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
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December 29, 2005

Ms. Liz West
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0349-V GTC Greenbrier, LLC

Dear Ms. West:

We have received a revised site plan for the above-referenced variance request. The application has changed since the original submittal in that a nontidal wetland system was discovered on site, and that the two stream channels previously shown on the site plan do not exist. It is our understanding that the applicant is now requesting a variance to permit the construction of a dwelling, driveway, septic, and drainage systems, on steep slopes and within the 25-foot nontidal wetland buffer.

Our previous comment letter dated November 1, 2005 did not oppose the request provided the property is properly grandfathered. Nevertheless impacts must be minimized and the variance request must be the minimum necessary. Based on the updated information provided, we have the following comments regarding the development proposal and variance request.

1) The proposed impervious surface coverage was reduced from 2,559 square feet to 2,450 square feet.
2) The proposed clearing was reduced from 11,343 square feet to 9,929.65 square feet.
3) It is unclear whether the steep slope disturbance has increased or decreased since the first plan because that information was not included on the revised plan; however, we assume it has increased; therefore, we recommend the garage be incorporated into the footprint of the dwelling in order to further minimize disturbance to the steep slopes and 25-foot nontidal wetland buffer.

4) Mitigation at a 3:1 ratio for the slope disturbance and 25-foot buffer disturbance should be required. The mitigation should consist of native species and accommodated on site to the extent possible.
5) As in our last comment letter we continue to recommend that stormwater from the dwelling and driveway 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. Please notify the Commission in writing of the decision made in the case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA661-05

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

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Margate Lots 241A & 242
S 98-107, P 05-178

Dear Mr. Torney:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to create five lots that are partially in the Intensely Developed Area (IDA). I have outlined my comments below.

1. Since the site is in the IDA, and disturbance will be greater than 5,000 square feet, the applicant must perform the 10% pollutant reduction calculations. Please forward those calculations when they become available.

2. General note #14 referencing the Stormwater Management Ordinance should state, "Article 16" rather than "Article 21" due to the recent recodification of the County Code.

3. Afforestation is mentioned for a portion of the site outside the Critical Area; however, that area is not shown on the current plan. Please have the applicant show this area.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 771-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 21, 2005

Mr. Mike Murray
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Robert J. Heap Property
MS 05-063

Dear Mr. Murray:

I have received a revision of the above-referenced project. It appears the applicant has addressed the comments from my last letter dated November 3, 2005. I have outlined my remaining comments below.

1. Since the applicant has shifted all development activities outside the 100-foot Buffer, less clearing will occur on site. The updated clearing figure is 486 square feet. Sheet 3 of 3 of the Grading, Erosion and Sediment Control Plan details the type and number of species to be planted, but Sheet 1 of 1 does not show exactly where the plantings will occur within the 100-foot Buffer. We recommend this be shown on this plan since it is likely a grading inspector will be performing any follow-up inspections.

2. The maximum impervious surface permitted on this lot is 8,588 square feet as shown on Sheet 1 of 1. The proposed impervious surface is 8,530 square feet, which leaves only 58 square feet of remaining impervious area for this site. We recommend the initial impervious area be reduced so that future homeowners may have the opportunity to add additional impervious areas without the need for a variance. This office would not support a variance on a non-grandfathered lot.

3. Since the proposed impervious surface is close to the maximum permitted, we recommend the County require the applicant to show all potential areas of impervious surface (i.e. sidewalks, etc.) to ensure the current plan does not exceed the impervious surface limitations.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 678-05

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

Mr. Steve Dodd
Dorchester County Planning and Zoning
County Office Building
P.O. Box 307
Cambridge, Maryland 21613

Re: Robert Hurley et al.
Local Case #1104

Dear Mr. Dodd:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to create a three-lot subdivision in the Limited Development Area. I have outlined my comments below.

1. The subdivision plan indicates areas of wetlands on the site. It is not clear how the wetlands were identified and delineated. 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. 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.

2. We recommend an environmental report detailing the various environmental features of this site be provided to County staff prior to final approval.

3. A letter from the Department of Natural Resources, Wildlife and Heritage Division must be obtained prior to final approval.

4. The 100-foot Buffer must be shown on lots 2-3 as it was shown on lot 1.

5. Since this may be a conversion from agricultural lands to residential uses, the 100-foot Buffer shall be established on each lot. We recommend a planting plan be provided prior to final approval.

6. We recommend the plat indicate the proposed versus remaining impervious area permitted for each lot.

7. Any existing forest cover should be provided to determine whether any clearing will be necessary, or whether any afforestation will be necessary.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: DC 816-05

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

Re: Daniel P. Bolt Property

Dear Ms. Thomas:

I have received the subdivision request for the above-referenced property for review and comment. The applicant proposes to create one lot in the Limited Development Area from an existing parcel, and add land to an existing, adjacent parcel. We have no comment regarding the addition of land to the adjacent parcel. I have outlined our comments concerning the new lot below.

1. It appears a small portion of the 10,000 square foot sewage reserve area is within the expanded Buffer. We recommend shifting this corner of the reserve area out of the Buffer; otherwise it will require a variance.

2. The limit of disturbance line does not encompass the entirety of the sewage reserve area. This should be included on the plan.

3. We note the applicant has shown an area of nontidal wetlands; however, the edges of the wetlands are not clear. Please have the applicant more clearly show the limits of the nontidal wetlands, including the 25-foot nontidal wetland buffer.

4. Since this plan shows a larger lot area, the percent of the proposed clearing has been reduced. Since no updated information regarding the proposed clearing was provided, I will assume it has remained the same as the previous plan, which was .51 acres. Therefore, the percentage of clearing is now 16.5%, and the required mitigation ratio for replanting is 1:1.

5. Since the proposed impervious surface is also not shown on this plan, we recommend the applicant include, as with the last site plan, all relevant site data including parcel size, lot size, existing forested area, proposed clearing, proposed impervious area, etc.

6. We recommend a note be added to the plan that indicates impervious surface is limited to 15% of the lot.

7. We note the U.S. Fish & Wildlife Service (USFWS) indicated the possibility of Bog turtle in the previous application materials; however, neither the USFWS nor the Department of Natural Resources (DNR) confirmed any subsequent survey results in the letters provided. If either agency did confirm the results of a survey, please have the applicant provide this documentation.

8. The DNR letter did indicate the presence of Forest Interior Dwelling (FID) bird habitat due to the forest on this proposed lot and adjoining lands. It appears the applicant is minimizing disturbance to this habitat by minimizing forest edge clearing; however, we still recommend siting the dwelling and associated facilities closer to Charbon Lane.

9. Since this is likely FID habitat, we recommend the remainder of this lot not being cleared for development be placed in a perpetual easement.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: CE 74-04

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. Michael Murray
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Betty Kay Hines - Resubmittal
MS 04-094

Dear Mr. Murray:

I have received another resubmittal for the above-referenced subdivision. It appears this plan still addresses the comments of my August 18, 2004 letter. The only remaining comment I have is to increase the proposed plantings in the reforestation area. We recommend adding some understory shrubs.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 603-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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December 19, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Powhattan Beach Tract 5 P/O lot 4
S 95-020, P 05-0206

Dear Mr. Torney:

I have received the above-referenced subdivision request for review and comment. The site is in the Limited Development Area (LDA), and it appears the application is to create one lot from lot 4. I have outlined my questions and comments below.

1. It is not clear from the information provided, but it appears lot 4 currently supports three dwellings. The site plan submitted indicates these dwellings are surrounded by lot lines and that these lots are not legal. Nevertheless, the Notification of Project Application form indicates the lot proposed for the replacement dwelling is legal. Please confirm the lot status.

2. The Notification of Project Application form also indicates a variance for less side and front setbacks is requested, yet the Grading, Erosion and Sediment Control plan indicates a variance was approved. Please have the applicant clarify this item.

3. It seems this lot will need to perform 15% afforestation; therefore, if the lot is 6,551 square feet, then 982.65 square feet of afforestation is required, minus any existing forested area.

4. The proposed impervious surface area appears to be under the maximum permitted. Please have the applicant confirm this figure includes the driveway, sidewalks and any accessory structures.

5. We recognize the applicant has received a letter from the Department of Natural Resources indicating the site does not support any threatened or endangered species.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 812-05

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. Elinor Gawel
Anne Arundel County
Office of Environmental and Cultural Resources
2664 Riva Road, MS 6402
Annapolis, Maryland 21401

Re: Jennifer Road Pumping Station – SPS Generator Replacement Project
Consistency Report

Dear Ms. Gawel:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report, this office agrees that the project is consistent with the Anne Arundel County Critical Area Program; therefore, this project will not require formal approval by the Chesapeake Bay Critical Area Commission. This letter does not satisfy any other State or local approvals.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 810-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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December 15, 2005

Mr. Jim Newcomb
Dorchester Soil Conservation District
501 Court Lane, Room 213
Cambridge, Maryland 21613

Re: Percy A. Ransome, III - SCP-05-143

Dear Mr. Newcomb:

This office has received the information regarding a proposed bermed infiltration pond (BIP) at the Percy A. Ransome property. The berm of the proposed BIP appears to be within the minimum 100-foot Buffer to a tidal wetland according to the site plan provided to this office. Therefore, a variance to Dorchester County's Critical Area program would be necessary since this is new disturbance in a designated Habitat Protection Area (i.e. Buffer). We recommend the applicant consider other areas that may be outside the 100-foot Buffer in order to avoid the need for a variance. Commission staff generally does not support variances for new disturbances, unless, as may be the case on this property, this is the only place to locate the BIP.

Thank you for the opportunity to comment. Please telephone this office if you have any questions at (410) 260-3460.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Steve Dodd, Dorchester County Planning Office

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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Chairman

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Executive Director

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December 15, 2005

Mr. Robert Anderson
Maryland Transportation Authority
300 Authority Drive
Baltimore, Maryland 21222

Re: Key Memorial Bridge, Northeast Approach Span
Maintenance Access Road Improvements

Dear Mr. Anderson:

Thank you for forwarding the above-referenced project to this office for review and comment. Based on the information submitted, the project appears to be a maintenance project for the purpose of patching failed pavement sections, paving portions of a compacted gravel shoulder, and repairing rills in the embankment. Therefore, no new impervious area will be added to the site. Also, no Habitat Protection Areas will be impacted except as described below.

In regard to the proposed bioretention area that is partially in the Buffer, Commission staff has determined that this location will not initiate Commission review and approval because it is not considered a "State Agency Action Resulting in Development" according to COMAR 27.02.01.01(B)(54). In addition, the bioretention has been sited to minimize disturbance to the Buffer given there is no other location for it on this site. This provision COMAR states:

> State and local agency actions do not include the following: (i) Actions required or specifically provided for by the Critical Area criteria, including construction or installation of structures or measures pursuant to implementing approved stormwater management, grading, or sediment control plans, and the construction or installation of structures or measures on farms to implement approved soil conservation and water quality plans...

Since the bioretention is an action required for stormwater management purposes, this component of the project is not considered a State action resulting in development, and will not require Commission review and approval.

The project is otherwise in compliance with the Critical Area Criteria due to the following reasons:

- The applicant is performing the required 10% pollutant reduction calculation and is satisfactorily treating the removal requirement with a bioretention area.
- While portions of the bioretention area are within the 100-foot Buffer, this activity is permitted pursuant to COMAR 27.02.01.01(B)(54), which excludes certain activities as being classified as development activities subject to Commission review and approval.
- No forest clearing or clearing of natural vegetation will be required.
- The Maryland Department of the Environment has issued its approvals for sediment and erosion control and stormwater management measures.
- No threatened or endangered species will be impacted by the project.
- The Baltimore County Department of Environmental Protection and Resource Management (DEPRM) have reviewed the plans and have no comments.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Glenn Shaffer, Baltimore County, DEPRM
Mr. Richard Sobbott, Daniel Consultants, Inc.
DOT/MdTA 44-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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December 13, 2005

Mr. Bruce M. Grey, Deputy Director
Office of Planning and Preliminary Engineering
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: Contract No. AW730A21
MD 170 Culvert Replacement - Anne Arundel County

Dear Mr. Grey:

I have received the above-referenced project for review. Based on the information provided, it appears the emergency culvert replacement on MD 170 is consistent with the Memorandum of Understanding between the Maryland Department of Transportation and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, since the project meets the requirements for General Approval under Exhibit B1. No further review by this office is necessary notwithstanding any other required State or federal permits.

Thank you for submitting this project to this office for review. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Angela Willis, SHA

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

Mr. Dave Labella
Maryland Transportation Authority
300 Authority Drive
Baltimore, Maryland 21222

Re: Contract No. MA 425-000-002/6
Westbound Deck Replacement - Contractor's Pre-Casting Yard
Bay Bridge, Anne Arundel County

Dear Mr. Labella:

Thank you for forwarding the above-referenced project to this office for review and comment. The information provided to this office indicates that those areas selected for the contractor's use that are in the Critical Area (C and D), already serve as existing parking areas. It is our understanding they will continue to serve as vehicle storage and staging, and that no expansion or alteration is necessary. In contrast, area "A", which is outside the Critical Area, may serve as the construction, staging and storage of concrete slabs and prefabricated units. Since the use of areas "C" and "D" will continue unchanged, this activity is not considered a development activity as defined by COMAR 27.02.01.01 (54). Therefore, no further review or approval is required by Commission staff or by the Critical Area Commission.

In regard to the Great Blue Heron nest that is on the project site, we are satisfied that your agency has consulted with and received guidance from the Department of Natural Resources, Wildlife Division. In addition, we have received your sediment and erosion control permit and stormwater management waiver from the Department of the Environment; therefore, no further coordination or approvals are necessary from this office unless the project changes in scope.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Warren Gray, URS
DOT/MdTA 45-05

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

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Meyer's Property - Keener's Road

Dear Ms. Stauss:

I have received the above-referenced concept plan for review and comment. The applicant proposes to create 94 lots, four of which are within the County's Chesapeake Bay Critical Area in the Resource Conservation Area. I have outlined some preliminary comments below for the County and the applicant to consider during the design of the lot layout process.

1. The concept plan indicates there are 85.8 acres in the Resource Conservation Area (RCA). It appears there may be some areas of tidal wetlands adjacent to Saltpeter Creek. Any areas of State-owned tidal wetlands (based on vegetation type and elevation in the field) cannot be counted for density purposes in the RCA. This analysis must be completed to determine whether the applicant is entitled to four development rights.

2. A survey that addresses Forest Interior Dwelling (FID) birds in the Critical Area must be performed prior to any final lot locations.

3. The applicant must provide the County with an Environmental Review letter from the Department of Natural Resources to determine whether there are any documented threatened or endangered species habitats on or near this parcel.

4. The Buffer may require expansion beyond the minimum 100-feet if slopes 15% or greater, or hydric soils are present. We understand the County has requested a steep slope and erodible soils analysis.

5. Once the wetlands are delineated and field verified, it may be necessary to adjust lot lines in order to avoid any wetlands or their respective buffers.

6. The open space shown in the RCA cannot be placed there since it is serving development outside the RCA and the Critical Area.

7. The portion on the road shown in the RCA that serves lots 37-45 cannot be located in the RCA since it serves development outside the RCA and the Critical Area.

8. The connection to lots 91-94 is unclear. Assuming these lot locations will work given all the known environmental constraints, we recommend using existing cleared areas, where possible.

9. We recommend the applicant provide a table of clearing and impervious cover per lot when final plans are submitted to ensure the limitations area being met.

10. The need for variances to the County's Chesapeake Bay Critical Area regulations must be avoided since this is a new subdivision request. Commission staff will not support variances for new development.

11. The proposed community pier location must be reconsidered if its location will impact shallow water habitat or submerged aquatic vegetation.

12. The applicant must address for the County how this plan supports the Rural Legacy Area.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 794-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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STATE OF MARYLAND
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December 8, 2005

Ms. Elinor Gawel
Anne Arundel County
Office of Environmental and Cultural Resources
2664 Riva Road, MS 6402
Annapolis, Maryland 21401

Re: Herrington Harbor North – Reclassification Request

Dear Ms. Gawel:

This office has received the Herrington Harbor North reclassification request. It is our understanding the Administrative Hearing Officer reclassified 20.78 acres of Resource Conservation Area (RCA) and 29.55 acres of Limited Development Area (LDA) to Intensely Developed Area (IDA), and .144 acres of LDA to RCA based on a mistake in the original mapping. The Critical Area Commission accepts this reclassification request 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) 260-3478.

Sincerely,

Lisa A. Hoerger
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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December 8, 2005

Ms. Elinor Gawel
Anne Arundel County
Office of Environmental and Cultural Resources
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Application 05-001 - Amendment to Buffer Modification Area Map for Little Island in the Magothy, Owner: Daryl Wagner

Dear Ms. Gawel:

The Critical Area Commission has received *Application 05-001, an Amendment to the County's Buffer Modification Area (BMA) Maps for Little Island in the Magothy (owner: Daryl Wagner).*

The Commission is not accepting this amendment to the BMA maps for processing as an amendment to the County's Critical Area program. We understand that the decision of the Planning Officer is pending on appeal within the administrative appeal process of Anne Arundel County. Upon completion of the County's administrative appeal process, the County may resubmit a request for a program amendment.

Please contact me at (410) 260-3478 if you have any questions.

Sincerely,

Ren Serey
Executive Director

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

December 2, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Tanyard Cove South, Lot A
S 90-210, P 05-129

Dear Mr. Torney:

I have received a revised sketch plan for the above-referenced subdivision request. The applicant has addressed some of the comments of my last letter dated August 10, 2005. From the information provided, it appears some of my comments will not be addressed until the final plans are submitted. I have outlined my continued comments and concerns below.

1. The applicant has secured a response from the Department of Natural Resources (DNR) concerning the Bald Eagle nest and confirmation of a survey for two plant species. Notes regarding the eagle time of year restriction must appear on the final plat and plans, not just the Recreation Plan.

2. The more recent report of a bog on the property should be explored as soon as possible, since the presence of a bog may affect the layout. Please instruct the applicant to continue to work with the DNR and those County personnel that are familiar with bog habitat and bog protection in the County.

3. Comment #1 in my August 10, 2005 letter discusses the limits of the development in the Forest Interior Dwelling Bird (FID) habitat. This issue has not been addressed and must be prior to final submission.

4. The general figures provided for proposed impervious surfaces appear low. Please instruct the applicant to provide a detailed chart outlining the impervious proposed per lot in the Critical Area (include dwelling, driveway, sidewalks on lot), public roads, public sidewalks, and each separate recreational building (pool, tennis courts, clubhouse, etc.).

5. The total proposed impervious figure should be 13.5 acres based on the three figures provided, rather than 12 acres. Once the applicant provides more detailed information, these numbers may change, but if the numbers do not change, please have the applicant correct this addition error.

6. The note in the top left-hand corner of sheet 2 of 24 stating that steep slopes associated with previous mineral extraction should not count is incorrect. We have addressed this issue in the past, and steep slopes that are 15% or greater, whether man-made or natural, shall be protected.

7. The following note should provide for expansion of the 100-foot Buffer even if the steep slopes are contained within the Buffer. Our understanding is that Anne Arundel County has required a 50-foot expansion from the top of a slope that ends within the 100-foot Buffer.

8. The legend that references slopes only includes 25% or greater. The applicant must also show slopes 15% or greater where they may occur in the Critical Area portion of this parcel. We understand they are not shown where no impact is proposed; however, for the reason stated above, they should be shown where they are contiguous to a 100-foot Buffer even if no disturbance is proposed. This way, the correct Buffer will be shown.

9. The Buffer shall also be expanded in the case of hydric soils. We note the plans show areas of two different hydric soil types. Please have the applicant verify this issue.

10. The proposed clearing areas in the Critical Area should be provided on the final plat and plans.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 118-04

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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December 2, 2005

Mr. James Price, Director
Program Open Space
Department of Natural Resources
580 Taylor Avenue, E-4
Annapolis, Maryland 21401

Re: Marshy Point Nature Center Building Addition - POS # 4786-3-396
Dundee and Saltpeter Creeks Park Improvements - POS # 4787-3-397

Dear Mr. Price:

Thank you for forwarding the above-referenced Clearinghouse Review projects to our office for review. The Baltimore County Department of Environmental Protection and Resource Management (DEPRM) has provided us with a site plan for the park improvements; however, we have not seen a detailed site plan for the Nature Center building addition. Provided both projects can be determined to be consistent with the Baltimore County Critical Area Program, neither will require review and approval by the full Critical Area Commission.

A consistency determination will be performed by DEPRM and submitted to Commission staff for review and concurrence. If our office disagrees with a consistency determination, then the project will require Commission review and approval. My initial review of the site plans submitted for the park improvements suggest that this project may be eligible for a consistency review. Since I have not seen the site plan for the building addition to the Nature Center, I cannot offer any comments at this time.

