

RE: Local Case No. 05-3198 Golden Beach Lot 855

Dear Ms. Merriman:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to permit the construction of a septic mound in the back portion of the property within the expanded stream Buffer. The property is designated as Limited Development Area (LDA) and is currently developed with a single-family dwelling, driveway, shed, septic system, and is partially forested.

Provided that the property is properly grandfathered, we do not oppose the variance.

Mitigation should be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance for disturbance within the Buffer.

Construction of the septic mound disturbed the expanded stream Buffer. The applicant must secure authorization for the Maryland Department of the Environment for any impacts to streams.

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

Sincerely,

Gary Green
Environmental Analyst
cc: SM763-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 2, 2005

Ms. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21404

RE: Variance 2005-0225-V Plus Properties LLC

Dear Ms. Rhodes:

Thank you for providing information on the above variance request. The applicant is requesting a variance to the expanded Buffer to permit the construction of a new dwelling on a wooded/nontidal wetlands lot. The property is designated as Limited Development Area (LDA). The property is being developed with a single-family dwelling with driveway.

Providing this lot is properly grandfathered, we do not oppose this variance. We have the following comments regarding the current development proposal.

1) Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings.

2) Mitigation at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on site to the extent possible.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA491-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 2, 2005

Ms. Liz West
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0388-V Philip Hazen

Dear Ms. West:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a single-family dwelling, driveway, and well with less setback and Buffer than required on Lots 15 thru 18. The property is currently designated as Limited Development Area (LDA), is partially wooded, and includes tidal and non-tidal wetlands.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the dwelling, deck, and driveway; however, impacts must be minimized and the variance the minimum necessary. Based on the review of the site plans we have the following comments.

1) The property is 0.197 acres (8,592 square feet) and the applicant proposes a total of 2,409 square feet of impervious surface coverage. The amount of allowable impervious surface coverage is 25% (2,409 square feet). 4,538 square feet will be disturbed and 668 square feet of clearing will occur. The amount of existing vegetation is 3,942 square feet.

2) Tidal and non-tidal wetlands and their associated buffers encumber almost all of the site. Moving the dwelling to avoid all impacts to the wetlands and buffers is not possible, but the total impact could be reduced somewhat if the proposed dwelling was moved to the front building reserve line.

3) The proposed development will disturb 969 square feet of non-tidal wetlands and 2,597 square feet of non-tidal wetland buffer. The applicant must secure authorization from the Maryland Department of the Environment for impacts to wetlands.

4) Mitigation, at a ratio of 3:1 for disturbance within the Buffer, should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

5) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls to provide water quality benefits on the site.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA758-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 2, 2005

Ms. Liz West
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0384-V Joseph and Mary Lawrence

Dear Ms. West:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a screened porch with less setbacks and Buffer than required. The site is currently designated as Resource Conservation Area (RCA) and is developed with a single-family dwelling on steep slopes with driveway and septic system.

Provided that this lot is properly grandfathered, we do not oppose this variance.

Mitigation should be 3:1 for disturbance within the Buffer and should use native vegetation.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA756-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 15, 2005

Ms. Ramona Ploceinnik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0311-0314-V Charles Gallimore

Dear Ms. Ploceinnik:

Thank you for providing information on the above referenced variance applications. The applicant is requesting variances to permit three (3) dwellings with less Buffer and setbacks than required and a variance to exceed impervious surfaces on a residential lot in order to construct a road. The properties have split designations of LDA and RCA and are currently undeveloped. A shed that was located on Lot B on 2001 site plan has been removed on the current site plan.

Usually, for properly grandfathered lots, this office does not oppose minimal variances in order to allow the lot to be developed with a single family dwelling. This office previously submitted comments on variances requested on Lots A and C in April 2000 and again on March 2001. Total disturbances for Lots A, B, and C are 21.8%, 22.2%, and 22.4% respectively. Lots 58 and 59 approach 53%. Based on the current site plans, the applicant has reduced impacts to these lots with the exception of the road on Lots 58 and 59.

As noted in the March 2001 letter, the proposed road goes through a residential building lot. Is this a legal means of providing access to these lots? Is it a permissible use of a residential lot? In the January 2001 Critical Area Report, the report stated that a portion of the existing right-of-way of Bay View Drive had been taken over by a nearby homeowner. The past report and the current report do not provide any information as to how the excessive impervious surface (much of it in the Buffer) on this lot will be mitigated and how will stormwater be addressed for the road.

If the above issues are resolved and if the variances are approved, this office recommends mitigation at a 3:1 ratio for all disturbances within the 100-foot Buffer and reforestation at a 3:1 ratio for the remainder of the clearing of Lots 58 and 59. Stormwater management must also be addressed.

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

Sincerely,

Gary Green
Environmental Analyst
C c: AA597-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 15, 2005

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

RE: Local Case No. 05-3002 Copsey

Dear Ms. Merriman:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a deck in the expanded Buffer. The property is currently developed with a single-family dwelling, septic, and well and is designated as Limited Development Area (LDA).

Provided that the property is properly grandfathered, we do not oppose the deck.

Mitigation should be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance for disturbance within the Buffer.

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

Sincerely,

Gary Green

Gary Green
cc: SM739-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 15, 2005

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

RE: Local Case No. 05-36945 Stanley and Vicki Hayden

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of dwelling additions and driveway within the Buffer. The property is currently designated as Limited Development Area (LDA) and is developed with a single-family dwelling, shed, detached garage, and driveway.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of dwelling additions and associated improvements; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

1) The property is 1.965 acres. The proposed impervious surface coverage is 10,268 square feet (12% of the site) with 7,918 square feet of existing impervious surface and 4,776 square feet of proposed impervious surface coverage. The total area to be disturbed is 9,500 square feet. The amount of existing impervious surface within the 100-foot Buffer is 242 square feet and the amount of impervious surface coverage proposed in the Buffer is 788 square feet. 10,400 square feet of vegetation coverage exists on the property and 800 square feet will be removed.

2) If the variance is approved, the Commission recommends that mitigation be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance. This office recommends that some plantings be used to treat stormwater runoff on the site. Plantings, consisting of native tress and shrubs, should be accommodated on the site to the extent possible.

3) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls, away from steep slopes, to provide water quality benefits on the site.

Thank you for the opportunity to provide comments. 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 the case.

Sincerely,

Gary Green
Environmental Analyst
cc: SM740-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 15, 2005

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

RE: Local Case No. 05-2981 Mill Point Shores Lot 23

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to permit the construction of an 18'×28' deck on the back of the existing dwelling, approximately 80' from existing bulkhead and within the Buffer. The property is designated as Limited Development Area (LDA) and is currently developed with a single-family dwelling, driveway, and septic system.

Provided that the property is properly grandfathered, we do not oppose the variance.

Mitigation should be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance for disturbance within the Buffer.

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

Sincerely,

Gary Green
Environmental Analyst
cc: SM736-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 15, 2005

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

RE: Local Case No. 05-2992 Thomas Clarke

Dear Ms. Merriman:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of attached garage, dwelling addition, sunroom, deck, walkway, and porch in expanded Buffer. The property is currently developed with a dwelling, driveway, and shed and is designated as Resource Conservation Area (RCA).

Provided that the property is properly grandfathered, we do not oppose the dwelling additions; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

1) The application states that the new impervious surface will occur within the expanded stream Buffer. The site plan did not indicate where the stream is in relation to the proposed improvements. The stream and associated Buffer will need to be placed on revised site plans.

2) It cannot be determined from the site plan provided if the stream and its associated wetlands would be impacted by the proposed development. If the wetlands and stream are to be impacted the applicant must secure authorization from the Maryland Department of the Environment for impacts to non-tidal wetlands.

3) According to the application, the proposed development would impact highly erodible soils and its expanded Buffer. The site plans did not indicate if the property has steep slopes. Revised site plans should include topographic lines to determine if the proposed development will also impact steep slopes.

4) If the variance is approved, the Commission recommends that mitigation be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance. This office recommends that some plantings be used to manage and treat stormwater runoff on the site. Plantings should consist of similar species to the existing natural vegetation. The property consists of 18,775 square feet of vegetation and 800 square feet of vegetation would be removed.

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

Sincerely,

Gary Green
Environmental Analyst
cc: SM737-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 9, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0348-V Mark Rogers

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of dwelling additions, driveways, and car-court on steep slopes and with less Buffer than required. The property is currently designated as Limited Development Area (LDA) and is developed with a two-story single-family dwelling, detached servants quarters dwelling (currently a garage), shared driveway, patio, and pool.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit additions and driveways; however, impacts must be minimized and the variance the minimum necessary. On November 7, 2005 I met with the applicant's lawyer, project architect, and landscape architect. Based on the revised plans and explanation of the existing conditions and the proposed improvements, we have the following comments:

1) As stated in the Critical Area Report, steep slopes almost encumber the entire property and the expanded Buffer almost divides the property in half.

2) The property is 3.47 acres (151,057 square feet) and the applicant proposes a total of 19,689 square feet of impervious surface coverage. 15,514 square feet of impervious surface exists on the site. 7,317 square feet of impervious surface coverage exists within the Buffer and 6,763 square feet of impervious surface coverage is proposed within the Buffer. The amount of impervious surface coverage allowed on the property is 15% and the amount of impervious surface proposed will be 13%.

3) The project consists of removing the existing shared driveway entrance and re-grading to the original topography, re-seeding, sodding, as well as planting native trees. The existing driveway wraps around the current two-car detached garage with loft which will converted into servants quarters. The existing driveway then meets the main dwelling on the back west side. The project will tighten the existing driveway radius by moving the driveway closer to the existing buildings and the proposed driveway spur width will be reduced to lessen the impacts to both adjacent property owner and the Buffer. In addition, a portion of the back driveway will be constructed using pervious pavers.

   The front car-court has been redesigned to reduce impacts to steep slopes by removing the both west and east corners and making the north side rounded. In addition, pervious pavers will be used on a portion of the east side. The proposed driveway entrance is the shortest.

4) Mitigation, at a ratio of 3:1 for within the Buffer and 1:1 for outside the Buffer, should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

5) Stormwater from the dwelling and driveways should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely,

Gary Green
Environmental Analyst
Cc: AA660-05

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 9, 2005

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

RE: Local Case No. 1093 Wrights Wharf Estates Subdivision

Dear Mr. Dodd:

Thank you for providing information on the referenced project. I have reviewed the plan submitted, and I have the following comments:

1) The Maryland Department of Natural Resources, Heritage Division has determined that the Delmarva Fox Squirrel, a state and federally listed endangered species, is known to occur on or in the immediate vicinity of the property. The Delmarva fox squirrel habitat is characterized as forests with relatively mature trees, either hardwoods or loblolly pine, with a relatively sparse understory. A habitat site assessment should be performed (with guidance and coordination from DNR) to determine if the habitat exists on the property or on adjacent properties. Since the Delmarva fox squirrel is federally endangered, coordination should be initiated with the U.S. Fish and Wildlife Service via Ms. Mary Ratnaswamy. A copy of the habitat site survey and coordination with the US. Fish and Wildlife Service should be forwarded to our office.

2) Based on review of Maryland Merlin files, the entire parcel was an agricultural field with no vegetation showing on the 1998 aerial photos. Streams and tributaries were also not found to be located on the parcel. The 1970 Maryland Department of Natural Resources Wetland Boundary Aerial Mapping indicated that there appeared to be a depressed area located on Lot 5 that the plan sheet indicates will be a septic reserve area. This depressed area joins an unnamed tributary in the adjacent parcel that leads to the Choptank River. Additional information is required regarding this feature on the site in order to provide complete comments and that there is consistent topographic mapping.

3) The entire parcel is 37.05 acres of which 15.36 acres falls within the Critical Area which is designated as Resource Conservation Area (RCA) for Lots 13, 3, 4, 5, and 6.

4) Based on information obtained from the Department of Natural Resources Merlin system, there are Wetlands of Special State Concern shown on the Critical Area portion of the site. Additional information will need to be provided. Impacts to wetlands, including Wetlands of State Concern, will require authorization from the Maryland Department of the Environment

5) In accordance with § 155-38.H.10 of the Dorchester County Code, when no forest exists on the proposed development sites in the Critical Area, the sites are required to be planted to provide a forest or developed woodland cover of at least 15%. Appropriate notes must be placed on the plat indicating the area to be vegetated.

Thank you for the opportunity to provide comments on this project. Please provide revised plats when these comments have been addressed. There may be additional comments based on a review of the additional information requested. If you would like to discuss these comments, please call me at (410) 260-3476.

Sincerely,

Gary Green
Environmental Analyst
cc: DC595-05
Mr. Stan Causey, Maryland Department of the Environment
Ms. Mary Ratnaswamy, U.S. Fish and Wildlife Service
Mr. Glen Therres, Maryland Department of Natural Resources, Heritage Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 25, 2005

Ms Ramona Plociennik
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Variance 2005-0338-V Rose Parker

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to add an enlarged screen porch where and existing deck was located and to add a new wood deck over an existing impervious patio with less Buffer than required. The property is designated as Intensely Developed Area (IDA), is Buffer exempt and is currently developed with a single-family dwelling, driveway, patio and deck.

The existing property is 11,276 square feet and the existing impervious surface coverage is 3,412 square feet. The amount of disturbance will be 452 square feet and there will be no net increase of the amount of impervious surface coverage.

Provided this property is properly grandfathered, we do not oppose the variance for the screen porch and deck.

If granted, we recommend the following be made conditions of the variance:

1) Because the property is designated and IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings.

2) Mitigation at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

3) Stormwater should be directed to a best management practice or stable vegetated outfalls.

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

Sincerely,

Reginald Estlinger
for Gary Green
Environmental Analyst

cc: AA 657-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 17, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0328-V Howard Pratt, Jr.

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a 12' by 20' detached garage, with less setbacks and greater impervious surface coverage than allowed. The property is designated as a Limited Development Area (LDA) and is currently developed with a single-family dwelling, driveway, two detached sheds, and a canopy garage.

The proposed detached garage will be replacing an existing canopy garage on the same footprint. The property is 5,000 square feet and the existing impervious surface is 2,137 square feet which includes the dwelling, driveway, two sheds, and the canopy garage. The impervious surface limit for this lot is 1,750 square feet.

Providing that the property is properly grandfathered, we do not oppose the variance; however, it appears that impervious surface could be reduced if the garage was built entirely or partially over the existing driveway.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA645-05

Robert L. Ehrlich, Jr.
Governor

[illegible]hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 7, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0306-V Robert Johnson III

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a garage/addition, parking pad/driveway, retaining walls, and deck, with less setbacks, and disturbance to steep slopes. The property is designated a Limited Development Area (LDA) and is currently developed with a single-family dwelling, driveway, walkway, and porch.

Provided that this property is grandfathered, this office does not oppose a variance to construct a new parking pad/driveway, garage/addition, retaining walls, and deck; however, impacts must be minimized and the variance the minimum necessary. At this time, we do not believe the variance requested is the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

1) As stated in the Critical Area Report, steep slopes exist to the east and northeast of the dwelling.

2) The lot is 14,000 square feet and the applicant proposes 2,771 square feet of impervious surface coverage for the new garage/addition and, driveway extension. The proposed garage/addition is 952 square feet, the driveway extension is 1,819 square feet, and the deck is 70 square feet. The total amount of disturbance is 4,548 square feet with 1,155 square feet of disturbance occurring within slopes 15% or greater.

The existing dwelling footprint is 2,057 square feet which include the dwelling, porches, walkway, and driveway. The total impervious surface coverage proposed is 4,356 square feet (31.24%). The maximum amount of impervious surface coverage allowed is 4,375 square feet (31.25%).

3) It appears impacts to steep slopes could be significantly reduced by placing the driveway along the west side of the dwelling and accessing the proposed garage from this side. No information is provided as to whether this option has been considered.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA591-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 7, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0326-V Wilbert Bryant

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to replace the existing dwelling, with less setbacks and Buffer than required. The property is designated as Intensely Developed Area (IDA), is Buffer exempt, and is currently developed with a single-family dwelling, driveway, and patio.

The existing property is 5,675 square feet and the existing impervious surface coverage is 1,814 square feet. The amount of disturbance will be 3,732 square feet and the amount of proposed impervious surface coverage will be 1,795 square feet. The amount of impervious surface will be reduced by 19 square feet. 1,918 square feet of impervious surface coverage is allowed on this property.

Providing that this property is properly grandfathered, we do not oppose the variance for the dwelling replacement.

If granted, we recommend the following be made conditions to the variance.

1) Because the property is designated an IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings.

2) Mitigation at a ration of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

3) Stormwater should be directed to a best management practice or stable vegetated outfalls.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA256-99

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 4, 2005

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

RE: Local Case No. 04-2147 Cherry Cove Builders

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to clear greater than 30%. The property lies within the designated Resource Conservation Area (RCA), is currently developed, and is mostly forested.

The property was mostly forested and has a lot area of 42,800 square feet. The amount of clearing allowed at 30% is 12,840 square feet. The total amount that was cleared on this property was 16,228 square feet (37.9%)As provided by the County's comprehensive zoning ordinance in Article 7,72.3.3.a (2) (c) and 72.3.3.a (3), if this variance is granted, we recommend 3:1 mitigation be required, with as much replanting on site as possible..

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

Sincerely,

Gary Green
Environmental Analyst
cc: SM604-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 4, 2005

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: Local Case No. 05-110-113 Ridgell Subdivision

Dear Ms. Veith:

Thank you for providing a copy of the boundary line adjustment plat. The proposal is to subdivide an existing parcel with a dwelling into two residential lots under the intrafamily transfer provisions. The parcel is 9.34 acres, is in the Resource Conservation Area (RCA), and contains the 100-foot Buffer. Our February 22, 2005 letter to Mark Kalmus stated that coordination must be obtained from the Maryland Department of Natural Resources, Heritage Division, verifying that there are no impacts to any rare, threatened, or endangered species or unique habitat on the parcel, prior to final approvals being granted. We have not yet received this information.

Thank for the opportunity to review this proposal. Please contact me at (410) 260-3476 if you have any questions.

Sincerely,

Gary Green
Environmental Analyst
cc: SM918-04

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 4, 2005

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

RE: Local Case No. 04-2146 Cherry Cove Builders

Dear Ms. Chaillet:

Thank you for providing in formation on the above referenced variance. The applicant is requesting an after-the-fact variance to clear greater than 30%. The property lies within the designated Resource Conservation Area (RCA), is currently developed and forested.

The property was forested and has a lot area of 30,000 square feet. The amount of clearing allowed at 30% is 9,000 square feet. The total amount that was cleared on this property was 18,400 square feet. As provided in the County's comprehensive zoning ordinance in Article 7, 72.3.3.a (2)(c) and 72.3.3.a (3), if this variance is granted, we recommend 3:1 mitigation be required, with as much replanting on site as possible.

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

Sincerely,

Gary Green
Environmental Analyst
cc: SM603-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 4, 2005

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: Local Case No. 05-141-047 Parcels 27 and 57
Historic St. Mary's City Commission

Dear Ms. Veith:

Thank you for providing a copy of the boundary line adjustment plat. I have reviewed the plat, and I have the following comments:

1) It is my understanding that the purpose of this plat is to adjust the boundary of Parcel 27 to include a sewage disposal area proposed on Parcel 57. Most of Parcel 27 is designated a Resource Conservation Area (RCA) and the Critical Area has been marked on the plat. Lot 27 has two buildings. One dwelling numbered 47715 was built circa 1920 and is listed as Maryland Inventory on the Maryland Listing of Historic Structures mapping. Parcel 57 has a structure that was built in circa 1900 but was not identified as being historic. It is not clear from the information submitted if both of the dwellings on Parcel 27 are considered to be grandfathered. This should be verified in order to ensure that the allowable density of Parcel 27 is not exceeded.

2) The plat indicated that both parcels are zoned commercial. Based on the maps provided to the Commission by the County, this is incorrect. Please verify the zoning of these properties.

3) It is not clear on the plat how the proposed sewage area will be connected to the dwellings on lot 27. If additional clearing or grading or if limits of disturbance extend beyond the area located on the plat, there may be additional Critical Area requirements and additional information may be required.

4) Two unnamed tributaries to Milburn Creek are located on Parcel 27 and are shown on the plat. In addition, according to the National Wetland Inventory mapping (NWI), the stream located on the west side of the property has associated palustrine non-tidal, forested wetlands. Estuarine tidal-wetlands associated with Milburn Creek, are located on the southern tip of parcel 27. Both wetland areas should be placed on the plat including the expanded 100-foot Buffer.

5) Any impacts to the wetlands and streams would require authorization from the Maryland Department of the Environment.

6) A review of the St. Mary's County Soil Conservation District mapping did not indicate that the parcels have highly or severely erodable soils.

Thank you for the opportunity to provide comments for this project. We will provide additional comments when we receive the revised plat and additional coordination. Please contact me at (410) 260-3476 if you have any questions.

Sincerely,

Gary Green
Environmental Analyst
cc: SM466-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 4, 2005

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: Local Case No. 05-141-060
Lots 500-11, 500-14, and 500-44
Seymour Property St. Clements Shores

Dear Ms. Veith:

Thank you for providing a copy of the boundary line adjustment plat. I have reviewed the plat, and I have the following comments:

1) It is my understanding that the purpose of this plat is to adjust the boundaries of Lots 11, 12, and 13 to Lot 500-11 and lots 44, 45, 46, 47, 48, 49, and part of lot 1, into Lot 500-44 for residential purposes. It should be pointed out that the application differs from the plat in that the plat also includes the combining of lots 14, 15, 16, 17, and 18 into Lot 500-14. This should be verified to determine if Lot 500-14 is to be included in the boundary line adjustment. My review of the boundary line adjustment plat includes Lot 500-14.

2) All of the lots are designated as Limited Development Areas (LDA).

3) The back portion of Lots 500-11 and 500-14 are partially forested. Forest and vegetative canopy should be located on the plat for all of the lots.

4) The back portion of Lots 500-11 and 500-14 have estuarine, forested, non-tidal wetlands. In addition, there appears to be a slightly depressed area on the back portion of these lots which could be a stream. Verification of streams and wetlands should be completed and if located, should be placed on revised plats including the expanded 100-foot Buffer.

5) Review of St. Mary's County Soil Conservation District mapping did not indicate the presence of highly or severely erodable soils on the lots.

Thank you for the opportunity to provide comments for this project. We will provide additional comments when we receive the revised plat and additional coordination. Please contact me at (410) 260-3476 if you have any questions.

Sincerely,

Gary Green
Environmental Analyst
cc: SM626-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

September 30, 2005

Ms. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0325-V Bryan Bassford

Dear Ms. Rhodes:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the replacement of the existing dwelling and to install retaining walls, with less setbacks and Buffer than required. The property is designated as Intensely Developed Area (IDA), is Buffer exempt, and is currently developed with a single-family dwelling, parking pad, boat dock, and bulkhead fronting Glebe Creek. The proposed structure will be 14 feet closer to Glebe Creek.

The existing dwelling is approximately 1,050 square feet with a parking pad for a combined impervious surface coverage of 2,377 square feet. The existing dwelling has been in violation of the front yard setback in that it is 10 feet from the property line. The new dwelling will be 1,800 square feet with a combined impervious surface coverage of 2,235 square feet. The amount of impervious surface will be reduced by 142 square feet. The new dwelling disturbance will be 4,950 square feet.

Providing that this lot is properly grandfathered, we do not oppose the variance for the dwelling replacement and retaining walls.

If granted, we recommend the following be made conditions to the variance.

1) Because the property is designated an IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings. The site plans indicate that runoff will be minimized through the use of downspout disconnect and swales with one side and the driveway sump discharging into an infiltration pit at the front right of the proposed dwelling.

2) Mitigation at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native tress and shrubs, should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

3) Stormwater should be directed away from steep slopes to a best management practice or stable vegetated outfalls.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA643-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

September 30, 2005

Ms. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0325-V Bryan Bassford

Dear Ms. Rhodes:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the replacement of the existing dwelling and to install retaining walls, with less setbacks and Buffer than required. The property is designated as Intensely Developed Area (IDA), is Buffer exempt, and is currently developed with a single-family dwelling, parking pad, boat dock, and bulkhead fronting Glebe Creek. The proposed structure will be 14 feet closer to Glebe Creek.

The existing dwelling is approximately 1,050 square feet with a parking pad for a combined impervious surface coverage of 2,377 square feet. The existing dwelling has been in violation of the front yard setback in that it is 10 feet from the property line. The new dwelling will be 1,800 square feet with a combined impervious surface coverage of 2,235 square feet. The amount of impervious surface will be reduced by 142 square feet. The new dwelling disturbance will be 4,950 square feet.

Providing that this lot is properly grandfathered, we do not oppose the variance for the dwelling replacement and retaining walls.

If granted, we recommend the following be made conditions to the variance.

1) Because the property is designated an IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings. The site plans indicate that runoff will be minimized through the use of downspout disconnect and swales with one side and the driveway sump discharging into an infiltration pit at the front right of the proposed dwelling.

2) Mitigation at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native tress and shrubs, should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

3) Stormwater should be directed away from steep slopes to a best management practice or stable vegetated outfalls.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA643-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 21, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0292-V Michael Pusteri

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a bedroom addition on a cantilevered deck, enclose the existing screen porch, remove existing deck/porch and enclose with a single-car garage/storage area, and expand the existing driveway on steep slopes with less setbacks and expanded Buffer than required. The property is currently designated as Limited Development Area (LDA) and is developed with a single-family two-story dwelling, deck, porch and driveway and is partially forested.

Providing that this property is grandfathered, this office does not oppose a variance to permit an addition and minor improvements to it; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

A previous variance request was granted for this property and granted (Case No. 1996-0032-V on April 25, 1997). The variance being requested is the same; however, the applicant is now requesting a change in use. The variance the applicant is requesting for the side yard has been reduced from 10-feet to 8.5-feet from the original variance granted in 1997.

1) As stated in the Critical Area Report, steep slopes encumber the entire property. An effort was made to minimize the impact to the Critical Area by working within the footprint of the existing house and exterior porches with minimal increase in the existing impervious area and below the maximum 31.25% allowed. Topographic lines were not noted on the site plans. Revised site plans will need to show elevation lines.