Nevertheless, both projects will be required to meet the following requirements in order to be consistent with the County's Critical Area regulations:

- Demonstrate all impacts to any Habitat Protection Areas are avoided, or in the case of access, minimized
- Provide stormwater management measures
- Provide sediment and erosion control measures
- Provide mitigation for any required clearing
- Provide mitigation for the three access paths that cross the 100-foot Buffer
- Demonstrate the additional impervious area will not exceed the 15% threshold

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Glenn Shaffer, Baltimore County DEPRM

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. Jean Lipphard
Department of Natural Resources
580 Taylor Avenue, E-4
Annapolis, Maryland 21401

Re: Black Walnut Point Lease Area
Mitigation Planting

Dear Ms. Lipphard:

As you may recall, on October 1, 2003, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the Department of Natural Resources request to permit replacement cottages on the Black Walnut Point lease area. A condition of the Commission's approval required the lessees to perform mitigation planting on the site. On November 30, 2005, this office performed a site visit to verify the mitigation planting was completed. Based on the site visit, it appears the lessees have provided the required mitigation.

This office will perform a final site inspection in two years to check the survivability of the mitigation planting. We require an 80% survivability rate. Arrangements will be made with the lessees when the time for the final inspection nears.

In the interim, please have the applicant provide an amended drawing and detailed listing of the number and species of trees and shrubs that were planted. We require this amended plan and list in order to keep an accurate record of the planting. The plan and list in our file was based on the initial submission. Subsequent to the initial submission we met with the lessee to discuss the planting. The plan was verbally amended; however, no follow-up drawings were prepared. Please forward this information.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. John Wilson, DNR
Mr. Frank Dawson, DNR
Mr. & Mrs. Ward

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 1, 2005

Ms. Gail Webb Owings
Director of Planning and Zoning
Kent County Department of Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Kent County Draft Comprehensive Plan

Dear Ms. Owings:

Thank you for forwarding the Kent County Draft Comprehensive Plan to our office for review and comment. This office has completed its review of the plan. Our primary focus was Section IV; subsection D titled "Environment". The goals and strategies noted in this section are both challenging, yet important ones in protecting not only the County's general environment, but also that of its streams, rivers, and the Bay. We support the County's efforts in the continuing protection of resource lands and encouraging the use of nitrogen reducing septic systems and sustainable building practices.

Thank you again for including us in the review of the Draft Comprehensive Plan. Please contact us anytime with questions or concerns. It seems many of the counties stated goals and strategies complement the County's Critical Area Program, and that program might be enhanced by some of the suggested practices in the comprehensive plan.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
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 29, 2005

Mr. Tom Burke
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Cole Property - Resubmittal
MS 04-100

Dear Mr. Burke:

I have received another resubmittal for the above-referenced subdivision request. We understand a response from the Department of Natural Resources (DNR) concerning the survey for rare plants is still pending. Please forward a copy of the DNR response when it becomes available. If DNR concurs with the finding of the study that this species is not present, then this office has no further comments.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 637-04

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. Kathy Shatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: North Beach Resubdivision - Holland Point, LLC
S 04-068, P 05-0050

Dear Ms. Shatt:

I have received a revised plan and plat for the above-referenced resubdivision request. The applicant addressed some of the comments of my last letter dated April 1, 2005. I have outlined my remaining comments and concerns below.

1. Based on the information provided, it appears there are 81 acres in the Resource Conservation Area (RCA). Since the RCA affords a one dwelling unit per twenty-acre density, 81 acres may generate up to four lots. However, the information provided also states 12.4 acres of tidal wetlands exist on the site. The applicant must distinguish between State-owned tidal wetlands and any private tidal wetlands since only private tidal wetlands may be used for density purposes (see Natural Resources Article 8-1808.1 (e)). In addition, no State wetlands can be within lot lines. The current plan shows seven lots where lot lines cross into the RCA.

2. The revised plan shows the limits of the tidal and nontidal wetlands; however, it is our understanding the jurisdictional determination has not been completed. Until the wetlands are verified, the final plat should not be signed since some of the development is at or near wetland edges or the wetland buffers.

3. The letter from the Department of Natural Resources (DNR) concerning the Long-awned Diplachne recommends a 100-foot buffer around wetlands on this site. Please have the applicant verify with DNR whether this recommended buffer should also be shown from nontidal wetlands in addition to tidal wetlands. We asked for this information in my April comment letter.

4. Any buffers or RCA areas on the rear of lots should be included in an easement. We recommend these areas be clearly marked and the final plat include notes prohibiting further clearing or development activities on the portions of the lots affected. The current plan does not show easements on the back of the lots, nor is there any plat note restricting further clearing or development activities in these areas.

5. We have previously stated that the FID guidelines are met, and mitigation for clearing should occur at a 1:1 ratio as new FID habitat. In the comment letter from the applicant, it appears they are requesting that the time of year restriction be lifted. If this restriction is lifted, then it is Commission staff's position that the FID guidelines are no longer being fully met; therefore, the time of year restriction should remain.

6. The final plan shows the allowable impervious surface for each lot and the allowable clearing in two charts. There appears to be a mistake in the addition for the impervious surface totals. I get a subtotal for the lots of 76,211 square feet and a total of 83,572 square feet. Please have the applicant check these figures.

7. The plat indicates the intention to create a Forest Mitigation Bank with 30% of the Forest Conservation property. Since the Critical Area requires a minimum of 70% retention, how could any portion of the conservation property be used for other mitigation? Please have the applicant clarify this issue.

8. There is no information on either the plat or plan indicating how much clearing is proposed for this development. Please have the applicant provide this information on the plat and plan.

9. A waiver was granted to sketch and developer's interest according to a note on the plat. Please forward a copy of the waiver letter so we may see the conditions requested by Planning and Zoning.

10. Proposed Active Recreation Area #1 is partially within a 25-foot nontidal wetland buffer, and proposed Active Recreation Area #2 is partially within the 100-foot Buffer to a tidal wetland. Under no circumstances should an active recreation area be platted within any wetlands or their buffers. Please have the applicant amend the plat.

11. The proposed Passive Recreation Area is platted within a nontidal wetland. This also needs to be moved on the plat.

12. The proposed method of stormwater management indicates that disconnection of rooftop runoff will be used to treat stormwater. Sheets #9 and #10 shows the "disconnected" areas going through some wetlands and/or their buffers. We have consulted with the Maryland Department of the Environment and agree that the use of nontidal wetlands and their buffers to treat the runoff should be discouraged.

13. For those lots where the disconnected area is within the 100-foot Buffer to tidal wetlands, or the tidal wetlands, these areas cannot be claimed as the "disconnected" areas. We recommend shifting the dwelling locations on these lots where possible to increase the distance to the 100-foot tidal wetland Buffer.

14. If on any lots, the disconnected area of 75-feet cannot be achieved, we recommend installing raingardens, which can be as credit towards the 75-foot area. Otherwise, the backyards of these lots will pond the stormwater and there will not be adequate treatment before it enters the nontidal and tidal wetlands and their buffers.

Thank you for the opportunity to comment. Please notify the Commission if and when final approval is granted. Please telephone me if you have any questions at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 200-05

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. Kelly Krinetz
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Arrow Cove
S 95-083, P 00-244

Dear Ms. Krinetz:

I have received another set of the revised final development plans and plat for the above-referenced subdivision request. The applicant has addressed the comments of my June 22, 2005 letter, and my September 7, 2004 letter. I have outlined my remaining comments and concerns below.

1. The total figure for "allowable clearing" still adds up to 257,942 square feet based on the figures provided in that column. Please have the applicant check this figure.

2. If the applicant is showing "Additional Clearing Available", which could exceed the 20% threshold up to 30%, then mitigation at a 1.5:1 ratio should be applied now.

3. As of the date of this letter, this office has not yet received a written decision from the Board of Appeals concerning this project. Therefore, final approvals should not be given until the decision from the Board of Appeals is received, and any required changes are made to the plat and plans.

4. The Hearing Officer's decision filed on December 19, 2003 (Case # 2003-0241-V) included a list of conditions, which all appear to be met with this submission with the exception of providing for a community marina. Until the Board has issued its decision, it seems to presume private piers will be permitted. We recommend waiting for the Board's decision.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 576-00

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

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Margate Lots 241A & 242
S 98-107, P 05-178

Dear Mr. Torney:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to create five lots that are partially in the Intensely Developed Area (IDA). I have outlined my comments below.

1. Since the site is in the IDA, and disturbance will be greater than 5,000 square feet, the applicant must perform the 10% pollutant reduction calculations. Please forward those calculations when they become available.

2. General note #14 referencing the Stormwater Management Ordinance should state, "Article 16" rather than "Article 21" due to the recent recodification of the County Code.

3. Afforestation is mentioned for a portion of the site outside the Critical Area; however, that area is not shown on the current plan. Please have the applicant show this area.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 771-05

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. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Utz Construction Company, Inc. – 2005-0386-V

Dear Ms. Rhodes:

This office has received the above-referenced variance request for review and comment. The applicant proposes to construct a single-family dwelling and associated utilities that will impact the 100-foot upland buffer, and 300-foot limited activity area in a Bog Protection Area. I have reviewed the material submitted to this office and I am unable to provide a recommendation until the following questions are addressed:

1. The applicant describes the combination and consolidation of lots and parcel A to create one building site. There is no accompanying documentation of that exercise included in the application. This should be verified.

2. It is unclear whether further consolidation of adjoining parcels is possible. The applicant should provide the County with documentation of the ownership of all adjoining lots.

3. I discovered an administrative plat on the Maryland Archives database that shows a Reserve Parcel that covers the area of the lot where the proposed dwelling is shown (see attached). Plat note #10 states, "The Reserve Parcel is not buildable at this time. 1 to 1 woodlands replacement permitted under the existing grading permit #2001740." This plat was signed by the Planning and Zoning on September 26, 1997. The applicant should demonstrate to the zoning staff when and how this portion of the lot now being claimed as consolidated with lots 11-19 was deemed buildable.

Thank you for the opportunity to comment. Please forward any additional information when it becomes available so that we may provide the County with further comments and recommendations.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 757-05

NOTICE TO TITLE EXAMINERS

1. This plat has been approved for recording only and shall become null and void unless:
   (i) an inspection agreement, or a public works agreement has been executed and recorded within 2 years after this plat is approved;
   (ii) if required, a utility agreement has been executed and recorded within 2 years after this plat is approved; and
   (iii) construction under each of these agreements has been continuous without interruption for more than one year at all times.
2. a. a sale or contract of sale of any lots shown herein may not be made and necessary improvements have been:
   (i) a. satisfactorily completed under an inspection agreement and the subdivider has provided the County with a waiver of the liens from all mechanics and subcontractors; or
   b. satisfactorily guaranteed by a public works agreement, supported by a surety bond, certified check, cash or irrevocable letter of credit from a bond bank or other security as authorized by law; and
   (ii) if required, satisfactorily guaranteed by a utility agreement, supported by a surety bond, certified check, cash, or irrevocable letter of credit from a bond bank or other security as authorized by law; and
3. A building permit other than a sample permit may not be issued for any construction in this development until the requirements of paragraph 2 above have been complied with. Certification of sale and occupancy may not be issued for any building or structure in the subdivision unless improvements required under a utilities agreement have been completed and improvements required under a public works agreement (subtitle 20, Section 3-101 of the Anne Arundel County Code) have been completed.

OWNERS DEDICATION

W.F. Ltd Construction Company, Inc. owners of the property shown and described hereon, hereby adopts this plan of subdivision; establishes the minimum building restriction lines and dedicates the streets, easements, to public use; such lands to designed to Anne Arundel County, as shown.

There are no suits, actions at law, leases, liens, mortgages, trusts, easements, or rights-of-way affecting the property included in this plan of subdivision, except the lienholder and all parties in interest thereto have hereunto affixed their signatures, indicating their assent and willingness to join in this plan of subdivision.

W.F. Ltd 5/16/97
WINNIE F. Ltd (President) Date

OWNER/DEVELOPER CERTIFICATION

I/We certify that iron pipes marked ● and concrete monuments marked ■ will be set in accordance with the requirements of Anne Arundel County.

W.F. Ltd 5/16/97
WINNIE F. Ltd (President) Date

In compliance with the Public Service Commission of Maryland order number: 60216, dated June 22, 1973, Owner does hereby grant and convey unto the Chesapeake and Potomac Telephone Company of Maryland, a body corporate hereinafter called Grantee, its successors and other companies and their respective successors, assigns and licensees a 5/W Easement to construct, operate, maintain, enlarge, replace and remove telecommunications, electric and gas systems, conduit, pipe, machines, cables, wire and fixtures under and over the property as described as

A strip(s) of land 10 feet wide and parallel contiguous and adjacent to the property lines of the lots described in the full extent that such property lines abut Rights-of-Way.

Together with the right to ingress and egress to said property at all times for the work and other purposes and maintenance thereof. The grantee agrees to repair or pay for all damage to crops, lawns, fields, fences, driveways and pathways arising from the construction and maintenance of the aforesaid systems.

TEMPORARY CONSTRUCTION EASEMENT

A temporary easement is reserved in all lots shown hereon between the right-of-way line and the building restriction line for the proposed construction of the roads and other improvements required under a public works agreement or a utility agreement; this easement is to be released upon the completion of the approved plans under these agreements shall be performed within the frameworks and said easements will cease to exist upon satisfactory completion of these improvements and the release of any maintenance security held by Anne Arundel County, Maryland.

SURVEYOR'S CERTIFICATE

I hereby certify that the plat shown herein is a survey of the property by the surveyor or prepared under the surveyors direct supervision, and that it is a subdivision or part of the land conveyed by: Lloyd F. Ltd to Winnie F. Ltd (C. Pipenbrink to W.F. Ltd Construction Company, Inc. by deeds dated 2/13/90 & 3/12/94 and recorded in the land records of Anne Arundel County, Maryland in Liber 5049 Folio 331 & Liber 4706 Folio 112 respectively.
The requirements of Section 10.26, the Real Property Article, Annotated Code of Maryland, 1988 replacement volume, (as supplemented) as far as they relate to the making of this plat and the setting of markers have been complied with.
The total area included in this plat is 7.192 acres of land

Richard H. Lane 7-8-97
Richard H. Lane - Property Line Surveyor # 144 Date

W.F. Ltd 5/16/97
WINNIE F. Ltd (President) Date

ANAREX, INC.
CONSULTING SURVEYORS
CARTOGRAPHY PLANNERS
302 MARLEY ROAD
SUITE 114
MILLERSVILLE, MD. 21108-2330
PHONE: (410) 987-0001

STATE OF MARYLAND PROFESSIONAL LAND SURVEYOR

DEVELOPMENT PLAN STATEMENT

Development of this subdivision shall be undertaken only in accordance with the approved Final Development Plan on file in the Department of Planning and Code Enforcement.

*PRIVATE STORMWATER MANAGEMENT FACILITIES FOR LOTS

This subdivision includes private stormwater management facilities for lots 2,3,4,5 & 6. In accordance with the requirements of Article 21, Section 3-207(a), Anne Arundel County Code, an inspection and maintenance agreement shall be executed with Anne Arundel County before a building permit or grading permit may be issued by the County for this subdivision.

STANDARD RIGHT TO DISCHARGE

We, W.F. Ltd Construction Company, Inc. owner, hereby grants the perpetual right-to-discharge the flow of water from such necessary drainage facilities and appurtenances to adjacent drain the natural enhanced and adjacent properties, into existing watercourse and/or natural drainage courses and/or upon the adjacent property, in the drainage areas as indicated by the symbol ⊗ ⊗ ⊗

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. Chris Soldano
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: County Council Bills 77-05, 78-05

Dear Mr. Soldano:

Thank you for alerting Commission staff to the above-referenced County Council bills. It is our understanding bills 77-05 and 78-05 serve as partial "clean up" bills to legislation passed by the Council in previous months. Below I will provide you with specific comments concerning these bills.

As you may know, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved County Council Bills 3-05 and 4-05 at its June 1, 2005 meeting. With that approval was the understanding that the County would be submitting "clean up" bills pertaining to these and other changes to the County Code within six months. At its August 3, 2005 meeting the Commission approved County Council Bills 19-05 and 20-05 with the same expectations. I have attached the two approval letters of these Commission actions, which outline specific issues the Commission requested be addressed in the "clean up" bills. It appears neither Bill 77-05 or 78-05 address all of these issues. We understand that it is the intention of the County to address these issues in a separate bill. If so, please provide use with a timeline.

In regard to Council Bills 77-05 and 78-05, it is our understanding the Council will conduct a work session today, and we would like to offer the following comments and questions for consideration.

Bill 77-05

1. 26-1-101 (58) - Does the new definition of "slope" apply to slopes in the Critical Area? If so, Commission staff cannot support the elimination of man-made slopes from consideration, nor can we support using square feet as a minimum indicator of steep slopes since this will create too many areas that could be excluded from expansion.

2. One additional comment about steep slopes is that we understand that any references made to slopes of 15% or greater are for those slopes in the Critical Area. We have received comments that the County's current language regarding steep slopes is confusing and encourage the County to more clearly define what is a steep slope in the Critical Area.

3. 26-2-109 (C) – We understand the ability to appeal issues decided as part of a sketch plan is being restricted. What type of notice is provided to neighbors and the general public concerning the sketch plan phase? Even with adequate notice, Commission staff believes the ability to appeal sketch plan issues should stand.

4. 26-2-110 – Will the County's web page now serve as the only means of public notice?

5. 26-2-110 (2) – What is meant by modifications?

6. 26-3-801 (4) – Certain aspects of this provision are not consistent with the Critical Area Law and Criteria since they could have the potential to allow new lots in different Critical Area classifications, and additional riparian lots or parcels where none previously existed. We asked the County to remove this provision in previous discussions since these provisions are in conflict with the goals of the Critical Area Law and Criteria.

Bill 78-05

1. 27-1-101 (29) (i) – Our understanding is that "accessory dwelling unit" does not apply in the Critical Area in the Resource Conservation Area. Please confirm.

2. 27-9-202 – What is meant by "temporary" when it is used in this table concerning structures for boating, swimming, fishing, hunting, golf courses, etc.?

3. 27-10-112 – Same question as #1 above. Please confirm that accessory dwelling units do not apply in the Critical Area in the Resource Conservation Area.

4. 27-10-123 – The elimination of "adequate and clean sanitary facilities shall be provided" should be reconsidered. Commission staff believes this provision should stay in the Code in order to be clear to applicants that this will be a requirement. At a minimum a reference to the specific State law or regulation requiring sanitary facilities at all community piers should be included.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

Enclosures

cc: The Honorable Cathleen Vitale, County Council
Mr. Robert Pollock, County Council
Ms. Linda Schuett, Office of Law
Ms. Elinor Gawel, OECR

obert L. Ehrlich, Jr.
Governor

el S. Steele
Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

June 9, 2005

Mr. Joseph Rutter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: County Council Bills 3-05 and 4-05
Subdivision and Zoning Codes

Dear Mr. Rutter:

At its meeting on June 1, 2005 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved County Council Bills 3-05 and 4-05. The County is required to finalize the changes resulting from County Council Bills 3-05 and 4-05 within 120 days of this notice. Please forward a copy of the new subdivision and zoning articles to this office when they become available.

At the conclusion of the Commission panel meeting, the panel requested the County submit within six months a draft of the "clean up" bill that will address those items outlined in the original Panel Report and some of the items in the Panel Addendum, both dated June 1, 2005. Those issues include the following: amending the steep slope language, clarifying the nonconforming uses language, inserting provisions for persons with disabilities, reinforcing certain provisions in the variance language, amending the definition of dwelling unit, and clarifying the conflict of law provision. Please forward any draft bills when they become available so Commission staff has sufficient time to review and comment on these changes.

Thank you and your staff for attending the public meetings and providing additional information to the Commission concerning these bills. The rewriting of the County's subdivision and zoning codes was a commendable undertaking on the part of Anne Arundel County in order to provide order and clarification to the codes.

As always the Commission and Commission staff look forward to continuing the cooperative relationship with have with the County now and in the future. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Robert Miller, Land Use Officer
Ms. Linda Schuett, County Attorney
Ms. Elinor Gawel, Office of Environmental and Cultural Resources
Ms. Marianne Mason, Esquire, Assistant Attorney General
Ms. Rachel Eisenhauer, Esquire, Assistant Attorney General

obert L. Ehrlich, Jr.
Governor

el S. Steele
Lt. Governor

Martin G. Madden
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Executive Director

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August 10, 2005

Mr. Joseph Rutter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Anne Arundel County Council Bills 19-05 and 20-05

Dear Mr. Rutter:

At its meeting on August 3, 2004, the Critical Area Commission concurred with the Chairman's determination that County Council Bill 19-05 was a refinement to the Anne Arundel County Critical Area Program. The refinement was approved recognizing that Sections 2-302 and 2-305 of Article 21 will be amended in the "clean up" bill to address the steep slope language as the Commission similarly requested with Bills 3-05 and 4-05. Specifically, the language in Section 2-302 should be amended to indicate that grading within slopes of 15% or greater is not permitted, and the language in Section 2-305 should be amended to replace the terminology "reasonable alternative" to "only effective way to maintain or improve the stability of the slope" as used in the Code of Maryland Regulations 27.01.02.04 C (6).

The County is required to finalize this change within 120 days of this notice. If you have any questions, please call me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Elinor Gawel, OECR
AA Refinement File

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 9, 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 Bills 108-05

Dear Mr. Carroll:

At its meeting on November 2, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination that County Council Bill 108-05 could 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) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Patricia Farr, DEPRM
AA Refinement File

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. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Bishara and Cox, Mill Creek LLC Property
S 00-025, P 05-130

Dear Mr. Callahan:

I have received the resubmittal for the above-referenced subdivision request. The applicant has addressed the comments of my last letter dated August 12, 2005. I have no further comments.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 536-05

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 3, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Bridgewater/Carvel Beach Road, P/O Lot 127
S 91-114, P 05-176

Dear Mr. Callahan:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to create 35 lots in the Limited Development Area. I have outlined my comments below.

1. We recommend that lot 1 be relocated to avoid clearing to a forest adjacent to a nontidal wetland area. Two potential locations are in place of Open Space #3, or across from proposed Open Space #3.

2. The applicant should secure permits from MDE and the Administrative Hearing Officer, if necessary, for the impacts to the nontidal wetland and nontidal wetland buffer prior to final approval.

3. The small disturbance to the 100-foot Buffer for the outfall pipe should not require a variance since outfall pipes are considered water-dependent; however, any clearing or additional disturbance to the Buffer for the larger pipe requires mitigation at a 1:1 ratio.

4. The application describes the method of stormwater treatment for the lots, but it is unclear how stormwater from the roads will be treated. Please explain.

5. The proposed impervious surface figure must include driveways and sidewalks. We recommend a table be added to the plat and plans indicating these figures.

6. At present, the proposed impervious surface is close to the 15% limit. We recommend the applicant reduce the proposed figure in order to provide for future impervious areas that may be contemplated by the new homeowners (i.e. patios, pools, porches, additions). Each lot should be allotted additional impervious area for future use and this should appear on the plat and plan.

7. We recommend some form of demarcation be provided for those lots that back to the conservation property so that future homeowners will not infringe on these areas that are supposed to remain undisturbed.

8. We recommend the applicant contact DNR regarding the rare Pied-billed Grebe to determine whether the site supports this species habitat. In that regard, a report of the habitat should be provided to the County so the reviewer can make a determination.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 688-05

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 3, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Robert J. Heap Property
MS 05-063

Dear Ms. Krinetz:

I have received the above-referenced project for review and comment. From the information provided it appears the applicant is proposing to construct a single family dwelling in the Limited Development Area. I have outlined my comments below.

1. The application cover sheet indicates this project is a subdivision request; however, it does not appear to be a subdivision request. Please confirm.

2. The 100-foot Buffer is drawn from the waterward edge of the proposed stone sill. Please have the applicant show the Buffer from the edge of mean high water, or the edge of any newly created tidal wetland, whichever is further inland.

3. Once the Buffer is shown correctly, all new impervious areas, accessory structures and the primary structure must be outside the Buffer.

4. Mitigation for clearing should occur first within the 100-foot Buffer and then elsewhere on-site where possible before a fee-in-lieu-of is collected.

5. Where are the proposed stormwater management measures? I see a symbol in the legend, but do not see it on the plan. Please have the applicant indicate where and how stormwater will be treated.

6. The August 9, 2005 letter from the Department of Natural Resources (DNR) indicates the site is adjacent to open waters that are known historic waterfowl concentration areas. Since the plans show a proposed pier, the applicant should contact the person referenced in the letter, and provide any further information to the County. The pier permit should not be issued until consultation is made with DNR.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 678-05

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 3, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Sunset Beach, Section 15, Lots 6-8
C 05-044

Dear Mr. Callahan:

I have received the above-referenced site plan for review and comment. The applicant proposes to construct a commercial addition in the Intensely Developed Area. I have outlined my comments below.

1. The application states the site is not in the Critical Area, but the site plan indicates the site is in the Critical Area. From our records, it appears the site is in the Critical Area. Please have this issue clarified.

2. In addition, the site may be an IDA; therefore, the applicant must address the Code requirements regarding the 10% pollutant reduction requirement.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 699-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 2, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Roland Terrace, Parcel 247
"AA Sand & Recycle"

Dear Mr. Callahan:

I have received a resubmittal for the above-referenced site plan. While the response letter indicates the stormwater management was removed from the RCA, it still appears on the landscape plan. In addition, there appears to be grading associated with the facility in the RCA on the site development plan. As stated in my previous letter, since both of these uses do not appear to be permitted in the County's RCA use list they should not be shown in the RCA portion of this site.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 403-05

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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November 1, 2005

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

Re: Town of Easton -Easton Village
10% Pollutant Reduction Calculation

Dear Mr. Hamilton:

This office has reviewed the 10% pollutant reduction requirement information provided to us by the applicant. We understand the Town Engineer may be concurrently reviewing these plans for compliance with the Town's stormwater management requirements that may be in addition to the 10% pollutant reduction requirement. We have completed our review and have found the following:

1. The calculations indicate the removal requirement is 37.86 pounds of phosphorus. The applicant proposes to treat 34.99 pounds with seven Best Management Practices that include one multiple pond and six bioretentions.

2. The remaining 2.87 pounds are being addressed through the use of two offsets. One offset consists of performing a partial marsh restoration (i.e. phragmites removal and replacement with native marsh vegetation), and the other offset consists of supplemental upland planting. Enclosed are two maps showing the locations of the marsh restoration and upland planting areas.

3. One acre of a complete marsh restoration is equal to 3 lbs/year. However, since this restoration is not a complete restoration, Commission staff will assign a 30% credit; therefore, one acre will equal .861 lbs/year of removal. We recommend monitoring of this site continue for a minimum of five years.

4. One acre of forest planting is equal to 2 lbs/year. The applicant proposes 1.005 acres of reforestation (above and beyond the required Buffer establishment), which converts to 2.010 lbs/year. The combination of the credits of .861 lbs and 2.010 lbs meets the remaining removal requirement of 2.871 lbs/year.

5. Due to the presence of Delmarva Fox squirrel on this site, the proposed upland planting area has been reviewed by the Department of Natural Resources and the United States Fish & Wildlife Service. This supplemental planting will become part of the already approved Buffer Management Plan, which specifies the type and quantities of species that are acceptable, and includes monitoring of the site.

Based on the findings above, this office has determined that the 10% pollutant reduction requirement for the Easton Village Planned Unit Development is met. Please include this letter in the Town's file for this project. If you have any questions, please contact me at (410) 260-3478.

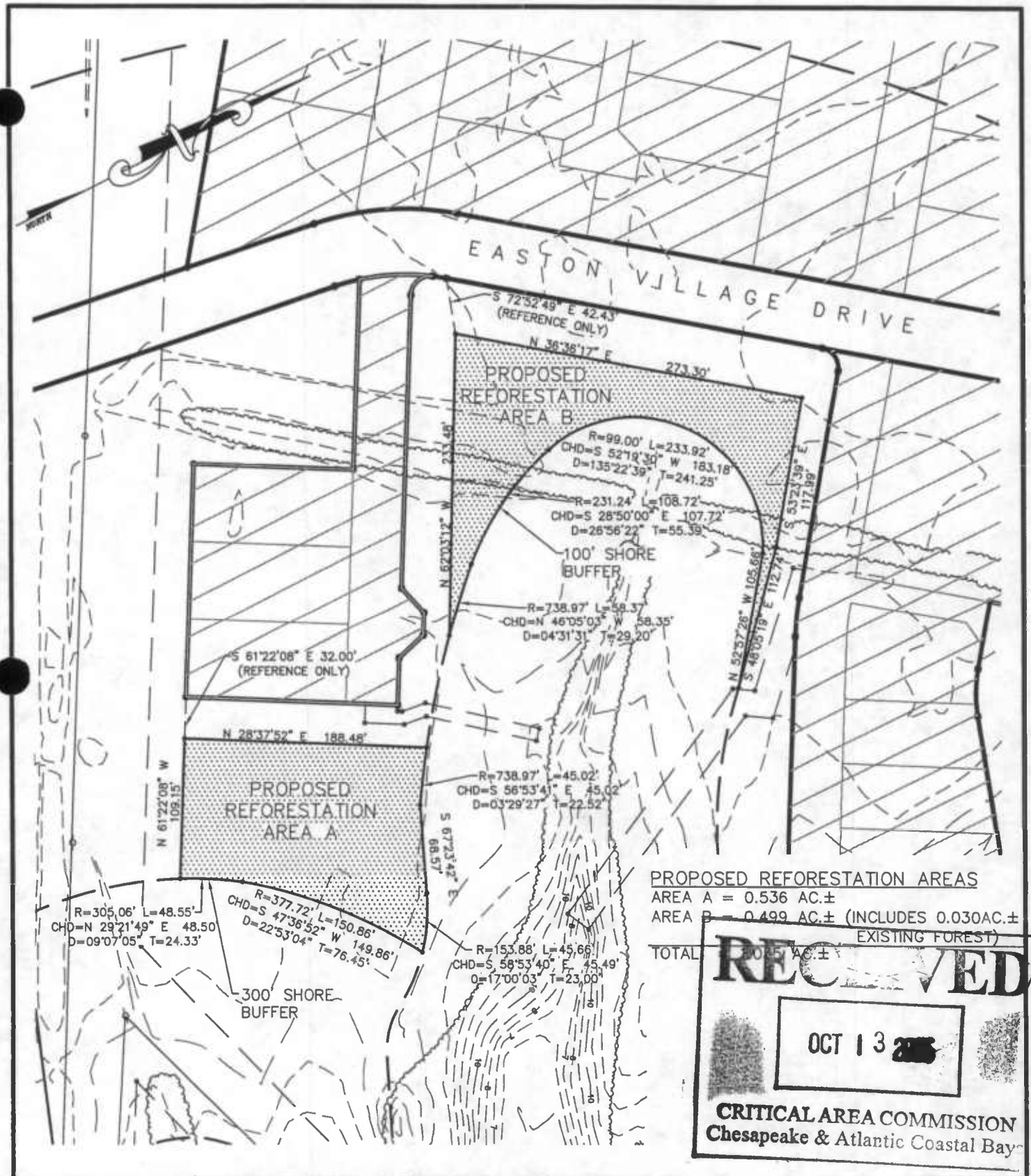
Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

Enclosure

cc: Mr. George Kinney, Talbot County
Mr. Mike Burlbaugh, Elm Street Development
Mr. Joe Stevens, Esquire
Ms. Cherry Keller, USFWS
Mr. Glenn Therres, DNR
Mr. Stan Causey, MDE



PROPOSED REFORESTATION AREAS

AREA A = 0.536 AC.±

AREA B = 0.499 AC.± (INCLUDES 0.030AC.± EXISTING FOREST)

TOTAL = 1.035 AC.±

RECEIVED
OCT 13 2005
CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

SHEET No. 1 OF 1	REFORESTATION EXHIBIT	DATE 11 OCT 05	Lane Engineering, Inc.
	EASTON VILLAGE	SCALE 1"=200'	Civil Engineers – Land Planning – Land Surveyors
	ON THE TRED AVON RIVER	JOB NO. 040006	
	IN THE TOWN OF EASTON	DRAWN BY S.M.C.	
	TALBOT COUNTY, MARYLAND	DWG. NAME 040006SFP	
	TAX MAP 34 GRID 8 PARCEL 126	APPROVED B.STAGG	

E-mail: mail @ leinc.com
117 Bay St. Easton, MD 21601 (410) 822-8003 FAX (410) 822-2024
15 Washington St. Cambridge, MD 21613 (410) 221-0818 FAX (410) 476-9942
1148 West Water St. Centreville, MD 21617 (410) 758-2095 FAX (410) 758-4422

FILE No. 9217

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. Amy Moredock
Kent County Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Chester River Yacht & Country Club – 05-127

Dear Ms. Moredock:

I have received the above-referenced variance request for review and comment. The applicant proposes to construct an overflow parking area within the 100-foot Buffer. Based on the information provided to this office, we cannot support the proposed variance. Under the law as established by the General Assembly, even if there is nowhere else on the parcel to site the proposed overflow parking, 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. In addition, I have listed all of the variance standards below that the applicant must meet in order to receive a variance.

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.* As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information in our file, we do not believe that 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 as a country club, and therefore, they would not be denied a right commonly enjoyed by their neighbors. We do not believe that the applicant has met this standard.

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. To grant a variance to place parking in the Buffer 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 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 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 this variance request is not based upon conditions or circumstances that are a result of actions by the applicant, 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 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. Parking additional cars, even on an overflow basis, in the 100-foot Buffer is not in harmony with the general spirit and intent of the Critical Area law. In addition, there would be some new impervious surface area and consequential disturbance to the land that will result in increased stormwater and sediment runoff within the Buffer, and the loss of essential infiltration opportunities.

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 persuasion to show that the applicant has met each one of the County's variance standards, the Board must deny this application.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: KC 673-05

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 28, 2005

Mr. Robert D. Douglass
Director, Woodrow Wilson Bridge Project
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: Anacostia East Wetland Mitigation
65% Design Completion

Dear Mr. Douglass:

Thank you for forwarding the 65% design for the Anacostia East Wetland Mitigation. As you know, the Commission approved this site as part of the aquatic mitigation package for the Woodrow Wilson Bridge project. Subsequent approval of the proposed wetland mitigation may be required. I have outlined my comments below pertaining to the 65% plans.

1. Any areas of the trail that are within the 100-foot or expanded Buffer should be minimized; therefore, two ten-foot wide paths with five-foot wide shoulders need to be reduced to one path.

2. The plans show mean high water. It seems that in most areas of this project the appropriate label would be "edge of tidal wetland" since this term is different than "mean high water". Please make the changes where appropriate.

3. We are aware that the requirement of an expanded Buffer on this site will cause a portion of that Buffer to be on adjoining property. We will continue to coordinate with your office and Prince George's County regarding this issue.

4. The expanded Buffer may not be expanded properly in some areas. I will work with your environmental consultant team to ensure all parties agree to the expanded Buffer line.

5. We see that the wooded area along the river will now be a minimum of 60-feet wide. We support this change as suggested by National Marine Fisheries, and agree that a wider area will provide a more viable riparian zone, and fewer opportunities for breaches to occur.

6. The placement of fill is not permitted with the Buffer or expanded Buffer. Please indicate whether any fill will be placed in these areas.

7. It is unclear where parking is proposed for the contractor. Any parking, similar to the construction staging area at the National Harbor property, is not permitted within the 100-foot or expanded Buffer.

8. As stated in my previous comment letter, any future educational facilities will also need to be out of the Buffer and expanded Buffer.

9. We still need to see the figures regarding the area within the existing Buffer and the newly created Buffer.

10. We need the total area of disturbance in the existing 100-foot Buffer (disturbance includes grading, footprint and clearing). While clearing was provided, we need to know how much other disturbance besides clearing will occur within the Buffer.

11. The proposed forest area that will be cleared inside the Buffer is 1.3 acres. Because this project is providing mitigation for work at the Woodrow Wilson Bridge, mitigation for on-site impacts can occur at a 1:1 ratio.

hank you for your cooperation. Please telephone me at (410) 260-3478 if you have any uestions.

incerely,

Lisa A. Hoerger

isa A. Hoerger
atural Resources Planner

c: Mr. Todd Nichols, SHA
Ms. Michele Floam, Coastal Resources
DOT/SHA -WWB 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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October 27, 2005

Ms. Kathy Shatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: E.L. Gardner Property
S 04-065, P 04-122

Dear Ms. Shatt:

I have received another revised plat for the above-referenced subdivision request. The applicant addressed the comments of my last letter dated February 11, 2005; however, the responses have generated several follow-up comments, which I have outlined below.

1. The County Code does not permit new lots that are greater then one acre to have more than 15% impervious cover; therefore, it appears that unless the applicant either applies for a waiver to the driveway width, or reduces the impervious area of the dwelling footprint, or reduces the 3-car garage, a variance to the County's impervious surface limits is required.

2. Without a resolution to the comment above, the impervious surface table shown on the plat is incorrect. Since both lots are greater than one acre, each is limited to 15% cover.

3. As with the impervious surface issue, the County Code does not appear to allow less than 70% retained on-site, if the goal is to retain 70%. The applicant should clear less area for the back yards, since they appear to be approximately 35-feet wide. Absent a 70% threshold remaining in forest, it seems this may also require a variance.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 636-04

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

October 27, 2005

Mr. Brian Lindley
Baltimore County DEPRM
401 Bosley Avenue, Suite 410
Towson, Maryland 21204

Re: Casey Property

Dear Mr. Lindley:

I have received the above-referenced variance request for review and comment. The applicant requests an after-the-fact variance for grading approximately 32,400 square feet in the 100-foot Buffer, and requests a variance to construct a dwelling in the 100-foot Buffer. I have outlined our comments and recommendations below.

1. In regard to the grading issue, we recommend that mitigation of native Buffer plantings be provided in the Buffer. Typically, we recommend a 3:1 ratio in the case of grading without a permit.

2. Since the applicant is also applying for a variance to construct a dwelling in the Buffer, we recommend this mitigation be performed prior to issuing any permits for the dwelling.

3. In regard to the proposed dwelling in the 100-foot Buffer, we do not oppose the request provided the lot is properly grandfathered and the dwelling is sited as far away from mean high water as possible.

4. We recommend mitigation at a 3:1 ratio consisting of native Buffer plantings for all disturbance to the 100-foot Buffer for the dwelling, in addition to mitigation for work without a permit.

5. We recognize the lots may not be able to accommodate required planted mitigation; however, every effort should be made to plant in a manner that reestablishes the Buffer in a forest condition (canopy, shrub, herbaceous) before a fee is collected.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources

cc: BC 671-05

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 26, 2005

Mr. Ray Dintaman, Jr.
Department of Natural Resources
Environmental Review Unit
580 Taylor Avenue, B-3
Annapolis, Maryland 21401

Re: State Clearinghouse Project No. MD20051017-0875, Re-Designation of and Boundary Modifications to North Point Enterprise Zone – Baltimore County

Dear Mr. Dintaman:

This office has received and reviewed the information concerning the above-referenced request. You have asked for any comments relative to the Department's concern. It appears the two areas proposed for inclusion into the North Point Enterprise Zone are partially inside the Chesapeake Bay Critical Area, as is the case for some properties that already exist within the enterprise zone. Therefore, any properties that have a Critical Area overlay will be required to meet Baltimore County's Critical Area regulations. These regulations include provisions for stormwater management, protection of certain resources, additional setback requirements, and in some instances (lands with a Critical Area designation of Limited Development Area or Resource Conservation Area), also include limits on impervious surfaces and forest clearing.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: DNR Clearinghouse/ BC

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

Mr. Bill Love
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Twin Harbors Pavilion- B02222039

Dear Mr. Love:

I have received the above-referenced building permit for review and comment. The applicant proposes to replace an existing pavilion that is on community-owned property. Before this office can provide further comments, we would like clarification of certain items:

1. It appears there may be slopes that would necessitate expanding the 100-foot Buffer. Please have the applicant show the limits of an expanded Buffer, if applicable.

2. The application and the site plan are not clear about whether the pavilion is in the Buffer. The written documentation suggests that a portion is in the Buffer; however, the site plan suggests otherwise. Please have the applicant clarify this point.

3. It is our understanding the site is in a mapped Buffer Modification Area. The County Code requires mitigation in the case of redevelopment; therefore, 2:1 mitigation is required for the area of impervious in the Buffer and a 25-foot buffer is required.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 644-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 24, 2005

Ms. Suzanne Schappert
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Piera Family LTD Partnership/Mikes' Crab House & Food Service Inc./Paul's Restaurant
BA -05

Dear Ms. Schappert:

We are in receipt of the above-referenced appeal of a denial by the Administrative Hearing Officer to reclassify 2.74 acres from a Limited Development Area (LDA) to an Intensely Developed Area (IDA). The applicants propose this change on the basis that Anne Arundel County mistakenly mapped these properties as LDA at the time of the original Critical Area mapping. Commission staff's comments are provided below.