2) The property is 0.12 acres. The applicant is proposing 95 square feet of disturbance and is also proposing 235.16 square feet of impervious surface. The existing impervious surface coverage is 2,313.50 square feet and the proposed total impervious surface coverage is 2,442 square feet. No vegetation will be removed by the proposed improvements. The existing asphalt driveway ties into the existing dwelling prior to the proposed new driveway section. It appears that a portion of the existing driveway could be removed thus reducing the amount of impervious surface and disturbance to steep slopes.

3) Mitigation, at a ratio of 3:1 for the Buffer disturbance, should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

4) Stormwater from the new dwelling addition, driveway and garage should be directed to stable vegetated outfalls, away from steep slopes, to provide water quality benefits on the site.

Thank you for the opportunity to provide comments. 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 the case.

Sincerely,

Gary Green
Environmental Analyst
cc: AA620-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 21, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0291-V Gregory Trevor Wilby

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a 6'×40' wood walkway to tie into an existing pier with less setbacks and Buffer. The property is currently developed with a single-family dwelling, driveway, septic, pier, and a 30-foot wide by 260-foot long grass path from the back portion of the property to the water front of Little Aberdeen Creek. The property is currently designated a Limited Development Area (LDA).

Providing that the lot is properly grandfathered, we would not oppose this variance. We understand that the current pier can not be accessed during times of above normal mean high tides and prevents the use to access the pier. There are no steep slopes and no disturbances to any vegetation and no activity above the mean high water mark.

If granted, we recommend that the following be made condition of the variance.

1) We recommend that the width of the deck be reduced to 3' or 4' if on pilings to allow for railings. This would reduce the impact to the Buffer.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA614-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 21, 2005

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: Local Case No. 05-2569 Howard Lots 3 and 4 (Hays Beach)

Dear Ms. Yvonne:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a new 24'×12' shed within the expanded Buffer. The property is 0.287 acres in size, currently developed with dwelling, unimproved driveway, septic system, and a few trees. According to the National Wetland Inventory Mapping (NWI) and the Maryland Department of Natural Resources Mapping of Areas of State Concern, the entire lot consists of estuarine wetlands and hydric soils. The lot is designated as Limited Development Area (LDA).

The current site plan shows the proposed shed as 288 square feet and the existing impervious surface coverage is 1,152 square feet; the total impervious surface coverage will be 1,440 square feet.

In 2002 and 2004, the Maryland General Assembly strengthened the Critical Area Law, and reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife values, emphasizing the importance of the 100-foot and expanded Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to be granted a variance to the Critical Area Law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship".

The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot". Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The applicant must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. In this case, the applicant is proposing to place a 288 square foot shed within the expanded Buffer. Because sheds are accessory structures not permitted in the Buffer, the applicant must present competent and material evidence to satisfy the burden of proof on each of the variance standards described below. Under the law established by the General Assembly, even if there is nowhere else on the lot to site the proposed shed, the variance cannot be granted unless the applicant proves, and the Board finds, that without the variance, the applicant would suffer an unwarranted hardship, that is "denial of reasonable and significant use of the entire parcel or lot". We do not believe that this standard is met in this case, and accordingly, the variance should be denied. I have discussed each one of the standards below as it pertains to this site:

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.* As stated above, the General Assembly defined "unwarranted hardship" to mean that an applicant must prove that, without the requested variance, he/she would be denied reasonable and significant use of **the entire parcel or lot.** Based on the information in our file, we do not believe the County has evidence on which to base a favorable finding on this factor.

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 applicant has reasonable use of this property for residential purposes, and therefore would not be denied a right commonly enjoyed by neighbors. In addition, accessory structures, such as sheds, are not permitted in the Buffer. Even if other properties have sheds, certain structures that existed prior to December 1, 1985 or the effective date of the St. Mary's Critical Area regulations are considered grandfathered, and do not convey a right for similar structures to be built in the Buffer in the future. The General Assembly made this clear in the 2002 amendments to the Critical Area law, as discussed above. We do not believe that the applicant has met this standard.

3) *The granting of a variance will not confer upon the 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 area, as well as in similar situations in the County's Critical Area. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area law. We do not believe the applicant has overcome this burden.

4) *The variance request is not based upon the 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.* According to the application submitted by the applicant, it is our understanding that this variance request is not based upon conditions or circumstances that are a result of actions by the applicant, or arises from any neighboring conforming condition.

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.* It appears that 288 square feet of new development and consequential disturbance to the land will occur, which results in increased stormwater and sediment runoff within the Buffer, and the loss of essential infiltration opportunities. The 2002 and 2004 amendments to the State Critical Area law place increased emphasis on the importance of maintaining the Buffer in a fully vegetative state.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and has met each one of the County's variance standards, the Board must deny this application.

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

Sincerely,

Gary Green
Environmental Analyst
cc: SM600-05

Robert L. Ehrlich, Jr.
Governor

[illegible]ael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 21, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

RE: Variance 2005-0302-V Marcy Curland

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the replacement of the existing deteriorated 337 square-foot pressure treated deck with a 112 square-foot flagstone patio and move the existing 7'×7' spa 11 feet southeast from the existing location, with less setbacks and 100-foot Buffer than required. The property is designated a Limited Development Area (LDA) and is currently developed with a single-family dwelling, deck, spa, and gravel driveway. No part of the proposal is closer to the water than the existing dwelling.

Providing that the property is properly grandfathered, we do not oppose the variance.

If granted, we recommend that the following be made conditions of the variance.

1) Mitigation at a ratio of 3:1 for disturbance within the Buffer, should be required.

2) Stormwater from the patio should be directed to stable vegetated outfalls, to provide water quality benefits on the site.

Thank you for the opportunity to provide comments. 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 the case.

Sincerely,

Gary Green
Environmental Analyst
cc: AA623-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 7, 2005

Eric Shertz
Cecil County Office of Planning and Zoning
129 East Main Street, Room 300
Elkton, MD 21921

RE: Lands of Nikolaus J. and Jessica Hurt
(Tax Map 40, Parcel 1)

Dear Mr. Shertz:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to subdivide a 5.906 acre tract of land into a 1.932 acre lot; in which the entire parcel is designated as a Limited Development Area (LDA). This office received a preliminary plat for review on August 29, 2005. Based on the information provided, we have the following comments regarding the subdivision proposal.

1) As part of the subdivision proposal, the applicant must provide information on the area of existing forest to be removed. This information is necessary to determine the mitigation requirements for the subdivision. Information on clearing must also be provided for the adjacent lots through which the driveway will be realigned. Mitigation must be provided as required in Section 200 of the Cecil County Zoning Ordinance. No more than 20% of the forest or developed woodland within the site proposed for development may be removed.

2) As indicated on the site plans, the applicant is proposing a new dwelling and associated driveway on Lot 1. The 110-foot Buffer must be shown to ensure the proposed dwelling and limits of disturbance do not encroach upon the Buffer. According to the National Wetlands Inventory Mapping (NWI) for this parcel, it appears that esturine wetlands exist on the parcel associated with the Chesapeake Bay shoreline. These wetlands must be shown on the plat if they exist.

3) This office recommends that the applicant identify on the final subdivision plat impervious surface coverage of the house and driveway to ensure the 15% limit is not exceeded.

4) The applicant must provide a letter from the Department of Natural Resources, Natural Heritage Division verifying that there are no impacts to any rare, threatened, or endangered species.

5) Topographic lines, though not clearly delineated on the site plan, should be provided more distinctly on revised site plans. Soil Classifications were noted on the plans and are Sassafras Sandy Loam series (SaB2, SaC2, SaD2). SaB and SaD soils are moderately erodable on slopes. SaC2 soils are severely erodable on slopes.

Thank you for the opportunity to provide comments for this project. We will provide additional comments when we receive a revised plan. Please contact me at (410) 260-3476 if you have any questions.

Sincerely,

Gary Green
Environmental Analyst
cc: CE584-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 1, 2005

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: Local Case No. 05-1798 Lot 64, The Leverings Subdivision
Local Case No. 05-1799 Lot 65, The Leverings Subdidision

Dear Ms. Chaillet:

I have reviewed the variance applications to clear more than 30% on Lots 64 and 65 of the Leverings Subdivision. Each lot is fully wooded and the existing forest on both lots is proposed for removal under the development of the sites for new dwellings and septic systems.

If the variance requests are approved, the Commission recommends that mitigation be provided in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance.

Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variances. Please notify the Commission in writing of the decisions made in these variances.

Sincerely,

Gary Green
Environmental Analyst
cc: SM590-05
SM589-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 31, 2005

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: Local Case No. 04-2972 Hollywood Shores Lots 20 and 21

Dear Yvonne:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling, driveway, porch, deck, septic system, drainage and stormwater management system, and within the expanded Buffer. The proposed dwelling and associated improvements will be located on two lots (referred to as Lots 20 and 21, Block F). The properties are currently undeveloped, forested with steep slopes and expanded Buffer, and are designated as Limited Development Area (LDA).

Providing that these lots are properly grandfathered, we do not oppose a variance to develop the parcels; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

As shown on the site plan, steep slopes encompass a large portion of the site, and therefore we recognize that a variance is necessary to permit development of the site. The proposed dwelling and associated attachments and systems have been located to a portion of Lot 20 that is the flatest and close to the existing roadway. The drainage from the dwelling has been designed to carry runoff away from steep slopes. In addition, the properties have a combined total of 86,200 square feet of forest. 12,486 square feet of forest will be removed and 37,458 square feet of forest will be replaced.

1) We recommend mitigation, at a ratio of 3:1 for disturbance within the Buffer and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

2) Stormwater from the new driveway parking pad should be directed away from steep slopes, preferably to a best management practice (BMP) to provide water quality benefits to the site.

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

Sincerely,

Gary Green
Environmental Analyst
cc: SM575-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 31, 2005

Joseph Johnson
Cecil County Office of Planning and Zoning
129 East Main Street, Room 300
Elkton, MD 21921

RE: Local Case No. 3172 Dominic and Joanne Travaline
(Tax Map 35, Parcel 25, Lot 4A)

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a new dwelling with a maximum roof height of 43 feet. The property is designated a Limited Development Area (LDA) and a Buffer Exemption Area (BEA). The property is currently developed with a single-story framed dwelling with no basement.

Providing that this lot is properly grandfathered, we do not oppose a variance to develop a higher structure and within a Buffer Exemption Area. The applicant did not provide any plans showing the proposed dwelling in relation to the existing dwelling and how much new impervious surface will be created, and how the runoff from both dwelling and driveway will be treated nor did the applicant provide information on the new structure's location to the existing shoreline. In addition, the lot appears to have some vegetative growth. Plans will need to show vegetation types (e.g. trees, bushes, shrubs and common names) occurring on the property, how much will be impacted and how much will be replaced. When the information has been submitted, we will provide additional comments at that time.

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

Sincerely,

Gary Green
Environmental Analyst

cc: CE573-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 23, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

RE: Variance 2005-0267-V Mary Boss and Patricia Hanson

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling and pool with less expanded Buffer than allowed and with disturbance to steep slopes. The property is .669 acres in size, designated a Limited Development Area (LDA), and is currently developed with a single-family dwelling with a shed, patio, and retaining wall.

We note that this property was the subject of a previous 2002 Board of Appeals Case (Variance 2002-0297-V, October 3, 2002) whereby the applicants were granted approval of a variance request to construct a dwelling on steep slopes and within the expanded Buffer. As a component of this original request, the applicants had initially included a similar pool proposal, which this office opposed (Letter dated October 2, 2002, subsequent letter dated October 3, 2002 noted that the pool had been removed). The Board of Appeals approved the total proposed impervious coverage of 5,026 square feet. The current design shows a proposed impervious coverage of 5,109 square feet. The current plan does not provide figures for the pervious structures (i.e. decks) proposed in the expanded Buffer or for total disturbance, including grading in the Buffer.

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

Critical Area Law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship". The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot". Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The applicant must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. In this case, the applicant is proposing to place approximately 975 square feet of dwelling, decking and pool within the expanded Buffer. Approximately 392 square feet of new development is from the pool and its associated decking. Because pools are accessory structures, not permitted in the Buffer, the applicant must present competent and material evidence to show that he/she meets the burden of proof on each of the variance standards described below. Under the law established by the General Assembly, even if there is nowhere else on the lot to site the proposed pool, the variance cannot be granted unless the applicant proves, and the Board finds, that without the variance, the applicant would suffer an unwarranted hardship, that is, "denial of reasonable and significant use of the entire parcel or lot". We do not believe that this standard is met in this case, and accordingly, the variance should be denied. I have discussed each one of the standards below as it pertains to this site:

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.* As stated above, the General Assembly defined "unwarranted hardship" to mean that an applicant must prove that, without the requested variance, he/she would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information in our file, we do not believe the County has evidence on which to base a favorable finding on this factor.

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 for residential purposes, and therefore, they would not be denied a right commonly enjoyed by their neighbors. In addition, accessory structures, such as swimming pools, are not permitted in the Buffer. Even if other properties have swimming pools, certain structures that existed prior to December 1, 1985 or the effective date of the Anne Arundel Critical Area regulations are considered grandfathered, and do not convey a right for similar structures to be built in the Buffer in the future. The General Assembly made this clear in the 2002 amendments to the Critical Area law, as discussed above. We do not believe that the applicants have met this standard.

3. *The granting of a variance will not confer upon the 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 area, as well as in similar situations in the County's Critical Area. To grant a variance to place more development in the expanded Buffer where alternative locations and configurations exist, would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his/her proposed variance does not conform to the Critical Area law. We do not believe the applicants have overcome this burden.

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.* According to the application submitted by the applicants, it is our understanding this variance request is not based upon conditions or circumstances that are a result of actions by the applicants, or arise from any neighboring conforming condition.

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 contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. It appears approximately 975 square feet of new development and consequential disturbance to the land will occur, which results in increased stormwater and sediment runoff within the Buffer, and the loss of essential infiltration opportunities. The 2002 and 2004 amendments to the State Critical Area law place increased emphasis on the importance of maintaining the Buffer in a fully vegetated state.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicants have met each one of the County's variance standards, the Board must deny this application.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA514-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 2, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

RE: Variance 2005-0253-V William and Patricia Hankins

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the expanded Buffer to permit the removal of the concrete-block retaining wall nearest the house and replacement with a keystone wall (modular concrete units), the installation of a boulder wall from rear of house to elevation 68 feet (approximately mid-point of property), and removal of a portion of the existing gravel and asphalt driveway. The property is currently developed with a single-story dwelling, driveway, walkway, patio, porch, septic and retaining walls consisting of a combination of concrete-block and boulders. The property has a designation of Limited Development Area (LDA).

Providing this lot is properly grandfathered, we do not oppose a variance to remove and replace the existing failing retaining walls; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the proposal and variance request.

1) As shown on the site plan, the entire property is located on steep slopes and the expanded Buffer, and therefore we recognize that a variance is necessary to permit development of the site.

2) As shown on the site plan, a portion of the existing gravel/asphalt driveway will removed and a wider asphalt parking pad will be constructed. This will reduce the amount of impervious surface from 3,554 square feet to 3,485 square feet.

3) We recommend mitigation, at a ratio of 3:1 for disturbance within the Buffer and mitigation plantings should be accommodated on the site to the extent possible. Areas that were used for temporary staging and stockpile should be restored to the previous condition by either re-seeding or sod. The portion of the driveway that was removed should also be restored by either re-seeding or sod to the natural topography.

4) Stormwater from the new driveway parking pad should be directed away from steep slopes, preferably to a best management practice to provide water quality benefits on the site.

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

Sincerely,

Gary Green
Environmental Analyst
cc: AA510-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 2, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

RE: Variance 2005-0229-V Roland and Kristin Zeender

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the reconstruction of the existing dwelling, septic system, deck, retaining wall, and parking pad on steep slopes with less setbacks and expanded Buffer than required. The property is designated a Limited Development Area (LDA), is Buffer exempt, and is currently developed with a single-family dwelling, patio, parking pad, and retaining wall. No part of the proposal is closer to the water than the existing dwelling.

Providing this lot is properly grandfathered, we do not oppose the variance for the dwelling reconstruction, septic system, deck, entry way, parking pad, and retaining wall.

If granted, we recommend the following be made conditions of the variance.

1) Mitigation, at a ratio of 3:1 for disturbance within the Buffer, should be required.

2) Stormwater from the new dwelling, parking pad, entry way, and deck should be directed to stable vegetated outfalls, away from steep slopes, to provide water quality benefits on the site.

Thank you for the opportunity to provide comments. 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 the case.

Sincerely,

Gary Green
Environmental Analyst
cc: AA492-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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December 29, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 817-04 Gootee's Marine
Dorchester County Plan # 1059

Dear Mr. Dodd:

Thank you for providing a revised site plan for the referenced project. I have reviewed the information submitted, and I have the following comments:

1. In June 2005, the Critical Area Commission approved the use of growth allocation to change the Critical Area designation of the project site from RCA to IDA to allow expansion of the marina use. One of the conditions of the Commission's approval was that the applicant was required to submit a Buffer Management Plan to Commission staff for review. This Plan had not been received.

2. It is my understanding that the applicant has received comments from the Heritage Division of the Department of Natural Resources regarding the presence of rare, threatened and endangered species on the site and potential impacts to other Habitat Protection Areas. Please provide a copy of the response from the Heritage Division to the Commission.

3. Preliminary information and calculations regarding compliance with the 10% pollutant reduction requirement were included with the project submittal requesting growth allocation. It appears that the stormwater management design has been revised. Please provide revised calculations based on the current design.

4. The plans indicate that the pocket pond adjacent to Route 335 and the wet swale along the northern property boundary will function as "BMPs in a series." When BMPs are designed to function together, the calculations must be adjusted to account for the secondary treatment of the stormwater. The 10% pollutant reduction calculations should be performed using the methodology described on page 7-9 in the *Critical Area 10% Rule Guidance Manual – Fall 2003.*

Thank you for the opportunity to comment on this project prior to the issuance of final local approvals. Please contact me at (410) 260-3480 if you have any questions.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Tom Davis, DMS and Associates, Inc.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 19, 2005

Mr. Bill Watson
Town of Chesapeake Beach
P. O. Box 400
Chesapeake Beach, Maryland 20732

RE: Kellam's Recreational Complex
New Pavilion and Storage Building
CB 777-05

Dear Mr. Watson:

Thank you for providing information about the referenced project. Based on the information submitted, I believe that the pollutant reduction requirements can be adequately addressed for this relatively small project by the existing stormwater facilities. For future projects, the following issues will need to be considered.

In the Fall of 2003, the Critical Area Commission significantly revised the pollutant reduction requirement guidance and issued a new manual entitled *Critical Area 10% Rule Guidance Manual – Fall 2003*. The new manual addresses the changes made by the Maryland Department of the Environment (MDE) in the 2000 Maryland Stormwater Design Manual and incorporates the design standards and specifications for various Stormwater Treatment Practices. Some practices, such as grassed swales, were eliminated because they did not meet MDE's minimum guidelines for water quality management. Other practices were substantially redesigned and refined to ensure that they would function properly and would meet MDE's minimum guidelines for water quality management. Because the practices associated with this project were designed and implemented in accordance with the guidance in effect prior to the current manual and because there is only a nominal amount of "remaining pollutant removal credit," all future projects on this site should address stormwater management as a redevelopment project based on current conditions. Using a pre-development scenario dating from July 2002 will not be acceptable.

With regard to the deduction of 1,200 square feet of planting from the Town's "mitigation bank," this appears to be a reasonable proposal. I have reviewed the Bayview Hills Planting file, and I agree that there is a mitigation credit of 23,280 square feet. Following implementation of this project, this credit will be reduced by 1,200 square feet to 22,080.

Thank you for submitting this Critical Area consistency analysis for this project. If you have any questions, please feel free to call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 15, 2005

Ms. Bridgett Robinson
City of Havre de Grace
711 Pennington Avenue
Havre de Grace, Maryland 21078

RE: City of Havre de Grace Comprehensive Review

Dear Ms. Robinson:

I am writing in response to your e-mail and to follow up on our recent telephone conversation. Specifically, your concerns are related to the use of funds collected from the Special Taxing District and the regulations pertaining to the 100-foot Buffer.

With regard to your questions about the special taxing district, the City is not required to conduct an inventory of its waterfront resources. However, as we have discussed with City officials, the City must move forward with implementing projects that mitigate for impacts associated with the extensive development and redevelopment of the waterfront that has taken place since the City adopted its Critical Area Program in 1989. As required by COMAR 27.01.09.01.C(8), local governments that implement a buffer exemption area program must propose other measures for achieving the water quality and habitat objectives of the Buffer, and these provisions must be approved by the Commission. As we have discussed, the City is not effectively implementing these provisions.

The concept of an inventory was proposed by Commission staff in September 2004, as a way for the City to identify potential projects for which the special taxing district funds could be expended as required by law. We discussed an inventory of potential projects to facilitate bringing certain elements of the City's Critical Area Program into compliance with State law with minimal additional effort. We also discussed using a portion of the funds already collected in the special taxing district to finance the inventory effort. Following that discussion and in consultation with Commission staff, a list of general mitigation projects for which the special taxing district funds could be used. This list is already included in Section 1-111(i)(2) of the City's draft Critical Area Ordinance.

With regard to your questions about the regulations for the 100-foot Buffer, COMAR 27.01.09.01.C (2) provides that: "New development activities, including structures, roads, parking areas and other impervious surfaces, mining and related facilities, or septic systems, may not be permitted in the Buffer, except for those necessarily associated with water-dependent facilities as set forth in COMAR 27.01.03." The Critical Area Criteria allow local governments to exempt certain portions of the Critical Area from the strict application of Buffer requirements "where it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial, and institutional development in the Critical Area prevents the Buffer from fulfilling" its intended functions. These areas are called "buffer exemption areas." All of the City's waterfront parcels designated IDA are considered a buffer exemption area. The Criteria require that local governments propose other measures for achieving the water quality and habitat protection objectives of the Buffer. Under the City's current Critical Area Program, the special taxing district is used as a mechanism to collect revenues to develop and implement projects that would enhance water quality and habitat within the City.

The City has experienced extensive development and redevelopment within the 100-foot Buffer in the last 16 years. Unfortunately, no appropriate mitigation projects have been implemented. Even if the fees collected had been used appropriately, they are insufficient to provide mitigation at a level consistent with the intensity of development of the City's waterfront. As a result of meetings with City officials, it was decided that the City did not wish to raise the level of existing fees. Therefore, in order to compensate for this deficiency and assure that the City's Program is consistent with the requirements of State law, City staff and Commission staff have modified the City's Critical Area Ordinance to include bufferyards and on-site plantings in addition to the collection of special taxing district fees. The measures proposed are consistent with the Critical Area Commission's policies for buffer exemption areas and are similar to measures that have been adopted by numerous municipalities and counties in the Critical Area.

To be clear, the current buffer exemption area provisions in the City's Critical Area Program and the way these provisions have been implemented have been identified by the Commission staff as a compelling and significant deficiency of the City's Critical Area Program. This issue is not the only aspect of the City's Program that is problematic. We have worked closely with City staff and officials for three years to correct all of the Program's deficiencies including the need to codify the Program, incorporate new legislative changes, address revised stormwater management regulations, and many others. The current draft Critical Area Ordinance addresses all of the outstanding issues. At various public meetings we have attended, there have been comments and suggestions that the City's Program is not deficient and does not need to be changed. As we have discussed with City staff and officials, such comments are incorrect.

The City is required by law to update its local Critical Area Program every six years. However, since the Commission approved the City's program in 1989 the City has not undertaken updated its program. It is time to make the necessary changes to the City's program to bring it into compliance with State law. If adjustments to the amended program need to be made in the future, the law provides an established and streamlined process for that purpose.

Please be advised that in accordance with §8 –1809 of the Natural Resources Article of the Annotated Code of Maryland, the Commission is authorized to take action to correct deficiencies in local programs by providing specific notice to the City. Upon notification, any project approvals granted under parts of the Program that the Commission has determined to be deficient would be null and void. If the Commission were to take this action, it would preclude the City from issuing any valid project approvals that would be affected by the identified deficiencies.

It is my understanding that the City will require 60 days to approve the revised Critical Area Ordinance. Absent adoption by the City of a revised Program, the Commission staff will recommend consideration by the Chairman and full Commission of appropriate action under the law.

Thank you for the opportunity to provide clarification on these issues. I look forward to discussing these and any other issues pertaining to the revised Critical Area Ordinance at the public hearing on January 17, 2005. In the interim, if you have any questions or if I can provide any assistance, please do not hesitate to call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Albert Henry, City of Havre de Grace
Marianne Mason, OAG

May Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 14, 2005

Matt Bucchin
Resource Planning
Land and Water Conservation Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Project Review 2004-DNR-222, North Beach Land Lease or Sale

Dear Mr. Bucchin:

Thank you for providing additional information about the referenced land transfer. As stated in your letter of September 1, 2004, approximately 863.3 square feet of Lot 18 consists of upland, while the remainder is located below mean high water. The upland area is proposed for transfer to Mr. Patrick Murphy. Mr. Murphy's property and Lot 18 are designated an Intensely Developed Area (IDA) on the Critical Area maps for North Beach. The waterfront portions of Mr. Murphy's property and Lot 18 bordering the Chesapeake Bay are designated as a Buffer Exemption Area (BEA), while the tidal inlet bordering Mr. Murphy's property and Lot 18 is not a BEA.

It is my understanding that Mr. Murphy wishes to purchase the upland portion of Lot 18 to install saltwater holding tanks for the purpose of conducting scientific research of oysters in the Chesapeake Bay. Based on correspondence from the Town of North Beach to Mr. Bob Rosenbush of the Maryland Department of Planning, it appears that the Town has determined that the property may be used by the purchaser for his intended purpose. The purchaser will need to obtain all required federal, State, and local permits prior to initiating any activity associated with this use.

If you need additional information, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Bob Rosenbush, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 14, 2005

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P. O. Box 653
Leonardtown, Maryland 20650

RE: Piney Point Elementary School
SM 429-04

Dear Ms. Chaillet:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the Piney Point Elementary School Addition and Relocatable Classroom Project in Piney Point. On December 7, 2005, the Critical Area Commission voted to conditionally approve St. Mary's County's request to exceed the impervious surface limit on the project site. The Commission's approval included the following condition:

The County shall provide 11,166 square feet of mitigation consisting of canopy trees, understory trees, and shrubs, located on the Piney Point Elementary School property, adjacent to existing naturally vegetated areas.

Thank you for assisting me in the preparation of the materials for the Commission meeting. I have enclosed a copy of the Planting Agreement for signature by the appropriate representative of the Board of Education. Please have them sign and date both copies and return one to me. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Enclosure

Planting Agreement for State and Local Projects

State or Local Agency
St. Mary's County Board of Education

Project Number

Agency Contact
Yvonne Chaillet (Land Use and Growth Management)

Phone Number
(301) 475-4200

Commission Approval Date
December 7, 2005

CAC Planner
Mary Owens

Project Name
Additions to Piney Point Elementary School

Project Location
Tall Timbers Road in Piney Point

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
11,166 square feet

Planting and Natural Regeneration Plan (attach additional sheets if necessary)
Mitigation required for conditional approval of request to exceed the 15% impervious surface limit in LDA

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 9/03*

Mary R. Owens 12/14/05

May - Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 14, 2005

Mr. Steve Dodd
Dorchester County
Department of Planning and Zoning
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 877-03 Chrabitat @ Sunset Farm, Lots A through E
Dorchester County Project #622 D

Dear Mr. Dodd:

Thank you for providing the revised subdivision plan for the Chrabitat @ Sunset Farm Subdivision. I have reviewed the revised plan and the Commission's July 27, 2005 letter, and the revised plans, and I have the following comments:

1. The Impervious Surface Area Table has been revised, and it appears that the overall impervious surface limits for each lot have been addressed. However, it is not clear how Sunset Court has been addressed, because it does not appear that the road (1700 feet long) will comply with the impervious surface limits. Subdivision roads and impervious surfaces on community-owned open space must be included in impervious surface area calculations. The table should be revised to accurately reflect the proposed impervious surface area associated with Sunset Court.

2. The plat must state how much forest cover is located in the Critical Area portions of the site and must include clearing limits, and required reforestation for the Critical Area portions of these lots. Proposed reforestation areas have been shown, but it is not clear from the plans whether they will be adequate to meet the reforestation requirements. Afforestation and reforestation requirements on all of the lots may be partially satisfied by the requirement to establish the 100-foot Buffer as stated in Comment #7, so the applicant may want to revise the proposed afforestation areas.

3. The Wildlife and Heritage Service (WHS) has reported the presence of Delmarva Fox Squirrel on or in the vicinity of this site. This is both a federal and State-listed endangered species. The plans indicate that clearing of existing forest will take place on Lots A, D, and

E; however, no proposed home sites have been shown. The applicant must contact the WHS and obtain written verification that the plans as proposed adequately address Delmarva Fox Squirrel habitat protection.

4. Because the Delmarva Fox Squirrel is a federally-listed endangered species, the U.S. Fish and Wildlife Service (USFWS) may also comment on the project. It is not clear whether the applicant has coordinated with the USFWS regarding the Delmarva Fox Squirrel. Please provide a copy of the USFWS review comments prior to issuing any approvals for the project.

5. Information on soil types and their locations is not shown on the plat. Hydric soils may indicate that there are additional nontidal wetlands on the site.

6. A non-tidal wetland (pond) is shown on the plans; however, it is not clear if wetlands have been field verified and delineated. If the nontidal wetland is contiguous with the 100-foot Critical Area Buffer, then the Buffer will need to be expanded to include the wetland and possibly adjacent areas of hydric soils.

7. This subdivision represents a change in use from agricultural to single-family residential development; therefore, the 100-foot Buffer must now be fully established in natural vegetation. If it is not the intent of the developer to provide the necessary Buffer plantings, the plat must clearly indicate graphically and with appropriate notes that the responsibility for establishing the Buffer will be transferred to the lot owners and will be required at the building permit stage.

8. A determination must be made as to whether the 1988 timber harvest contract complied with any reforestation conditions in the approved timber harvest plan for this property. If this parcel was required to naturally regenerate, the plat must include a note that designates all areas except for the future home sites as regeneration areas that may not be disturbed.

9. It appears that the Shared Sewage Disposal Facility will serve Lots A through E. This information must be stated on the plan, and the proposed connections should be shown on the plan. If additional clearing will be required to connect the dwellings to the Facility, this should be indicated in the reforestation calculations.

10. If a community pier and/or boat ramp are proposed at the end of the community access lane, this information must be shown on the plat. Otherwise, a note must be provided which states that if a community pier is constructed, then individual private piers will be prohibited.

11. The plans indicate that the rooftop disconnect shall be applied for each lot to treat stormwater. The minimum 75-foot "disconnection" filter strip should not be located within the 100-foot Buffer. It is not clear how stormwater for Sunset Court will be addressed.

Thank you for the opportunity to provide comments on the latest plan for this subdivision. Please provide revised plans when these comments have been addressed. If the applicant needs assistance in addressing these comments, he may contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Cc: Mary Ratnaswamy, USFWS
Scott Smith, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 12, 2005

The Honorable Gerald Donovan
Town of Chesapeake Beach
P. O. Box 400
Chesapeake Beach, Maryland 20732

RE: Forest and Developed Woodland Master Plan

Dear Mayor Donovan:

The Critical Area Commission has received the final draft of the for the Town of Chesapeake Beach The staff has reviewed the Plan and the comments provided to the consultant in March of 2005 following the Program Subcommittee's evaluation of the Plan. At this time, it appears that most of the Commission's significant concerns have been resolved; however, there are still some minor issues that should be addressed before the Plan is brought to the Critical Area Commission for final approval. The issues are as follows:

1. It is the Commission's understanding that, in addition to the specific changes identified in the Town's zoning ordinance, the Forest and Developed Woodland Master Plan document will replace and supersede the forest and woodland protection provisions, portions of the Buffer Exemption Area (BEA) provisions, and portions of the Buffer disturbance provisions in the Town's Critical Area Program. It is not clear what specific provisions of the Town's Program document are being replaced by the Plan. Please identify the specific sections of the Program that will be replaced.

2. On page 3, the third bullet of section 2.1 should read, " … may be reasonable to assume that it will **be** distributed **among** ~~along~~ the percentages of …."

3. On page 5, in Table 1, the impacts to Forest Resources in LDA or RCA have been reduced from 194,100 square feet to 2,000 square feet, and Impacts to Habitat Protection/100' Buffer Areas has been increased from 204,600 to 350,170; however, there appears to be a net decrease of 46,530 square feet. It is not clear whether the clearing associated with a proposed project has been reduced or if a project is no longer proposed for development. Please clarify the source of this reduction.

4. On page 10 in the paragraph "*Phragmites removal and native plant restoration,*" clarify as follows: "This mitigation technique would **receive mitigation credit at a ½ to 1 ratio (200 square feet of eradication would satisfy a 100 square foot mitigation requirement).** ~~require a 1/2 :1 mitigation ratio.~~" Add after the last sentence, **"Property owners that receive funds from federal or state cost share programs can only receive mitigation credit for supplemental planting."**

5. On page 10 in the paragraph *"Shoreline Restoration and Environmental Cleanup,"* clarify as follows, " This specialized mitigation technique would **receive mitigation credit at a 3:1 ratio** ~~require a 1:3 ratio~~ (300 square feet of credit granted for every 100 square feet of shoreline restored, cleaned up, and plantings installed) to enable this intensive work."

6. Add the following additional language to Section 4-410.b)F.ii to provide complete forest protection provisions as required by the Critical Area Criteria..

   [2] The total acreage in forest coverage within the Town in the Critical Area shall be maintained or preferably increased;

   [3] All forests that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis; and

   [4] Developed woodland vegetation shall be conserved to the greatest extent practicable.

6. Delete Section Section 4-410.b)(5)F.iii, insert the following language, and renumber paragraphs iv. and v. :

   iii. A performance bond shall be collected by the Town in an amount determined by the Town to assure satisfactory replacement as required by paragraphs (3) and (4) above;

   iv. Grading permits shall be required before forest or developed woodland is cleared;

   v. Forests which have been cleared before obtaining a grading permit or that exceed the maximum area allowed as specified in this ordinance shall be replanted at three times the areal extent of the cleared forest;

   vi. If the areal extent of the site limits the application of the reforestation standards as specified in the paragraphs above, alternative provisions or reforestation guidelines may be permitted by the Town if they are consistent with the intent of the Forest and Woodland Element of this Program to conserve the forest and developed woodland resources of the Critical Area. Alternative provisions may include fees-in-lieu provisions or use of a forest

mitigation bank if the provisions are adequate to ensure the restoration or establishment of an equivalent forest area;

7. Add the following language to Section 4-404 as subsection (f) regarding mitigation for authorized impacts to the 100-foot Buffer.

(f) Mitigation shall be provided for all disturbance within the 100-foot Buffer. For mitigation requirements in Buffer Exemption Areas, see Section 4-407. Mitigation for disturbance within the 100-foot Buffer outside of Buffer Exemption Areas shall be implemented as follows.

(1) Mitigation for disturbance within the Buffer associated with a development activity for which a variance is approved by the Board of Appeals shall be provided for the area disturbed at three-to-one.

(2) Mitigation for disturbance within the Buffer associated with the construction of a water-dependent facility shall be provided for the area disturbed at two-to-one.

(3) Mitigation for disturbance within the Buffer associated with the construction of a shore erosion control measure shall be provided for the area of natural vegetation disturbed at one-to-one. If no natural vegetation is disturbed or removed, mitigation is not required.

(4) Mitigation for disturbance within the Buffer associated with the construction of facilities for public access to the water (i.e. walkways) shall be provided for the area disturbed at two-to-one.

Thank you for the opportunity to provide final comments on the Plan. If you have any questions about these comments, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Cc: Marianne Mason, OAG
Donovan Hart, Jakubiak and Associates
Bill Watson, Town of Chesapeake Beach

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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December 12, 2005

The Honorable Gerald Donovan
Town of Chesapeake Beach
P. O. Box 400
Chesapeake Beach, Maryland 20732

RE: Forest and Developed Woodland Master Plan

Dear Mayor Donovan:

The Critical Area Commission has received the final draft of the for the Town of Chesapeake Beach The staff has reviewed the Plan and the comments provided to the consultant in March of 2005 following the Program Subcommittee's evaluation of the Plan. At this time, it appears that most of the Commission's significant concerns have been resolved; however, there are still some minor issues that should be addressed before the Plan is brought to the Critical Area Commission for final approval. The issues are as follows:

1. It is the Commission's understanding that, in addition to the specific changes identified in the Town's zoning ordinance, the Forest and Developed Woodland Master Plan document will replace and supersede the forest and woodland protection provisions, portions of the Buffer Exemption Area (BEA) provisions, and portions of the Buffer disturbance provisions in the Town's Critical Area Program. It is not clear what specific provisions of the Town's Program document are being replaced by the Plan. Please identify the specific sections of the Program that will be replaced.

2. On page 3, the third bullet of section 2.1 should read, " … may be reasonable to assume that it will **be** distributed **among** ~~along~~ the percentages of …."

3. On page 5, in Table 1, the impacts to Forest Resources in LDA or RCA have been reduced from 194,100 square feet to 2,000 square feet, and Impacts to Habitat Protection/100' Buffer Areas has been increased from 204,600 to 350,170; however, there appears to be a net decrease of 46,530 square feet. It is not clear whether the clearing associated with a proposed project has been reduced or if a project is no longer proposed for development. Please clarify the source of this reduction.

4. On page 10 in the paragraph "*Phragmites removal and native plant restoration,*" clarify as follows: "This mitigation technique would **receive mitigation credit at a ½ to 1 ratio (200 square feet of eradication would satisfy a 100 square foot mitigation requirement).** ~~require a 1/2 :1 mitigation ratio.~~" Add after the last sentence, **"Property owners that receive funds from federal or state cost share programs can only receive mitigation credit for supplemental planting."**

5. On page 10 in the paragraph *"Shoreline Restoration and Environmental Cleanup,"* clarify as follows, " This specialized mitigation technique would **receive mitigation credit at a 3:1 ratio** ~~require a 1:3 ratio~~ (300 square feet of credit granted for every 100 square feet of shoreline restored, cleaned up, and plantings installed) to enable this intensive work."

6. Add the following additional language to Section 4-410.b)F.ii to provide complete forest protection provisions as required by the Critical Area Criteria..

   [2] The total acreage in forest coverage within the Town in the Critical Area shall be maintained or preferably increased;

   [3] All forests that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis; and

   [4] Developed woodland vegetation shall be conserved to the greatest extent practicable.

6. Delete Section Section 4-410.b)(5)F.iii, insert the following language, and renumber paragraphs iv. and v. :

   iii. A performance bond shall be collected by the Town in an amount determined by the Town to assure satisfactory replacement as required by paragraphs (3) and (4) above;

   iv. Grading permits shall be required before forest or developed woodland is cleared;

   v. Forests which have been cleared before obtaining a grading permit or that exceed the maximum area allowed as specified in this ordinance shall be replanted at three times the areal extent of the cleared forest;

   vi. If the areal extent of the site limits the application of the reforestation standards as specified in the paragraphs above, alternative provisions or reforestation guidelines may be permitted by the Town if they are consistent with the intent of the Forest and Woodland Element of this Program to conserve the forest and developed woodland resources of the Critical Area. Alternative provisions may include fees-in-lieu provisions or use of a forest

mitigation bank if the provisions are adequate to ensure the restoration or establishment of an equivalent forest area;

7. Add the following language to Section 4-404 as subsection (f) regarding mitigation for authorized impacts to the 100-foot Buffer.

(f) Mitigation shall be provided for all disturbance within the 100-foot Buffer. For mitigation requirements in Buffer Exemption Areas, see Section 4-407. Mitigation for disturbance within the 100-foot Buffer outside of Buffer Exemption Areas shall be implemented as follows.

(1) Mitigation for disturbance within the Buffer associated with a development activity for which a variance is approved by the Board of Appeals shall be provided for the area disturbed at three-to-one.

(2) Mitigation for disturbance within the Buffer associated with the construction of a water-dependent facility shall be provided for the area disturbed at two-to-one.

(3) Mitigation for disturbance within the Buffer associated with the construction of a shore erosion control measure shall be provided for the area of natural vegetation disturbed at one-to-one. If no natural vegetation is disturbed or removed, mitigation is not required.

(4) Mitigation for disturbance within the Buffer associated with the construction of facilities for public access to the water (i.e. walkways) shall be provided for the area disturbed at two-to-one.

Thank you for the opportunity to provide final comments on the Plan. If you have any questions about these comments, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Cc: Marianne Mason, OAG
Donovan Hart, Jakubiak and Associates
Bill Watson, Town of Chesapeake Beach

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 12, 2005

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 730-05 William Kirtland
Dorchester County Project 2273

Dear Mr. Dodd:

Thank you for providing information on the referenced variance request. The applicant is proposing to demolish an existing dwelling and rebuild a dwelling in a different location, reconfigure an existing driveway, demolish an existing outbuilding, and relocate an existing sewage reserve area. The applicant is requesting a variance to portions of the proposed improvements within the 100-foot Buffer.

The property is not an existing grandfathered lot; however, the existing dwelling, most of the driveway, an existing outbuilding, and portions of the sewage reserve area are located within the 100-foot Buffer. Originally, the applicant had intended to request a variance to construct a substantial addition to the existing dwelling in its current location, approximately 55 feet from the water's edge. After meeting with Dorchester County staff and Critical Area Commission staff, the applicant determined that rather than obtaining a variance for additional impacts within the 100-foot Buffer, a better alternative would be to redesign the site and build a new dwelling. This option would provide opportunities to significantly decrease disturbance and adverse impacts within the Buffer.

Currently, the existing impervious surface area associated with the house, driveway, and an outbuilding within the 100-foot Buffer is 5,151 square feet. Approximately 2,400 square feet of the sewage reserve area is also within the 100-foot Buffer. The proposed redevelopment plan will result in 3,148 square feet of impervious surface area within the Buffer. The proposed sewage reserve area will be located entirely outside the 100-foot Buffer. The net result is that impervious surface area within the Buffer will be reduced by more than 2,000 square feet and there will be no impacts to the Buffer associated with the sewage reserve area.

The Critical Area Commission does not oppose the proposed variance request, as the applicants have significantly reduced the area of disturbance within the 100-foot Buffer, and the proposed development activities are generally located further from the water's edge than what currently exists on the property. The applicants have also located the proposed sewage reserve area entirely outside the 100-foot Buffer. If the variance request is approved, the Commission recommends that the applicant be required to provide planted mitigation at three-to-one for the area of impact within the Buffer. This mitigation should be located in the 100-foot Buffer on the project site.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Mary - Leader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 8, 2005

Ms. Staci Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 735-05 Mulberry South – Lot 6
St. Mary's County Project 05-2491

Dear Ms. Merriman:

I am writing to follow up on a meeting on December 6, 2005 with Sue Veith and Yvonne Chaillet regarding the referenced variance application. During this meeting, we discussed concerns raised to the Commission by a resident of the area regarding potential problems with stability of the steep slopes during and after construction. The resident's concern was based on problems that resulted from a similar project in the Mulberry South Subdivision several years ago.

In addition to the Commission's comments in the letter dated November 21, 2005, this office has the following recommendations:

1. Super silt fence should be installed around the entire limits of disturbance, so any sediment will be contained on the project site.

2. The applicant should be required to obtain an engineered sediment and erosion control plan.

3. Any retaining walls or dwelling structural walls functioning as retaining walls should be designed by a registered professional engineer to ensure that the risk of failure and associated problems with sediment-laden run-off are avoided.

4. The stormwater management design, including the number, location and sizing of the proposed dry wells, and the structural and nonstructural conveyances to the drywells should be designed by a registered professional engineer to ensure that all stormwater is properly managed on the project site.

Thank you for the opportunity to provide additional comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 2, 2005

Mr. John B. Norris, III.
Office of the County Attorney
St. Mary's County Government
P O Box 653
Leonardtown, Maryland 20650

RE: St. George's Peninsulas (St. Mary's County Project No. 03-120-027) SM 886-03 CWSP No. 14-120-001 Change from NPS to RSS

Dear Mr. Norris:

Attached is a letter to Dennis Canavan advising him of the Critical Area Commission's position regarding the use of growth allocation for the St. Georges Peninsulas Subdivision. As you can see from the letter, the Commission's position remains unchanged. I hope this clarifies any conflicting information that you may have received from the applicant or his attorney.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Enclosure (1)

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 21, 2005

Mr. Dennis Canavan
Department of Land Use and Growth Management
St. Mary's County
P.O. Box 653
Leonardtown, Maryland 20653

RE: CWSP No. 14-120-001 Change from NPS to RSS
St. George's Peninsulas (03-120-027) SM 886-03

Dear Mr. Canavan:

I am writing to follow up on a letter to you from Mr. Marc Cohen of Ober, Kaler, Grimes & Shriver regarding the St. George's Peninsulas Subdivision. As has happened on several previous occasions, Mr. Cohen appears to have misunderstood information provided by Commission staff, and he has incorrectly summarized the Critical Area Commission's position.

In Mr. Cohen's letter, he states that, "Subsequently, the Director of LUGUM and the County Attorney determined that placement of an RSS utility outside the 100 foot buffer, but within the 1000 foot Critical Area would not implicate any growth allocation issues since all the lots and the homes in question were themselves outside the 1,000 foot Critical Area. Thereafter, the Director of LUGUM held a conference call with his staff and Mary Owens of the Critical Area Commission staff on this matter. At the conclusion of this conference call it was agreed that no growth allocation would be needed if one of the eleven lots intended to be located in the Critical Area were eliminated to compensate for a portion of the drip irrigation field that was within the Critical Area. With this understanding, all Critical Area issues were resolved and LUGUM determined that no growth allocation would be needed and that the matter could now come back to the County Commissioners for final action."

This summary of the discussion with me is incorrect. As stated in the Critical Area Commission's July 12, 2004 letter, the Commission's concern with private septic or sewage systems within the Critical Area and related growth allocation issues remains unchanged. It was, and is, my understanding that the St. George's Peninsulas Project involves 16 lots (Lots 1 through 16) within the Critical Area and 49 lots (Lots 17 through 65) outside the Critical Area. A shared drip irrigation sewage system for the 49 non-Critical Area lots is also proposed to be located within the Critical Area. **The development as proposed cannot be accomplished without the use of growth allocation. This is because the 16 proposed lots will exhaust all the residential development**

potential of the Critical Area portion of the property. Any further development activity, including a drip irrigation sewage system for any lots located outside the Critical Area, will require the use of growth allocation. Even if the number of lots were reduced from 11 to 10, the Commission's position would remain unchanged, because a drip irrigation sewage system serving non-Critical Area lots is not a permitted use within the Resource Conservation Area as set forth in COMAR 27.01.02.05.

The conference call that Mr. Cohen references, during which there was a discussion about elimination of one of the Critical Area lots, was based on the premise that growth allocation would be used to change the Critical Area designation of the area where the drip irrigation sewage system was to be located. If growth allocation for the drip irrigation system were approved, a "development envelope" would need to be drawn around the system and all related buildings, roads, holding ponds, etc. in a manner consistent with the Commission's growth allocation policy, and the Critical Area designation of this entire area would be changed from RCA to LDA. You may recall that we discussed that if this were to take place, then there would likely not be sufficient RCA acreage remaining to support the development of the 16 lots (one dwelling unit per 20 acres.) We talked about the possibility that this situation could be corrected by eliminating one or more of the lots or by including one or more of the 16 proposed lots in the area proposed to receive growth allocation and be converted from RCA to LDA.

I do not recall any part of the discussion pertaining to reducing the number of lots from eleven to ten or that this reduction was related to the portion of the drip irrigation sewage system within the Critical Area. Most importantly, at the conclusion of the conference call, it was not agreed that no growth allocation would be needed for the proposal.

In order to avoid using growth allocation, it is strongly recommended that the applicant explore opportunities to locate the wastewater treatment facility outside the Critical Area. According to the *Soil Survey of St. Mary's County*, it appears that there may be some percable soils outside the Critical Area. The Commission would encourage any efforts to locate this type of facility as far as possible from tidal waters, tidal wetlands, and tributary streams.

Once again, I hope this clarifies the Commission's position on this important issue. If you have any questions, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Marc Cohen, Ober, Kaler, Grimes & Shriver
Ms. Marianne Mason, OAG

Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Executive Director

STATE OF MARYLAND
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November 30, 2005

Ms. Kathy Anderson
U S Army Corps of Engineers – Baltimore District
P O Box 1715
Baltimore, Maryland 21203 - 1715

RE: St. Mary's County Tidal Wetlands Projects

Dear Ms. Anderson:

I have reviewed the Public Notice that includes information about the referenced project, and I have the following comments:

PN 05-50 Lake Services Inc.
It is my understanding that this project involves the repair of an 80-foot by 38-foot covered boathouse. As you are aware, new or expanded structures on piers can only be permitted in accordance with the provisions of §8-1808.4 of the Natural Resources Article of the Annotated Code of Maryland and the St. Mary's County Critical Area Program. The applicant should be prepared to provide documentation, in the form of photographs, that the proposed project is a repair of an existing boathouse.

This project also involves dredging and the placement of 4,800 square feet of dredge material in an upland disposal site on the applicant's property. It is not clear from the drawings included with the application if the proposed dredge disposal area is located within the 100-foot Buffer of tidal waters, tidal wetlands, or tributary streams. In accordance with COMAR 27.01.03.04.B.(7), dredged material cannot be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:

1) Backfill for permitted shore erosion protection measures;
2) Use in approved vegetated shore erosion projects;
3) Placement on previously approved channel maintenance spoil disposal areas; and
4) Beach nourishment.

As part of the local review and approval process, the applicant will need to provide additional information, so that the County can ensure that the placement of the dredge material complies with these regulations.

The applicant should also be advised that he will need an environmental permit from the St. Mary's County Department of Land Use and Growth Management. Additional information can be obtained from Ms. Staci Merriman at (301) 475-4200.

Thank-you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Staci Merriman, St. Mary's County

May - Reader

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

MEMORANDUM

DATE: November 29, 2005

TO: Matt Bucchin, DNR - Resource Planning

FROM: Mary Owens, mro Critical Area Commission

SUBJECT: 2005DNR178 – Wetland Construction
Billingsley NRMA

Thank you for providing information about the construction of a 5.0 acre wetland enhancement project on the DNR-owned Meloy Billingsley Property. Portions of the project are within the Critical Area of Prince Georges County.

Based on the information submitted, the project appears to be consistent with the goals of the Critical Area law and Criteria to minimize adverse impacts on water quality that result from pollutants that have run off from surrounding lands and to conserve fish, wildlife, and plant habitat. The project will increase forested habitat and enhance wildlife movement; will reduce adverse impacts associated with agricultural uses located on poor soils, will provide opportunities for education about conservation, and will involve a cooperative effort between State and local government agencies and the Chesapeake Bay Foundation.

Because this project involves the alteration of land within the Critical Area, the project will require approval by the Critical Area Commission. Proposed projects can be submitted for review and approval by the Commission at any time. The Commission meets the first Wednesday of every month and project materials need to be submitted at least three weeks before the date of the Commission meeting.

Mary Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 21, 2005

Mr. Dennis Canavan
Department of Land Use and Growth Management
St. Mary's County
P.O. Box 653
Leonardtown, Maryland 20653

RE: CWSP No. 14-120-001 Change from NPS to RSS
St. George's Peninsulas (03-120-027) SM 886-03

Dear Mr. Canavan:

I am writing to follow up on a letter to you from Mr. Marc Cohen of Ober, Kaler, Grimes & Shriver regarding the St. George's Peninsulas Subdivision. As has happened on several previous occasions, Mr. Cohen appears to have misunderstood information provided by Commission staff, and he has incorrectly summarized the Critical Area Commission's position.

In Mr. Cohen's letter, he states that, "Subsequently, the Director of LUGUM and the County Attorney determined that placement of an RSS utility outside the 100 foot buffer, but within the 1000 foot Critical Area would not implicate any growth allocation issues since all the lots and the homes in question were themselves outside the 1,000 foot Critical Area. Thereafter, the Director of LUGUM held a conference call with his staff and Mary Owens of the Critical Area Commission staff on this matter. At the conclusion of this conference call it was agreed that no growth allocation would be needed if one of the eleven lots intended to be located in the Critical Area were eliminated to compensate for a portion of the drip irrigation field that was within the Critical Area. With this understanding, all Critical Area issues were resolved and LUGUM determined that no growth allocation would be needed and that the matter could now come back to the County Commissioners for final action."