It is our understanding the Administrative Hearing Officer rejected the applicant's claim that because a nearby commercial area was mapped as IDA on either side of a road, then the County mistakenly did not include the properties in this case as part of an IDA that is across Riva Road. We infer that this evidence was rejected as a basis for mistake since in this case the land use across Riva Road is high density residential and not commercial. Therefore, the Administrative Hearing Officer was not persuaded that by not mapping the subject properties as IDA a mistake was made by the County.

In the case of map amendments the Court of Special Appeals in August Bellanca v. County Commissioners of Kent County established the standards for review. See Enclosure (1). The Commission's role in reviewing these amendments is to ensure that when a local government finds that a mistake was made at the time of the original mapping, that the subject properties met the required mapping standards at that time. In order for a local government to make a finding of mistake, the applicant must provide compelling evidence of mistake.

We have not received any new information since the time of the last hearing or decision that would supplement or support a mistake. Absent any additional information, the Commission staff is unable to support the requests.

Thank you for the opportunity to comment. Please include this letter in your files and submit it as part of the record for the appeal. As you know, the Critical Area Commission staff provides preliminary comments on these types of proposals, and should the Board of Appeals approve these requests, they must be submitted to the Commission and the Commission may have additional comments or request additional information during its review.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

Enclosure

cc: Mr. Eric See, See Environmental Resources
AA 70-05
AA 71-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 24, 2005

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

Re: Evergreen Knoll, Edward R. Moffit

Dear Ms. Skilling:

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

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

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

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

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

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

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction.*

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*

4. *The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat 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 conclusion, if the Board finds by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, we recommend mitigation in the form of native Buffer plantings be provided at a 3:1 ratio for the area of the new deck.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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October 21, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Lucky Property - 05-024

Dear Ms. Stauss:

I have received the above-referenced request to permit a single family dwelling and yard area that will impact a nontidal wetland and the 25-foot nontidal wetland buffer. Provided this lot is properly grandfathered, this office has no objection to the granting of a variance for a single family dwelling. I have outlined my comments below.

1. It appears the dwelling could be scaled down in size to reduce the overall impacts to the wetland and the buffer, since the applicant must show minimization of impacts for a variance request.
2. We received a copy of the letter from the Department of Natural Resources indicating the possibility of Giant Cane either on or in the vicinity of this site. We concur with DEPRM's requirement for a survey prior to issuing a decision for the variance request.
3. If the variance for the proposed dwelling is granted, we recommend mitigation as prescribed by the County staff.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 670-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 21, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Malkowski Property - 05-027

Dear Ms. Stauss:

I have received the above-referenced request to permit a 36' x 24' deck in the 100-foot Buffer. This office generally does not oppose reasonably-sized decks in the Buffer; however, we recommend the size of the deck be reduced. I have outlined my remaining comments below.

1. An 864 square feet deck in the 100-foot Buffer seems excessive since there is already a dwelling in the Buffer and any additional man-made disturbances that are permanent further decrease the Buffer's ability to perform any water quality or habitat functions that may exist.

2. The construction should allow stormwater to filter between the deck boards and there should be pervious gravel base under the deck.

3. We recommend mitigation at a 3:1 ratio that consists of native Buffer plantings for the area of the deck that may be ultimately approved by the County.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 693-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 21, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Schiavone Property
05-029

Dear Ms. Stauss:

I have received the above-referenced variance to permit filling a non-tidal wetland for the construction of a single family dwelling. It is our understanding this is an after-the-fact variance request to fill the nontidal wetland. Provided this lot is properly grandfathered, this office has no objection to the granting of a variance to fill for a single family dwelling. I have outlined my remaining comments below.

1. We recommend the dwelling be scaled down, if possible, to reduce the overall impacts to the wetland, since the applicant must show minimization of impacts for a variance request.

2. If the variance to fill is granted, we recommend mitigation as prescribed by the County staff.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 702-05

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 21, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Cook/Noyle Property
05-028

Dear Ms. Stauss:

I have received the above-referenced variance request to allow the continued existing use of access to the waterfront for a three lot minor subdivision. This office has no objection to this request provided the access through the 100-foot Buffer for all three lots is the minimum disturbance necessary for riparian access. We recommend one, three foot wide path that has a pervious surface. Any required clearing should be mitigated at a minimum 2:1 ratio.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 700-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 21, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Rosenburger/Tregoe Property - 05-020

Dear Ms. Stauss:

I have received the above-referenced request to permit the continued use of a lawn and to permit 891 square feet in the 35-foot setback for a principal structure. I have outlined my comments below.

1. Since these lots require afforestation, we recommend that at least a portion of that requirement be met on these lots. Some planting could occur within the 100-foot Buffer and some planting could occur outside the 100-foot Buffer. We do not agree with the applicant's claim that the Buffer on this site cannot be further enhanced.

2. Absent other information it appears there is adequate room on lot 26 for a dwelling; therefore, we recommend that the dwelling be moved further back from the 35-foot setback so that future decks or additions will not need a variance.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 701-05

Robert L. Ehrlich, Jr.
Governor

[illegible]hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 20, 2005

J. Patrick Megonigal, Ph.D.
Smithsonian Environmental Research Center
P.O. Box 28
647 Contees Wharf Road
Edgewater, Maryland 21037

Re: Smithsonian Institution Property – Sheds, Boardwalks
Anne Arundel County

Dear Dr. Megonigal:

Thank you for the information you provided to our office concerning the above-referenced project. The Smithsonian has requested a boardwalk and two sheds that will support ongoing research at the site. The boardwalk will have impacts to a tidal wetland and the small shed will have impacts to the 100-foot Buffer to the tidal wetlands. I have reviewed the materials and determined that this project on Federal lands is consistent with the Maryland Critical Area Law and Criteria in the Code of Maryland Regulations based on the following reasons:

- The Maryland Department of the Environment has an opportunity to review and approve the project for impacts of the boardwalk to the tidal wetlands.
- The shed proposed in the 100-foot Buffer is considered water-dependent since it clearly is needed in that location to support the research activities in the wetland.
- The Smithsonian understands and agrees to provide mitigation in the form of native Buffer plantings for all disturbance (grading, clearing, footprint) inside the 100-foot Buffer, and for any clearing outside the 100-foot Buffer.
- There will be no impacts to other Habitat Protection Areas, including Forest Interior Dwelling Birds, as referenced in the October 18, 2005 letter from the Department of Natural Resources given only one tree is proposed for removal.

Since the square footage of the shed in the Buffer is 72 square feet and one tree will be removed in the Buffer, two trees are required for mitigation. These trees must be native and be a minimum of 2-inch caliper. Since no clearing is proposed for the shed outside of the Buffer, no further mitigation is required.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Elder Ghigiarelli, MDE

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 20, 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 108-05

Dear Mr. Carroll:

This office has received County Council Bill 108-05. It is our understanding that the purpose of this bill is to correct certain omissions and mistakes made during the recodification of the County Code. With regard to Critical Area issues, we understand the procedures for reviewing and approving growth allocation requests is being corrected with this bill. 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,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Patricia Farr, DEPRM

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 14, 2005

Ms. Tressa Dolbeare
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Franklin T. Hogans, Sr.
200565528/06-WL-0320

Dear Ms. Dolbeare:

I have received the above-referenced request to emplace 700 feet of stone revetment within a maximum 10 feet channelward of the mean high water line. This office will defer to your expertise concerning the suitability of stone revetment for this site. However, we would like your office to ensure that this site does not support the Puritan Tiger Beetle, which does occur in some sections of the Kent County shoreline along the Chesapeake Bay. Provided this site does not support this habitat, this office has no further comments. If habitat is present, then we recommend the Heritage Division of the Department of Natural Resources review the project.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Lori Byrne, DNR
KC Tidal Wetlands File

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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October 6, 2005

Mr. Daniel Anderson, Project Manager
Anne Arundel County
Department of Public Works
Bureau of Engineering, MS –7301
2662 Riva Road
Annapolis, Maryland 21401

Re: MD 214 and MD 468 Interchange Improvements

Dear Mr. Anderson:

At its meeting on October 5, 2005 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the MD 214 and MD 468 improvements with the following conditions:

1) Due to the elimination of the wet pond near Glebe Creek, which was required by the Project Evaluation Subcommittee, Anne Arundel County will work with the Commission staff to reach full compliance of the 10% pollutant reduction requirement.
2) Provide mitigation for all disturbances to the Buffer at a 3:1 ratio and mitigation for all clearing outside the Buffer at a 1:1 ratio.
3) Increase plantings at the proposed mitigation site to achieve Commission requirements.
4) No in-stream work is permitted between March 1st – June 15th for anadromous fish.
5) Prior to commencement of construction, the County shall obtain a Nontidal Wetlands and Waterways permit from the Maryland Department of the Environment for proposed impacts to non-tidal wetlands and associated Buffers.

Please contact me when you are prepared to discuss the alternative treatment for the remaining .12 pounds of phosphorus required for removal. Based on the wet pond being removed from the 100-foot Buffer, the mitigation number will change, so please provide those updated numbers when they become available. In addition, please submit any MDE permit when it becomes available.

I have enclosed a Plantings Agreement Form that should be returned to this office within the next 30 days. We are aware that the planting area may change depending on the design chosen to meet the remaining phosphorus reduction requirement.

Thank you and your consultant for attending the Commission meetings and making yourselves available for questions. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

Enclosure

cc: Mr. Wayne McFall, URS
Ms. Elinor Gawel, AA Co. - OECR
DOT/SHA 37-05

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 6, 2005

Ms. Robin Brown, Manager
Division of Environmental Planning
Maryland Aviation Administration
P. O. Box 8766
BWI Airport, Maryland 21240-0766

Re: Black and Decker Hangar Building - Martin State Airport

Dear Ms. Brown:

At its meeting on October 5, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Black and Decker Hangar at the Martin State Airport. The Maryland Aviation Administration agreed that the remaining .58 pounds of phosphorus required for removal would be addressed through plantings at an on-site location. The minimum planted area to treat the .58 pounds of phosphorus is .29 acres or 12,632 square feet.

I have enclosed a Plantings Agreement Form to be completed and returned to this office within 30 days. Please attach the planting plan, which should include the location of the planting, number of plants and type of plants to ensure the requirement above has been met.

Thank you and your consultant team for your cooperation and assistance with the review and approval of this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Leyla Lange, MAA
Mr. Marshall Davidson, Straughan Environmental Services, Inc.
Mr. Glenn Shaffer, Baltimore County, DEPRM

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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September 30, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Margate Lot 47, Resubdivision
S 98-107, P 05-152

Dear Mr. Callahan:

I have received the final development plan for the above-referenced project. The only remaining issue is that the 10% pollutant reduction calculations be forwarded to this office for review. The information provided by the applicant attests to completing and complying with this requirement; however, the calculations were not included.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 232-04

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 30, 2005

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

Re: Tanyard Springs - Resubmittal
S 82-192, P 97-019

Dear Ms. Allen:

I have received another resubmittal for the above-referenced project. The applicant has addressed some of the comments of my last letter dated June 17, 2005. I have outlined my remaining comments below.

1. We have received recent information that a bog may be at or near this site. Please check the latest information from the Department of Natural Resources to confirm this information.

2. The three Critical Area Conservation Easements indicated on Plat 2 of 8 still do not total correctly. I get 7.801 acres in a conservation easement based on the figure provided. Please have the applicant check these figures and revise them in the appropriate places on the plat and plan.

3. The total area required for the easement should be 8.15 acres since 70% of the existing forested area reported in the Critical Area is 11.64 acres.

4. On Plat 3 of 8, the total area in the Critical Area that will remain in long-term protection appears to equal 7.52 acres. Please have the applicant adjust the plat to set aside the minimum required, and ensure the figures provided on both plat pages and the corresponding plan pages are consistent and correct.

5. There appear to be three addition errors in the "Critical Area Calculations" table on the plat and plans. Please have the applicant revise the totals for the columns labeled, "allowable impervious, existing wooded in the Critical Area, and allowable clearing."

6. Please have the applicant explain why some portions of the crosshatched area on Plat 3 of 8 are shaded.

7. The stormwater management planting list on sheet 5 of 16 still includes nonnative species. Please have the applicant substitute native species.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 909-04

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

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October 3, 2005

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

Re: Spriggs Cove, Curtis Payne - P 03-153, S 01-056

Dear Ms. Allen:

I have received another set of revisions for the above-referenced resubdivision request. The applicant responded to the comments of my last letter dated June 20, 2005. I have outlined my remaining comments below.

1. Final plat approval should not occur until the letter from the Department of Natural Resources (DNR) Heritage and Biodiversity Division is provided, and it is verified that this site does not support any threatened or endangered species habitat.

2. The applicant indicated that the mitigation is shown; however, I was unable to locate either a symbol or notation on the plat or the final development plans that show where any mitigation will be planted. This should be clearly labeled on the plat and plans and put in an easement

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 756-03

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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September 30, 2005

Ms. Karen Llanes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Bonney Property - S 99-009, P 05-022

Dear Ms. Llanes:

I have received the resubmittal for the above-referenced subdivision request. The applicant proposes to create a total of three lots in the Limited Development Area. It appears most of the comments of my last letter dated February 11, 2005 were addressed in the resubmittal. I have outlined my remaining comments below.

1. The total clearing allowed is still listed as .5 acres. It appears this number is being based on the total acreage of the site, rather than the existing forest area. From information provided in the previous submittal, the existing forest area is 40,616 square feet; therefore, 30% of the existing forest area would equal 12,185 square feet or .28 acres. Please have the applicant amend this figure.

2. We recommend a table be added to the final plat that indicates the allowable impervious area per lot and the proposed impervious area per lot.

3. We continue to recommend that the dwelling on proposed lot 3 be moved closer to the minimum 25-foot setback in order to minimize clearing.

4. There appears to be stormwater management measures located in the rear of lots 1 and 3. In the case of lot 3, this will necessitate additional clearing. Please have the applicant investigate alternative methods to treat stormwater on this lot without the need to clear. While this site may not be in a Bog Protection area, the more forested area that can be maintained the better water quality will be that leaves this site and drains towards the bog contributing drainage area.

5. We continue to recommend showing the forest easement area at the time of plat approval, rather than at the grading permit stage to ensure this requirement is approved by an environmental reviewer, and the proper amount of forest is retained on-site (70% of existing forest).

6. We also continue to recommend a replanting area be shown and put in an easement at the plat approval stage, and that this area provide a forest connection to off-site forested areas.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 62-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 30, 2005

Ms. Karen Llanes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Advance Auto Parts
C 05-025, G 02011543

Dear Ms. Llanes:

I have received the resubmittal for the above-referenced site plan. The applicant has addressed some of the comments of my last letter dated July 27, 2005. I have outlined my remaining comments below.

1. The applicant has provided a landscape plan that shows approximately 3,400 square feet of planting that will count towards the offset for the 10% pollutant reduction calculation. The total offset required was 5,277 square feet (.24 x .5 = .12 acres); therefore, 1,877 square feet still remains to be planted, or a fee-in-lieu of must be collected.

2. If a fee-in-lieu of were collected for the remaining area that was not otherwise planted, then the applicant would owe the fee for .08 pounds of phosphorus (.04 / .5 = .08).

3. I was unable to locate the fees charged in your ordinance; however, the Commission's Guidance Document includes estimates based on research performed by the Center for Watershed Protection that suggests the cost to local governments averages $30,000 per pound treated. These costs are inclusive of all costs associated with the design and construction of a stormwater management facility.

4. The letter from the Department of Natural Resources was not included with this resubmittal. Please have the applicant forward it when it becomes available.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 495-05

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

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Old Stein Inn - Addition
C 05-041

Dear Ms. Krinetz:

I have received the above-referenced site plan for review and comment. The applicant proposes to make some improvements to the restaurant on the interior, and also make improvements to the exterior.

1. Although the reported disturbance is less than 5,000 square feet, and no grading permit is required, we recommend some type of stormwater management be provided, since this site exceeds the 15% allowable impervious coverage area (current and proposed is at 38%).

2. If simple infiltration type stormwater will not work, we recommend planting a vegetated area along the north property boundary, parallel to the parking area and in the direction of most of the drainage for the site.

3. Plan C3 provides a table titled, "Planting Requirement Calculation." It is unclear what requirement this table refers to, however it seems to equate either disturbance area or impervious cover with planting required. In any case, the ratios seem incorrect. We recommend that one two to three inch caliper tree is equal to 100 square feet of credit, and one shrub is equal to 50 square feet of credit.

4. Typically, any required planting would be based on whether any reforestation or afforestation is required, and I was unable to locate this information on the plans.

5. For the areas proposed for replanting, we recommend the applicant select native species as listed and described in the County's native plant booklet.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 639-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 3, 2005

Mr. Paul Dennis
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Bear Creek Development
Alternatives Analysis, Variation of Standards and Variance applications

Dear Mr. Dennis:

I have received the Alternatives Analysis, Variation of Standards and Variance applications for the above-referenced subdivision request. From the information provided, it appears the applicant has selected Alternative #5, which results in disturbance to nontidal wetlands and the nontidal wetland buffer, the 100-foot Buffer to tidal waters, and the County's expanded 300-foot buffer, and 35-foot residential setback. I have outlined my comments below.

1. The site plan shows approximately one third of the proposed development in the County's required 300-foot buffer, and some portions of the site are also with the 35-foot residential setback. Since these setbacks are requirements of the Baltimore County Code, and are not a requirement of the State Critical Area Criteria or Law, this office will defer to DEPRM on those development activities that affect those areas.

2. In regard to those activities that may affect the 100-foot Buffer, it appears that all impacts are associated with existing uses in the Buffer. This office does not oppose any required continuing use variances.

3. The public trail shown within the 100-foot Buffer is permitted, as it will provide access to a water-dependent facility that will serve the community. Commission staff routinely recommends the minimum width necessary, which generally is three feet wide with a clearance area of six feet. Pervious materials are also recommended.

4. We recommend the turn-around area within the County's setback be reconsidered since its water-dependency is in question. It seems a pedestrian trail in this area would provide adequate access.

5. We support the proposed mitigation areas since they are proposed in the 100-foot Buffer and in an area that currently appears to be grass. This will increase the habitat and water quality functions of the Buffer in this area.

6. The applicant has submitted the Water Dependent Facility Plan and it appears to address the requirements of the County's Code. The number of slips is also consistent with the Natural Resources Article 8-1808.5, which prescribes the number of slips permitted at a community pier.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 440-04

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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September 30, 2005

Mr. Michael Murray
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Molly Properties, LLC/Lawrence Property
MS 04-126

Dear Mr. Murray:

I have received a revised plat for the above-reference subdivision request. It appears the applicant did not address the comments of my last letter dated March 14, 2005. Perhaps that comment letter did not reach either your office or applicant. In any case, below I will restate those comments and additional comments based on the revised plat (I did not receive a revised plan, only the plat).

1. The Woodland Clearing Tabulation still shows a maximum allowable clearing figure at 66%. As you know, only 30% of an existing forested area may be cleared provided mitigation at a 1.5:1 ratio is provided. Please have the applicant adjust this figure.

2. The proposed Forest Conservation Areas have been changed; however the total of all three areas equals 21,951 square feet, whereas a minimum of 22,144 square feet is required (70% of existing forested area). Please have the applicant provide the remaining balance of 553 square feet on the plat. These areas must consistent of existing forest, or be planted in forest vegetation.

3. There is a Reforestation note on the plat indicating that the area of impervious surface on lot 3 will be planted in an equivalent area in the Buffer. Please have the applicant explain this note. It is unclear why this if being proffered, when in fact all newly created lots must establish the 100-foot Buffer in planting, regardless of the impervious area proposed outside the Buffer.

4. On the development plans last submitted to this office, a well was shown in the 100-foot Buffer on lot 3. This will require a variance. Please have the applicant search for an alternative location to avoid the variance process, since this is a new lot.

5. The impervious surface note stating no further impervious is permitted without the approval of Planning and Zoning is not completely accurate. If future homeowners propose to increase the allowable area of impervious surface on any lot, it will require a variance for review and approval from the Administrative Hearing Officer. We recommend the note be changed to state no additional impervious surface is permitted, at least for proposed lots 1 and 3 since they are newly created lots.

6. The environmental note also states that no new development or disturbance can occur in the 100-foot Buffer without the approval of Planning and Zoning. This is also not completely accurate since this type of activity would also require a variance to be reviewed and approved by the Administrative Hearing Officer. Again, we recommend a note that states no development or disturbance is permitted in the Buffer.

7. The conservation easement note mentions a nontidal wetland, but the previously submitted development plan specifically stated that no wetlands were located on the parcel. Please have the applicant show the location of this wetland, if it exists, and change the note.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

LAH/jd

cc: AA 818-04

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 29, 2005

Ms. Kathy Shatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Finizio, Tobin Family Subdivision – 2nd Resubmittal
S 04-132, P 04-242

Dear Ms. Shatt:

I have received the second resubmittal for the above-referenced subdivision request. The applicant addressed some of the comments of my last letter dated May 18, 2005. I have outlined my remaining comments below.

1. In my last letter, I requested that the applicant provide the County with a FIDs analysis showing what percent of interior forest will remain based on the current development plan. While the applicant has provided responses to DNR's FIDs recommendations, the mitigation worksheet in the Commission's guidance paper must be completed so that the appropriate level of mitigation is calculated. Our rough calculations indicate 18 acres of interior FID habitat loss.
2. The proposed clearing figures provided on the plat, Critical Area plan and Final Development plan do not match. Please have the applicant make the clearing figures consistent on all three plans. In addition, the note that "no canopy will be removed" on the plat is not possible for the dwelling sites.
3. There is a note on the plat that is unclear. It is labeled as "1" and listed just above the impervious area chart. Please have the applicant clarify this note.
4. The chart listing the allowed and proposed impervious area does not include the road or any other impervious surface that may be constructed for the subdivision. We recommend this information also be included in the chart.

5. The proposed impervious area indicated on the plat and Final Development plan is different from the figure reported on the Critical Area plan. Please have the applicant make these figures consistent.
6. Under the General Notes on the plat, note #2 states there is a buffer in the critical area that is 50 feet. Please have the applicant clarify this item.
7. Note #1 under the Critical Area Analysis on the Final Development plan has a typographical error.
8. Note #3 under the Critical Area Analysis on the Final Development plan is unclear.
9. The dwelling on lot 3 should be moved closer to the road to minimize FID impacts. In my last letter I referenced lot 1, but meant lot 3. We understand the Critical Area intrafamily transfer provisions are generating this lot, but its location does not have to be in the Critical Area. In addition, the 50-foot setback does not preclude the dwelling from being moved closer to the road; instead, it appears a Conservation Area is located between the house and road. This could be moved.
10. The plat and Critical Area Report plan has been corrected to show a 6-foot wide pathway to the water; however, the note does not include "no canopy clearing" to ensure further protection for FIDs habitat.
11. The note on the plat still indicates "area to be cleared for future community marina." This area is approximately 4,000 square feet (80' x 50'). What is contemplated for this area in the future? In any case, it is unlikely this area can be accessed either safely or with least disturbance to steep slopes, the expanded Buffer and FIDs habitat, except by pedestrian access. Please have the applicant either clarify this issue or minimize this area, and include a specific plat note that no canopy clearing is permitted.
12. The last sentence in the first paragraph of the stormwater management narrative is unclear. Please have the applicant clarify this sentence.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 863-04

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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September 28, 2005

Mr. Bill Love
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Cianbro Corporation Wharf Renovation
C 05-037

Dear Mr. Love:

I have received the above-referenced building and grading permit application for review and comment. It appears the applicant will be replacing some existing impervious area within the 100-foot Buffer to Curtis Creek. I have outlined my comments below.

1. Since the majority of the replacement concrete pad area is within the Intensely Developed Area (IDA), the concrete pad is equal to 10,000 square feet, and the application requires a grading permit, it seems Article 21, Section 3-205 requires the applicant to perform the 10% pollutant reduction calculation.

2. In addition, if the site is in a mapped Buffer Exemption Area (BEA), Article 26-8-702 requires mitigation for redevelopment of existing impervious area at a 2:1 ratio. The Code allows that mitigation to be handled either onsite, offsite or through a fee.

3. The Environmental Review letter from the Department of Natural Resources indicates the potential for FIDs habitat; however, it is our understanding this site and the immediate project area is void of forest cover and no clearing is proposed. In that case, the FID habitat guidelines do not apply.

From the information provided, it does not appear this application meets either of the Code requirements referenced above. Therefore, we recommend this information be provided to the County prior to when final approvals are issued.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 588-05

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

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Scott's Point Marina - Resubmittal

Dear Mr. Ingersoll:

The applicant has submitted a response to my last comment letter dated August 9, 2005. Two of the remaining four comments were addressed; however, I have some follow-up concerns, which I have outlined below.

1. As stated in previous letters, we recommend the 25-foot bufferyard be placed in a perpetual easement. We acknowledge the note on the plan that states, "shall remained undisturbed", but that does not address future homeowner encroachments. In addition, the note only refers to "plants" and this area will also consist of trees and shrubs; therefore, we recommend the note include a reference to trees, shrubs and herbaceous plants.

2. We recommend the Town consider collecting the cost of the entire planting at Wilmer Park, prior to issuing permits for the project. The entire costs would include site preparation and installation, in addition to the cost of plants that was provided by the applicant. This will ensure the remaining mitigation requirement is fulfilled.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Kevin Shearon, Davis, Moore, Shearon & Associates, LLC
Mr. Paul Bowman, Esquire

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. Keith Ramsay
Rummel, Klepper, & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

Re: MdTA Contract # LB 836-000-006 (Redline Revision #7)
Bay Bridge Toll Plaza Widening – ½ Mile Extension of the
Dedicated EZPass Lane on Eastbound US 50

Dear Mr. Ramsay:

Thank you for forwarding the revised set of plans and the MDE approval letter dated August 29, 2005. This satisfies the outstanding condition of your December 2004 approval; therefore, provided no other MDE approvals are required the project may proceed.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Robert Anderson, MdTA
Ms. Sarah Williamson, Coastal Resources
DOT/MdTA 3-04

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

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Logue Property
05-022

Dear Ms. Stauss:

I have received the above-referenced request to construct a single family dwelling and garage within the 35-foot setback to a wetland buffer. It appears that if the dwelling was shifted slightly forward and in line with the garage, then there may be 10 feet less impacts to the 35-foot setback. This office does not oppose the variance, however, we recommend mitigation in the form of native Buffer plantings where possible.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 621-05

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 23, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Tolker-Shackelford Property
05-023

Dear Ms. Stauss:

I have received the above-referenced request to permit the continued use of a house, lawn, pier, and gazebo within the 100-foot Buffer to Seneca Creek. We understand the need for this variance request is due to the current plan to subdivide the property. This office does not oppose the variance to permit the continued uses in the Buffer. However, we recommend that the applicant provide some native Buffer plantings in order to enhance the functions of the Buffer on this lot.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 620-05

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 23, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Rhodes/White Property
05-025

Dear Ms. Stauss:

I have received the above-referenced request to permit a single family dwelling within the 100-foot Buffer to Saltpeter Creek. Since this is a grandfathered lot, this office does not oppose the requested variance to locate a single family dwelling in the 100-foot Buffer. It appears the applicant has minimized the distance of the dwelling to the shoreline given the need to locate a septic system on the lot. In addition, we understand the applicant has reduced the size of the dwelling since the original submission to the County.

If the County finds the applicant has met all five variance standards of the County's Critical Area Program and subsequently grants the requested variance, we recommend 3:1 mitigation that consists of native Buffer plantings.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 619-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 22, 2005

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: **REVISION** - Herrington Partnership, LLC - 2005-0167-C

Dear Ms. Cotter:

Recently our office received supplementary information concerning the above-referenced reclassification request. It is my understanding the applicant has also provided your office with the same document titled, "Critical Area Map Study for Herrington Harbour North" dated August 23, 2005. You have asked for our staff comments on this information.

This document presents substantial information regarding the use of the site in comparison to how other marinas were mapped in the County. It also provides a comparison to the uses within those marinas, including containment facilities.

In a previous letter from this office dated August 5, 2005, we requested that the County and the applicant carefully consider both the IDA and RCA mapping standards, and whether the County intentionally excluded dredge containment areas from IDA or LDA mapping during the original mapping exercise. The supplemental information provided by the applicant appears to adequately address these questions.

If the mapping mistake is approved it will need to be sent to the Commission as an amendment to the County's Critical Area map. Our staff review indicates that the evidence submitted presents a strong case for identifying the proposed areas as mapping mistakes.

Thank you for the opportunity to comment. Please submit this letter as part of the record for the reclassification request. Please notify the Commission of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 70-05

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 19, 2005

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

Re: Vandermast Property – Alternatives Analysis

Dear Ms. Farr:

This office has received the above-referenced project for review and comment. The applicant has submitted an alternatives analysis request for impacts to the 100-foot Buffer to Sue Creek. This office has had the opportunity to visit this site with the applicant and his engineer. At that meeting, we discussed alternatives to individual piers on this property due to the steep topography along one section of the shoreline. I have outlined the Commission staff comments below. The preceding comments represent the Commission's staff's review and evaluation of the materials pertaining to this issue that the applicant has submitted. 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.

During our field visit, we discussed with the applicant the possibility of providing shared pier access at those points where pier access and construction (if a pier did not exist in such a location already) was safe and with minimal impacts to the 100-foot Buffer. We recommend this option continued to be pursued.

The current plan does not appear to minimize disturbance to the 100-foot Buffer. In fact, the disturbance appears to have increased due to the easement that runs horizontally through several lots. This office has worked with another local government, which allowed this type of access scenario, only to be plagued with future homeowner disagreements and enforcement issues. We strongly recommend this type of easement through the waterside of these lots not be permitted to avoid liability and long-term enforcement issues.

In addition to the liability and long-term enforcement issues, there are four piers located in an area constrained by steep slopes and wetlands. This issue was verified and discussed in the field with the applicant's representatives. It appears there are several alternatives to the location of these piers, the panhandle lots and the easement. Commission staff have also discussed the possibility of creating slightly smaller lots with less water frontage, so that all of the piers could be located on parts of the shoreline that are most accessible.

Aside from the immediate alternatives analysis request, the applicant should provide the County with an Environmental Review Statement from the Department of Natural Resources in order to screen for any potential threatened or endangered species habitat that may be present on this site. We recommend this be done soon to ensure that the proposed lot configuration is acceptable. If for some reason the configuration of the lots must change due to the presence of a certain habitat, then the pier location discussion may be premature.

In addition, the applicant should be reminded that any proposed pier location would need to be permitted by the Maryland Department of the Environment; therefore, some of the proposed pier locations may not be feasible.

Finally, in a previous comment letter we asked that the applicant provide the County with a breakdown of the State tidal wetlands versus the private wetlands on site, since any area of State tidal wetlands cannot be used to calculate density, impervious cover or ownership.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Stacey McArthur, D.S. Thaler & Associates, Inc.
BC 290-04

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 14, 2005

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: 200564829/06-WL-0038, Fishing Creek Farm HOA

Dear Mr. Cuthbertson:

I have received the above-referenced request to expand an existing 30-slip marina to 39 slips, and emplace 22 mooring piles, six boatlifts and relocate a sewage pumpout unit all within a maximum of 240 feet channelward of the mean high water line. I have contacted Anne Arundel County to determine when this subdivision was first platted. From the information provided by the County, it seems the subdivision was platted prior to the adoption of the County's Critical Area requirements; therefore, the slip to lot ratio and the slip to shoreline ratio found in the Natural Resources Article §8-1808.5(d) does not apply.

The County also indicated that their records show the Board of Appeals granted the community 26 slips in 1990. Therefore, the community must show how four additional slips were permitted since that time to the present. In any case, this office has no further comments regarding this request, except that any planned changes in the upland area of the site must be coordinated with the County's permit office to ensure conformance with the County's 100-foot Buffer requirement.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Lori Rhodes, Anne Arundel County Zoning Office
AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 7, 2004

Ms. Kelly Krinetz
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Arrow Cove
S 95-083, P 00-244

Dear Ms. Krinetz:

I have received the revised final development plans for the above-referenced subdivision request. We are aware that this case is pending before the Administrative Hearing Officer and the Board of Appeals. Absent these decisions, we are basing our current review on the standing decision of the Administrative Hearing Officer, which included various conditions. This plan appears to address some of the conditions of the November 18, 2003 decision of the Hearing Officer. I have outlined our comments below.

1. Since the site is RCA and the current number of lots exceeds the one dwelling unit per twenty acres density restriction, the Code of Maryland Regulations 27.01.02.07 states that any consolidation of those lots shall be insofar as possible. It is our understanding the County has determined there are 135 grandfathered lots on these parcels. There was testimony at the recent variance hearing that there may be 12 grandfathered lots following application of the County's Antiquated Lot Law. Under either scenario, it appears that resubdivision of these lots would require fewer variances and result in fewer lots than reconsolidation of the existing lots.

2. The revised plan now proposes to create seven lots as conditioned by the Hearing Officer. It appears the location of the dwellings on what are now proposed lots 5 and 7 have been shifted to minimize disturbances.

3. It does not appear the limits of disturbance were reduced compared to the former plan that showed eight lots. Please have the applicant demonstrate that the LOD, clearing and impervious area were reduced. According to the calculations table only impervious area was reduced.

4. Compared to the plan submitted last fall, there are no longer any structures in the expanded Buffer.

5. The stormwater management noted on the plans appears to be conceptual. All stormwater management measures, with the exception of any outfalls, are not permitted in the Buffer without a variance.

6. The Hearing Officer restricted water access to a community marina; however, the plans do not show an area for community access to a single pier. We recommend this be shown on the final plan and plat to avoid siting issues in the future.

7. The Forest Conservation Easement should establish that all forested areas protected by this easement shall remain in perpetuity.

8. It appears the total allowable clearing number in the Critical Area Impervious and Clearing Calculations table is incorrect. I get a total of 257,942 square feet. Please have the applicant recheck this figure.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 576-00

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. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Thackray Seznec
S 05-059, P 05-141

Dear Mr. Callahan:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to create three new residential lots with a total of four lots in the Critical Area portion of the parcel. I have outlined my comments below.

1. Based on the information provided, it appears there are 107 acres in the Resource Conservation Area (RCA). Based on the RCA one dwelling unit per twenty-acre density, 107 acres may generate up to five lots; however, no detailed information was provided concerning the size and ownership of what was described as two, small pockets of tidal wetlands. Since all lands below mean high water are State-owned, this acreage cannot be used for the purpose of counting density. Therefore, since this is a subdivision request, the applicant must show all tidal wetlands and their acreages.

2. After deducting the area of State-owned wetlands, assuming the there was still at least 100 acres that generates five lots, it appears there are two existing dwellings on the property. One is labeled as a "boathouse" however it does not extend over the water. The other is clearly labeled as "house to remain." The applicant must prove to the County that the unit labeled as "boathouse" is not a dwelling unit as defined by the General Assembly as "a single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, easting, sleeping, and other activities routinely associated with daily life. Dwelling unit includes a living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guest house, or a caretaker residence." If this unit meets the definition above, then it must be counted towards density on the parcel.

3. The environmental review letter from the Department of Natural Resources indicates the potential for FIDs habitat on the site. The proposed lots are all located within the riparian, forested area on the site. Therefore, it appears their location does not meet the habitat management guidelines as outlined in the DNR letter or the Commission's guidance document. We strongly recommend moving the lots out of the forested portions of the site, if possible, given the agricultural easement on the property. If other circumstances preclude the applicant from moving the lots from these locations, then this should be documented to County staff. In addition, all impacts to FIDs habitat must be mitigated as FIDs habitat.

4. The figure shown for the total clearing allowed without mitigation in the Critical Area Clearing and Impervious Calculations Table appears incorrect. I calculate 490,528 square feet and 11.74 acres as the total based on the figures in that column. Please have the applicant check these figures.

5. Please have the applicant indicate whether the area of either driveways or private right-of-ways has been included in the table. The current tables lists only on right-of-way.

6. The 200-foot scale plan makes it difficult to determine whether expansion of the 100-foot Buffer would be required for steep slopes on the new lots. The expanded Buffer must be shown on the plan.

7. The forested area that will be put in an easement must be shown on the plan.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 569-05

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 30, 2005

Mr. Anthony C. Harding
872 Holly Avenue
Edgewater, Maryland 21037

Dear Mr. Harding:

Thank you for your letter and the accompanying articles regarding recent development activities along the Mayo Neck peninsula. I continue to urge you to contact your elected officials and to participate in any public meetings since you can provide valuable insight and perhaps solutions to some of the problems you raised in your letter. In the meantime, I have researched those projects mentioned in your letter and attempted to provide you with an update on them below.

The Maryland 214 and Maryland 468 intersection improvements are still planned; however, the County and the State Highway Administration have not received all necessary approvals. Since this is an existing public road that requires safety improvements and traffic management, the Commission's role will be to review the project for consistency with the State regulations pertaining to local and State agency actions (i.e. Anne Arundel County Department of Public Works and the Maryland State Highway Administration) on State lands in the Critical Area. Those standards include mitigation for any required tree clearing and installing proper sediment and erosion control measures and stormwater management measures.

The Critical Area Commission will review this project and vote on it sometime in the near future at one of its monthly meetings. It is currently not scheduled on our September agenda. If you wish to see if it is on one of our future monthly agendas, you may call our office at (410) 260-3460. Our meetings are open to the public. If you have some specific comments or recommendations about the project, please feel free to write to us. Your comments will be included as part of the file and public record.

I checked the status of the subdivision you highlighted on the map attached to your letter. The name of that subdivision is Heron Cove. The plan shows 26 lots. The Planning and Zoning Officer has not yet signed the final plat. Apparently, the final review has not been completed. If you want to know more, I recommend you contact the County reviewer, Kelly Krinetz, at (410) 222-7960.

Please keep in mind, that with all new development activities within the County's Critical Area, the latest stormwater and sediment and erosion control technologies are required. In addition, impervious surface and clearing limitations are imposed on new development. Development activities in the Critical Area prior to 1988 were not held to these stricter standards and therefore, many areas do not have adequate drainage or stormwater management facilities, which result in some of the situations described in the article you provided.

In regard to the other site highlighted on your map, I checked with the County and they currently do not have any active applications for a commercial development in that area. Nevertheless, if and when such an application would come in for review, the developer would face the same restrictions, as did the Board of Education, when they proposed development of this site. In addition, the new County Code requires a developer to hold a public meeting prior to submission of a project to County staff. So in that regard, you may want to be on the look out for any public meeting that may occur for this project so that you can participate in the discussion. The idea of these public meetings prior to submission to County staff is for the developer and the community to hear the proposal and provide input to each other prior to final design work and submission for permits of the project.

I hope this provides you with some further information. Thank you again for your time and concern for the activities occurring on the Mayo peninsula. Your community shares the same challenges as many other communities around the Chesapeake Bay and its tributaries in finding the balance between accommodating new development while still protecting and preserving the environment.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Kelly Krinetz, Anne Arundel County 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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August 24, 2005

Ms. Kathy Shatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Turnbull Estates, Section 2 Pt. 2, Lots 11-32: 34-38 Resub.
S 90-174, P 03-176

Dear Ms. Shatt:

I have received the above-referenced resubmittal for review and comment. The last time this office received copies of this subdivision was in November of 2003. Those plans showed all lots across Kenny Lane. Since my last letter dated December 11, 2003, we have not received, and consequently were unable to comment on Section 2, Part 2. I have outlined my comments below regarding this section.

1. It appears the applicant was requesting an updated Environmental Review Statement from the Department of Natural Resources in 2003. No letter was provided in the package sent to this office. Please have the applicant furnish a copy of an updated letter.

2. In the 2003 submittal, the applicant indicated that the JD had expired. Please have the applicant indicate the status of the JD.

3. There appears to be no lot lines that intersect with either a nontidal wetland or the 100-foot Buffer to a tributary stream; however, the rear lot lines of most of the lots are at or near the edge of a buffer. We recommend some type of signage or fencing be provided along the rear of every lot to reduce the possibility of disturbance by future homeowners.

4. Some of the figures in the Critical Area Tabulation table appear to be incorrect. For example, the figure labeled, "Impervious Surface 15% Threshold" should be 203,076 square feet based on the total area of Critical Area being 1,353,838 square feet (1,353,838 x .15). Please have the applicant correct this figure.

5. The total impervious area for Part 2 exceeds 15%. It appears to be at 32%. While this figure, combined with Part 1 does not exceed 15%, each part of the subdivision needs to stand alone with respect to impervious area.

6. There is a figure that shows the total woodlands cleared and a separate figure shown for woodlands cleared for private roads. This would put the total clearing at 21%. Please have the applicant check these figures.

7. At the bottom of the table for Part 2, there are four figures listed that show overall numbers. If these numbers were intended to show the overall numbers to Part 1 and Part 2, they do not add up correctly. Please have the applicant explain these numbers, or correct them if the intention is to show the totals for both parts of this subdivision.