This summary of the discussion with me is incorrect. As stated in the Critical Area Commission's July 12, 2004 letter, the Commission's concern with private septic or sewage systems within the Critical Area and related growth allocation issues remains unchanged. It was, and is, my understanding that the St. George's Peninsulas Project involves 16 lots (Lots 1 through 16) within the Critical Area and 49 lots (Lots 17 through 65) outside the Critical Area. A shared drip irrigation sewage system for the 49 non-Critical Area lots is also proposed to be located within the Critical Area. **The development as proposed cannot be accomplished without the use of growth allocation. This is because the 16 proposed lots will exhaust all the residential development**

potential of the Critical Area portion of the property. Any further development activity, including a drip irrigation sewage system for any lots located outside the Critical Area, will require the use of growth allocation. Even if the number of lots were reduced from 11 to 10, the Commission's position would remain unchanged, because a drip irrigation sewage system serving non-Critical Area lots is not a permitted use within the Resource Conservation Area as set forth in COMAR 27.01.02.05.

The conference call that Mr. Cohen references, during which there was a discussion about elimination of one of the Critical Area lots, was based on the premise that growth allocation would be used to change the Critical Area designation of the area where the drip irrigation sewage system was to be located. If growth allocation for the drip irrigation system were approved, a "development envelope" would need to be drawn around the system and all related buildings, roads, holding ponds, etc. in a manner consistent with the Commission's growth allocation policy, and the Critical Area designation of this entire area would be changed from RCA to LDA. You may recall that we discussed that if this were to take place, then there would likely not be sufficient RCA acreage remaining to support the development of the 16 lots (one dwelling unit per 20 acres.) We talked about the possibility that this situation could be corrected by eliminating one or more of the lots or by including one or more of the 16 proposed lots in the area proposed to receive growth allocation and be converted from RCA to LDA.

I do not recall any part of the discussion pertaining to reducing the number of lots from eleven to ten or that this reduction was related to the portion of the drip irrigation sewage system within the Critical Area. Most importantly, at the conclusion of the conference call, it was not agreed that no growth allocation would be needed for the proposal.

In order to avoid using growth allocation, it is strongly recommended that the applicant explore opportunities to locate the wastewater treatment facility outside the Critical Area. According to the *Soil Survey of St. Mary's County*, it appears that there may be some percable soils outside the Critical Area. The Commission would encourage any efforts to locate this type of facility as far as possible from tidal waters, tidal wetlands, and tributary streams.

Once again, I hope this clarifies the Commission's position on this important issue. If you have any questions, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Marc Cohen, Ober, Kaler, Grimes & Shriver
Ms. Marianne Mason, OAG

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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November 21, 2005

Mr. Bill Watson
Town of Chesapeake Beach
8200 Bayside Road
P O Box 400
Chesapeake Beach, Maryland 20732

RE: Fortier Variances Mitigation Plan
CB 573 - 03 Lot 30
CB 574 – 03 Lot 31

Dear Mr. Watson:

Thank you for providing information on the referenced mitigation plan associated with the variance requests for Lot 30 and Lot 31. I have reviewed the information submitted and my notes from our site meeting on September 30, 2005, and I have the following comments:

1. The previously submitted variance application for Lot 30 indicated that the area of disturbance within the Buffer is 4,374 square feet. Mitigation, at a ratio of 3:1 for disturbance within the Buffer, would be 13,122 square feet. The mitigation plan submitted indicates that 11,052 square feet of mitigation is required for 3,684 square feet of clearing. This is incorrect because the mitigation for a Buffer variance must be based on the area disturbed not just the area cleared.

2. The previously submitted variance application for Lot 31 indicated that the area of disturbance within the Buffer is 4,014 square feet. Mitigation, at a ratio of 3:1 for disturbance within the Buffer, would be 12,042 square feet. The mitigation plan submitted indicates that 3,315 square feet of mitigation is required for 1,105 square feet of clearing. This is incorrect because the mitigation for a Buffer variance must be based on the area disturbed not just the area cleared.

3. Based on my evaluation of the previously submitted information, the total required mitigation for the variances on Lot 30 and Lot 31 is 25,164 square feet. The mitigation plan submitted indicates that the required mitigation is 14,367 square feet. This is incorrect.

4. The "Street Tree and Understory Planting Schedule" is incomplete. It should include a column for "Square Foot Credit" and "Total Credit."

5. The square footage credit for Red Maple (Acer rubrum), Bald Cypress (Taxodium distichum), Flowering Dogwood (Cornus florida), and Eastern Redbud (Cercis Canadensis) is 100 square feet per tree. The mitigation plan includes 12 trees for a total of 1200 square feet of mitigation credit.

6. The square footage credit for small shrubs (10 feet or less in height) like Virginia Sweetspire (Itea virginica) and Swamp Azalea (Rhododendron viscosum), Early Azalea (Rhododendron prinohyllum), or Sweet Azalea (Rhododendron canescens) is 25 square feet. No square footage credit is generally given for non-native azaleas or other non-native shrub species. The mitigation plan includes 19 small shrubs for a total of 475 square feet of mitigation credit.

7. The proposed planting totals 2,125 square feet of mitigation.

8. In general Flowering Dogwood and Eastern Redbud are transplanted most successfully in an area where there is some shade and wind protection provided by other canopy tree species. It is strongly recommended that additional canopy trees be added to the mitigation plan.

9. Note 7 indicates that a Declaration of Covenants, Conditions, and Restrictions will be placed on Lots 26 – 29, Block C, prohibiting any forest clearing on these lots and that the total square footage to be protected is 10,000 square feet. This proposal is not consistent with the one that we discussed. In order to obtain mitigation credit for protection of existing forested lands within the IDA, the property owner must grant an easement to the Town or some other protective entity with enforcement capability (i.e. a land trust, conservation group, etc.). The property owner must provide a metes and bounds description of the land, a plat of the land, and a conservation easement clearly stating that the land will not be cleared or developed and will be protected for conservation purposes in perpetuity. If the land is located within the Buffer or expanded Buffer (as I believe Lots 26 – 29 are), the mitigation credit is one to three; therefore, protection of 10,000 square feet would receive a mitigation credit of 3,300 square feet.

In summary, the mitigation plan submitted includes 5,425 square feet of planting and forest protection to satisfy a mitigation requirement of 25,164 square feet. This proposal is not adequate and does not meet the water quality and habitat goals of the Chesapeake Beach Critical Area Program or the State Criteria. It appears that there is ample area on the lots and along the existing right-of-way to provide additional planting.

Absent additional mitigation, either on-site or off-site within the Town, the Commission does not believe that that the application demonstrates that the granting of the variances will not adversely affect water quality or adversely affect fish, wildlife, and plant habitat within the

Critical Area of Chesapeake Beach. The Commission cannot support the reforestation plan submitted as acceptable mitigation for the proposed variances.

Thank you for providing information about the proposed mitigation. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 21, 2005

Ms. Staci Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 735-05 Mulberry South – Lot 6
St. Mary's County Project 05-2491

Dear Ms. Merriman:

Thank you for providing information on the referenced project. The applicant is requesting approval of variances to disturb steep slopes, disturb the expanded Buffer due to highly erodible soils, and clear more than 30% of the existing forest cover on Lot 6 in Mulberry South. The property is an existing 24,829 square foot, grandfathered lot, and it is almost completely forested.

The Commission does not oppose the proposed variances to disturb steep slopes and the expanded Buffer in order to construct a dwelling and septic system because the lot is almost completely constrained by steep slopes and highly erodible soils. The Commission also does not oppose the variance to exceed the clearing limits as long as every effort is made to clear the minimum area necessary. It is recommended that the clearing be minimized by orienting the 1,500 gallon tank and 1,000 gallon pump pit closer to the west side of the house, moving the dry wells closer to the house, and generally bringing the limits of disturbance as close to the house and septic system as possible without adversely affecting construction access.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance. It appears that it may be possible to perform some of the mitigation on-site; however, because the required mitigation is significant, it may be reasonable for the applicant to locate an off-site mitigation area or pay fees-in-lieu of mitigation for part of this requirement.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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November 17, 2005

Ms. Tracey Gordy
Maryland Department of Planning
Lower Eastern Shore Regional Office
Salisbury Multi-Service Center
201 Baptist Street, Suite 24
Salisbury, Maryland 21801-4974

RE: Town of Secretary – Boat Ramp Parking Lot
Map 130, Parcel 256

Dear Ms. Gordy:

Thank you for providing information about the resurfacing project at the Town Boat Ramp in Secretary. Based on the information submitted and your evaluation, this office agrees that the project appears to be an in-kind maintenance project. For purposes of compliance with the 10% pollutant removal requirement for stormwater quality management, this project would not be considered a development or redevelopment activity; therefore, the "10% Rule" would not be applicable. Because stormwater quality management is not required for maintenance or repair projects, no "exemption" is necessary.

As always, I appreciate you providing complete information and a thorough evaluation for the Commission's consideration. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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November 17, 2005

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: St. Mary's County Tidal Wetlands Projects

Dear Mr. Tabisz:

I have reviewed the Joint Public Notice that includes information about the referenced project, and I have the following comments:

200565114/ 06-WL-134 SOUTHERN MARYLAND ELECTRIC COOPERATIVE
It is my understanding that this project does not involve any alterations or disturbance on the land within the Critical Area, and that all work will take place within the Patuxent River. If any impacts associated with access or equipment staging are proposed on the land, and specifically within the 100-foot Buffer, then the applicant will need an environmental permit from the St. Mary's County Department of Planning and Growth Management. Additional information can be obtained from Ms. Staci Merriman at (301) 475-4200.

Thank-you for the opportunity to provide comments on these applications. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Staci Merriman, St. Mary's County

May- Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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Martin G. Madden
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Executive Director

STATE OF 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 16, 2005

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 738-05 Wilson Property Variance
St. Mary's County Project 05-1304

Dear Ms. Chaillet:

Thank you for providing information on the referenced project. The applicant is requesting a variance to construct a single family dwelling and septic system within the expanded 100-foot Buffer. I have reviewed the plan, and I have the following comments:

1. It is not clear from the information submitted if the property is an existing grandfathered lot.

2. The Buffer shown on the plans has not been accurately expanded four feet for every one percent of slope; however, if the Buffer were properly delineated, it appears that almost the entire property would be within the expanded 100-foot Buffer.

3. The impervious surface calculations on the plan do not appear to be correct. The allowable impervious surface area would be 15 percent of the lot area (47,045 square feet) for a total of 7,057 square feet.

4. It appears that portions of the existing asphalt drive leading to Lot 500-A are located on the applicant's property; however, the area of the driveway is not included in the impervious surface area calculations.

5. The impervious surface area calculations indicate that the proposed gravel driveway is only 50 percent impervious. This is not consistent with the way that St. Mary's County has defined impervious surface area in the past.

The applicant should address these issues prior to the Board of Appeals' consideration of this request. If the lot is properly grandfathered and the proposed development does not exceed the impervious surface limits on the property, the Critical Area Commission does not oppose this variance request. The proposed dwelling is reasonable in size, and the site is constrained by the location of the existing

barn and driveway, and the location of the proposed septic system. If the variance requests are approved, the Commission recommends that the applicant implement appropriate stormwater management practices, so that concentrated run-off is not directed onto steep slopes in a manner that may contribute to erosion of the slope. The Commission also recommends that mitigation be provided for the variances in accordance with Section 24.4.2.b of the St. Mary's County Comprehensive Zoning Ordinance.

If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 14, 2005

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 734-05 Lot 421, Golden Beach
St. Mary's County Project 05-0051

Dear Ms. Chaillet:

Thank you for providing information on the referenced project. The applicant is requesting approval of a variance to clear more than 30% of the existing developed woodland cover on Lot 421 in Golden Beach. In accordance with Section 72.3.1.c(2) of the St. Mary's County Comprehensive Zoning Ordinance, clearing in excess of 30 percent of any forest or developed woodland is prohibited without a variance.

The Commission does not oppose the proposed variance to exceed the 30% clearing limit, because the lot is small, most of the site is forested, and the location of the sewage reserve area makes it difficult to locate the proposed dwelling in the unforested areas of the lot. If the variance request is approved, the Commission recommends that mitigation be provided for the variance at three-to-one in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance. It is recommended that the applicant be required to provide a reforestation plan as part of the variance review.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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November 14, 2005

Ms. Anne Roane
City of Cambridge
Department of Public Works
705 Leonard Lane
Cambridge, Maryland 21613

RE: City of Cambridge
Six Year Comprehensive Review

Dear Ms. Roane:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the final phase of the comprehensive review of the City of Cambridge Critical Area Program. On November 2, 2005, the Critical Area Commission concurred with the Chairman's determination to approve the revised zoning ordinance, revised Program document, Critical Area Map, and Critical Area Exclusion Area Map as a refinement to the County's Critical Area Program.

These changes shall be officially incorporated into the Town's Critical Area Program within 120 days of the date of this letter. Please provide the final documents when they become available. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Roby Hurley, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 10, 2005

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 296-05 Bayview Estates Subdivision
Dorchester County Plan # 1086

Dear Mr. Dodd:

Thank you for providing a revised plan for the referenced project. I have reviewed the plan submitted, and I have the following comments:

1. The applicant has not provided complete information about soils, nontidal wetlands, tributary streams, and other significant environmental features. Additional information is needed regarding the environmental features of the site in order to provide complete comments.

1. It is my understanding that a nontidal wetland delineation was performed, and it was determined that there is a nontidal wetland on Lot 4, 5, 6, and 7. (A copy of the wetland delineation report was not submitted with the plan and was not reviewed.) The nontidal wetland and 25-foot nontidal wetland buffer are shown on the plans; however, it appears that clearing and development activities are proposed in the wetland and the wetland buffer. Nontidal wetlands are considered a Habitat Protection Area within the Critical Area of Dorchester County; therefore, a variance would be required for any development activity in the wetland. New subdivisions must be designed to avoid the need for a variance because the applicant will be required to demonstrate that they have met all of the variance standards and that denial of the variance would result in an unwarranted hardship.

2. The area of impervious surface proposed on all lots seems low. The areas proposed for construction of driveways seems unrealistic. Under current market conditions, it seems that it could be difficult to construct a house, driveway, shed, and deck or patio without exceeding the impervious surface limit. Please provide a conceptual plan for these lots demonstrating that the lots can be developed without exceeding the limit and showing the area of the driveways. As you are aware, impervious surface variances for new lots would

be required to meet the unwarranted hardship standard and would be strongly opposed by the Commission.

3. Label the size and species of the tree shown on Lots 3 and 4.

4. The applicant has not provided any information about existing forest cover on each lot; therefore, it cannot be determined if the proposed forest clearing can be permitted and how much reforestation will be required. Existing forest cover, proposed clearing, percentage of forest cleared, and required reforestation should be provided for each lot. Additional information should be provided regarding where and how the required reforestation will be accomplished.

Thank you for the opportunity to provide comments on the plan of this subdivision. Please provide revised plans when these comments have been addressed. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

DATE: November 7, 2005

TO: Andy Hanas, Public Lands - Engineering and Construction

FROM: Mary Owens, Critical Area Commission

SUBJECT: **St. Clement's Island State Park**
Revetment Repair

Thank you for providing additional information on the referenced project at St. Clement's Island State Park. Based on our conversation last month, it is my understanding that this project involves the repair of an existing stone revetment. The work is necessary because portions of the existing revetment were damaged during Hurricane Isabel, and the shoreline in this area is beginning to erode. The project will restore the proper grades and replace stone that was displaced during the storm. Some additional armor stone will be added where necessary. Disturbance to the 100-foot Buffer will be minimized; however you have indicated that some fallen or leaning trees may need to be removed.

As we discussed, this project is considered a repair of an existing facility; therefore, formal review and approval by the Critical Area Commission is not required. You have indicated that bids on the project will be solicited in the next few weeks, and construction is anticipated to start soon after.

If you need any additional information, please contact me at (410) 260-3480.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 27, 2005

Ms. Wanda Cole
Dorchester County Planning and Zoning Office
P. O. Box 107
Cambridge, Maryland 21613

Ms. Anne Roane
City of Cambridge
Department of Planning and Zoning
705 Leonard Lane
Cambridge, Maryland 21613

RE: Waterford Subdivision
CMA – 11

Dear Ms. Cole and ~~Ms. Roane~~: Anne

The purpose of this letter is to inform you that I have received a Modification of Authorization (Authorization Number 200464195/04-NT-2115) from the Maryland Department of the Environment pertaining to the referenced project. The modification amends the original authorization to allow the placement of a stone check dam in a jurisdictional nontidal wetland to provide stormwater quality treatment.

At this time, all of the information required by the Commission's conditions of approval has been submitted, and the conditions of approval have been satisfied. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Roby Hurley, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 26, 2005

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: St. Mary's County Tidal Wetlands Projects

Dear Mr. Tabisz:

I have reviewed the Joint Public Notice that includes information about the referenced projects, and I have the following comments:

200564668/ 05-WL-1924 St. Mary's County Department of Public Works
It is not clear from the information provided how the proposed revetment will be installed, where materials will be stored during construction, and whether this project will involve any impacts to the 100-foot Buffer. It seems likely that there will be impacts to the Buffer associated with grading the bank and the removal of natural vegetation to construct the revetment. It is likely that mitigation for disturbance to the Buffer will be required.

It is my understanding that this project involves a local government project on privately-owned land; therefore, the St. Mary's County Department of Public Works must coordinate with the St. Mary's County Department of Land Use and Growth Management. Projects of this type require that the agency sponsoring the project, the Department of Public Works, obtain certification from the agency responsible for implementing the local Critical Area Program, the Department of Land Use and Growth Management, that the project complies with the County's Critical Area regulations. The applicant should contact Ms. April Bahner at (301) 475-4200 X1525 for additional information about the local review process.

Thank-you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. April Bahner, St. Mary's County

Mary Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 25, 2005

Ms. Wanda Cole
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 594-05 Carol M. Jones and Anne M. Sessoms Subdivision
Dorchester County Plan # 733B

Dear Ms. Cole:

Thank you for providing additional information on the referenced project. Although this office has not received the latest revised plan, it is my understanding that you and Steve Dodd have reviewed the plan and are satisfied that all of the Commission's comments have been satisfactorily addressed and that the only remaining issue is the type and acreage of wetlands on the property. In your letter dated October 14, 2005, you raise several questions regarding wetlands that affect the proposed subdivision. I have discussed this issue with Ren Serey, and I hope my explanation will alleviate any confusion and provide a reasonable basis to evaluate this project and others with similar issues.

In your letter, you are interested in how mapped State tidal wetlands should be addressed when field observation by a qualified biologist, or other professional, indicate that the wetlands are not functioning in a tidal manner. Generally, there are two approaches that can be used.

The first approach involves amending the 1972 State Wetlands Maps through formal application to the Maryland Department of the Environment (MDE). The property owner is responsible for making the request, providing appropriate information to MDE, and performing any notification of affected property owners that MDE may require. MDE will process the map amendment request and may hold a public hearing on the matter. Once MDE approves the map amendment, then the local government can, if necessary, approve a separate Critical Area boundary line amendment. This type of amendment would also need to be approved by the Critical Area Commission. As you would expect, this process can take several months or longer, depending on the complexity of the issues and the number of affected property owners.

The second approach involves a determination by the local government based on information and recommendations from a qualified biologist or similar professional, or the staff of MDE, that the wetland is not a State tidal wetland. "State wetlands" means any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. This determination, whereby an area is determined not to be affected by the regular rise and fall of the tide, can be based on several factors including elevation data, evidence of tidal influence, and vegetation types. With this approach, mapped tidal wetlands that are determined not to be "State wetlands" are classified as "private tidal wetlands." Private tidal wetlands are regulated by MDE in a manner similar to nontidal wetlands; however as tidal wetlands, the Critical Area Criteria still require that these areas be protected by a 100-foot vegetated Buffer as opposed to the 25-foot nontidal wetlands buffer.

In your letter regarding the Jones and Sessoms Subdivision, you indicate that the County would like to treat the wetlands on the property as nontidal wetlands with a 25-foot buffer. This would not be permitted without formally amending the 1972 State Wetlands Maps. It is my understanding that the applicant does not wish to pursue this process; therefore, the wetlands should be classified as private tidal wetlands.

In your letter, you also raise the issue about how private tidal wetlands affect the calculation of density in the Resource Conservation Area. Subsection 8-1808.1 of the Natural Resources Article of the Annotated Code of Maryland states that in calculating the 1-in 20 density of development in the RCA, a local jurisdiction may permit the area of any private wetlands located on the property to be included as long as the density of development on the upland portion of the parcel does not exceed one dwelling unit per eight acres. This provision also states that the area of private wetlands can be estimated from vegetative information as designated on the State Wetlands Maps. The Commission has consistently interpreted this provision to also allow the use of more detailed field evaluation data at the discretion of the local government.

In accordance with this provision, the acreage of private tidal wetlands on the Jones and Sessoms Subdivision may affect the available RCA density. In order to accommodate the fifth lot that is proposed on the site, the County must verify that the site includes at least 100 acres of uplands and private tidal wetlands combined and at least 40 acres of uplands. Because the Commission has not received a plan showing the entire property and the boundaries of the wetlands, it is not possible to determine if there is sufficient acreage for the proposed additional lot.

Hopefully, this information clarifies this issue for you. If the appropriate private tidal wetlands acreage information is provided so the permitted density can be verified, and the County believes that the Commission's other comments have been addressed, staff has no objection to the County's approval of this subdivision.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Mary - Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 20, 2005

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 13-01 Chesapeake Industrial Park (Warehouse Building)
St. Mary's County Project 00-130-114

Dear Ms. Veith:

I am writing to provide additional comments on the Chesapeake Industrial Park Project located on Route 5 in Leonardtown. At the request of the property owner, Phil Dorsey, I met with him and the former County Attorney, Joe Densford, in order to review some information that he believed clarified some of the concerns raised in the letter to you from the Commission dated March 4, 2005. Based on my review of the information he provided and subsequent meetings with Ren Serey and Marianne Mason, I have the following comments on this proposal:

1. The project site was part of a previous development project and growth allocation application, which the Commission approved on July 7, 1993 (Calvert Estates and Chesapeake Industrial Park). The growth allocation changed the designation of 9.25 acres from LDA to IDA, consisting of Parcel 57 (1.52 acres), Parcel 113 (4.00 acres), and a portion of parcel 52 (3.21 acres). Current State tax records, tax maps, and the St. Mary's County Critical Area Map indicate that the remaining portion of Parcel 52 has been designated as two parcels, Parcel 254 and Parcel 253. Although shown as two parcels, it is not clear if the property was ever legally subdivided.

2. Based on various documents, it appears that the remainder of original Parcel 52 was to remain LDA. This property was not a subdivided tract, but a portion of the property was zoned I-1 and the remainder was zoned RL. Based on various documents in the Commission's files, it appears that all or some portion of the remainder of Parcel 52 was designated as "Area to Be Undisturbed and to Remain as Open Space;" however, the exact acreage is unclear. The only reference to the acreage of the "open space" is included in the St. Mary's County Ordinance Z-93-08, which describes 15.65 acres of Parcel 52 adjoining Town Run and Gregory Drive. Unfortunately, various acreage figures do not appear

consistent throughout the documentation in our files, so it is difficult to determine with certainty that both the I-1 zoned area and the RL zoned area were to be set aside as open space.

3. To further complicate matters, the property owner has a separate deed conveying the I-1 zoned portion of Parcel 52 (Parcel One) to him on December 18, 1991. A subsequent deed dated February 28, 1992 conveyed the RL zoned portion of Parcel 52 (Parcel Two) to him and described both parcels in his ownership. This deed includes a protective clause, applicable to Parcel Two only, that describes the parcel as recorded as open space in order to meet the impervious surface requirements of the Critical Area Program. This deed was recorded in order to allow the development project to proceed without the approval of the growth allocation request to change the Critical Area designation to IDA.

4. In February of 1994, following approval of the growth allocation request, Parcel Two was no longer needed to meet the impervious surface requirements of the Critical Area Program. A confirmatory deed was recorded clarifying the protective clause, again applicable to Parcel Two only, and describing the parcel as recorded as open space in order to meet the Design Competition Provisions of Growth Allocation Mapping in accordance with the St. Mary's County Zoning Ordinance.

5. In the Commission's March letter, the Commission states that the County should clarify whether future development of the remainder of both Parcel One and Parcel Two of former Parcel 52 (now Parcel 254 and Parcel 253) are prohibited by the deed and whether the lands can be used to satisfy the Critical Area requirements (impervious surface coverage, forest clearing, etc.) for future development. The language in the restrictive clause specifies that, "This property is restricted from future use or development in a manner that would conflict with the maintenance of the property in its open space condition, and the woodland and wetland character of the property shall be permanently maintained." It is the applicant's contention that only Parcel Two is restricted from future development and that in accordance with the restrictions in the current deed, the property could be used to satisfy Critical Area requirements associated with development of Parcel One.

6. After analyzing the property owner's information, the Commission believes that if the following prerequisites are met, the County could support the property owner's position. The following actions are necessary:

    a. The County Commissioners will need to approve a revision to St. Mary's County Ordinance Z-93-08 to correct the mistake in the acreage of the "open space" parcel so that only the actual acreage of Parcel Two is restricted.
    b. This revision will need to include language specifying that while Parcel Two itself is restricted from future use or development in a manner that would conflict with the maintenance of the property in its open space condition and the woodland and wetland character of the site, the acreage of this area could be used to satisfy Critical Area requirements associated with development of Parcel One.
    c. The County will need to verify that Parcel 52 was not legally subdivided into Parcel One (now Parcel 254) and Parcel Two (now Parcel 253) or a boundary line

adjustment plat dissolving the dividing lot line will need to be recorded. This is necessary because the acreage of one lot cannot generally be used to meet the impervious surface limits (or other Critical Area requirements) associated with development on a different lot, unless the two lots are formally combined.

d. The changes to St. Mary's County Ordinance Z-93-08 will need to be submitted for approval by the Critical Area Commission.

7. If these changes are approved, the combined Parcel One and Parcel Two would be considered a single legally grandfathered lot with development restricted on a portion of the property. This would allow Parcel Two to be used to meet the Critical Area requirements associated with the development of Parcel One.

8. At this time, the plans submitted for the proposed development project only include the area of Parcel One, and it appears that the proposal may require one or more variances. In order for the project to proceed, the entire area of Parcel One and Parcel Two must be shown on the site plan and review of the project will be based on the consideration of Parcels One and Two as a single legally grandfathered parcel. The minimum 100-foot Buffer to the tributary stream must be delineated and expanded for contiguous steep slopes as specified in Article 71.8.3.a.1 of the St. Mary's County Comprehensive Zoning Ordinance. Slopes of 15% or greater must also be shown on the plan. All channels feeding the stream must be identified, and the Buffer must be delineated.

9. It appears that the current proposal involves impacts to the 100-foot Buffer, expanded Buffer, and steep slopes. In viewing the project site as a whole (Parcel One and Parcel Town combined), this office would not be able support a variance to permit disturbance within the Buffer, expanded Buffer, or to steep slopes without exploring opportunities to minimize or avoid the disturbance by reducing the size and scale of the project.

Thank you for the opportunity to review additional information submitted to the Commission by the property owner and to provide additional comments on this project. If you have any questions or concerns about these comments, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Phil Dorsey, The Dorsey Law Firm

May - Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 20, 2005

Mr. Ronald Young
Town of Indian Head
4195 Indian Head Highway
Indian Head, Maryland 20640

RE: River Watch at Indian Head Growth Allocation Request (IH 245-03)
Buffer Management Plan for Community-Owned Open Space
Wetland Restoration Plan

Dear Mr. Young:

The purpose of this letter is to notify you of the Critical Area Commission's action on the Town's request for an extension of time to complete the Buffer Management Plan and Wetland Restoration Plan required as conditions of the growth allocation approval for the River Watch Subdivision. On October 5, 2005, the Commission supported my approval of an extension of time to submit the required plans. The deadline for submittal was extended for 90 days, so the Plans will need to be submitted for consideration by the Commission at the January 4, 2006 Commission meeting. (Materials for review should be submitted by December 14, 2005 to allow for staff review.)

It is my understanding that the Town is requesting this extension in order to secure the federal and State permits required to stabilize the existing shoreline along the Potomac River and to restore the tidal basin. The permits and any associated conditions will have a direct bearing on the development of the required plans, and coordinating the permit process with the design process should facilitate effective completion and implementation of the plans.

Please keep me or the Commission staff advised of your progress, and we look forward to reviewing the final plans in January. If you have any questions, please feel free to call me at (410) 260-3460.

Sincerely,

Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 18, 2005

Mr. Bill Watson
Town of Chesapeake Beach
8200 Bayside Road
P. O. Box 400
Chesapeake Beach, Maryland 20732

RE: Freedly Avenue – Fortier Property
CB 927-03

Bill

Dear ~~Mr. Watson~~:

I am writing to follow up on or phone conversation yesterday regarding the proposed reconstruction and widening of the travel surface of Freedly Avenue. As we discussed, information about the existing Freedly Avenue was provided in a memorandum from you to Julie LaBranche of Commission staff on July 23, 2004. Based on the information in the memo and our conversation, it is my understanding that the existing width of the travel surface of Freedly Avenue appears to be about eight to ten feet wide. However, you believe that the actual width of impervious area associated with the road varies between 17 and 20 feet, based on several soil borings, your observations, and historical accounts provided by the owner of the property when the road was constructed.

As we discussed, the reconstruction of the road will *generally* bring the road into compliance with the Calvert County Road Ordinance. It is likely that modifications to this standard will be permitted to minimize grading and disturbance within the 100-foot Buffer to the area that is generally considered already disturbed by the existing road. Should the Town or the County determine that substantial modifications to the existing road are necessary to accommodate the proposed widening and reconstruction such that significant grading and excavation within the Buffer will be necessary, then detailed plans should be submitted and re-evaluated to determine if a variance will be necessary.

Thank you for providing clarification about the proposed project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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Martin G. Madden
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October 17, 2005

Mr. Mark Kalmus
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 732-04 Parlett Farm East Resubdivision of Lot 1
St. Mary's County Project 04-110-098

Dear Mr. Kalmus:

I have reviewed a resubmittal of the referenced project, dated August 24, 2005, which was provided to me directly by the consultant, D. H. Steffens Company. It appears that all of my comments have been addressed except for the following:

1. Because the property is designated RCA, is developed with an existing dwelling, and includes less than 40 acres within the Critical Area, the proposed dwelling and sewage reserve area on the new lot must be located outside the Critical Area. Plat notes should be added to clearly indicate that no development on Lot 500-1B is permitted within the Critical Area portion of that lot.

Thank you for the opportunity to provide comments on this project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens, Chief
Program Implementation Division

cc: Jerry Soderberg, D. H. Steffens Company

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 17, 2005

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 666-05 James Bush
Dorchester County Application # 2264

Dear Mr. Dodd:

Thank you for providing information about the referenced variance request. The applicant is requesting a variance to construct a 1008 square foot detached garage within the 100-foot Buffer of the tidal wetlands of the Chicamacomico River. Although the applicant's drawing is somewhat unclear regarding the location of the edge of wetlands and the 100-foot Buffer, it appears that most or all of the property is located within tidal wetlands or the Buffer. The property is an existing grandfathered lot.

Based on the information submitted, it appears that the requested variance could be significantly minimized by reducing the size of the detached garage to no more than 720 square feet and relocating the garage to one of the existing parking areas. If the garage cannot be placed in a different location, then it should be reduced in size, and an equivalent area of the driveway or parking areas should be removed and reestablished in vegetation as a pervious area. Please see the attached sketch.

Because there appears to be a reasonable alternative to minimize disturbance to the 100-foot Buffer, the Commission opposes the variance as requested. As you are aware, in the spring of 2004, the Maryland General Assembly clarified the variance provisions in the Critical Area law and included a definition of "unwarranted hardship." In reviewing variance applications, local governments are required to determine that denial of the variance would result in an unwarranted hardship. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested. This office believes that the standard of unwarranted hardship, as well as the other variance standards as outlined below, cannot be met.

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

It appears that the applicant's property can be developed with the proposed garage with only minimal *new* disturbance to the 100-foot Buffer. Although the property is severely constrained by the 100-foot Buffer and tidal wetlands, there are no special conditions or circumstances that are peculiar to the property that would prevent the reduction in size of the garage and its location in an area of the Buffer that is already disturbed.

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 applicant has reasonable use of this property for residential purposes without approval of the requested variance, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to locate accessory structures within the 100-foot Buffer when there is a reasonable alternative that minimizes Buffer impacts.

3. The granting of a variance will not confer upon the 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 as proposed is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area must design their project sites to avoid unnecessary impacts to the Buffer.

4. The variance request is not based upon conditions or circumstances, which are the result of actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.

This variance request is not based on circumstances resulting from actions by the applicant or from any condition on a neighboring property.

5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' 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 regulations.

The applicant bears the burden to prove that they meet this standard, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds.

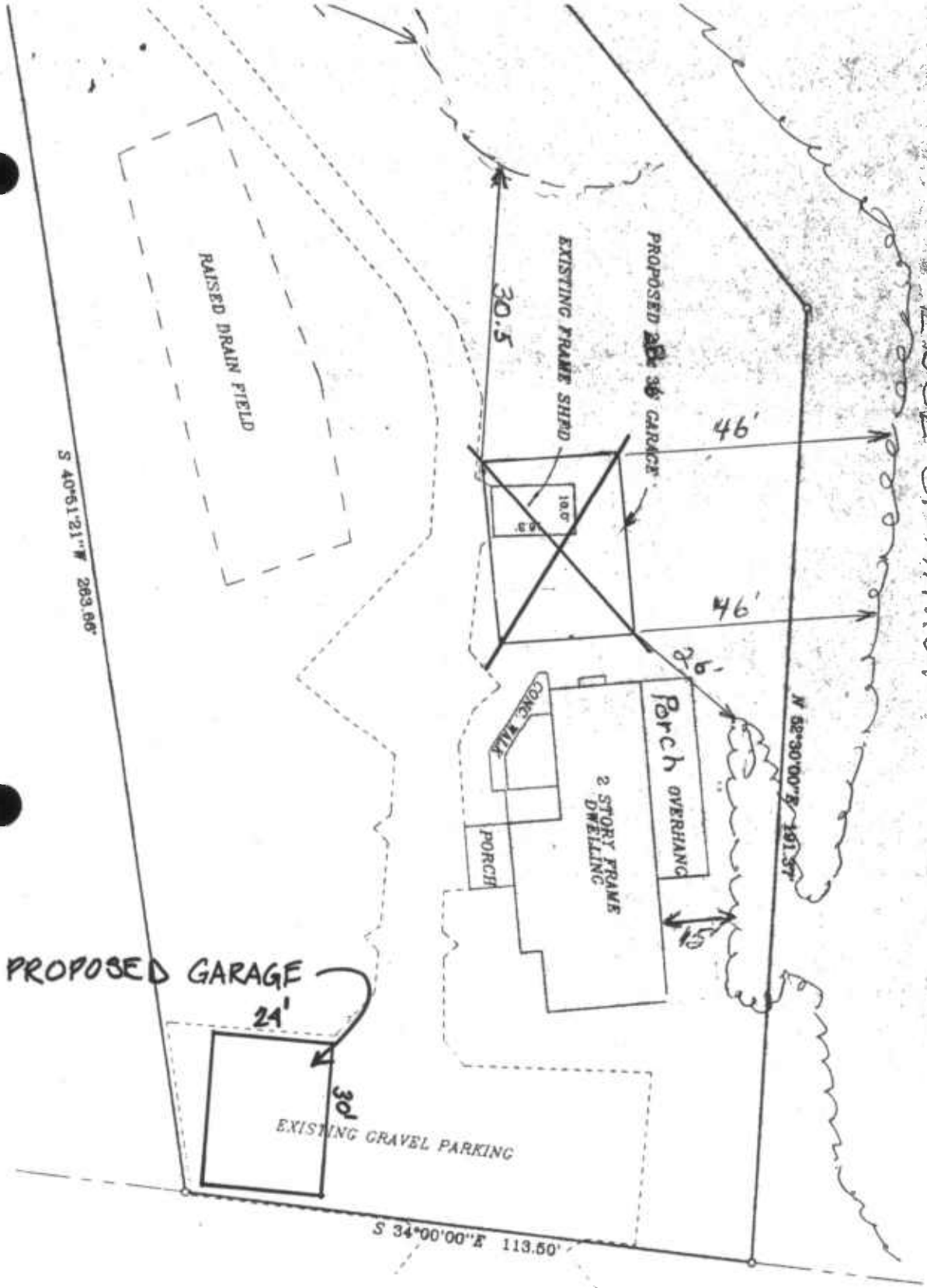
The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance, impervious surface area, and human activity in the Buffer on this site. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that, unless the Board finds that the applicant is able to provide substantial evidence to meet the burden of proof for each one of the variance standards, the Board must deny the applicant's request for a variance as proposed. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division



DRAWBRIDGE ROAD

RECEIVED

OCT 03 2005

CRITICAL AREA COMMISSION

BUSH VARIANCE

SCALE: 1" = 30'-0"

May - Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 17, 2005

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 665-05 Albert Gardiner
Dorchester County Application # 2263

Dear Mr. Dodd:

Thank you for providing information about the referenced variance request. The applicant is requesting approval of a variance to construct a single-family dwelling and driveway within the 100-foot Buffer of the Chesapeake Bay.

Based on the information submitted, it appears that the requested variance could be significantly minimized or possibly avoided by reconfiguring the sewage reserve area and shifting it slightly to the southeast. This would provide the opportunity to relocate the house and driveway by shifting it slightly to the northwest. This would place the dwelling and driveway to the left of the sewage reserve area, and the sewage reserve area would be located as close to the property line as possible. Please see the attached sketch.

Because there appears to be a reasonable alternative to avoid or minimize disturbance to the 100-foot Buffer, the Commission opposes the variance as requested. As you are aware, in the spring of 2004, the Maryland General Assembly clarified the variance provisions in the Critical Area law and included a definition of "unwarranted hardship." In reviewing variance applications, local governments are required to determine that denial of the variance would result in an unwarranted hardship. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested. This office believes that the standard of unwarranted hardship, as well as the other variance standards as outlined below, cannot be met.

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

It appears that the applicant's property can be developed with a dwelling, driveway, and sewage reserve area without significant impacts to the 100-foot Buffer from the Chesapeake Bay to the west or tidal wetlands to the east. There are no special conditions or circumstances that are peculiar to the property, and would require that the applicant place the dwelling and driveway in the Buffer and the applicant would have reasonable and significant use of the property without impacting the 100-foot 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 applicant has reasonable use of this property for residential purposes without approval of the requested variance, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to locate dwellings or driveways within the 100-foot Buffer when there is a reasonable alternative that avoids and/or minimizes Buffer impacts.

3. *The granting of a variance will not confer upon the 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 requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area must design their project sites to avoid unnecessary impacts to the Buffer.

4. *The variance request is not based upon conditions or circumstances, which are the result of actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*

This variance request is not based on circumstances resulting from actions by the applicant or from any condition on a neighboring property.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' 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 regulations.*

The applicant bears the burden to prove that they meet this standard, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of

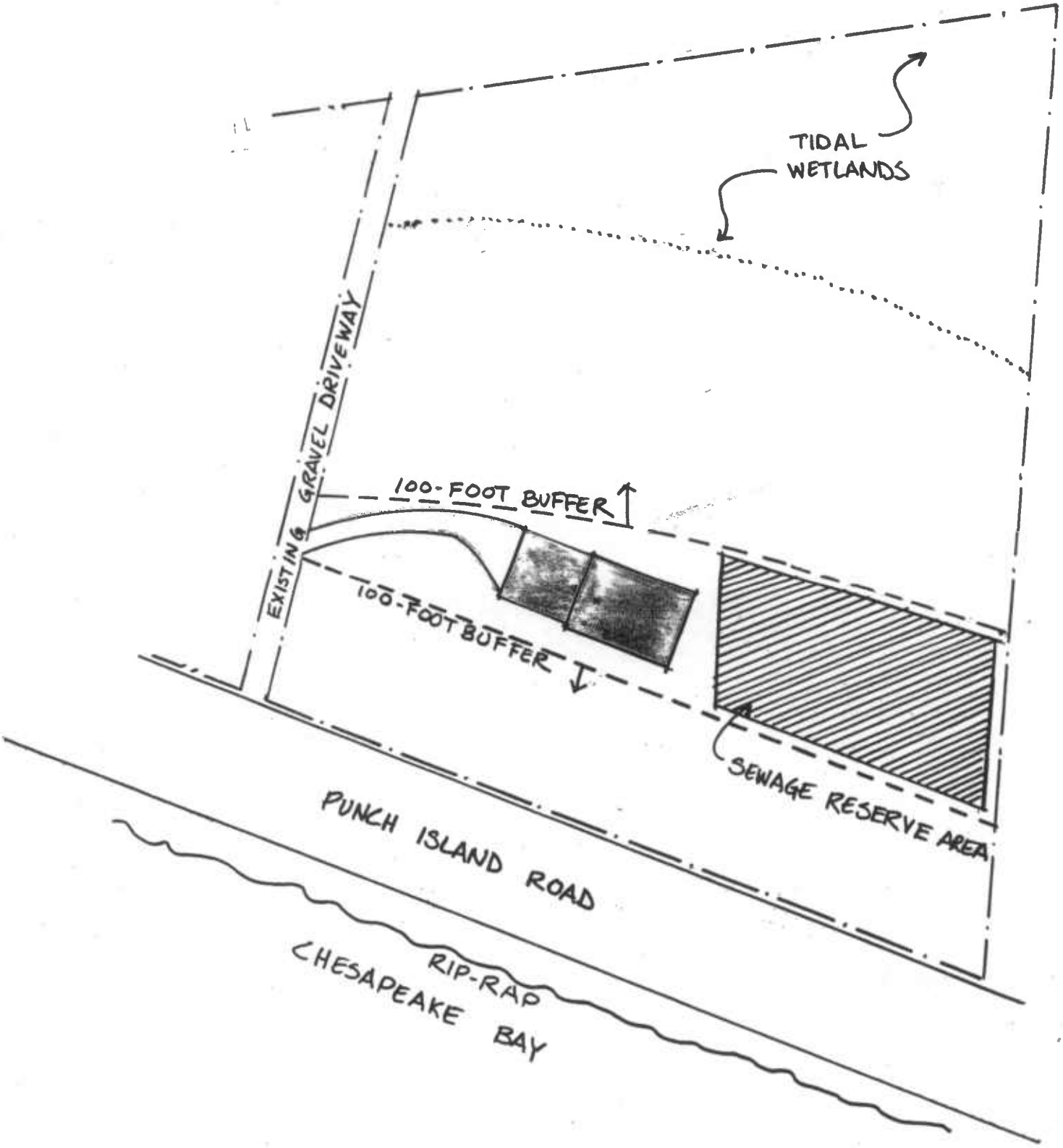
disturbance, impervious surface area, and human activity in the Buffer on this site. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that, unless the Board finds that the applicant is able to provide substantial evidence to meet the burden of proof for each one of the variance standards, the Board must deny the applicant's request for a variance to impact the 100-foot Buffer. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division



GARDINER VARIANCE

SCALE : 1" = 50'-0"

May - Roanne

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 12, 2005

Ms. Anne Roane
City of Cambridge
Planning and Zoning
705 Leonard Lane
Cambridge, Maryland 21613

RE: Blackwater Crossing – Growth Allocation
CM 942-04

Dear ~~Ms. Roane~~: Anne

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the referenced growth allocation request. On October 5, 2005, the Critical Area Commission voted to approve with conditions the use of 25.74 acres of growth allocation to change the Critical Area designation of Parcel 6002 on Tax Map 307 from Resource Conservation Area to Intensely Developed Area. The growth allocation request was approved with the following conditions:

1. The developer will enhance the existing stream on the project site in accordance with recommendations from the Maryland Department of the Environment, the U. S. Army Corps of Engineers, and the Critical Area Commission. A detailed stream restoration plan will be submitted to the Commission staff, and if necessary to the full Commission, for final review and approval, and the applicant will obtain all required State and federal authorizations and permits

   The restoration activity will include planting and other management measures necessary to provide forest vegetation that assures the water quality and wildlife habitat functions of the 100-foot Buffer on each side of the stream. The restoration may include the replacement or removal of existing culverts or other obstructions and alteration of the existing channel to restore it to as natural a condition as possible. Careful hydrologic and hydraulic modeling, as well as careful design, will be required to ensure that a stable, non-erosive system is created, and this work shall be performed by qualified professionals with experience in stream restoration.

Disturbance to existing natural vegetation and the alteration of existing grades and topography shall be the minimum necessary to accomplish the goals of the stream restoration activity. The 100-foot Buffer shall not be graded and disturbed in order to accommodate changes in elevation associated with the placement of fill necessary to accommodate the proposed development project. Proposed stormwater outfalls discharging to the stream shall be included in the stream restoration and shall be located, configured, and designed to minimize adverse impacts to the stream and the 100-foot stream Buffer.

Access across the restored stream and within the Buffer shall be the minimum necessary to provide reasonable access through the area. There shall be two pedestrian crossings over the stream within the Critical Area portion of the project, and all pathways shall be no more than 10 feet wide.

2. A detailed Stormwater Management Plan will be submitted to the Commission staff, and if necessary to the full Commission, for final review and approval. The current Plan includes the restoration of a channelized stream as an innovative offset option necessary to satisfy the 10% pollutant removal requirements. Commission staff shall seek comments on this proposal, and the Plan as a whole, from the Maryland Department of the Environment.

This change shall be officially incorporated into the City's Critical Area Program and shown on the Critical Area Maps within 120 days of the date of this letter. As outlined in the conditions set forth above, Commission staff is available to coordinate with the applicant and the other agencies on the stream restoration design. Final documents for the stream restoration design and the stormwater management design should be provided to Commission staff when they are completed. Once the information has been reviewed, the City will be notified in writing with regard to compliance with the conditions. Thank you for your assistance during the review of this growth allocation request. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ace Adkins (Maryland Department of the Environment)
Roby Hurley (Maryland Department of Planning)
Maria Lasek (U.S. Army Corps of Engineers)
Ryan Showalter (Miles and Stockbridge)
Ken Usab (Morris and Ritchie and Associates)

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 12, 2005

Ms. Barbara Grey
Department of Natural Resources – Resource Planning
Tawes State Office Building, E-4
580 Taylor Avenue
Annapolis, Maryland 21401

RE: Equestrian Center Improvements at Kings Landing Park
DNR 42-05

Dear ~~Ms. Grey~~: Barbara

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the proposed Equestrian Center Improvements Project at Kings Landing Park in Calvert County. On October 6, 2005, the Critical Area Commission voted to approve the project. Thank you for your cooperation in the preparation of the materials for the meeting. If you or the Calvert County staff has any questions, please feel free to contact me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Dwight Williams, Calvert County Recreation and Parks Department

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 11, 2005

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 860-04 Perrotta Boundary Line Adjustment Plat
BLAP # 04-141-066

Dear ~~Ms. Veith~~: Sue

I am writing to follow up on our conversation last week regarding my meeting with Ren Serey and Marianne Mason. As we discussed, the Critical Area Commission's interpretation of the Consent Decree as it relates to the Perrotta Subdivision, formerly Eppard Subdivision, is that it applies specifically to the "pending application." The Commission believes that unless all parties reopened the case before the Court, any change or reconfiguration of the lots, such that the subdivision plan differs from the plan originally presented when the Consent Decree was executed, would be outside the scope of the Consent Decree. This means that any revised proposal would need to be reviewed in accordance with the provisions for growth allocation that have been formally adopted into the St. Mary's County Critical Area Program. See attached Consent Decree, page 3. Application of these provisions would necessitate the deduction of the acreage of the entire parcel from the County's growth allocation acreage.

During our discussion you also raised a question regarding the potential to vacate the approval of the growth allocation and the provisions of the Consent Decree in order to reconfigure and develop existing grandfathered parcels of record with single-family dwellings. Based on the Commission's records, at the time of the original Critical Area mapping, the project site was a single grandfathered parcel of record; therefore, if the growth allocation were abandoned, the property could be developed with one dwelling unit. If the County believes that there were other legally recorded grandfathered parcels on the site, the Commission will need written verification of this information before any boundary line adjustment plat could be recorded or building permits issued.

I hope this provides the information that you need. If you have any other questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Mary - Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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Martin G. Madden
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October 11, 2005

Ms. Wanda Cole
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

Ms. Anne Roane
City of Cambridge
Planning and Zoning
705 Leonard Lane
Cambridge, Maryland 21613

RE: Blackwater Resort Communities – Egypt Road
CM 839-04

Dear Ms. Cole and Ms. Roane:

Thank you for your request for comments on the referenced project and growth allocation request. As you know, the Program Subcommittee briefly discussed this growth allocation request on February 2, 2005. This letter includes some of the comments raised during that review as well as additional comments based on staff's review of new materials submitted since the Commission's July 18, 2005 letter.

Environmental Features

1. An environmental features or environmental assessment map has not been received by the Commission for review. An "Environmental Assessment Topographic Base" map was included with the environmental report; however, it only included site topography and limited vegetation information. Much of the information that is usually included on an environmental features map has been shown on various display documents as an overlay on an aerial photograph. The environmental features map is still needed in order to see the relationship between these features on a single map.

2. There are extensive areas of hydric soils on the project site. Soil types must be shown on the environmental features map, so that it can be verified that all hydric soil areas have been identified and the relationship between nontidal wetlands and streams can be

evaluated. This information is necessary so that expansion of the 100-foot Buffer for hydric soils can be addressed.

Tidal Wetlands

3. The eastern property boundary of the project site includes areas of tidal wetlands. It is my understanding that a field delineation has been performed to determine the exact boundary of tidal wetlands and that State and private tidal wetlands have been identified. This information has not yet been submitted to the Critical Area Commission for review.

4. Additional information about the area of State and private tidal wetlands should be included in the environmental report. State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area. If portions of the project site have been determined to be private tidal wetlands, documentation regarding how this determination was made must be submitted, so that the Maryland Department of the Environment and the Board of Public Works can verify the methodology used. It is possible that they may want to verify the delineation and supporting information in the field, so appropriate detail should be provided. The acreage of State and private tidal wetlands affects all of the calculations based on the acreage of the property, including those relating to growth allocation, stormwater management, and the area of the 100-foot Buffer; therefore, this information is necessary to properly review the project.

100-foot Buffer and Other Habitat Protection Areas

5. The applicant must provide written correspondence from the Heritage Division of the Department of Natural Resources for this specific project. The applicant has submitted a letter from the Heritage Division referencing the "Environmental Review for Comprehensive Plan Amendment, Egypt Road, Dorchester County, Maryland" dated November 14, 2003; however, this letter was not based on the specific project proposal currently being reviewed. A copy of the correspondence pertaining to this specific project has not been received by the Commission.

6. The project site is adjacent to and includes portions of the Little Blackwater River Habitat Protection Area. This area is designated as a Locally Significant Habitat in accordance with the Department of Natural Resources recommendations. Comments on the appropriate protection and conservation measures should be obtained from the Heritage Division of the Department of Natural Resources.

7. The applicants must provide written correspondence from the United States Fish and Wildlife Service (USFWS) for this specific project because a federally listed endangered species, the Delmarva Fox Squirrel, is known to occur on or in the immediate vicinity of the property. It is my understanding that the habitat for this

species is outside the Critical Area and that the applicant has consulted with the USFWS; however, written comments have not been received by the Commission.

8. It is my understanding that portions of the proposed Executive Conference Center are proposed to be located within the 100-foot Buffer in the same location as an existing dwelling. Additional detail is needed regarding the existing structures in the Buffer and whether they will be expanded or modified in a way that may result in additional Buffer impacts, possibly requiring a variance.

9. It is my understanding that there are several watercourses on the property and that a stream identification and delineation was performed last year. Based on the field work, six of the watercourses were identified as streams and the 100-foot Buffer was delineated. A summary of the field work should be included in the Environmental Report.

10. It is my understanding that some of the streams have been straightened and excavated to function as drainage ditches. Based on information provided by the applicants' consultants at the February presentation to the Subcommittee and outlined in the Environmental Site Assessment, some of these streams are proposed to be reconfigured and restored as stream/wetland systems. This restoration activity is encouraged; however, the restoration will affect the establishment of the 100-foot Buffer. The Buffer shall be established from the edge of the bank of tributary streams and must be expanded to include contiguous nontidal wetlands.