8. The information found in the "Critical Area Information Summary" does not match the figures provided below in the "Critical Area Tabulation." These figures include the proposed woodland disturbance in the Critical Area and the proposed impervious area in the Critical Area. Please have the applicant make all figures consistent.

9. A note and indication of where the forest easement is located should be clearly added to the plans and plat.

10. Please have the applicant indicate whether a determination was made about the presence of FID habitat over the entire site.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 843-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 24, 2005

Ms. Donna M. P. Wilson, Director
Prince George's County
Department of Environmental Resources
9400 Peppercorn Place, Suite 500
Largo, Maryland 20774

Re: Prince George's County Critical Area Program

Dear Ms. Wilson:

I would like to take this opportunity to thank you and your staff for continuing to administer the County's Critical Area Program in such a dedicated manner. Over the past several years we have seen and appreciated the effort it takes for local government staff to handle the increase in permit activity while still maintaining the same level of service. Many other local governments in the Critical Area have experienced similar situations.

As you know, the success of the Critical Area Program is dependent on the unique State and local partnership forged by the Critical Area Law. In that regard, I would like to meet with you and your staff, and the staff of the Maryland National Capital Park and Planning Commission, to discuss several important aspects of the County's Program. These matters include the status of the County's comprehensive Program update, the schedule for incorporating the recent changes in State law into the local Program, the County's process for notifying the Critical Area Commission of project applications and the enforcement of the County's Program. I have outlined these issues briefly below.

Six-year Required Comprehensive Review

In regard to the comprehensive review of the local Program, we would like to determine a timeframe for completion, since the comprehensive review is several years past its due date. The last time County staff proposed rogram changes to the County Council was in 2002. Since the

change in administration, we have received no indication that a review is being conducted. An update of the local Program has not been accomplished since June 2, 1993. State law requires regular updates every six years. The Commission's Chairman, Martin G. Madden, and the Commission itself consider this required review and updating as a high priority matter.

2004 Legislative Changes to the Critical Area Law

Last year your office received a letter dated June 22, 2004 from Chairman Madden that outlined changes to the Critical Area law made by the General Assembly during the 2004 legislative session. Some of these changes relate directly to the County's ability to administer its Program properly. Included in the letter was language sufficient to meet the State law changes, and which should be incorporated into your existing ordinance language. We have worked with many local governments over the past year to smoothly incorporate these changes into their local Programs and we are ready to assist you in the same way.

Notification Requirements

Within the past year, it has also come to our attention that the County may not be properly submitting certain classes of projects to the Commission for review as required by the Code of Maryland Regulations 27.03.01, Notification of Project Applications. This has become apparent when we review the County's quarterly and six-month reports. The information in these reports indicates that certain variances were approved, but notification to the Commission occurred after local approval.

A more recent example regarding notification occurred in the last quarterly report for fiscal year 2005, which stated that the County issued a grading permit for the National Harbor project. We did not receive notice of an application for land disturbance as required of the County under COMAR 27.03.01. These provisions of COMAR apply to land disturbance over 15,000 square feet in the County's Intensely Developed Overlay district. Although the Commission has been involved in various aspects of the National Harbor project for several years, the notification provisions in COMAR are a separate requirement intended to assure that actual land disturbance and development of the site meet the requirements of the County's Critical Area Program, as well as State law and regulations. Notification to the Commission prior to local approval of this type of permit allows the Commission to conduct the oversight responsibilities regarding local Program implementation set out for it by the General Assembly. The Critical Area law, in Natural Resources Article, Section 8-1811 (b) (3), states that "the local approving authority may not process an application of which a copy must be sent to the Commission until the local approving authority has received notice of receipt from the Commission, and any action of the local approving authority in violation of this paragraph shall be void." While this is a serious issue, we believe in this instance it may be resolved fairly simply and would like to discuss it further with you.

Enforcement

Finally, we would like to discuss the possibility of meeting with the County's inspectors in order to understand their role as defined by the County so that we can explain the types of assistance we may require of them. For example, our staff occasionally receives calls from the public concerning certain development projects. This requires us to contact County staff and seek information. I believe the flow of information would be improved if staffs from the various County agencies and the Commission better understand each other's role. We have had success in this regard with enforcement personnel in Anne Arundel County, which has set up a tracking system available on the County website. This type of information assists the public and the Commission. In the past, Mr. Dehan has invited Commission staff to meet with the County inspectors and we feel this is necessary again.

Since its inception, the Prince George's County's Critical Area Program has served as a model in many ways for other local governments. The County has a deserved reputation for environmental leadership and we believe the local Critical Area Program can continue to be seen as innovative and comprehensive.

Thank you for your time and attention to these matters. Please contact me at your earliest convenience so we can schedule a mutually convenient time to meet. I look forward to working with you, and if you have any questions, or need additional information, please call me at (410) 260-3462.

Sincerely,

Ren Serey
Executive Director

cc: Fern Piret, Director - Planning, MNCPPC
Cecilia Lammers, Supervisor – Environmental Planning, MNCPPC
Jim Stasz, MNCPPC
Jeff Dehan, Assistant Associate Director - Code Enforcement, DER
Richard Thompson, DER
Martin G. Madden, Chairman – Critical Area Commission

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. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Bridge #77 over Marlyn Avenue
Consistency Report

Dear Mr. Kulis:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report this office agrees that the project is consistent with the Baltimore County Critical Area Program.

Although the design of the proposed bridge will have a larger footprint than the existing bridge, it is our understanding this is a bridge replacement project that is necessary for safety purposes. Typically, we recommend mitigation for any new Buffer disturbance at a 3:1 replacement ratio. Given the location of the bridge and its level of pedestrian use given its proximity to two schools, any mitigation that can be accommodated on site should be placed in an area not easily disturbed by pedestrians.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 395-05

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 18, 2005

Ms. Amy Moredock
Kent County Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Jane Wells Ellis/Barbara Ellis – 05-101

Dear Ms. Moredock:

I have received the above-referenced variance request for review and comment. The applicant proposes to replace two septic tanks within the 100-foot Buffer to Worton Creek. It is unclear from the site plan submitted as to where the former septic tank was located. In any case, if the Health Department determines that the septic tanks cannot be located out of the Buffer for design reasons, then this office does not oppose the requested variance. If there are no design constraints to locating the septic tanks outside the Buffer, then we recommend they be located outside the Buffer. If the Board of Appeals finds the applicant is entitled to relief we recommend mitigation as prescribed by County staff.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: KC 555-05

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 12, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Bishara and Cox, Mill Creek LLC Property
S 00-025, P 05-130

Dear Mr. Callahan:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to legalize two parcels in the Limited Development Area (LDA). I have outlined my comments below.

1. It appears Parcel 673 will not increase in size, nor will the impervious area change. We recommend a note be added to the plat indicating the total allowable impervious coverage.

2. From the information provided, it appears there are no Habitat Protection Areas on either parcel; therefore, it appears only the zoning setbacks will apply.

3. There was no information on existing forest cover for these parcels. If the existing forest cover does not add up to a minimum 15% cover, then afforestation is required. We recommend a note be added to the plat about this issue, if applicable.

4. We recommend a note be added to the plat that if and when Bulk Parcel 1 becomes buildable, it must meet the requirements of the County's Critical Area Program including impervious surface limitations. Perhaps a note referencing the applicable County Code sections here is warranted as was provided in the "General Notes" concerning water and wastewater allocation.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 536-05

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 12, 2005

Mr. Tom Burke
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Cole Property - Resubmittal
MS 04-100

Dear Mr. Burke:

I have received another resubmittal for the above-referenced subdivision request. We understand that our last remaining comment concerning the rare species issued was addressed by the applicant in that a survey was performed; however, a response from the Department of Natural Resources (DNR) is still pending. If DNR agrees, based on the survey submitted, that the species in question is not present on the site, we will have no further comments. However, if DNR finds otherwise, then further investigation or design may be warranted. In any case, please forward a copy of the DNR response when it becomes available.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 637-04

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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August 10, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Margaret's Glen - Resubmittal
S 85-390, P 04-253

Dear Ms. Krinetz:

I have received a resubmittal for the above-referenced subdivision request. The applicant has addressed most of the comments of my last letter dated January 11, 2005. I have outlined my remaining comments below.

1. The issue of density appears to still be outstanding. Our statements concerning the allowable density for this subdivision request in our last letter still stand. Please inform the Commission of the County's decision and reasoning prior to final approval.

2. We note the applicant has added a table that includes the allowable impervious cover and forest clearing for each lot in the Critical Area; however, the total of each column appears to be incorrect. I calculate 861,295 square feet of total area, 129,193 square feet of total allowable impervious coverage, and 392,620 square feet of total allowable forest clearing. Please have the applicant check the figures.

3. As stated in my last letter, any fees collected for FID mitigation must be used to create new FID habitat; therefore, these funds should be held separately from the County's general Critical Area reforestation monies to ensure they are utilized for FID habitat creation.

4. We note the applicant has not overlapped the active recreation area with any forest easement; however, any future clearing associated with this area has not been accounted for in the table. Please have the applicant insert this area into the table.

5. All new disturbance associated with the creation of new lots should not require variances to the County's Critical Area Program requirements.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 905-04

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 10, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Tanyard Cove South – Sketch Plan Submittal
S 90-210, P 05-129

Dear Mr. Torney:

I have received a sketch plan and recreation plan for the above-referenced subdivision. The applicant proposes to create a Planned Unit Subdivision in the Limited Development Area (LDA) portion of this parcel. I have provided comments to Mr. Callahan regarding Tanyard Cove North in previous letters. I have outlined my preliminary comments for Tanyard Cove South below.

Sketch Plan – South Tanyard Cove

1. It appears the limits of disturbance in the Critical Area are greater than originally presented in a plan dated February 24, 2004. This plan resulted from discussions with the applicant regarding conservation of Forest Interior Dwelling Bird (FID) habitat. We know that any increase in forest clearing further decreases the existing forest interior to remain on site. Since the plan dated February 24, 2004 was at the acceptable threshold of 80% interior forest remaining, it seems that any additional clearing will result in less than an 80% retention rate; therefore, the mitigation will be greater than 1:1, or as outlined in the Commission's Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area on page 46.

2. The final plat and development plans should include the total allowable and proposed impervious area for the site (on a lot-by-lot basis, if necessary), and the total clearing figure.

3. We recommend a note for the final plat and plans that indicate the limits of the forest conservation area. We recommend a fence or signs be posted along the rear of those units or lots that will border the conservation areas.

4. We recommend a note be added to the final plat indicating the time of year restrictions concerning the bald eagle habitat on-site. The February 16, 2005 letter from the Department of Natural Resources indicates the closure period is December 15 through June 15. The letter indicates no construction or timber harvesting activities should occur during this time.

5. What is the status of the two state-listed plant species on this site? Has a field survey been performed by the applicant and subsequently verified by DNR? Please have the applicant provide this information.

Recreation Plan for North and South Tanyard Cove

1. The proposed active recreation areas appear to be either partially or wholly within the Limited Development Area (LDA). However, it is not clear whether the dashed line on the plans indicated a formal area set aside for recreation. If so, there could be some overlap with either the Resource Conservation Area (RCA), which is prohibited by the County Code, and with some Forest Conservation Areas. Please have the applicant indicate the exact limits of the active recreation areas to ensure there will be no overlap with either the RCA or Forest Conservation Areas.

2. It appears the subdivision layout (i.e. road systems, lot locations) differ between the sketch plan submitted and that shown on the Recreation Plan. Please have the applicant ensure that the layout on the Recreation Plan for those facilities will not overlap with any roads or lots as shown on the sketch plan.

3. We recommend a note be added to the final plat that states any open space/recreation area/green area as labeled on the plans are set aside as passive recreation areas since most of these areas are within the RCA.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 118-04

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

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Scott's Point Marina
Revised Final Site Plan

Dear Mr. Ingersoll:

The applicant submitted the revised final site plan for the above-referenced project. I have outlined my remaining comments and questions below.

1. I have received a copy of the letter from the Department of Natural Resources as requested in my letter dated July 21, 2005.

2. It is still unclear whether the requested twelve slips will be associated with a commercial or residential community. I presume the Town is clear on this issue. We recommend the applicant clearly label the type of pier on the plans. Again, unless this is a commercial pier, the applicant may need a variance for the number of slips proposed.

3. We continue to recommend that the 25-foot bufferyard be placed in a perpetual easement.

4. We recommend the remaining 4,784 square feet of the required mitigation be presented to the Town prior to final recordation in the form of a planting plan that includes the number and type and location of species.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Kevin Shearon, DMS
Mr. Paul Bowman, Esquire
CT 326-05

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

Mr. Michael Murray
Anne Arundel County
Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Paul Griffith Property
MS 04-123

Dear Mr. Murray:

The applicant has forwarded the final plat and plans for the above-referenced subdivision request. It appears not all of the comments of my last letter dated April 27, 2005 were addressed. I have outlined my remaining comments below.

1. The plan still shows a 20-foot wide use-in-common access easement through nontidal wetlands. We recognize the 20-foot width may be a zoning requirement; however, future riparian access for both lots should not exceed the standard width allowed by the County. It is our understanding the County has permitted six feet wide riparian access paths, although our office would recommend three feet considering it will cross a nontidal wetland. We recommend a note be added that indicates a permit from the Maryland Department of the Environment may be required for riparian access.

2. The plan did not include the label, "expanded 100-foot Buffer" where necessary. We recommend the plan and plat be properly labeled where the expanded Buffer is warranted.

3. One of the conditions of the variance was that reforestation for clearing may be used to satisfy the minimum 15% afforestation requirement for lot 1; however, we see no areas set aside on lot 1 for planting. We recommend the applicant provide some planting on lot 1before paying the fee-in-lieu. Also, the planting area should be shown on the plan with appropriate notes.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Timothy Brenza, Messick Group, Inc.
AA 777-04

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

Mr. Tom Brower
Department of Natural Resources
Shore Erosion Control Program
580 Taylor Avenue, E-1
Annapolis, Maryland 21401

Re: Patapsco Valley State Park – Shore Erosion Control Project
Project Number: SEC PVSP FY-04

Dear Mr. Brower:

At its meeting on August 3, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Patapsco Valley State Park Shore Erosion Control Project, located off of Belle Grove Road. The Department agreed that mitigation in the form of native Buffer plantings at a 1:1 ratio would be provided for all trees and vegetation removed for construction. I have enclosed a Plantings Agreement Form. Please contact me at your earliest convenience to finalize the plantings plan. The form should be completed and returned to our office within 30 days.

Thank you for attending the Commission's morning and afternoon meeting. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: DNR 36-05

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. Suzanne Schappert
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Herrington Partnership, LLC - 2005-0167-C

Dear Ms. Schappert:

Thank you for providing information on the above-referenced reclassification request. I have reviewed the above-referenced request to reclassify 29.55 acres from a Limited Development Area (LDA) to an Intensely Developed Area (IDA), 20.78 acres from a Resource Conservation Area (RCA) to an IDA, and .144 acres from a LDA to an RCA. The applicants propose this change on the basis that Anne Arundel County mistakenly mapped this property at the time of the original Critical Area mapping. Commission staff's comments are provided below.

In evaluating map amendments that involve the correction of mistakes made during the original Critical Area mapping, local governments are guided by the Court of Special Appeals decision in August Bellanca v. County Commissioners of Kent County. See Enclosure (1). The Commission's role in reviewing these amendments is to ensure that, when a local government finds that a mistake was made at the time of the original mapping, the subject properties met the required mapping standards at that time.

In both requests, the County would need to determine that a mistake occurred and that the property should have been designated IDA. The Commission would then need to determine that at the time of original mapping, the area met the mapping standards for IDA. At that time, the property would have had to have at least one of the following features:

1. Housing density equal to or greater than four dwelling per acre;
2. Industrial, institutional, or commercial uses were concentrated in the area; or
3. Public sewer and water collection and distribution systems were currently serving the area and housing density was greater than three dwelling units per acre.

Although the information submitted by the applicant is not extensive, it does include a 1986 aerial photograph, which shows the marina and labels two areas as "existing on-site dredge containment structure as part of commercial marina." While these structures may have existed in 1986, and an argument can be made that because they were part of the commercial operation of an existing commercial marina they should have been mapped as the rest of the marina, the question before the applicant and the County is whether this was the County's practice during original mapping. It appears the applicant is basing his argument on the zoning lines. It is unclear when these zoning lines applied to the property. We assume they existed in this configuration in 1988 unless otherwise noted.

In regard to reclassifying .144 acres from LDA to RCA, it appears the applicant again uses the zoning lines as a guide. The standards that the County must consider for reclassifying lands to RCA include the mapping standards for RCA:

1. Density is less than one dwelling unit per 5 acres; or
2. Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.

We recommend the County carefully consider both the IDA and RCA mapping standards, and whether the County intentionally excluded dredge containment areas from IDA or LDA mapping.

Thank you for the opportunity to comment. Please include this letter in your files and submit it as part of the record for reclassification. As you know, the Critical Area Commission staff provides preliminary comments on these types of proposals, and should the County approve these requests, they must be submitted to the Commission and the Commission may have additional comments or request additional information during its review.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 507-05

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. Amy Moredock
Kent County Department of Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Vincent J. Cristofalo – 05-94RH

Dear Ms. Moredock:

I have received the above-referenced request to locate a swimming pool in the 100-foot Buffer. The property is .86 acres in size, is designated as a Limited Development Area (LDA), and is currently developed with a principle dwelling, deck and shed. I have outlined our comments below.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the 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 Town 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 450 square feet of new impervious surface within the Buffer for a swimming pool. This figure does not include a pool apron area. Because pools are accessory structures, not permitted in the Buffer, the applicant must present competent and material evidence to show that he meets the burden of proof on each of the variance standards described below. Under the law as established by the General Assembly, even if there is nowhere else on the lot to site the proposed 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 the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information in our file, we do not believe that the Town 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 a swimming pools, certain structures that existed prior to December 1, 1985 or the effective date of the Rock Hall 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 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 Town's Critical Area. To grant a variance to place new impervious surface in the 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 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 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 and supplemental information from County staff, it is our understanding this variance request is not based upon conditions or circumstances that are a result of actions by the applicant, 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 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. It appears approximately 450 square feet of new impervious surface would be permanently placed within the Buffer. This new impervious surface area and consequential disturbance to the land 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 applicant has met each one of the Town'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,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Rachel Eisenhauer, Office of the Attorney General
KC 522-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 2, 2005

Ms. Amy Moredock
Kent County Department of Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Moonlight Bay Marina, Ltd. - 05-93

Dear Ms. Moredock:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to subdivide one parcel into two lots in the Intensely Developed Area. I have outlined my comments below.

1. All development activities, including dwellings, accessory structures, and roads must be located outside of the Buffer; therefore, it must be determined that sufficient buildable area exists on the newly-created lot to preclude any disturbance to the 100-foot Buffer.

2. If the shoreline is currently mapped as a Modified Buffer Area (MBA), the area of the new lot may lose its MBA status since the MBA is only for lots of record at the time of the original local program approval. Please crosscheck this with the Town's Program.

3. The new lot and any future improvements on the existing parcel must be able to comply with the 10% Pollutant Reduction Calculations. In other words, there should be sufficient room to locate a Best Management Practice on the site in addition to the principal and accessory uses contemplated.

4. If the site can support a developable area, we recommend the final plat include a note that states no disturbance is permitted within the Buffer.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: KC 527-05

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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July 29, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: 1647 Cape May Road

Dear Mr. Kulis:

This office is in receipt of the above-referenced subdivision request for review and comment. The applicant proposes to create three residential building lots in the Limited Development Area. I have outlined my comments below.

1. The figure shown for "area of forest to be retained" should equal 57,684 square feet. Please have the applicant check this figure.

2. Each lot under one acre in size may have up to 25% impervious area provided the overall limits of the subdivision do not exceed 15%. The lot over one acre is limited to 15%. It appears the total proposed impervious area is 7.4%; thereby leaving 7.6% remaining among the three lots. We recommend a note be added to the final plat indicating these impervious limitations since it is highly probable that future homeowners will have a reasonable expectation of adding sidewalks, patios, sheds, etc.

3. We recommend the applicant supply a letter from the Department of Natural Resources Heritage Division indicating the absence or presence of threatened or endangered species prior to final approval.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 519-05

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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July 29, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Advance Auto Services
Site Plan Review #05-025

Dear Mr. Callahan:

I have received the above-referenced site plan for review. The applicant proposes to construct a commercial business on a parcel in the Intensely Developed Area. I have outlined my comments below.

The 10% Pollutant Reduction calculation was provided and appears to be correct. The applicant will treat .28 pounds of phosphorus on site, but still owes .24 pounds of phosphorus removal.