11. In Section 2.3 of the Environmental Site Assessment, "Soils," it is stated that only 40 percent of the soils in the Critical Area portion of the site are not classified as hydric. There appear to be significant areas of hydric soils adjacent to the 100-foot Buffer or tidal waters, tidal wetlands, and tributary streams; however, expansion of the 100-foot Buffer has not been addressed. The Buffer is required to be expanded to include contiguous sensitive areas, such as hydric soils, whose development or disturbance may impact steams, wetlands, or other aquatic environments. In the case where nontidal wetlands are contiguous to the 100-foot Buffer, expansion of the Buffer is required. The assessment does not indicate that there has been any analysis to determine whether expansion of the Buffer may be necessary. More detailed information is needed.

12. In Section 5.1.1 of the Environmental Site Assessment, "100-foot Buffer," there is a discussion of man-made nontidal ponds. Are these ponds considered jurisdictional nontidal wetlands? If so, expansion of the 100-foot Buffer may be required.

13. In Section 5.1.5 of the Environmental Site Assessment, "Anadromous Fish Propagation Areas," it is stated that portions of the site have been used as propagation areas for anadromous fish. The Environmental Review Unit of the Department of Natural Resources reviews projects for their impacts on these resources; therefore, comments on all stream /ditch restoration activities should be solicited from DNR.

14. In Section 6.5.1 of the Environmental Site Assessment, "Development Within the 100-Foot Buffer," it is stated that there will be no destruction of forest vegetation at the site with the exception of trees that will be disturbed as a result of grading operations related to the stream and buffer restoration and enhancement. The applicant is advised that for the watercourses designated as intermittent or perennial streams within the Critical Area disturbance to existing natural vegetation and the alteration of existing grades and topography shall be the minimum necessary to accomplish the goals of the stream restoration activity. The 100-foot Buffer shall not be graded and disturbed in order to accommodate changes in elevation associated with the placement of fill necessary to accommodate the proposed development project. Proposed stormwater outfalls discharging to the stream shall be included in the stream restoration and shall be located, configured, and designed to minimize adverse impacts to the stream and the 100-foot stream Buffer.

15. A Buffer Management Plan for the 100-foot Buffer from tidal wetlands, tidal waters, and tributary streams will need to be prepared and submitted for this project in accordance with the provisions in the Critical area law that require establishment of the 100-foot Buffer. A conceptual plan should be submitted with the growth allocation application.

Reforestation

16. The use of growth allocation is proposed to change significant portions of the project site in the Critical Area from RCA to IDA, and this classification does not include specific afforestation or reforestation standards. In the IDA, permeable areas shall be established in vegetation if practicable, and development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation. Additional information is needed regarding existing forest cover, proposed clearing, and proposed reforestation and afforestation for the proposed IDA portions of the project site.

Shoreline Access

17. It is not clear from the information submitted what types of shoreline access are proposed and where they will be located. The "Preliminary Master Plan Development Submission" (book) discusses three access points to the Little Blackwater River, but only two seem to be identified. One access is proposed to be located at the public park in the middle of the project site, and a second is proposed adjacent to the executive conference facilities. These access points should be shown on the plan and additional details provided.

Stormwater Management

18. The applicant has not provided information about stormwater management. Additional information is needed to ensure compliance with the 10% pollutant reduction requirement within the proposed IDA areas of the site. Preliminary information regarding stormwater management will be required prior to the Commission's consideration of the growth allocation request.

19. The Environmental Site Assessment indicates in Section 6.3 "Stormwater Management," that "additional facilities" constructed in conjunction with the ditch restoration/stream habitat creation may be constructed within the 100-foot Buffer to provide flow attenuation and water quality benefits beyond the present State and local regulatory requirements. Additional information is needed about these facilities because it is not clear what type of facilities may be proposed in the Buffer. New development activities, including stormwater management facilities and treatment practices, are not permitted within the 100-foot Buffer of tributary streams. However, stormwater outfalls are considered water-dependent facilities and may be located within the 100-foot Buffer.

Golf Course

20. The Critical Area Commission has approved an addendum to its growth allocation policy regarding the development of golf courses in the RCA without the use of growth allocation. The addendum includes specific standards for the design of golf courses proposed for development within the RCA without growth allocation. It is my understanding that growth allocation is proposed to be used for the entire project site. If that is the case; therefore, these standards will not apply.

21. Portions of the fairways for Holes 7, 9, and 18 appear to involve impacts to tidal wetlands and the 100-foot Buffer. Please provide detailed information about all impacts to tidal wetlands and the 100-foot Buffer associated with the golf course.

22. Portions of the tees, fairways, and greens for Holes 3, 4, 6, 7, 8, 9, 10, 14, 15, 16, 17 and 18 are located adjacent to the 100-foot Buffer. Development activities, including grading, are prohibited within the 100-foot Buffer; therefore, the tees, fairways, and greens should be located at a sufficient distance from the Buffer so that the limits of disturbance will not encroach into the Buffer.

Growth Allocation and Development Envelopes

23. The applicant originally submitted a plan entitled "Critical Area Growth Allocation – Environmental Features - Exhibit C" which shows two potential development envelope alternatives where the Critical Area designation will be changed through the use of growth allocation. It is my understanding that this document is no longer valid, and that the City and County intend to use growth allocation to change the designation of the entire Critical Area portion of the project site. They do not intend to apply the development envelope deduction methodology.

24. It is not clear from the information submitted if the proposed growth allocation request has met all of the requirements for the use of growth allocation set forth in the City of Cambridge Zoning Ordinance and the Dorchester County Code including those relating to adjacency to other IDA and LDA, the 300-foot setback, and the parcel history. Additional information about conformance with the City's and County's growth allocation provisions is needed.

The preceding comments represent the review and evaluation of the project plans and documents by Commission staff. I look forward to working with you and the City Commissioners and the County Council to address these comments as the project progresses through the local approval process. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal at this stage in the design. Please contact me if you have any questions at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: The Honorable Glenn Bramble, President - Dorchester County Council
Roby Hurley, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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Ms. Anne Roane
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RE: Blackwater Resort Communities – Egypt Road
CM 839-04

Dear Ms. Cole and Ms. Roane:

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Environmental Features

1. An environmental features or environmental assessment map has not been received by the Commission for review. An "Environmental Assessment Topographic Base" map was included with the environmental report; however, it only included site topography and limited vegetation information. Much of the information that is usually included on an environmental features map has been shown on various display documents as an overlay on an aerial photograph. The environmental features map is still needed in order to see the relationship between these features on a single map.

2. There are extensive areas of hydric soils on the project site. Soil types must be shown on the environmental features map, so that it can be verified that all hydric soil areas have been identified and the relationship between nontidal wetlands and streams can be

evaluated. This information is necessary so that expansion of the 100-foot Buffer for hydric soils can be addressed.

Tidal Wetlands

3. The eastern property boundary of the project site includes areas of tidal wetlands. It is my understanding that a field delineation has been performed to determine the exact boundary of tidal wetlands and that State and private tidal wetlands have been identified. This information has not yet been submitted to the Critical Area Commission for review.

4. Additional information about the area of State and private tidal wetlands should be included in the environmental report. State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area. If portions of the project site have been determined to be private tidal wetlands, documentation regarding how this determination was made must be submitted, so that the Maryland Department of the Environment and the Board of Public Works can verify the methodology used. It is possible that they may want to verify the delineation and supporting information in the field, so appropriate detail should be provided. The acreage of State and private tidal wetlands affects all of the calculations based on the acreage of the property, including those relating to growth allocation, stormwater management, and the area of the 100-foot Buffer; therefore, this information is necessary to properly review the project.

100-foot Buffer and Other Habitat Protection Areas

5. The applicant must provide written correspondence from the Heritage Division of the Department of Natural Resources for this specific project. The applicant has submitted a letter from the Heritage Division referencing the "Environmental Review for Comprehensive Plan Amendment, Egypt Road, Dorchester County, Maryland" dated November 14, 2003; however, this letter was not based on the specific project proposal currently being reviewed. A copy of the correspondence pertaining to this specific project has not been received by the Commission.

6. The project site is adjacent to and includes portions of the Little Blackwater River Habitat Protection Area. This area is designated as a Locally Significant Habitat in accordance with the Department of Natural Resources recommendations. Comments on the appropriate protection and conservation measures should be obtained from the Heritage Division of the Department of Natural Resources.

7. The applicants must provide written correspondence from the United States Fish and Wildlife Service (USFWS) for this specific project because a federally listed endangered species, the Delmarva Fox Squirrel, is known to occur on or in the immediate vicinity of the property. It is my understanding that the habitat for this

species is outside the Critical Area and that the applicant has consulted with the USFWS; however, written comments have not been received by the Commission.

8. It is my understanding that portions of the proposed Executive Conference Center are proposed to be located within the 100-foot Buffer in the same location as an existing dwelling. Additional detail is needed regarding the existing structures in the Buffer and whether they will be expanded or modified in a way that may result in additional Buffer impacts, possibly requiring a variance.

9. It is my understanding that there are several watercourses on the property and that a stream identification and delineation was performed last year. Based on the field work, six of the watercourses were identified as streams and the 100-foot Buffer was delineated. A summary of the field work should be included in the Environmental Report.

10. It is my understanding that some of the streams have been straightened and excavated to function as drainage ditches. Based on information provided by the applicants' consultants at the February presentation to the Subcommittee and outlined in the Environmental Site Assessment, some of these streams are proposed to be reconfigured and restored as stream/wetland systems. This restoration activity is encouraged; however, the restoration will affect the establishment of the 100-foot Buffer. The Buffer shall be established from the edge of the bank of tributary streams and must be expanded to include contiguous nontidal wetlands.

11. In Section 2.3 of the Environmental Site Assessment, "Soils," it is stated that only 40 percent of the soils in the Critical Area portion of the site are not classified as hydric. There appear to be significant areas of hydric soils adjacent to the 100-foot Buffer or tidal waters, tidal wetlands, and tributary streams; however, expansion of the 100-foot Buffer has not been addressed. The Buffer is required to be expanded to include contiguous sensitive areas, such as hydric soils, whose development or disturbance may impact steams, wetlands, or other aquatic environments. In the case where nontidal wetlands are contiguous to the 100-foot Buffer, expansion of the Buffer is required. The assessment does not indicate that there has been any analysis to determine whether expansion of the Buffer may be necessary. More detailed information is needed.

12. In Section 5.1.1 of the Environmental Site Assessment, "100-foot Buffer," there is a discussion of man-made nontidal ponds. Are these ponds considered jurisdictional nontidal wetlands? If so, expansion of the 100-foot Buffer may be required.

13. In Section 5.1.5 of the Environmental Site Assessment, "Anadromous Fish Propagation Areas," it is stated that portions of the site have been used as propagation areas for anadromous fish. The Environmental Review Unit of the Department of Natural Resources reviews projects for their impacts on these resources; therefore, comments on all stream /ditch restoration activities should be solicited from DNR.

14. In Section 6.5.1 of the Environmental Site Assessment, "Development Within the 100-Foot Buffer," it is stated that there will be no destruction of forest vegetation at the site with the exception of trees that will be disturbed as a result of grading operations related to the stream and buffer restoration and enhancement. The applicant is advised that for the watercourses designated as intermittent or perennial streams within the Critical Area disturbance to existing natural vegetation and the alteration of existing grades and topography shall be the minimum necessary to accomplish the goals of the stream restoration activity. The 100-foot Buffer shall not be graded and disturbed in order to accommodate changes in elevation associated with the placement of fill necessary to accommodate the proposed development project. Proposed stormwater outfalls discharging to the stream shall be included in the stream restoration and shall be located, configured, and designed to minimize adverse impacts to the stream and the 100-foot stream Buffer.

15. A Buffer Management Plan for the 100-foot Buffer from tidal wetlands, tidal waters, and tributary streams will need to be prepared and submitted for this project in accordance with the provisions in the Critical area law that require establishment of the 100-foot Buffer. A conceptual plan should be submitted with the growth allocation application.

Reforestation

16. The use of growth allocation is proposed to change significant portions of the project site in the Critical Area from RCA to IDA, and this classification does not include specific afforestation or reforestation standards. In the IDA, permeable areas shall be established in vegetation if practicable, and development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation. Additional information is needed regarding existing forest cover, proposed clearing, and proposed reforestation and afforestation for the proposed IDA portions of the project site.

Shoreline Access

17. It is not clear from the information submitted what types of shoreline access are proposed and where they will be located. The "Preliminary Master Plan Development Submission" (book) discusses three access points to the Little Blackwater River, but only two seem to be identified. One access is proposed to be located at the public park in the middle of the project site, and a second is proposed adjacent to the executive conference facilities. These access points should be shown on the plan and additional details provided.

Stormwater Management

18. The applicant has not provided information about stormwater management. Additional information is needed to ensure compliance with the 10% pollutant reduction requirement within the proposed IDA areas of the site. Preliminary information regarding stormwater management will be required prior to the Commission's consideration of the growth allocation request.

19. The Environmental Site Assessment indicates in Section 6.3 "Stormwater Management," that "additional facilities" constructed in conjunction with the ditch restoration/stream habitat creation may be constructed within the 100-foot Buffer to provide flow attenuation and water quality benefits beyond the present State and local regulatory requirements. Additional information is needed about these facilities because it is not clear what type of facilities may be proposed in the Buffer. New development activities, including stormwater management facilities and treatment practices, are not permitted within the 100-foot Buffer of tributary streams. However, stormwater outfalls are considered water-dependent facilities and may be located within the 100-foot Buffer.

Golf Course

20. The Critical Area Commission has approved an addendum to its growth allocation policy regarding the development of golf courses in the RCA without the use of growth allocation. The addendum includes specific standards for the design of golf courses proposed for development within the RCA without growth allocation. It is my understanding that growth allocation is proposed to be used for the entire project site. If that is the case; therefore, these standards will not apply.

21. Portions of the fairways for Holes 7, 9, and 18 appear to involve impacts to tidal wetlands and the 100-foot Buffer. Please provide detailed information about all impacts to tidal wetlands and the 100-foot Buffer associated with the golf course.

22. Portions of the tees, fairways, and greens for Holes 3, 4, 6, 7, 8, 9, 10, 14, 15, 16, 17 and 18 are located adjacent to the 100-foot Buffer. Development activities, including grading, are prohibited within the 100-foot Buffer; therefore, the tees, fairways, and greens should be located at a sufficient distance from the Buffer so that the limits of disturbance will not encroach into the Buffer.

Growth Allocation and Development Envelopes

23. The applicant originally submitted a plan entitled "Critical Area Growth Allocation – Environmental Features - Exhibit C" which shows two potential development envelope alternatives where the Critical Area designation will be changed through the use of growth allocation. It is my understanding that this document is no longer valid, and that the City and County intend to use growth allocation to change the designation of the entire Critical Area portion of the project site. They do not intend to apply the development envelope deduction methodology.

24. It is not clear from the information submitted if the proposed growth allocation request has met all of the requirements for the use of growth allocation set forth in the City of Cambridge Zoning Ordinance and the Dorchester County Code including those relating to adjacency to other IDA and LDA, the 300-foot setback, and the parcel history. Additional information about conformance with the City's and County's growth allocation provisions is needed.

The preceding comments represent the review and evaluation of the project plans and documents by Commission staff. I look forward to working with you and the City Commissioners and the County Council to address these comments as the project progresses through the local approval process. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal at this stage in the design. Please contact me if you have any questions at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: The Honorable Glenn Bramble, President - Dorchester County Council
Roby Hurley, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2005

Ms. Wanda Cole
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 623-05 John and Greta Davidson
Dorchester County Plan # 0505

Dear Ms. Cole:

Thank you for providing information on the referenced project involving disturbance of an area greater than 5,000 square feet within the RCA. The applicant is requesting approval of the construction of a driveway, single family dwelling, and septic system. I have reviewed the plan submitted, and I have the following comments:

1. Based on the recent correspondence from the Mary Ratnaswamy of the United States Fish and Wildife Service, it has been determined that this particular forest parcel has characteristics that are inconsistent with areas likely to be used by the Delmarva Fox Squirrel. Based on this information, a variance is not required for impacts to a Habitat Protection Area, and no design modifications or mitigation is necessary to address conservation of this species at this time.

2. It is my understanding that the unauthorized grading violation on the property is being resolved and that no forest clearing had been initiated; therefore, the County does not intend to require additional mitigation. Although not specifically regulated by the Dorchester County Critical Area Program, the CREP issue has also been addressed and resolved by the property owner.

3. It is not clear from the information provided if the lot is an existing grandfathered lot.

4. From the plans submitted, it appears that the proposed driveway impacts nontidal wetlands in two locations. In the impact area closest to the proposed dwelling, the nontidal wetland is part of the expanded Buffer; therefore, a variance will be required for this impact. It

seems that it may be possible to avoid the need for a Critical Area Buffer variance if the width of the driveway were reduced to 10 feet at that location. If this is not feasible, then appropriate justification regarding the proposed location of the house will be necessary because it appears that the house could be located east of this wetland without requiring a variance.

5. In addition to the variance that may be required for the wetland impact, appropriate authorizations from the MDE will be necessary for all impacts to nontidal wetlands and associated nontidal wetland buffers.

6. It is not clear if the 100-foot Buffer is established in natural vegetation. If the Buffer is not naturally vegetated, then a Buffer Management Plan will be required. It may be possible to use any required planting in the Buffer to meet the reforestation requirements associated with clearing on the site.

7. The plan submitted does not include information about clearing and reforestation. This information should be included on the site plan.

Thank you for the opportunity to provide comments on this project. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2005

Mr. Stan Causey
Wetlands and Waterways Program
Maryland Department of the Environment
407 Race Street
Cambridge, Maryland 21613

RE: Dorchester County Tidal Wetlands Projects

Dear Mr. Causey:

I am writing to provide comments on the September 1, 2005 Joint Public Notice. I have reviewed the information about the referenced project, and I have the following comments:

200564283/05-WP-1819 Daniel Martinek
It is my understanding that this project involves maintenance dredging of a tributary of the Nanticoke River for purposes of maintaining access for shallow draft boats. It is not clear from the information submitted exactly where the site is located. I am aware that this project was previously authorized; however, it is not clear if the dredged material is proposed to be placed on adjacent tidal wetlands or within the 100-foot Buffer. Dredged material may not be placed in the 100-foot Buffer unless it will be placed on a previously approved channel maintenance dredge material disposal area. There was not sufficient information provided to make this determination. If the dredge material is proposed to be placed in the 100-foot Buffer, the applicant is advised to verify that the disposal location meets this requirement.

Thank-you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Wanda Cole, Dorchester County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 28, 2005

Mr. Ace Adkins
Wetlands and Waterways Program
Maryland Department of the Environment
407 Race Street
Cambridge, Maryland 21613

RE: Dorchester County Nontidal Wetlands Projects

Dear Mr. Adkins:

I have reviewed the Joint Public Notice that includes information about the referenced projects. Unfortunately, the Commission did not receive a complete package with plans for the projects, so my comments at this time are very general. It is likely that the Commission may have additional comments when the plans are reviewed.

200563188/05-NT-2058 4040 LLC
This property is not located within the Critical Area of Dorchester County.

200564930/ 05-NT-2119 Alain and Nancy Guillemart
The applicant is proposing to construct a dwelling, garage, and access drive and install utilities that will involve 5,451 square feet of clearing, grading, filling, and permanent impacts to nontidal wetlands and 2,744 square feet of impacts to the nontidal wetlands buffer. It does not appear that the nontidal wetlands are contiguous with the 100-foot Buffer; however, the applicant should verify this with the Dorchester County Office of Planning and Zoning. The County may require additional authorizations or mitigation to ensure that environmental impacts have been minimized. The applicant should contact Ms. Wanda Cole at the Office of Planning and Zoning at (410) 228-3234.

2005665007/ 05-NT-2110 James and Harriet Leech
The applicant is proposing to construct a dwelling, accessory building, and access drive on an existing lot that will involve 12,841 square feet square feet of clearing, grading, filling, and permanent impacts to forested nontidal wetlands and 5,408 square feet of impacts to the nontidal wetlands buffer. It is not clear if the property is located within the Critical Area. The applicant should verify this with the Dorchester County Office of Planning and Zoning because the County

maintains the official maps of the Critical Area boundary. It is also recommended that the applicant contact the County because there may be additional authorizations or mitigation to ensure that environmental impacts have been minimized. The applicant should contact Ms. Wanda Cole at the Office of Planning and Zoning at (410) 228-3234.

Thank-you for the opportunity to provide comments on these applications. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Wanda Cole, Dorchester County

Mary

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 21, 2005

Ms. Sharon Weygand
Town of Port Deposit
64 South Main Street
Port Deposit, Maryland 21904

RE: Port Deposit Critical Area Ordinance

Dear Ms. Weygand:

Thank you for your letter forwarding a copy of Port Deposit's updated zoning ordinance, including the Critical Area sections. It is my understanding that the Town has completed a comprehensive review of its Critical Area Program as required by § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. The revised Critical Area sections represent the incorporation of the 2004 legislative changes, as well as, general clarifications and revisions to the Town's Critical Area Program that were determined to be necessary in order to ensure effective and consistent implementation.

In order for the comprehensive review to be determined to be complete, the following additional information is needed:

1) A statement certifying that the required review has been accomplished;

2) An updated resource inventory (current Habitat Protection Area information);

3) A statement quantifying acreage within each land classification, the growth allocation used, and the growth allocation remaining.

Once this information is received, the Commission staff will move forward with processing the revisions to the Town's Program. The Chairman will make an amendment or refinement determination within 30 days of the Commission's receipt of the additional information, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

Please telephone me at (410) 260-3480 if you have any questions.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Mary Ann Skilling, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 23, 2005

Mr. Roby Hurley
Maryland Department of Planning
Salisbury Multi-Service Center
201 Baptist Street, Suite 24
Salisbury, Maryland 21801-4974

RE: City of Cambridge Six-Year Comprehensive Review

Dear Mr. Hurley:

Thank you for forwarding the City of Cambridge draft ordinance, draft Program, Program repeal and reenact list, Critical Area Map, and Critical Area Exclusion Map. These documents represent the final phase of the City's six-year comprehensive review. The ordinance incorporates the conditions of the Commission's August 4, 2004 approval of the comprehensive review, and the maps satisfy the condition of approval relating to the exclusion area. In addition, the City is requesting approval of a map amendment involving the annexation of Parcel 166 on Map 30, Parcel 42 on Map 41, and Parcel 2 on Map 52. The City is also requesting approval of revisions to the City's Program document involving the elimination of redundant provisions that have been incorporated into the City's zoning ordinance.

The Commission staff has accepted the materials forwarded by the City as a complete submittal. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

Please telephone me at (410) 260-3480 if you have any questions.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Anne Roane, City of Cambridge

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 22, 2005

Mr. Jesse Hammock
Banks, Nason & Hickson
113 South Baptist Street
P.O. Box 44
Salisbury, Maryland 21803-0044

RE: Request for Records

Dear Mr. Hammock,

This letter confirms your telephone conversation of September 21, 2005, with Marianne Mason, the attorney for the Critical Area Commission, regarding your September 19, 2005 request for certain records maintained by the Critical Area Commission. The Commission acknowledges receipt of your request. As provided by the Public Information Act, you may expect our response on or before October 19, 2005.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Marianne Mason, OAG
Ren Serey

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 21, 2005

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 594-05 Carol M. Jones and Anne M. Sessoms Subdivision
Dorchester County Plan # 733B

Dear Mr. Dodd:

Thank you for providing information on the referenced project. I have reviewed the plan submitted, and I have the following comments:

1. A copy of the environmental report for this project was not received by the Commission. Additional information is needed regarding the environmental features of the site including soil types, topography, the presence of streams, and existing vegetation.

2. The applicant has not provided information regarding threatened and endangered species on the site and potential impacts to Habitat Protection Areas. The applicant must contact the Heritage Division of the Department of Natural Resources and request an environmental review of the proposed subdivision. Staff of the Heritage Division will provide written comments, which may affect the design of the project. This information must be evaluated before the subdivision is approved.

3. It is my understanding that four lots were created from the original parent parcel in 1990. The applicant has not provided sufficient information about the Critical Area acreage, subdivision history, and density to determine if the parent parcel has sufficient acreage for an additional lot to be subdivided. Because the Critical Area portions of the property are designated as Resource Conservation Areas (RCA), this information is necessary to ensure that the proposed project and any prior subdivisions do not exceed the maximum density permitted. Please provide a copy of the prior subdivision plat.

4. If there is sufficient Critical Area acreage, excluding State tidal wetlands, to allow for the creation of this lot, a 15.00 acre density reservation parcel must also be identified and

shown on the plat. Notes should be provided indicating that the density reservation parcel is associated with Lot 1, and that additional residential development cannot be permitted.

5. The subdivision plan does not indicate areas of wetlands on the site; however, information available on the Department of Natural Resources MERLIN system indicates that there are extensive areas of tidal and nontidal wetlands on the parent tract. This information is significant because State tidal wetlands cannot be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area.

6. For Critical Area purposes, field verification should be used to identify tidal and nontidal wetlands. A field delineation may also be required to determine the exact boundaries of wetlands and to distinguish between State and private tidal wetlands. Documentation of the field delineation should be submitted with the plan and should describe the methodology used to determine the wetland boundary and to determine if the wetlands are State or private.

7. General Note 12 states that this subdivision is an intrafamily transfer subdivision. This is not correct as intrafamily transfer subdivisions can only be made on properties that are between 7 and 60 acres in size. The maximum number of lots that can be created is three. This note is not applicable and should be removed from the plat to avoid confusion.

Thank you for the opportunity to provide comments on this proposed subdivision. Please provide revised plats when these comments have been addressed. There may be additional comments when the requested additional information is received. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Tim Marshall, Tim Marshall and Assoc., Inc.

May - leader

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 13, 2005

Mr. Matt Bucchin
Department of Natural Resources – Resource Planning
Tawes State Office Building, E-4
580 Taylor Avenue
Annapolis, Maryland 21401

RE: Nanjemoy NRMA (Natural Resource Management Area) – Land Unit Implementation Plan
SMC 25-05

Dear Mr. Bucchin:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the Nanjemoy NRMA (Natural Resource Management Area) Land Unit Implementation Plan. On September 7, 2005, the Critical Area Commission voted to approve the Plan. The Commission's review of this Plan represents the Commission's analysis and evaluation of a conceptual plan for the development and management of the various properties. Similar to master plans reviewed by the Commission, they will review the individual development projects covered by this Plan, when the Department or Charles County proposes actual development. This process allows the Commission to coordinate with these agencies so that the specific project review can take place when detailed site plans and construction information is developed.

The Commission also discussed the Buffer violation on the property that involved disturbance associated with the clean-up and stabilization of the former marina site in 2002, prior to the land being transferred to the Department. As you know, the County has been advised that they will need to work with the Department and the Commission to develop and implement a Buffer Management Plan as part of the initial phase of any development of the waterfront in order to mitigate for the violation. The Commission may want to review the Buffer Management Plan at the same time that the waterfront development project is submitted for review.

Thank you for attending the Commission meeting and for your cooperation in the preparation of the materials for the meeting. If you or the Charles County staff has any questions, please feel free to contact me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Barbara Grey, DNR
Tom Roland, Charles County Parks Department
Charles Rice, Charles County Planning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 26, 2005

Mr. Sean Callahan
Lane Engineering, Inc.
P. O. Box 1767
Easton, Maryland 21601

RE: Longboat Estates Subdivision
Revision to Boat Ramp

Dear Mr. Callahan:

I have reviewed the information you submitted regarding the revision to the boat ramp to change it from a gravel ramp to a concrete ramp. I do not believe that this change conflicts with the Critical Area Commission's conditions of approval in any way. The proposed modification to the stormwater treatment practice is also acceptable. If you have any questions, please call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Roby Hurley, MDP
Ms. Anne Roane, City of Cambridge

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Ren Serey
Executive Director

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August 18, 2005

Mr. Leo Villarreal
ADTEK Engineers, Inc.
97 Monocacy Boulevard, Unit H
Frederick, Maryland 21701

RE: St. John's Archaeological Exhibit
SMC 45-02

Dear Mr. Villarreal:

I am writing to follow up on our last telephone conversation regarding the issues that need to be resolved before the St. John's Archaeological Exhibit Project. As we discussed, this project was originally proposed to be presented to the Critical Area Commission for conditional approval of a State agency project on State-owned lands in 2003. The some reason that is not completely clear from our records, the project never went forward for Commission approval. Although Wanda Cole, who is no longer with the Commission, originally handled the project I have reviewed the file, and believe that there are still several design issues that need to be resolved before the project is placed on the Commission's agenda. The following issues still need to be addressed:

1. The original estimate of impacts to the 100-foot Buffer and expanded Buffer increased slightly because of minor changes in the design. I believe that Buffer impacts are currently at approximately 3,900 square feet. This are of impact should be verified because it will affect the required mitigation.

2. It is not clear whether the impacts to the 100-fot Buffer for "Add Alternate #1" and "Add Alternate #3" have been addressed. Are these development activities still part of this project? Are they proposed to be constructed at the same time as the rest of the project if sufficient funds are available? If they are still part of the project and are proposed to be constructed in the next five years, I would recommend that these elements be included in this project and that all calculations for stormwater management, reforestation, and Buffer mitigation include them.

3. In 2003, it appears that mitigation plantings for this project were proposed to be accomplished with the Phase I Fisher Road mitigation. This did not occur and the "mitigation credit" from Fisher Road project was used to satisfy outstanding mitigation requirements for the Somerset Hall Expansion Project and the New Student Residence Project. Mitigation at a 3:1 ratio is required for all Buffer impacts.

4. In 2003, it was believed that the project would not involve any removal of trees. The current drawings indicate that approximately 26 trees are proposed to be removed. The number of trees that will be removed needs to be verified and any other removal of natural vegetation identified. Mitigation at 1:1 is required for all trees and vegetation removed outside the Buffer.

5. The proposed landscape plan does not appear adequate to satisfy the required mitigation planting for this project. The estimated mitigation requirement is 14,300 square feet which includes the 3:1 mitigation for 3,900 square feet of Buffer disturbance totaling 11,700 square feet and 1:1 mitigation for the removal of 26 trees (at 100 square feet each) for 2,600 square feet. The plantings proposed in the landscape plan total 7,875 square feet. An additional 6,425 square feet of mitigation planting is needed. The College has identified a Campus Reforestation Area to satisfy other mitigation requirements, and it may be possible to expand this area. The College will need to specify that this is their intention and provide an appropriate planting plan.

6. There appear to be some inconsistencies in the 10% pollutant removal calculations. The worksheet indicates that post-development impervious surface area equals 2.07 acres and the Stormwater Management Report indicates that post-development impervious surface area equals 2.09 acres.

7. In 2003, the Commission revised its 10% pollutant removal guidance and produced the *Critical Area 10% Rule Guidance Manual – Fall 2003*. As part of this revision, the calculations were revised to change the pollutant concentration factor, or C-value, from 0.26 or 1.08 to 0.3. The revisions also included changes to the removal efficiencies of most standard stormwater treatment practices in order to make them consistent with the removal efficiencies included in the *2000 Maryland Stormwater Design Manual*, prepared by MDE. It appears that the stormwater design was not finalized until July 2004; therefore, the revised 10% Rule Manual should be used. I believe that the changes outlined above basically offset each other, so I do not believe that it significantly increases the pollutant removal requirement.

8. Based on the proposed stormwater treatment, there is an outstanding pollutant removal requirement of approximately 0.7 pounds. This removal requirement needs to be addressed. As we discussed, it is possible to satisfy this requirement by treating off-site areas of the College or by providing offsets as discussed in Section 6 of the *Critical Area 10% Rule Guidance Manual – Fall 2003*. The outstanding requirement is relatively small, and it appears that implementing one or more of the offset options could satisfy it. At one time, we had discussed the possibility of accounting for additional pollutant removal provided by the retrofits to the water quality pond near the student townhouses. I have reviewed Appendix H, and it is not clear whether the retrofits to the pond were necessary to meet stormwater quality requirements of other projects. I am willing to discuss this proposal further to see if it is still a possibility.

Thank you for contacting me regarding the status of this project. I believe that most of these issues can be resolved relatively easily. Once these issues have been addressed, the project can be scheduled for review by the Commission. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

MRO/jjd

cc: Mr. Chip Jackson, St. Mary's College

Mary - Reader

MEMORANDUM

DATE: August 17, 2005

TO: Matt Bucchin, Resource Planning

FROM: Mary Owens, Critical Area Commission

SUBJECT: **2005DNR085**
CAC Project # DNR 16-03 Chapel Point Land Transfer to Charles County

Thank you for providing preliminary information on the proposed land transfer and for taking the time to visit the property with me on August 15, 2005. I have reviewed the information, and I would like to provide some general comments pertaining to development on State or County-owned land within the Critical Area and some specific comments on the elements outlined in the list, "County's Proposed Use of Chapel Point."

The following comments are somewhat general because the information submitted is not detailed enough to fully review the proposal. I cannot emphasize strongly enough that a detailed site plan showing existing conditions must be developed before any reasonably accurate environmental assessment of the feasibility of proposed development activities can be performed. This information should include, at a minimum, property boundaries, topography, soil types, streams, wetlands, forest cover, fallow and cultivated fields, roads, structures, and utilities. Ultimately, this information will be necessary in order to develop construction plans and to obtain necessary permits and approvals.

Based on my review of the information submitted, I have the following comments:

General Comments

Land Use and Approval Process

1. Most of the property proposed for transfer is located within the Critical Area; therefore the Critical Area regulations will need to be considered when planning future development activities or land use changes. The Critical Area designation of the property is Resource Conservation Area (RCA), which is the most restrictive classification. Within the RCA, some types of active or intense recreational uses may not be permitted or may only be permitted through the conditional approval process.

2. All development projects undertaken by any County agency will require compliance with the applicable sections of COMAR 27.02.01 through 27.02.06. If the property is transferred to the County in fee-simple (as opposed to a long term lease), the Charles County Department of Planning and Growth Management will need to prepare and submit consistency reports to the Commission for development of local significance. Approval by the Critical Area Commission will be required for major development projects and projects requiring conditional approval. It appears that this project will involve impacts to the 100-

foot Buffer and expanded Buffer; therefore, it is likely that conditional approval by the Critical Area Commission will be required. If the property is made available to the County through a long-term lease, Critical Area Commission approval will be required for all development projects in accordance with the provisions of COMAR for State-owned lands.

Habitat Protection Areas

3. Within the Critical Area, local governments are required to protect and conserve designated Habitat Protection Areas as defined in COMAR Section 27.02.05.09 through 27.02.05.13. These areas include the 100-foot Buffer (from tidal waters, tidal wetlands, and tributary streams), the habitats of threatened or endangered species or species in need of conservation, colonial water bird nesting sites, historic waterfowl staging and concentration areas, Forest Interior Dwelling Species (FIDS) habitat, designated Natural Heritage Areas, other locally significant plant or wildlife habitats, and anadromous fish propagation waters. The County will need to coordinate with both the Commission and the Heritage Division of the Department of Natural Resources when planning any development on this property (including passive recreational uses such as trails or canoe access) in order to ensure that these areas are protected as required by the Critical Area regulations.

4. Much of the area proposed for transfer is forested with mature deciduous trees and is adjacent to a much larger area of contiguous forest. It is possible that these forested areas are high quality FIDS habitat and would require protection and conservation as a Habitat Protection Area. The Commission has developed a publication entitled, "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area," which provides guidance about identifying and protecting FIDS habitat. In general, if clearing is proposed that impacts FIDS habitat, mitigation is required. Mitigation generally requires the creation of new or expansion of existing viable FIDS habitat.

100-Foot Buffer and expanded Buffer

5. Portions of the property are within the 100-foot Buffer. In some cases, the Buffer must be expanded beyond 100-foot because of contiguous steep slopes or other sensitive areas. In order to review this project, the 100-foot Buffer and expanded Buffer must be delineated. Topography, streams, soils, and areas of tidal and non-tidal wetlands must be shown in order to ensure that the Buffer delineation is accurate.

Coordination

6. In the last several years, Charles County has not had a lot of local government projects within the Critical Area that have required either the submittal of consistency reports or approval by the Critical Area Commission. Although the County's letter states that they intend to comply fully with the Critical Area requirements, it is strongly recommended that County Park staff meet with Commission staff, DNR staff, and Charles County Planning staff, prior to the land transfer, so that issues that will affect the County's proposed use of the property can be identified and discussed.

Specific Comments on Proposed Project Elements

Scenic Access to Port Tobacco and Potomac Rivers

7. The Critical Area law and criteria provide for public access to the water; however, provisions for creating large unobstructed views are not included in the law and criteria. View corridors must be carefully planned, designed, implemented, and managed so as not to create conflicts with the provisions of the law and criteria that require the establishment of a forested Buffer. Most of the Buffer on the property is forested, including the areas where structures previously existed. In general, the clearing or removal of large areas of natural vegetation solely to provide water views is not permitted in the 100-foot Buffer. There are some cleared and sparsely vegetated areas with appropriate elevations to provide overlooks. Detailed site information will be needed to identify the most appropriate location for these facilities and to ensure that Buffer impacts associated with these facilities are minimized.

Public Access to the Shoreline

8. The Critical Area law and criteria encourage public access to the shoreline and the Commission is aware of the County's need for beach access. Low impact trails and beach use areas can be accommodated on this site and must be designed so that all non-water dependent uses, such as restrooms, parking, and picnic pavilions are located outside the Buffer and expanded Buffer.

Expand Shoreline Fishing Opportunities

9. The information submitted indicates the County's desire to expand shoreline fishing opportunities. Generally this type of use is permitted but needs to be carefully designed and implemented to minimize the number of access points at the shoreline. Multiple access points fragment habitat and are disruptive to wildlife. One or two larger fishing piers are preferred over multiple smaller facilities. Fishing areas must be designed so that all non-water dependent uses, such as restrooms and parking are located outside the Buffer.

Develop Picnic Facilities

10. The County proposal includes picnic facilities as a proposed use. Generally, single picnic tables can be located anywhere as long as impacts to natural vegetation area avoided. Larger facilities involving a covered pavilion and concrete flooring are considered development activities and are not permitted within the 100-foot Buffer or expanded Buffer.

Construct Hiking Trails

11. There are several existing "trails" through the property associated with current uses and agricultural activities, and additional trails are proposed. In general trails that "follow the shoreline" as described in the County's letter must be designed to minimize Buffer impacts. Trails should not parallel the shoreline at the water's edge, but can be designed to meander in and out of the Buffer to connect with scenic overlooks.

12. Trails must be designed in accordance with the Critical Area regulations and should avoid impacts to Habitat Protection Areas and slopes greater than 15%. In order to minimize impacts associated with clearing and grading for trails, natural alternatives such as wood chips or stone dust are preferred over paved walkways. These natural alternatives can be designed to curve around trees and avoid small swales and depressions, whereas more structurally substantial path systems are not as flexible. The width of the pathway should be the minimum necessary to accommodate the anticipated use of the pathway; six feet wide is generally recommended.

"Car-Top" Boat Access

13. The County proposes to maintain and improve an area where jon-boats, kayaks, and canoes are frequently launched. The Critical Area regulations require that when public water-oriented recreation areas are located in the Buffer, the following must be ensured:
    (1) Adequate sanitary facilities exist;
    (2) Service facilities are, to the extent possible, located outside the Buffer;
    (3) Permeable surfaces are used to the extent practicable;
    (4) Disturbance to riparian and aquatic natural vegetation is minimized.

    Improvements to the existing facilities must be designed so that non-water dependent facilities, such as parking areas, are located outside the 100-foot Buffer and expanded Buffer. It appears that the existing parking area could be improved to provide a loading and unloading area and access for those with disabilities. All other parking must be located outside the Buffer and expanded Buffer.

Special Event Building

14. The information submitted by the County includes the construction of a pavilion type facility that would be located in the footprint of the original Dance Pavilion. There are several existing foundations within the 100-Buffer; however the existence of these foundations does not guarantee any right to rebuild in the same location. It is my understanding that these structures did not exist at the time the Critical Area regulations were enacted, so there is no "grandfathered right" to rebuild on the existing footprint.

    During the site visit, these foundations were observed to be located very close to mean high water and on steeply sloping, and eroding areas. It appears that extensive grading very close to the shoreline would be necessary to rebuild in these locations, and that the locations are not optimal for redevelopment.

    In general, new development activities are prohibited within the 100-foot Buffer and expanded Buffer, unless they are water-dependent or the requesting agency obtains conditional approval by the Commission. There are specific standards for conditional approval by the Commission including that there are unique circumstances specific to the site and that public benefits to the Critical Area Program will be provided by the project. It does not appear that these standards could be met when there is extensive land area outside the 100-foot Buffer where a special event building, associated parking, and sewage reserve areas could be located.

Thank you for the opportunity to provide comments on this proposal at this early stage in DNR's decision-making process. If you have any questions, please call me at (410) 260-3480.

cc: Gene Piotrowski, DNR

Mary - Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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August 16, 2005

Ms. Wanda Cole
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 535-05 William Wolinski
Dorchester County Application # 2260

Dear Ms. Cole:

Thank you for providing information about the referenced variance application. The applicant is requesting approval of two additions located within the 100-foot Buffer in order to expand an existing dwelling. The property is an existing grandfathered lot and is significantly constrained by nontidal and tidal wetlands as well as the 100-foot Buffer.

The Commission does not oppose the proposed variance request as the existing dwelling is located within the Buffer, and the additions appear to be a reasonable expansion of living space.

If the Board of Appeals approves this variance request, the Commission recommends that mitigation be provided in accordance with the Dorchester County Code. Thank you for the opportunity to provide comments on this variance request. Please provide a copy of the Board of Appeals' decision to the Commission. If you would like to discuss this application, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Mary Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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August 16, 2005

Ms. Wanda Cole
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 554-05 Howard Wagner
Dorchester County Plan # 2261

Dear Ms. Cole:

Thank you for providing information on the referenced project. The applicant is requesting approval of a special exception to construct a communications tower on a property designated RCA. The property is identified as Parcel 94 on Tax Map 74, and it is located off of Griffiths Neck Road adjacent to the Chicamacomico River.

The Commission does not oppose the proposed special exception as this use is identified in the Dorchester County Code as potentially a permitted use in the RCA, if the Board of Appeals approves a request for a special exception. Provisions relating to the Board of Appeals' review of the special exception are set forth in §155-50.O.2 of Article IX of the Dorchester County Code and include standards for minimizing the impact of these structures. In addition to those standards, all other Critical Area provisions including, but not limited to, impervious surface limits, reforestation, and conservation of Habitat Protection Areas also apply.

Thank you for the opportunity to provide comments on this special exception request. Please provide a copy of the Board of Appeals' decision to the Commission. If you would like to discuss this application, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

May-Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 16, 2005

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 413-03 Pleasant Rifts Subdivision
Dorchester County Plan # 1023

Dear Mr. Dodd:

Thank you for providing information on the referenced project. I have reviewed the plan submitted, and I have the following comments:

1. A wetland delineation has been performed on this site and Commission staff met with Mr. Ron Gatton to evaluate in the field several areas of the existing stream. The stream, tidal wetlands, and 100-foot Buffer appear to be accurately delineated on the plan; however, the Commission still needs a copy of the field report and associated documentation. Please provide a copy of this information.

2. Note 20 should be revised to read, "No clearing or removal of natural vegetation shall be permitted in the 100-foot Buffer unless a Buffer Management Plan is approved by Dorchester County Planning and Zoning."

3. On Lot 9, the buildable area is extremely narrow because of the configuration of the lot and the location of the sewage reserve area. It looks like it would be difficult to locate a typical dwelling within the buildable area. Because this is a new subdivision, the project must be designed to avoid the needed for a variance because the applicant will be required to demonstrate that they have met all of the variance standards and that denial of the variance would result in an unwarranted hardship. It is strongly recommended that the buildable area on this lot be revised.

4. In correspondence from the Heritage Division of the Department of Natural Resources, it is recommended that the applicant contact the U.S. Fish and Wildlife Service (USFWS) to verify that the project will not result in any impacts to the endangered Delmarva Fox Squirrel. Because protection for this species comes under federal jurisdiction, the

applicant must contact the USFWS regarding this project. The applicant can contact Mary Ratnaswamy at (410) 573-4500. The Heritage Division also screens for potential impacts to other Habitat Protection Areas including Natural Heritage Areas, colonial water bird nesting sites, and Forest Interior Dwelling Species (FIDS) habitat. Prior to the recordation of the plat, the applicant must provide this correspondence.

5. In the "Woods Clearing Calculations" table, there is a note stating that the remaining 4.70 acres of afforestation will be paid to the State mitigation fund at 1.5 times, for a total of 7.05 acres. There is no State mitigation fund for afforestation within the Critical Area. All afforestation and reforestation within the Critical Area must be addressed at the County level. § 155-38.H.7 of the Dorchester County Zoning Ordinance includes provisions for the County's Forest Replacement Fund. The Commission would recommend against the County accepting fees-in-lieu of planting for 7.05 acres, unless a planting site was identified in advance, because planting sites of this size within the Critical Area are extremely difficult to find. If a planting site is not identified in advance, the Commission would recommend that the fee calculation include the cost of purchasing land or appropriate easements to accommodate the planting.

Thank you for the opportunity to provide comments on the revised subdivision plat. Please provide the requested information as soon as possible, so that these issues can be resolved. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mary Ratnaswamy, USFWS
Scott Smith, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2005

Mr. Mark Kalmus
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 482-05 Howar Family Boundary Line Adjustment Plat
Local Project Number: 05-141-049

Dear Mr. Kalmus:

Thank you for providing information on the referenced project. I have reviewed the information submitted, and I have the following comments:

1. It appears that the applicant is proposing to reconfigure two existing grandfathered parcels, Parcel 320 and 201, to create two buildable parcels, both with water frontage. The Critical Area designation of the Critical Area portion of the property, which totals 30.1 acres is RCA. Each of the existing parcels had a grandfathered development right for a dwelling unit, and the recording of the boundary line adjustment plat will not result in additional building sites or an increase in density beyond what currently exists.

2. It appears that Parcel 201 may include areas of tidal wetlands. Field delineation should be used to determine the exact boundary of tidal wetlands and to distinguish between State and private tidal wetlands. State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area. If these areas have been determined to be private tidal wetlands, please provide documentation regarding how this determination was made.

3. The 100-foot Buffer from tidal waters and tidal wetlands must be shown on the plat.

4. It appears that there is a tributary stream located on both parcels. The 100-foot Buffer from the stream must be shown on the plat.

5. Topographical information is not shown on the plat; therefore, it cannot be determined if expansion of the Buffer for contiguous steep slopes is required. This information must be provided because it affects the location of proposed building sites and sewage reserve areas.

6. The Critical Area Notes should indicate that impervious surface area is limited to 15% of each lot. It appears that the existing road running along the western property boundary is proposed to remain. The impervious surface area of the road must be included in the permitted impervious surface area for Parcel 320.

Thank you for the opportunity to provide comments on this subdivision. Please provide revised plats when these comments have been addressed. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Offenbacher, Offenbacher Inc.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 11, 2005

Ms. Jane Robeson
St. Mary's County Government
Department of Permits and Inspections
P. O. Box 653
Leonardtown, Maryland 20650

RE: Piney Point Shores – 30' ROW - Walnut Street at St. George Creek
Tax Map 65A – Zoned RL/IDA/BMO

Dear Ms. ~~Robeson~~ Jane:

Thank you for providing information regarding the ongoing problem at Piney Point Shores relative to the use of a platted right-of-way in a manner that appears to be causing erosion and degradation of the shoreline and 100-foot Buffer. Based on the photographs you provided and testimony from surrounding property owners, it is my understanding that Mark Jones has been launching a powerboat from the right-of-way. There does not appear to be any type of ramp facility, and Mr. Jones' activities are causing erosion at the shoreline, degrading the 100-foot Buffer, and precluding the establishment of a healthy marsh.

I forwarded the information you provided to the Office of the Attorney General (OAG) at the Department of Natural Resources, and I have discussed the matter with the staff. Based on their evaluation of the deeds, Mr. Jones has an access easement on the property, which conveys the same riparian access rights and responsibilities as actual ownership. I believe that most of the property owners in the Piney Point Shores subdivision have similar rights to use this property for access to the water. The OAG has determined that although Mr. Jones has legal rights to riparian access, there is no specific mention of rights to launch a boat from the property. Because no actual boat launching facility exists on the property or has ever legally existed on the property, it can be logically inferred that the easement does not specifically include that right.

In order for Mr. Jones to be permitted to launch his boat from the site, he would need to obtain authorization from the Maryland Department of the Environment and the St. Mary's County Department of Permits and Inspections to construct a boat ramp. It is likely that the County would require that the applicant obtain permission from the fee-simple owner of the property

(Harry Lundeberg School of Seamanship) and from all other property-owners that have similar easements on this parcel.

It appears that Mr. Jones may have placed some bricks and other materials in the water to facilitate the launching of his boat. This activity is considered filling of tidal waters and tidal wetlands and is not permitted without State and County authorization.

Absent the appropriate authorizations for, and legal construction of, appropriate facilities to provide for the launching of boats in an environmentally sound manner, it appears that Mr. Jones can be found in violation of Section 71.8.3 of the St. Mary's county Comprehensive Zoning Ordinance regarding disturbance to the 100-foot Buffer and potentially in violation of State law regarding unauthorized impacts to tidal waters and tidal wetlands. Because of the nature of Mr. Jones' access easement and the County's photographs documenting Mr. Jones' activities, the OAG believes that Mr. Jones can be cited for a violation of the County's Critical Area Buffer protection provisions.

Mr. Jones should be advised that State law allows the County to assess a civil fine of up to $10,000 for each violation of the Critical Area regulations or ordinance. The County may also bring a civil lawsuit to compel restoration of the land to its pre-existing condition, including the removal of structures and the restoration of natural vegetation. Mr. Jones should also be advised that in addition to the fines and legal action, which the County may initiate, the Maryland Attorney General has the authority to seek immediate cessation of illegal activity in the Critical Area that threatens to degrade the quality of tidal water or fish, wildlife, or plant habitat, and to compel restoration of any land or water areas affected by illegal development, including filling and the removal of vegetation. The Attorney General may also bring action against the property owner, or other persons exercising rights conveyed by easement, for damages, equal to the estimated cost of removing unauthorized fill and restoring natural vegetation.

I am forwarding a copy of this letter to the OAG so that they will be aware that St. Mary's County staff may be pursuing a citation against Mr. Jones and appropriate remediation. If I can provide any further assistance in this matter, please do not hesitate to call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Ms. Rachel Eisenhauer, OAG-DNR
Mr. Jimmy Hansen, Harry Lundeburg School of Seamanship

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

MEMORANDUM

DATE: August 11, 2005

TO: Barbara Grey, DNR – Resource Planning
Matt Bucchin, DNR - Resource Planning

FROM: Mary Owens, Critical Area Commission

SUBJECT: 2005-DNR-158, Kings Landing – Renovate Equestrian Area

Thank you for providing preliminary information on the proposed renovation of the equestrian area to provide improved arena facilities and a 12' by 16' judge's stand. It appears that the area proposed for renovation is within the Critical Area. It is my understanding that the equestrian facilities are currently located in a level, open field outside the 100-foot Buffer, and that the renovation will not involve any clearing or significant excavation or grading. The parking area is proposed to remain as it currently exists, and no new impervious surface will be created other than the judge's stand.

It is my understanding that the County developed a master plan for King's Landing several years ago. It is not clear if this proposed activity was addressed in the master plan. Additional information is needed.

Development projects undertaken by any County agency on State-owned lands require compliance with the applicable sections of COMAR 27.02.01 through 27.02.06. The project will also require approval by the Critical Area Commission. The Critical Area Commission meets the first Wednesday of every month, and project materials should be submitted one month prior to the meeting date to allow for the preparation of staff reports for the Commission members.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 10, 2005

Ms. Colleen Bonnell
Commissioners of Leonardtown
P. O. Box 1
Leonardtown, Maryland 20650

RE: Ryken High School Annexation

Dear Ms. Bonnell:

Thank you for providing information on the annexation of the Ryken High School Property located south of Leonardtown on Route 5. The property is identified as Parcel 7 on Tax Map 41, Block 7. It is my understanding that the Town is considering an application to annex this property and that the request will be reviewed by the Town Council in the next few weeks. I have reviewed the information submitted, and I have the following comments:

1. The boundary survey indicates that the acreage of the property is 86.842 acres; however, the survey includes areas of tidal wetlands. It is not clear if these tidal wetlands are State or private. State tidal wetlands cannot be included within the boundaries of any privately owned lot or parcel. The applicant is strongly encouraged to perform the necessary field evaluation to identify and delineate the State and private tidal wetlands, since it is likely that this may affect the future development of the property.