An offset is proposed to address the remaining removal requirement. The offset proposed is planting at a rate of .5 acres to achieve an equivalent of one pound of phosphorus removal. In this case, the applicant correctly calculates that .12 acres of planting is required; however, the proposed planting area is not provided. Please have the applicant provide the location of the planting. Landscape plantings on site do not qualify.

It appears the applicant requested an environmental review letter from the Department of Natural Resources, but it does not appear to be in the package. Please ensure this letter is received and any comment addressed prior to final approval.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 484-05

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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July 29, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Joseph Eiben Property

Dear Mr. Kulis:

This office is in receipt of the above-referenced variance request for review and comment. The applicant proposes to raze an existing dwelling within the 100-foot Buffer in a Buffer Management Area (BMA). It appears the applicant meets all the setback requirements of the County's BMA program with the exception of a two-foot encroachment into the 50-foot setback area. If the County determines this encroachment can meet the variance standards, we recommend mitigation be at a 3:1 ratio for the area of disturbance beyond the 50-foot setback. Disturbance includes grading, footprint and clearing.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 480-05

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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July 29, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Advance Marine Service
Site Plan Review #05-017

Dear Ms. Krinetz:

I have received the above-referenced site plan for review. The applicant proposes to construct an addition to an existing maintenance/rest room and storage building. The parcel is in the Intensely Developed Area. I have outlined my comments below.

The applicant provided the 10% Pollutant Reduction calculation. The "C" value is no longer 1.08, but is .30 as discussed in the Commission's 2003 10% Rule Guidance Manual. I recalculated the formula and still got a negative removal requirement of .14 pounds of phosphorus; therefore, no Best Management Practice is required. We still recommend some form of stormwater management be required on this site given the level of impervious area post development and its close proximity to the water.

The site is in a mapped Buffer Management Area (BMA). The information provided does not indicate how the applicant will address the mitigation requirements found in the County Code. The applicant should provide mitigation at a 2:1 ratio for all new disturbance in the 100-foot Buffer. In addition, a 25-foot wide vegetated bufferyard should be provided from the edge of the bulkhead, where feasible. It appears a bufferyard is possible on some areas of this site.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 484-05

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
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July 29, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 410
Towson, Maryland 21204

Re: BGE Riverside Plant - Transmission Line

Dear Mr. Shaffer:

I have received the above-referenced variance request for review and comment. The applicant proposes to construct three transmission lines and the associated towers. It is our understanding that one tower will be located in the Intensely Developed Area (IDA) of the County's Critical Area. We had the opportunity to meet with yourself and the applicant's representative to discuss the impacts to the Critical Area, which include disturbance to nontidal wetland and tidal wetland buffers and clearing of vegetation.

Since this project is a necessary public utility, and it appears the applicant has minimized impacts given the site constraints, this office does not oppose the requested variance. We recommend mitigation in the form of native Buffer plantings at a 3:1 ratio for all disturbance to the 100-foot Buffer.

Thank you for the opportunity to comment. Please include this letter as part of the record. Please notify the Commission of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources

cc: BC 518-05

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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July 29, 2005

Ms. Amy Moredock
Department of Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Rick Lincicome & Cheryl Flota
#05-83

Dear Ms. Moredock:

I have received the above-referenced variance request. The applicant proposes to construct an addition and deck within a nontidal wetland buffer and the tidal wetland Buffer. It appears that the entire site is within either buffer area; therefore, there appears to be no alternative to building outside a buffer. If the County finds the applicant can meet the variance standards and is entitled to relief, we recommend mitigation as prescribed by County staff. We also recommend the applicant work with county staff to provide some measure of stormwater management for the area of the proposed addition.

Thank you for the opportunity to comment. Please include this letter as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: KC 469-05

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 1, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Tanyard Cove North -REVISED
S 90-210, P 05-062

Dear Mr. Callahan:

I have received the revised sketch plan for the above-referenced subdivision request. It appears the applicant has addressed the comments of my last comment letter dated April 18, 2005. I have outlined my remaining comments for Tanyard Cove North below.

1. We see that the area mislabeled RCA near proposed units or lots 101,102 and the end of "Road H" was corrected on sheet 11 of 21, but it was not corrected on sheet 16 of 21. Please have the applicant adjust this label.

2. There appears to still be a labeling error on sheet 15 of 21. Please have the applicant adjust this label.

3. We recommend a note about the temporal restrictions for FIDs be added to the final plan and plat.

4. The forest conservation numbers do not add up. I calculate 265.91 acres in an easement in the Critical Area; however, the "Proposed Forest Preservation" figure on the Critical Area Plan indicates 257.48 acres will be set aside in an easement. Please have the applicant check the figures and make sure all numbers concerning the Forest Conservation easements both inside and outside the Critical Area match those on the sketch plan.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 118-04

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 1, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Coxby's Estates, Section 3 Revision of Lot 23
S 95-030, P 04-165

Dear Ms. Krinetz:

This office has received another submission of the above-referenced project. The proposed building envelope is still shown in the center of lot 23. In my last letter dated March 24, 2005, we recommended the applicant submit a FIDs analysis based on the Commission's FID Guidance Document. The analysis will determine how much interior habitat remains, and what the appropriate rate of mitigation will be for this lot location. From the information provided, it appears the mitigation rate the applicant is using is 3:1. Page 46 of the Commission's FID Guidance Document clearly outlines the required mitigation. This format should be used to determine the appropriate amount of mitigation. In addition, all FID mitigation must create new FID habitat, or add on to existing FID habitat.

Based on this office's knowledge of this subdivision, site visits, and previous analysis, it is our finding that the interior FID habitat on this site will not be adequately conserved and protected since the new lot location is in the middle of the interior habitat; therefore, this office does not support the revised lot location.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Ed Brown
Mr. Milt McCarthy
Kathy Schatt
AA 238-99

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 27, 2005

Ms. Michele Floam
Coastal Resources, Inc.
2988 Solomons Island Road
Edgewater, Maryland 21037

Re: Anacostia East Wetland Mitigation – Contract ANA-11

Dear Ms. Floam:

I have received the above-referenced project from the Maryland State Highway Administration. Our office will not be able to attend tomorrow's Preliminary Investigation Conference; therefore, I would like to provide some preliminary comments from our office. We visited this site several years ago and we are familiar with the site conditions, and are also aware of the trail proposed around this site by the Maryland National Capital Park and Planning Commission (MNCPPC). As you know, the Critical Area Commission approved the Aquatic Mitigation Package for the Woodrow Wilson Bridge project on August 7, 2002. The Anacostia East site was a component of that plan and the details associated with it will be handled at the Commission staff level. In that regard, we offer the following comments:

1. Please show the extent of the 100-foot Buffer on the plans.

2. Please calculate the area of square feet of the existing 100-foot Buffer that will be impacted (i.e. grading, clearing, etc.).

3. Please show the 100-foot Buffer that will be created by the new edge of the tidal wetlands on the plans.

4. Please calculate the area of the new Buffer, including linear feet.

5. Does the existing sanitary sewer line create the reason for the separate cells? What is the distinction between cells A and B?

6. It is our understanding that the trail leading down to the river was a mistake on the plans. Please confirm this information.

As the plan progresses, we will continue to provide comments. Thank you for the opportunity to comment. Please telephone me at (410) 260-3478 if you have any questions.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Todd Nichols, SHA
Mr. Richard Thompson, PG Co. DER
Mr. Chuck Montrie, MNCPPC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 25, 2005

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Joint Public Notice
Dated July 15, 2005

Dear Mr. Cuthbertson:

I have received the above-referenced Public Notice for review and comment of multiple projects occurring in Anne Arundel County. Listed below are all projects that propose shore erosion control, improvement of navigable access or maintenance issues.

John Morton III	200563083/05-WL-1448
Edgewater Beach Citizens Association	200563462/05-WL-1561
Nancy Davis	200563810/05-WL-1669
Rodger Carter	200564383/05-WL-1849
Rick Sargent	200564726/05-WL-0067

This office defers to your expertise concerning the best method for shore erosion control at these sites. Any vegetation cleared above mean high water (within the 100-foot Buffer) must be replaced on an equal area basis. If the permit is issued, we recommend that all local approvals be obtained, including a Buffer Management Plan, if any disturbance or clearing above mean high water is proposed.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Jim Johnson, Anne Arundel County Forester
Mr. Doug Musser, Anne Arundel County Forester
AA Co. Tidal Wetlands File

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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July 20, 2005

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Scott's Point Marina
Final Site Plan

Dear Mr. Ingersoll:

As you know, I have spoken with the engineer and attorney representing the above-referenced project. It appears the applicants have or will address those comments outlined in my last letter to you dated July 12, 2005. However, the pier issue still requires further clarification on behalf of the applicant and the town.

The issue of whether this will be a commercial pier or a community pier under the Code of Maryland Regulations at 27.01.03 should be clearly indicated by the applicant to the town. The grandfathering provisions found in COMAR 27.01.02.07 D states, "Nothing in this regulation may be interpreted as altering any requirements for development activities set out in COMAR 27.01.03 and 29.01.09 of this subtitle." Therefore, while the slips existed prior to the adoption of the Town's Critical Area Program, any newly proposed community marina, as is the case with this project, must meet COMAR 27.01.03.07, which now appears in the Natural Resources Article §8-1805.5(d).

As we discussed, an alternative may be that the town may choose to explore with the applicant certain covenants and restrictions on the pier's use.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Kevin Shearon, Davis, Moore, Shearon & Associates, LLC
Mr. Paul Bowman, Esquire

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 14, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley, Suite 416
Towson, Maryland 21204

Re: Davis Property

Dear Mr. ~~Kulis~~: Mike:

I have received the above-referenced variance request to a deck in the 100-foot Buffer. Provided the lot is properly grandfathered, this office does not oppose this request. If the County finds this variance can be granted, we recommend mitigation be performed as prescribed by County staff for the area disturbed in the Buffer. We also recommend the Critical Area easement be posted on the lot to avoid any future encroachment.

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

Sincerely,

Reginald Eoslinger
for Lisa A. Hoerger
Natural Resources Planner

LAH/jjd

cc: BC 479-05

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/

July 14, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley, Suite 416
Towson, Maryland 21204

Re: Lure Property

Dear Mr. Kulis:

I have received the above-referenced variance request to construct a single family dwelling in the 100-foot Buffer. Provided the lot is properly grandfathered, this office does not oppose this request. It appears the applicant has minimized disturbance based on the small buildable area remaining on the lot. However, allowable impervious area should be based on the upland portion of the lot, since any tidal portion is considered State-owned unless proven otherwise by the applicant.

If the County finds this variance can be granted, we recommend mitigation be performed as prescribed by County staff for the area disturbed in the Buffer. We also recommend the Critical Area easement be posted on the lot to avoid any future encroachment.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 478-05

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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July 13, 2005

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Philosophers Terrace – Preliminary Site Plan Review

Dear Mr. Ingersoll:

I have received comments from the applicant, including revised 10% Pollutant Removal calculations for the above-referenced subdivision request. We understand the Department of Natural Resources Environmental Review statement is still outstanding. I have outlined my remaining comments below.

1. The updated 10% Pollutant Removal calculation is appears to be correct; however, there are two Best Management Practices (BMP) listed, while the site plan only shows one BMP. I have spoken with the applicant's engineer, and it is our understanding the design of this project is still evolving; therefore, we will wait until we see definitive plans concerning stormwater management before we provide our final comments on this issue.

2. The applicant states in their July 8, 2005 letter that native species be used exclusively within the 25-foot shore buffer. This statement is incorrect. I assume the applicant is confusing this site with another project. The Commission has consistently recommended to local governments that all planting within the Critical Area, both inside and outside any required buffers, consist of native species.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Richard M. Davis, Jr., DMS
CT 390-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 13, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Harbour Cove Marina
C 05-019

Dear Ms. Krinetz:

I have received the above-referenced site development plan. The applicants are seeking an after-the-fact building permit for a boat storage rack. The site is in the Intensely Developed Area and the boat rack location is over existing impervious area. It appears that a portion of the boat rack is within the 100-foot Buffer, which requires a variance since these structures are not considered to be water-dependent. We recommend shifting the location out of the Buffer to avoid the variance process. Provided the project otherwise meets the provisions of the County's Critical Area Program including the 10% pollution reduction calculation, this office has no further comments.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 377-05

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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July 13, 2005

Ms. Kelly Krinetz
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Arrow Cove
S 95-083, P 00-244

Dear Ms. Krinetz:

I have received another set of the revised final development plans and plat for the above-referenced subdivision request. The applicant's response letter to you dated June 22, 2005 does not appear to specifically address the comments of my last letter dated September 7, 2004. I have attached that letter since none of those comments were addressed in either the applicant's response or on the plans.

The applicant has requested this subdivision be approved prior to the hearing scheduled before the Board of Appeals in August. We recommend the County not grant final approval since the Board's decision may impact the configuration and number of lots permitted in the subdivision.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 576-00

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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July 12, 2005

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Scott's Point Marina – Final Site Plan

Dear Mr. Ingersoll:

I have received the final site plan for the above-referenced project. The applicant has addressed the comments of my May 18, 2005 and June 20, 2005 letters. I have outlined my remaining comments below.

1. Has the applicant received a letter from the Department of Natural Resources concerning the presence of threatened or endangered species on or near the site? We recommend this information be received prior to final recordation.

2. The resubmittal does not indicate whether the proposed twelve slips will be associated with a commercial pier or whether this pier will be part of the residential subdivision. This issue needs to be clarified prior to final recordation.

3. This final plans submitted to this office do not include a note indicating the 25-foot bufferyard shall remain undisturbed. Please ensure this note appears on the final plat.

4. The issue of off-site planting was addressed; however, the applicant provided no specific off-site locations. If this option is amenable to the Town, we will be happy to explore it further; nevertheless, this issue should be resolved prior to recordation.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Kevin Shearon, Davis, Moore, Shearon & Associates, LLC

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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July 12, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Kozieracki Property

Dear Mr.Kulis:

I have received the above-referenced variance request to construct a single family dwelling in the 100-foot Buffer. Provided these lots are properly grandfathered under the Baltimore County Critical Area Program, this office does not oppose the request. It appears the applicant will be removing two structures that are approximately 25-feet from the shoreline and siting the replacement dwelling as far away from the shoreline as possible, given the unique shoreline configuration and extent of the 100-foot Buffer on this property. If the County determines this variance can be granted, we recommend the following conditions of approval:

1. We recommend mitigation at a ratio as prescribed by County staff in the form of native Buffer plantings for all disturbance to the 100-foot Buffer.

2. If the County requires mitigation, we recommend the first priority planting area be the 100-foot Buffer that abuts Greyhound Creek.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 472-05

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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July 11, 2005

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Fishing Creek Farm HOA
200563862/05-WL-1684

Dear Mr. Cuthbertson:

I have received the above-referenced project to emplace 61 feet of stone armor within a maximum of 16 feet channelward of an existing bulkhead and the mean high water line. This office will rely on your determination of the best method for shore erosion control for this shoreline. Nevertheless, any vegetation cleared above mean high water (within the 100-foot Buffer) for the installation of any shore erosion control method must be replaced on an equal area basis. If the permit is issued, we recommend that all local approvals be obtained, including a Buffer Management Plan, if any disturbance or clearing above mean high water is proposed.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Doug Musser, Anne Arundel County Forester
AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 11, 2005

Mr. H. Joseph Hamilton
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Randell & Susan Quaal
200562957/05-WL-1748

Dear Mr. Hamilton:

I have received the above-referenced project to emplace 200 feet of stone revetment within a maximum of 19 feet channelward of mean high water, and to construct a 190-foot long pier. This office will rely on your determination of the best method for shore erosion control for this shoreline. Nevertheless, any vegetation cleared above mean high water (within the 100-foot Buffer) for the installation of any shore erosion control method must be replaced on an equal area basis. If the permit is issued, we recommend that all local approvals be obtained, including a Buffer Management Plan, if any disturbance or clearing above mean high water is proposed.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Doug Musser, Anne Arundel County Forester
AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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July 11, 2005

Ms. Gail Owings
Director of Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Zoning Text Amendment
Extension of Nonconforming Uses

Dear Ms. Owings:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the referenced zoning text amendment, which revises section X of the Rock Hall Zoning Ordinance. The revision allows for an extension in time for property owners to seek permits in the case of nonconforming uses. At its meeting on July 6, 2005, the Critical Area Commission concurred with the Chairman's determination to approve this zoning text change as a refinement to the Rock Hall Critical Area Program.

This change shall be officially incorporated into the Town's Critical Area Program within 120 days of the date of this letter. Please forward a copy of the official revision to this office, so that the Commission's copy of the Town's ordinance can be amended. Please note for future reference that the Commission's name is now officially the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays rather than Chesapeake Bay Critical Area Commission as it appears in the Town's ordinance. Thank you for your cooperation. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Anne Leone, Planning Commission Chairman
Rock Hall Refinement File

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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July 8, 2005

Mr. Joseph Rutter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Anne Arundel County Council Bills 19-05 and 20-05

Dear Mr. Rutter:

This office has received County Council Bills 19-05 and 20-05. The Critical Area Commission is today accepting these bills 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) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Elinor Gawel, OECR

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/

July 1, 2005

Mr. John Swartz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Round Bay on the Severn, Lots 213R & 215R
S 86-073, P 05-110

Dear Mr. Callahan:

I have received the above-referenced lot line revision. This office is aware of the property's history with regard to the Hearing Officer and Board of Appeals' decisions and conditions. We are also aware of the agreement reached between the parties, which necessitated the immediate request for the lot line adjustment. This office has no comment regarding this revision, as it appears to be consistent with the County's Critical Area program. We do note that the impervious surface information in the Critical Area Report is incorrect and have contacted the consultant to have it corrected. We recommend a note be added to the plat indicating the allowable impervious coverage.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 398-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 29, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Langrill Property – Revised Plan

Dear Mr. Kulis:

I have received a revised plan for the above-referenced subdivision and variance request. It appears the comments of my last letter dated May 26, 2005 were not addressed with the resubmittal. Please have the applicant respond to those issues. In regard to the variance to continue an existing use in the 100-foot Buffer, this office offers no objections.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 347-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 27, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Silver Sands, Section L, Lots 1, 2 and Parcel 129
Lot A - S 96-051, P 04-064

Dear Mr. Callahan:

I have received the final plat for the above-referenced subdivision request. The applicant addressed those comments in my last letter dated February 4, 2005. I have one remaining comment. General Note #3 references previous variances granted to lots 1R and 2R. We recommend the County ensure that the conditions of those variances have been met prior to final approval.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 638-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 23, 2005

Mr. Doug Musser
County Forester
Office of Environmental and Cultural Resources
2664 Riva Road, MS 6402
Annapolis, Maryland 21401

Re: Critical Area Reforestation Update
Fiscal Year 2004 (July 1, 2003 through June 30, 2004)

Dear Mr. Musser:

Thank you for forwarding Anne Arundel County's Critical Area Reforestation Update for fiscal year 2004. We understand the compilation of this data required a lot of time and effort on the part of staff and hope that now the County's database will be easy to use to extract certain data. We believe that Anne Arundel County is making a significant effort to accurately assess fees and track spending activity. We have reviewed the information you provided in the update and have a few comments.

When providing information to us about sites planted by the County, we would like to know the location of these sites, and what type of planting occurred at each one. Please provide us with a list of the sites. If possible, please include photographs. We would also like to know how frequently County staff monitors the sites.

I have calculated the figures you provided, and I have slightly different totals than what appeared on your chart. For example, under the time period FY 2004, the total non-refundable fees expended for FY 04 are shown as $160,414.75 but I calculated $160,414.25 based on a sum of the reforestation plantings listed. That also changes the non-refundable fees to be expended FY 04 to $1,012,162.40. Under the time period July 1988-June 2004, the reforestation to be performed by the County is shown as $162.10, but I calculated $152.02 based on the area cleared and the replanting accomplished. Please clarify these numbers for us.

Please telephone me at (410) 260-3478 if you have any questions. Thank you again for your diligent efforts to provide the Commission with the County's current status of its reforestation fund and planting activities.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Elinor Gawel, OECR

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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June 21, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Roland Terrace, Parcel 247
"AA Sand & Recycle"

Dear Mr. Callahan:

I have received the above-referenced site plan for review and comment. The applicant proposes to construct a leaf composting facility. Approximately 27,000 square feet of the 22-acre site is in the Critical Area in the Resource Conservation Area (RCA).