2. The property is currently designated Resource Conservation Area (RCA). The applicant's letter states that they are requesting "I/O zoning" and a Critical Area designation that is compatible with the use of the property as an educational institution and a waterfront facility. In accordance with the Critical Area Criteria, " ... local jurisdictions shall permit the continuation, but not necessarily the expansion or intensification of any use in existence on the date of program approval unless the use has been abandoned for more than one year or is otherwise restricted by existing local ordinances. If any existing use does not conform with the provisions of a local program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in COMAR 27.01.11." Last summer, Commission staff met with Town staff to discuss proposed expansion and redevelopment activities at the high school. Because permitted uses within the RCA are generally limited to resource utilization activities such as agriculture, forestry,

and fisheries, it seems likely that the expansion of the existing use will require a change in the Critical Area designation.

3. Last summer, it was discussed that there may have been a mistake in the original mapping of this property, and that the property should have been designated as Limited Development Area (LDA) or Intensely Developed Area (IDA) based on the existing use and intensity of development of the site at the time the County adopted its Critical Area Program in 1990. Mapping mistakes can be corrected through official action by the local jurisdiction based on a determination that a mistake was made in the original mapping and that at that time, the property met the standards for a different Critical Area classification. The Town will need to coordinate with St. Mary's County staff regarding this determination since the original mapping would have been performed by the County.

4. If it is determined that the property was correctly mapped as RCA, the Critical Area designation of the property can be changed through the use of growth allocation. The Town will need to coordinate with the County regarding the use of growth allocation as outlined in the Section 41.9 of the St. Mary's County Comprehensive Zoning Ordinance.

Thank you for the opportunity to provide comments on this annexation. If the Town Commissioners approve this map amendment, it will need to be forwarded to the Critical Area Commission with a request for approval. If there are any questions, please feel free to call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Sue Veith, St. Mary's County Government

Robert L. Ehrlich, Jr.
Governor

hael 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 10, 2005

Professor Richard Booth
Cornell University
City and Regional Planning
117 W. Sibley
Ithaca, NY 14853

Dear Professor Booth:

I am writing in regard to the work of Nicole Witenstein, who completed an internship with the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. Ms. Witenstein was employed by the Commission from July 2003 to December 2003. The Commission is an agency of State government charged with overseeing the implementation of a State law that regulates land use and development activities within a portion of the Chesapeake Bay watershed. During her internship, Ms. Witenstein was involved in many of the functions of the Commission including the evaluation of development projects for compliance with environmental regulations, the review of local environmental ordinances and regulations, research related to environmental policy issues, and a variety of other duties typically performed by a Natural Resource Planner.

Ms. Witenstein performed site visits with other Commission staff, participated in meetings with project applicants and local government staff, and participated in internal discussions about Critical Area program and policy issues. Ms. Witenstein also prepared staff reports, letters, maps, and graphics for presentation to the Commission.

Ms. Witenstein performed these duties competently and professionally with very little supervision. I was constantly impressed by her initiative, her innovative approach to complex issues, and her willingness to take on any project from the mundane to the complex. She was truly a pleasure to work with and an excellent addition to the Commission staff.

If you have any questions about her work, please do not hesitate to call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

Mary - Reader

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 10, 2005

Mr. Ace Adkins
Wetlands and Waterways Program
Maryland Department of the Environment
District Court/Multi-Service Building
201 Baptist Street, Suite 22
Salisbury, MD 21801

RE: Dorchester County Nontidal Wetland Applications

Dear Mr. Adkins:

I have reviewed the Joint Public Notice that includes information about the referenced projects, and I have the following comments:

200462715/ 04-NT-2061 Joan Coleman
The applicant is proposing to construct a dwelling, access drive, and bermed infiltration pond (BIP) that will involve 25,056 square feet of clearing, grading, filling, and permanent impacts to nontidal wetlands. It appears that the nontidal wetlands are contiguous with the 100-foot Buffer, which requires expansion of the Buffer to include the wetlands. Disturbance associated with nonwater-dependent structures within the expanded Buffer is prohibited without a variance. The applicant must coordinate with the Dorchester County Office of Planning and Zoning regarding the variance application to ensure that Buffer impacts have been minimized, mitigation for Buffer impacts is proposed to be provided, and the variance standards are appropriately addressed. The applicant should contact Ms. Wanda Cole at the Office of Planning and Zoning at (410) 228-3234.

200562721/ 05-NT-2047 Jeff Foglesonger
This application does not involve land within the Critical Area.

20062934/ 05-NT-2054 Woods Road Cambridge LLC
It is not clear from the information submitted exactly where this project is located; however, it appears that it is most likely located within the excluded area of the City of Cambridge. This area is not regulated by the City's Critical Area Program and regulations.

Thank you for the opportunity to provide comments on these applications. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Wanda Cole, Dorchester County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

December 6, 2005

Ms. Stacy Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 754-05 Dinsmore Variance
St. Mary's County Project # 05-3196

Dear Ms. Merriman:

Thank you for providing information regarding the referenced variance. The applicant is requesting a variance to the 100-foot Buffer to permit the construction of a single -family dwelling, which will replace an existing mobile home on this lot.

The Commission does not oppose the proposed variance to impact the Buffer. Currently there are two homes on this site that are recognized by St. Mary's County as legal; therefore no Growth Allocation is necessary. The proposed dwelling is considerably closer to existing non-tidal wetlands. It is recommended that the proposed home be located as close to the western edge of the lot as possible in order to minimize any environmental impact on the Buffer or other wetlands.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the St. Mary's County Critical Area regulations. Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone,
Program Planner

cc: SM-754-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 30, 2005

Ms. Stacy Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 762-05 William Variance
St. Mary's County Project # 05-3181

Dear Ms. Merriman:

Thank you for providing information on the referenced project. The applicant is requesting approval of a variance associated with the construction of an addition to a single-family house within the required Buffer.

The Commission does not oppose the proposed variance. The applicant is retaining the existing Buffer line with the addition and the area of disturbance appears to be minimized.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the St. Mary's County Critical Area Program. Thank you for the opportunity to provide comments on this variance request If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

SM-762-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 21, 2005

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 715-05 Pulliam Variance
St. Mary's County Project # 05-2765

Dear Ms. Chaillet:

Thank you for providing revised information on the referenced project. The applicant is requesting approval of a variance for an already constructed detached garage/storage building with less Buffer than required.

We have review the Plan and find that it is not clear from the site plan what exists on site. The driveway to the shed is shown in the same location as the proposed house. A proposed drive goes to an attached garage, but there is no driveway access to this garage. Please clarify how this detached garage will be accessed and why it cannot be relocated outside of the Buffer.

Thank you for the opportunity to review this variance request. Once we have this additional information we may additional comments. If you have any questions, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

SM-05-2765

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 21, 2005

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 733-05
St. Mary's County Project 04-0901

Dear Ms. Chaillet:

Thank you for providing information on the referenced project. The applicant is requesting approval of a variance to clear more than 30% of the existing forest cover on lot 960, Golden Beach Subdivision and to encroach upon the side yard setback to sleep slopes. In accordance with Section 72.3.1.c(2) of the St. Mary's County Zoning Ordinance and Subdivision Ordinance, clearing in excess of 30 percent of any forest or developed woodland is prohibited without a variance. The property is an existing 23,395 square foot, grandfathered lot.

It is not clear how much forest exists on the site. The transmittal sheet indicates the site is entirely forested, but the site plan shows a large opening in the existing tree line. This needs to be clarified. Nonetheless, the Commission does not oppose the proposed variances to exceed the 30% clearing limit and to provide less setback from steep slopes than required, in order to construct a dwelling. The applicant has placed the home as far away from the slopes as local zoning will permit. The applicant should provide standard Critical Area comments on the submitted plan including a location map so that location of the lot in relation to the Critical Area can be shown.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely yours,

Michael A. Paone
Program Planner

SM-733-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 16, 2005

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 753-05
St. Mary's County Project 05-3007

Dear Ms. Chaillet:

Thank you for providing information on the referenced project. The applicant is requesting approval of a variance to clear more than 30% of the existing forest cover on lot 82, Wicomico Subdivision. In accordance with Section 72.3.1.c(2) of the St. Mary's County Zoning Ordinance and Subdivision Ordinance, clearing in excess of 30 percent of any forest or developed woodland is prohibited without a variance. The property is an existing 23,970 square foot, grandfathered lot.

The Commission does not oppose the proposed variance to exceed the 30% clearing limit in order to construct a dwelling. The lot currently has approximately 5992 square feet of forest and woodland trees. At completion of construction the lot will have almost 17,000 square feet of forest and woodland trees. This is a small lot and all construction except for a pathway has been kept outside of the 100-foot Buffer. It is recommended that the necessary clearing be minimized by strict adherence to the proposed limits of disturbance.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely yours,

Michael A. Paone
Program Planner

SM-753-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 1, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Ratcliff Variance
2005-0374-V

Dear Ms. Plociennik:

Thank you for providing information regarding the above mentioned variance. The applicant is requesting a variance to permit an addition to a dwelling and new attached deck with less Buffer than required. It appears that the majority of this home is located within the 100 – foot Buffer.

Provided this lot is properly grandfathered, the Commission does not oppose the granting of a variance for the construction of an addition. Due to the configuration of this lot and fact that almost the entire home falls within the 100-foot Buffer, almost any addition to the home would require a variance. The addition to the home replaces an existing porch and will increase the amount of impervious surface by approximately 386 square feet.

If granted we recommend the following be made conditions of the variance.

1) Because the property is designated an IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of best management practice or with plantings.
2) Mitigation, at a ratio of 3:1 for Buffer disturbance, should be required. Plantings, consisting of native trees and shrubs, should be accommodated on site to the extent possible.
3) Stormwater should be directed to a best management practice or to stable vegetated outfall.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone,
Program Planner

AA-712-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 26, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Duggan Variance
2005-0367-V

Dear Ms. Plociennik:

Thank you for providing information regarding the above mentioned variance. The applicant is requesting a variance to construct a deck attached to a dwelling with less Buffer than required. It appears that the proposed deck is located entirely within the 100 – foot Buffer.

The Commission does not oppose the proposed variance. The proposed construction will result in a reduction in the amount of impervious surface on site. If the variance request is approved, the Commission recommends that mitigation be provided in accordance with Anne Arundel County Critical Area Requirements.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

cc: AA-710-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
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October 26, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Brown Variance
2005-0369-V

Dear Ms. Plociennik:

Thank you for providing information regarding the above referenced variance request. The applicant is requesting a variance to impact steep slopes in order to demolish an existing home and reconstruct a new one on the same location. This lot is not located within the 100-foot Buffer and the entire site contains slopes 15% or greater.

The Commission does not oppose the requested variance. The lot is designated LDA, grandfathered by the County and predates current zoning and subdivision regulations. The area of disturbance is 58.1 % of the site, however, the home is to be built as close to the road as the County will permit and the amount of impervious surface will be slightly reduced. If the variance request is approved, the Commission recommends that mitigation be provided in accordance with Anne Arundel County Critical Area requirements.

Thank you for the opportunity to review this application. If you have any questions feel free to contact me at (410) 260-3460.

Sincerely,

Michael A. Paone
Program Planner

cc: AA-711-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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October 25, 2005

Ms. Stacy Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 679-05 St. Inigoes Landing Lot 7 Variance
St. Mary's County Project # 05-0173

Dear Ms. Merriman:

Thank you for providing revised information on the referenced project. The applicant is requesting approval of a variance to construct a new home within the expanded Buffer. The property contains a stream, steep slopes, and highly erodible soils. The 100 foot Buffer is not shown on the plans nor does the plan reference that the entire lot is in the expanded Buffer.

The Commission does not oppose the requested variance. However, the limit of disturbance extends forty feet beyond the house on the northeast side to the top of the slopes. We recommend the limits of disturbance be significantly reduced here to prevent erosion of the slopes and to minimize impacts to the Buffer. The dwelling could also be shifted to the southwest to increase the distance to the steep slopes and further minimize Buffer impact.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the St. Mary's County Critical Area Program. Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

SM-05-0173

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 25, 2005

Ms. Stacy Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 672-05 Kragh Variance
St. Mary's County Project # 05-2812

Dear Ms. Merriman:

Thank you for providing information regarding the Kragh variance. The applicant is requesting a variance to permit an addition to a dwelling with less setback and Buffer than required. It appears that the proposed addition is located entirely within the 100 – foot Critical Area Buffer and is for the purpose of adding an elevator to the existing home.

The Commission does not oppose the granting of a variance for the construction of an addition to the existing home. However, we note that tidal wetlands are shown on one side of the lot and a bulkhead on the other side of the lot. It is not clear if the wetlands are State or private tidal wetlands. State tidal wetlands cannot be included within the boundaries of any privately owned lot and cannot be used to meet the performance standards for development within the boundaries of any privately owned lot and cannot be used to meet the performance standards for development within the Critical Area. The County must ensure that the area below the bulkhead and the tidal wetlands are not improperly included as part of the impervious surface calculations if they are State wetlands or below mean high water.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the St. Mary's County Critical Area Program. Thank you for the opportunity to provide comments on this variance request If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

SM-05-2812

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 25, 2005

Ms. Stacy Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 677-05 Carruth Variance
St. Mary's County Project # 05-2834

Dear Ms. Merriman:

Thank you for providing revised information on the referenced project. The applicant is requesting approval of a variance to expand the driveway and construct a detached garage within the expanded Buffer.

The Commission does not oppose the requested variance. The garage is located away from Herring Creek and the land still maintains less than 15% impervious surface. If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the St. Mary's County Critical Area Program and that portions of the existing gravel driveway be used for reforestation. Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

SM-05-2834

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 18, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road
Annapolis, MD 21401

RE: Hall Variance
2005-0353-V

Dear Ms. Plociennik:

Thank you for providing information regarding the Hall variance. The applicant is requesting a variance to permit an addition to a dwelling with less Buffer than required. It appears that the proposed addition is located entirely within the 100 – foot Buffer and will replace a portion of an existing deck.

Provided this lot is properly grandfathered, the Commission does not oppose the granting of a variance for the construction of an addition. The applicant has maintained the approximate 84-foot setback from shoreline and is increasing the impervious surface by 152 square feet.

If granted we recommend the following be made conditions of the variance.

1) Because the property is designated an IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of best management practice or with plantings.
2) Mitigation, at a ratio of 3:1 for Buffer disturbance, should be required. Plantings, consisting of native trees and shrubs, should be accommodated on site to the extent possible.
3) Stormwater should be directed to a best management practice or to stable vegetated outfall.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone

Michael A. Paone,
Program Planner

AA-662-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 18, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Pitt Variance
2005-0346-V

Dear Ms. Plociennik:

Thank you for providing information regarding the Pitt variance. The applicant is requesting a variance to permit an addition to a dwelling with less setback and Buffer than required. It appears that the proposed addition is located entirely within the 100 – foot Buffer but will be constructed above an existing cement patio.

The Commission does not oppose the proposed variance. Since the addition is replacing portions of an existing deck and is constructed above existing impervious surface, no loss of impervious surface or disturbance to the land will occur as result of this construction. The Plan should identify the 100-foot Buffer prior to final approval by the County. If the variance request is approved, we recommend mitigation at a 3:1 ratio for Buffer impacts.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone

Michael A. Paone
Program Planner

cc: AA-659-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 18, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Blue Heel, LLC Variance
2005-0332-V

Dear Ms. Plociennik:

Thank you for providing information regarding the Blue Heel, LLC variance. The applicant is requesting a variance to permit a dwelling with less Buffer than required and to clear more than 30% of the existing forested land.

The Commission does not oppose the proposed variance. The entire property is located within the Critical Area and has an RCA land use designation. Due to the amount of non-tidal wetlands, forested areas and given the unique triangular shape of the lot, any home construction on this site would require a Buffer variance.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the Anne Arundel County Critical Area Program. Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone

Michael A. Paone
Program Planner

cc: AA-655-05

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 18, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Iliff Variance
2005-0336-V

Dear Ms. Plociennik:

Thank you for providing information regarding the Iliff variance. The applicant is requesting a variance to impact steep slopes in order to construct a 2 car garage.

The Commission does not oppose the requested variance. The structure is not within the 100-foot Buffer and adjacent to the road. If the variance request is approved, the Commission recommends that mitigation be provided in accordance with Anne Arundel County Critical Area requirements.

Thank you for the opportunity to review this application. If you have any questions feel free to contact me at (410) 260-3460.

Sincerely,

Michael A. Paone
Program Planner

cc: AA-656-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 18, 2005

Ms. Stacy Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 651-05 Windsor Variance
St. Mary's County Project # 05-2761

Dear Ms. Merriman:

Thank you for providing information on the referenced project. The applicant is requesting approval of two variances associated with the construction of a single family dwelling within the required Buffer. One variance involves the applicant's need to clear more than 30% of the existing forest cover on the site and the second is to allow the replacement of an existing dwelling within the expanded Buffer.

The Commission does not oppose the proposed variance to exceed the 30% clearing limit and to construct a replacement home within the expanded Buffer. The proposed home is typical in size for this community and the area of disturbance appears to be minimized. However, the Plan does not show the entire site as being within the expanded Buffer. Please add a note to the plat.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the St. Mary's County Critical Area Program and that portions of the existing gravel driveway be used for reforestation. Thank you for the opportunity to provide comments on this variance request If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

SM-651-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 28, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Arminger Variance
2005-0322-V

Dear: Ms. Plociennik

Thank you for providing information regarding the Arminger variance. The applicant is requesting a variance to permit a dwelling with less Buffer than required. The proposed dwelling is located entirely within the 100 – foot Critical Area Buffer and will replace an existing dwelling in the buffer.

The Commission does not oppose the proposed variance. The property is severely constrained by the 100-foot Buffer. The proposed structure maintains the existing 68' setback from the Buffer. If the variance request is approved, we recommend mitigation of native Buffer plantings at a 3:1 ratio.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone

Michael A. Paone
Program Planner

cc: AA-634-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 28, 2005

Ms. Staci Merriman
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

RE: SM 636-05 Golden Beach – Lot 460
St. Mary's County Project # 05-0738

Dear Ms. Merriman:

The applicant is requesting a variance in order to clear more than 30% of a lot within the Critical Area, in order to construct a single-family home.

The Commission does not oppose the proposed variances to exceed the 30% clearing in order to construct a dwelling and septic system because the lot is small and completely forested. The lot size is 15,000 sq.ft. of which 8,500 sq.ft. will be disturbed. It appears that there may be some opportunities to preserve existing forest or individual trees in the central and northern portion of the lot, and this is strongly encouraged.

If the variance requests are approved, the Commission recommends that mitigation be provided for the variances in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone

Michael A. Paone
Program Planner

SM-636-05

ert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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September 28, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

RE: Etzel Variance
2005-0315-V

Dear Ms. Plociennik:

Thank you for providing information regarding the Etzel variance. The applicant is requesting a variance to allow a private pier with less setback than required.

The Commission does not oppose the proposed variance. The proposed pier is located in the same location as the one destroyed by Hurricane Isabel which was constructed along the extended property line providing no setback. The pier will be extended 10 feet longer in order to accommodate a small boatlift. Access steps from the home to the pier will be unchanged, therefore no disturbance to the land will occur as a result of this construction. This project will require a Tidal Wetlands License issued by the Maryland Department of Environment prior to beginning construction of the pier.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone
Program Planner

cc: AA-633-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 31, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Variance 2005-0280-V
William Schepleng

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting variances to permit a dwelling addition with less setbacks and Buffer than required, and with disturbance to steep slopes.

This office does not oppose the granting of a variance for the construction of an addition to the existing dwelling which lies entirely within the 100 – foot Critical Area Buffer and is located within a Buffer exemption area. The addition to the home will replace an existing deck area that the County has determined to be impervious. There will be no additional impervious surface created by this addition since the footprint of the addition is the same as the existing deck. We recommend if this variance is granted, that mitigation for all Buffer disturbance be provided on-site if possible.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone

Michael A. Paone,
Program Planner

AA-533-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 31, 2005

Anthony DiGiacomo
Cecil County, Office of Planning and Zoning
129 E. Main St. Room 300
Elkton, MD 21921

Re: Howe's Ridge subdivision
(Tax Map 41, Parcel 350)

Dear Mr. DiGiacomo:

Thank you for providing information on the above referenced subdivision. The applicant is proposes to subdivide Parcel 350 to create 5 lots. Based on the information provided, this office has the following comments regarding the subdivision proposal.

1) Lot 5 consists of 46.37 acres, of which 14.74 acres are in the Critical Area, and designated as Resource Conservation Area (RCA). This lot has one home on it, which will be replaced after subdivision approval. No homes exist or are planned for within the Critical Area portion of this site. An access drive shown on Lot 5 on the March 2005 Plan has been moved out of the Critical Area. A tributary stream and nontidal wetlands are identified on Lot 5, and the Buffer appears to be properly delineated.

2) The RCA portion of Lot 5 is limited to 15 percent impervious surface coverage. We recommend that a note to this effect be put on the plat.

3) The applicant must provide a letter from the Dept. of Natural Resources Heritage Division regarding the presence of rare, threatened, and endangered species and other habitats.

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

Sincerely,

Michael A. Paone
Program Planner

CE 583-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Ms. Ramona Plociennik
Anne Arundel County
Dept. of Planning and Code Enforcement
2664 Riva Road
Annapolis, MD 21401

RE: Allanson Variance
2005-071-V

Dear: Ms. Plociennik:

Thank you for providing information regarding the Allanson variance. The applicant is requesting a variance to allow piling with less setbacks than required.

This office does not oppose the granting of a variance to replace a storm damaged pier in kind for residential use. It is our understanding that no disturbance to the land will occur during this project and that all construction will be accessible by water.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone

Michael A. Paone,
Program Planner

cc: AA-531-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 30, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Variance 2004-0057-V
Princess Builders Incorporated

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting variances to permit a dwelling addition with less setbacks and Buffer than required, and with disturbance to steep slopes. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Providing this lot is properly grandfathered, we do not oppose this variance request. Based on the revised site plan, we have the following comments regarding the current development proposal and variance request.

1) A shown on the site plan provided, the property is severely constrained by its unusual shape, the 100-foot Buffer, and slopes of 15 to 25 percent or greater. In addition, nearly half of the total lot area consists of tidal and nontidal wetlands, and most of the upland areas on the site consist of steep slopes. The property is almost fully forested. We recognize that a variance is necessary to develop this property with any reasonably sized dwelling and septic system.

2) As compared with the previous proposals submitted with this variance request, the applicant has attempted to minimize impacts within the Buffer (Anne Arundel County Zoning Ordinance Article 28, Section 1A-105(h)). The proposed reductions in overall impacts on the site are summarized below.

- The applicant had proposed 12,632.4 square feet of forest clearing (14 percent) and now proposes 5,519 square feet of forest clearing (6.07 percent). The applicant had proposed 3,485 square feet of impervious surface coverage (4 percent) and now proposes 1,434 square feet (1.54 percent).

- As approximated from the revised site plan, the footprint of the house was 2,050 square feet and is now 850 square feet, the garage was 576 square feet and has now been removed, and the driveway was 885 square feet and is now 458 square feet.

- As shown on the revised site plan, most of the proposed development will impact slopes of 15 to 25 percent or greater, and nearly all of the proposed impervious surface coverage (dwelling and driveway) is located within the Buffer.

- At its nearest point (the southern corner of the garage), the dwelling was within 44 feet of tidal wetlands and is now within 59 feet of tidal wetlands. The limit of disturbance was within 30 feet of tidal wetlands and is now within 55 feet of tidal wetlands.

3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer and 1:1 for disturbance outside the Buffer, should be provided. Stormwater should be directed away from steep slopes to a stable vegetate outfall to provide water quality benefits on the site.

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

Sincerely,

Michael A. Paone
Program Planner

AA 139-04, 8/30 Revised Plan

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 16, 2005

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Rabbit Variance
2005-281-V

Dear Ms. Plociennik:

Thank you for providing information regarding the Rabbit variance. The applicant is requesting a variance to permit an addition to an existing home with less Buffer than required and with disturbance to steep slopes.

This office does not oppose the granting of a variance for the construction of an addition to the existing dwelling which lies (almost) entirely within the 100 – foot Critical Area Buffer and is located within a Buffer exemption area. The majority of the proposed construction is for a vertical addition and does not increase the building's footprint. An addition to the rear of the home will result in a minor increase in impervious surface of 125 square feet. None of the proposed construction extends beyond the existing buildings setbacks of 37 feet from the bulkhead along Brewers Creek and therefore, there is no reduction in the existing Critical Area Buffer. We recommend that if this variance is granted, that 2:1 mitigation for all Buffer disturbance be provided on-site if possible.

Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone,
Program Planner

AA-534-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 16, 2005

Mr. Mark Kalmus
St. Mary's County Government
Dept. of Land Use and Growth Management
P.O. Box 653
Leonardtown, MD 20650

RE: Lanedon BLAP
Lots 74, 75,76,77,78
04-141-052

Dear Mr. Kalmus:

Thank you for the opportunity to review the proposed Boundary Lot Adjustment Plat for Lots 74 – 78 in the Lanedon subdivision. The applicant is proposing to combine Lots 74, 75 and part of Lot 76 into Lot 500-74 and Lots 77 and part of Lots 76 and 78 into Lot 500-77. The Critical Area Commission does not object to the approval of this record plat. As indicated on the plat, all development within the Critical Area are subject to Critical Area regulations and will not be permitted until all appropriate local, state and federal agencies have conducted a thorough environmental review and have approved the development.

Thank you for the opportunity to provide comments on this Boundary Line Adjustment Plat. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone,
Program Planner

SM 524-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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8/16/2005

Mr. Mark Kalmus
St. Mary's County Government
Dept. of Land Use and Growth Management
P.O. Box 653
Leonardtown, MD 20650

Veitch BLAP
Parcels 22 and 85
05-141-054

Dear Mr. Kalmus:

Thank you for the opportunity to review the proposed Boundary Lot Adjustment Plat for the Veitch Property. The applicant is proposing to adjust Parcel 85 by adding 78,001 square feet from parcel 22. I note that the Plan shows what appear to be wetlands and a stream on parcel 22. All appropriate buffers should be shown on the plat. As indicated on the plat, all future development within the Critical Area are subject to Critical Area regulations and will not be permitted until all appropriate local, state and federal agencies have conducted a thorough environmental review and have approved the development.

Thank you for the opportunity to provide comments on this Boundary Line Adjustment Plat. If you would like to discuss these comments, please call me at (410) 260-3460.

Sincerely yours,

Michael A. Paone,
Program Planner

SM 523-05