The site plan provided shows a stormwater management structure in the RCA portion. Since the County's current RCA use list in the Zoning Ordinance does not include stormwater management measures, this cannot be located in the RCA. In addition, although a leaf composting facility is permitted in the Critical Area, the RCA use list similarly does not include these types of facilities. The only way this use could be permitted in the RCA is if the use is considered grandfathered by the County.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 403-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 20, 2005

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

Re: Spriggs Cove, Curtis Payne
P 03-153, S 01-056

Dear Ms. Allen:

I have received revisions for the above-referenced resubdivision request. The applicant responded to the comments of my last letter dated February 25, 2005. I have outlined my remaining comments below.

1. It appears the applicant is proposing on sheet 2 of 3 a disconnection of rooftop runoff and a disconnection of non-rooftop runoff. These measures must be able to meet the requirements in Chapter 5 of the Maryland Stormwater Manual, including the area required for filtering, and that area should not include the nontidal wetland area. It appears the flow areas are pointing towards the 100-foot Buffer, which I assume is vegetated.

2. Please have the applicant forward the letter from the Department of Natural Resources (DNR) Heritage and Biodiversity Division when it becomes available.

3. Since no mitigation area is shown, I assume mitigation will be handled through a fee. If not, please have the applicant indicate the area of mitigation on the plan and plat.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 756-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 20, 2005

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Scott's Point Marina
Resubmittal

Dear Mr. Ingersoll:

The applicant has forwarded a resubmittal and response for the above-referenced project. It appears the applicant has addressed many of the comments on my last letter dated May 18, 2005. I have outlined my current comments below.

1. We acknowledge the letter dated June 3, 2005 from the surveyor; however, it states "shoreline location" and what needs to be verified is the location of mean high water. Please have the applicant provide information that the mean high water line shown on the plan is accurate since this location will dictate the extent of the 25-foot bufferyard.

2. The vegetation list has been amended; however, there still remain some nonnative species including several species on the landscape plan for the 2:1 mitigation requirements. Please have the applicant substitute native species.

3. The number of plantings calculated for the 25-foot bufferyard area appears to be correct, and the planting selection consists of native species. We recommend this area be placed in a perpetual easement and the final plat includes specific notes that the bufferyard is to remain undisturbed.

4. The 2:1 Buffer mitigation calculation appears correct, including the amount of plantings required. It is also our understanding the applicant wishes to perform off-site mitigation for the remaining mitigation obligation. We will discuss this option with your office. If the Town is amenable to off-site plantings, please have the applicant provide a list of the off-site locations.

5. The 10% Pollutant Removal calculation indicates a negative removal requirement; therefore, a Best Management Practice is not required per the Town's Critical Area stormwater requirements, but some stormwater management measures should be provided using the Maryland Stormwater Manual.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Kevin Shearon, DMS
CT 326-05

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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June 20, 2005

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Philosophers Terrace

Dear Mr. Ingersoll:

I have received the site plan and stormwater information for the above-referenced subdivision request. The applicant proposes to create a 7-unit condominium cottage community. The site is in the Intensely Developed Areas (IDA) within the Town's Critical Area. I have outlined my comments below.

1. The information for the 10% Pollutant Removal calculation is missing two pages in the report. Please have the applicant include the second and fourth pages so we can cross check the figures and see what is the proposed Best Management Practice to address what appears to be a removal requirement of .549 pounds of phosphorus.

2. The applicant shall request an environmental review letter from the Department of Natural Resources prior to final approval.

3. We recommend the applicant use native species on the landscape schedule.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Kevin Shearon, DMS
CT 390-05

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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June 20, 2005

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

Re: Tanyard Springs - Resubmittal
S 82-192, P 97-019

Dear Ms. Allen:

I have received the resubmittal for the above-referenced project. The applicant has provided a detailed response to my last letter dated December 13, 2004. I have outlined my comments and responses below.

1. Although the applicant's response indicates the stormwater management easement on lot 9 coincides with the RCA line that is not what appears on the set of plans and plats I received. While the stormwater management pond itself is outside the RCA, crosshatching still appears that indicates a stormwater management easement inside the RCA.

2. The lot line for lot 9 does not appear to be along the RCA line as described in the applicant's written response on the plat or plan sheets. Please have the applicant clarify this item or show a clear lot line on the plat and plans.

3. The three Critical Area Conservation Easements indicated on Plat 2 of 8 and shown on Plat 3 of 8 do not total the required total area in the Critical Area that will remain in long-term protection, which is stated to be 10.156 under the Clearing Calculations. Please have the applicant clarify this item.

4. The stormwater management planting list on sheet 5 of 16 includes nonnative species. We recommend the applicant substitute native species utilizing the County's native plant booklet.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 909-04

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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June 20, 2005

Ms. Gail Owing
Kent County Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Zoning Text Amendment
Extension of Nonconforming Uses

Dear Ms. Owing:

Chairman Madden has reviewed this request and determined this text change to be a refinement to the Town of Rock Hall's Critical Area Program. This item has been placed on the agenda for the July 6, 2005 Critical Area Commission meeting. Following the meeting, I will inform you of the Commission's action on the refinement. If you would like to attend the meeting, please let me know and I will make appropriate arrangements.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Anne Leone, Planning Commission Chairman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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June 16, 2005

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

Re: Bridge #77 over Marlyn Avenue, Alternatives Analysis

Dear Mr. Kulis:

This office has received the above-referenced project for review and comment. I have reviewed the Alternatives Analysis that the County requires for infrastructure improvements such as a bridge replacement. Our office defers to the Public Works Department and its consultants to determine the most appropriate design; therefore, we have no comment on the preferred alternative. It appears there will be relatively minor impacts associated with the design selected, and the project serves a public need.

In the meantime, we look forward to receiving the consistency letter for this project. If you have any questions about that process, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 395-05

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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June 14, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Scott Mielke Property
S 03-055, P 04-098

Dear Mr. Torney:

I have discussed the remaining issues of my last comment letter dated May 26, 2005 with the applicant's engineer and he has subsequently revised the plat to reflect corrected impervious surface numbers. The impervious surface numbers from lots 1-4 and the right-of-way dedication now total 30,339 square feet. I have no further comment on this subdivision request.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Dave Grimm, Drum, Loyka & Associates, LLC
AA 291-04

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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June 13, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Chesterwood Park – Consistency Report

Dear Mr. Shaffer:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report, this office agrees that the project is consistent with the Baltimore County Critical Area Program for the reasons outlined below. The project will:

- Provide a living fence to protect the nontidal wetland and its buffer and the tidal wetland and tidal Buffer.
- Provide adequate sediment control during construction.
- Stabilize an eroding shoreline as part of the fishing pier construction.
- Avoid clearing.
- Provide reforestation at a 3:1 ratio for Buffer disturbance.
- Remove 13,729 square feet of existing impervious so that resulting impervious is below 15%.
- Reforest 33,508 square feet of historically mowed non-tidal wetlands.
- Provide 3:1 mitigation for 1136 square feet of Buffer impact for access to the piers.

Since the project is consistent with the local program, it will not require formal approval by the Chesapeake Bay Critical Area Commission, notwithstanding any other required resource agency approvals.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 342-05

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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June 13, 2005

Ms. Kelly Krinetz
Anne Arundel County Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: 8100 Veterans Highway - C 05-008

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced project for review and comment. From the information provided, it appears this site is not within the County's Critical Area; therefore, this office has no comments on the proposal.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 371-05

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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June 13, 2005

Ms. Elinor Gawel
Anne Arundel County
Environment and Cultural Resources
2664 Riva Road, MS 6402
Annapolis, Maryland 21401

Re: Buffer Management Plan
Downs Memorial Park – Recreational Pier

Dear Ms. Gawel:

I have received a follow-up letter from Andrews, Miller & Associates, Inc. explaining that the current bid documents cannot be amended. The County therefore requests a conditional approval of the Buffer Management Plan. As you are aware, I recently reviewed the Buffer Management Plan and had the following comments:

1. The easement document language is amended so as to refer to the County's Critical Area reforestation requirements instead of the Forest Conservation Act.

2. The herbaceous cover not be counted towards mitigation credit.

3. The eradication area retain, to the extent possible, existing native trees and shrubs.

It is my understanding the easement language has been amended. In a telephone conversation with the County Forester, Mr. Doug Musser, he agreed that the herbaceous cover cannot be counted towards mitigation credit; therefore, the applicant is proposing to substitute two native shrub species. Either species is acceptable. Mr. Musser calculated that 48 shrubs are required to meet the required mitigation. This number should be reflected on the plans. Finally, the County has agreed to maintain existing native species in the eradication area.

We recommend the County Forester has an opportunity to review this proposal and it is acceptable to him. This office has otherwise completed its review of this project, and provided the conditions are upheld, the project is consistent with the County's Critical Area program requirements.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Kelly Wright, Andrews, Miller & Associates, Inc.
Mr. John Keene, AA Co. Recreation and Parks
Mr. Doug Musser, AA Co. OECR
Mr. Rich Osborn, AA Co. DPW

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

STATE OF MARYLAND
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June 13, 2005

Ms. Anne Leone, Chairman
Rock Hall Planning Commission
P.O. Box 367
Rock Hall, Maryland 21661

Re: Zoning Text Amendment
Extension of Nonconforming Uses

Dear Ms. Leone:

The Critical Area Commission received the above-referenced zoning text amendment approved by the Planning Commission. The amendment permits the Zoning Administrator to grant an extension to the required expiration date of a nonconforming use in the event of a natural disaster. The Critical Area Commission is today accepting this zoning text amendment 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.

Please telephone me at (410) 260-3478 if you have questions or comments regarding this process.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Amy Moredock, Kent County

Robert L. Ehrlich, Jr.
Governor

ael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 10, 2005

Mr. Joseph Rutter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Anne Arundel County Council Bills 19-05 and 20-05

Dear Mr. Rutter:

At its meeting on August 3, 2004, the Critical Area Commission concurred with the Chairman's determination that County Council Bill 19-05 was a refinement to the Anne Arundel County Critical Area Program. The refinement was approved recognizing that Sections 2-302 and 2-305 of Article 21 will be amended in the "clean up" bill to address the steep slope language as the Commission similarly requested with Bills 3-05 and 4-05. Specifically, the language in Section 2-302 should be amended to indicate that grading within slopes of 15% or greater is not permitted, and the language in Section 2-305 should be amended to replace the terminology "reasonable alternative" to "only effective way to maintain or improve the stability of the slope" as used in the Code of Maryland Regulations 27.01.02.04 C (6).

The County is required to finalize this change within 120 days of this notice. If you have any questions, please call me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Elinor Gawel, OECR
AA Refinement File

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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June 9, 2005

Mr. Joseph Rutter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: County Council Bills 3-05 and 4-05
Subdivision and Zoning Codes

Dear Mr. Rutter:

At its meeting on June 1, 2005 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved County Council Bills 3-05 and 4-05. The County is required to finalize the changes resulting from County Council Bills 3-05 and 4-05 within 120 days of this notice. Please forward a copy of the new subdivision and zoning articles to this office when they become available.

At the conclusion of the Commission panel meeting, the panel requested the County submit within six months a draft of the "clean up" bill that will address those items outlined in the original Panel Report and some of the items in the Panel Addendum, both dated June 1, 2005. Those issues include the following: amending the steep slope language, clarifying the nonconforming uses language, inserting provisions for persons with disabilities, reinforcing certain provisions in the variance language, amending the definition of dwelling unit, and clarifying the conflict of law provision. Please forward any draft bills when they become available so Commission staff has sufficient time to review and comment on these changes.

Thank you and your staff for attending the public meetings and providing additional information to the Commission concerning these bills. The rewriting of the County's subdivision and zoning codes was a commendable undertaking on the part of Anne Arundel County in order to provide order and clarification to the codes.

As always the Commission and Commission staff look forward to continuing the cooperative relationship with have with the County now and in the future. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Robert Miller, Land Use Officer
Ms. Linda Schuett, County Attorney
Ms. Elinor Gawel, Office of Environmental and Cultural Resources
Ms. Marianne Mason, Esquire, Assistant Attorney General
Ms. Rachel Eisenhauer, Esquire, 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
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

June 3, 2005

Ms. Linda Alder
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 Vienna
LeCompte Impervious Surface Variance

Dear Ms. Alder:

I have received the above-referenced variance request to the Town's impervious surface limitations. The applicant is requesting a variance for an additional 400 square feet of impervious surface to locate a 20 x 20 foot concrete pad to accommodate a refrigerator unit. In 2002, the applicant also applied for an impervious surface variance and it was subsequently granted.

This office typically does not support variances to the impervious surface limitations since State law and the Town's Ordinance have already provided for additional impervious areas above the 25% limitation. We recommend the applicant explore removing an equivalent area of impervious on the site so there is no net increase.

If you have any questions, or if I can provide you or the Town with any assistance please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
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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June 3, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Leventis Property, 05-008

Dear Ms. Stauss:

I have received the above-referenced variance request to extend and existing deck and attach a new gazebo within the 100-foot Buffer to Greyhound Creek. It is our understanding this is an after-the-fact request. The information provided by the applicant suggests the area of the deck addition and gazebo was the location of a pool. In discussions with County staff, it is also our understanding that the pool was not a permitted structure; therefore it should not be considered as justification for siting the proposed structures.

The site plan provided is difficult to read. I assume the information indicating 80 feet is the distance the new structures are from the shoreline of Greyhound Creek. There is no information concerning the distance of the new structures to or within a nontidal wetland buffer. It appears the applicant already enjoys two existing decks attached to the dwelling that exceed 300 square feet, perhaps more. Due to the existing uses and that the applicant is unable to meet the variance standards of the County Code, this office does not support the requested variances.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 332-05

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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June 3, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Chesterwood Park – Site Plan, Variance, Alternatives Analysis

Dear Mr. Shaffer:

This office has received the above-referenced project for review and comment. Our staff has visited the site with County staff and has subsequently reviewed the site plans. We support the application, as it appears the alternative selected involves the least disturbance, and your office will require appropriate Buffer mitigation on-site.

In the meantime, we look forward to receiving the consistency letter for this project in the future. If you have any questions about that process, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 342-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 3, 2005

Mr. Steve Callahan
Anne Arundel County Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: The Villas at Severna Park (Formerly Sonneborne Land) - S 01-038, P 04-086

Dear Mr. Callahan:

I have received the final plans and plat for the above-referenced subdivision request. It appears the applicant has addressed all of the comments of my last letter dated March 28, 2005; therefore, we have no further comments.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 347-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 2, 2005

Mr. Jim Stasz
Maryland National Capital Park and Planning Commission
Natural Resources Division
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: Tantallon on the Potomac CP-05002, VC 05002

Dear Mr. Stasz:

Thank you for forwarding the conservation plan and site plan for the above-referenced variance request for review and comment. It is our understanding the applicant seeks a variance to the County's primary Buffer requirements, and to other provisions of the County Code. I have outlined my comments below.

The applicant has requested a variance to locate an attached garage within the 100-foot primary Buffer. Given the site constraints of this lot, our understanding that the proposed structure is on existing impervious area, and that areas outside the Buffer have been explored, this office does not oppose the variance; however, we offer the following recommendations if the Board finds this variance can be approved:

1. That mitigation for the area disturbed (clearing, footprint, grading) is provided at a 3:1 ratio with native Buffer plantings. These plantings should first be located on site within the Buffer before planting areas identified elsewhere on site or before a fee-in-lieu of is considered.

2. The applicant work with County staff to install low impact development technologies to address the stormwater that will be leaving the site from the new roof area of the garage.

Thank you for the opportunity to comment. Please include this letter in your variance file and submit it as part of the record for variance. Please inform the Commission of the decision made in this case. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: PG 370-05

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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June 2, 2005

Mr. Jim Stasz
Maryland National Capital Park and Planning Commission
Natural Resources Division
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: Swan Creek Club CP-05007, VC 05007

Dear Mr. Stasz:

Thank you for forwarding the above-referenced variance request for review and comment. It is our understanding the applicant seeks a variance to the County's primary Buffer requirements, and to the County's impervious surface requirements. We acknowledge the County's impervious surface requirements have not been updated to reflect the changes to the State law; however, we do not oppose the impervious surface variance provided the request does not exceed the limits within the State law. I have outlined my remaining comments below.

The plan provided does not show the limits of the expanded Buffer; therefore, it is difficult to tell how much of the proposed dwelling is within the Buffer. Nevertheless, it appears there is substantial area that may be outside the expanded Buffer to site this dwelling.

If the driveway was shorter by siting the dwelling closer to Shore Drive, that will reduce the impervious surface variance requested.

We offer the following recommendations if the Board finds these variances can be approved:

1. That mitigation for the area disturbed within the primary and expanded Buffer area (disturbance includes clearing, footprint, grading) is provided at a 3:1 ratio with native Buffer plantings. These plantings should first be located on site within the Buffer before planting areas identified elsewhere on site or before a fee-in-lieu of is considered.

2. The applicant work with County staff to install low impact development technologies to address the stormwater that will be leaving the site from the additional impervious areas.

3. The plan shall show the extent of the expanded Buffer in order to calculate the required mitigation for disturbance to this area.

Thank you for the opportunity to comment. Please include this letter in your variance file and submit it as part of the record for variance. Please inform the Commission of the decision made in this case. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: PG 369-05

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 26, 2005

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

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

Dear Mr. Shaver:

I have received a resubmittal for the above-referenced subdivision request. The applicant has addressed the comments of my last letter. My last remaining comment is that any area of tidal wetlands should not be used to calculate allowable impervious area or density since these wetlands may be State-owned. However, the Board of Appeals has required nine acres to be set aside in a perpetual conservation easement and that no further development shall be permitted; therefore, changes to the plans or plat in this case is not necessary for this subdivision. Any future subdivisions with tidal wetlands must exclude those areas of tidal wetlands unless the applicant can prove the wetlands are privately owned.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 883-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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May 26, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Scott Mielke Property
S 03-055, P 04-098

Dear Mr. Torney:

I have received the final plat for the above-referenced subdivision request. It appears the applicant addressed my last comment from my letter dated February 4, 2005. I have one remaining comment about the Impervious Surface Tabulations table. The lot areas have changed since the last plat and the total appears incorrect. I get 26,655 square feet instead of 30,339 square feet. Please have the applicant adjust these figures.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 291-04

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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May 26, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Miller Property, 05-012

Dear Mr. Shaffer:

I have received the above-referenced variance request to construct an attached garage inside the 100-foot Buffer. I have outlined my comments below.

1. Based on my calculations the net impervious area in the 100-foot Buffer will be approximately 700 square feet, and most of the lot includes the 100-foot Buffer; therefore, this office does not oppose this request.

2. We recommend that the applicant explore, in consultation with County staff, stormwater management measures to help offset the area of additional impervious surfaces in the Buffer.

3. We recommend mitigation at a 3:1 ratio in the form of native Buffer plantings for all disturbance to the 100-foot Buffer.

4. If the County requires mitigation, we recommend the first priority planting area be the 100-foot Buffer that abuts the Bird River.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 341-05

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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May 26, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Heavrin Property, 05-009

Dear Ms. Stauss:

I have received the above-referenced variance request to construct a single family dwelling in the 35-foot setback to the 100-foot Buffer. Provided the lot is properly grandfathered, this office does not oppose this request. It appears the applicant has minimized disturbance based on the small buildable area remaining on the lot.

If the County finds this variance can be granted, we recommend mitigation be performed as prescribed by County staff for the area disturbed in the setback. We also recommend the Critical Area easement be posted on the lot to avoid future encroachment.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 333-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 26, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Honsa/Mathis Properties

Dear Mr. Kulis:

I have received the above-referenced subdivision request. This office last commented on this request in a letter dated October 7, 2005. I have outlined my remaining comments below.

1. It appears the applicant is providing the square footage numbers in the chart for clearing. Has the total mitigation number been settled? If so, we recommend the applicant add the total mitigation required on the plat and plan, and indicate how it will be handled (i.e. planting on site, off site, fee).

2. As mentioned in our last comment letter, the applicant should distinguish between clearing and disturbance in the 100-foot Buffer versus clearing outside the Buffer.

3. We still have not received a copy of the letter from the Department of Natural Resources. Please have the applicant supply the County with that letter prior to final subdivision approval.

4. It appears the plan notes no further impervious surface is allowed on lot 3 on the Mathis property. This office has no record of a variance for the impervious area for lot 3. Please have the applicant clarify this issue.

5. The resubmittal materials included some easement language to be put on plats. Since we did not receive a copy of the plat, please advise us if it is the intention of the applicant to include the language supplied by County staff on the final plat.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 706-04

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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May 26, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Poleski Property

Dear Mr. Kulis:

I have received the above-referenced request to permit the construction of a single-family dwelling that will require a variance to the County's impervious surface limitations. I visited this property with County staff and therefore can appreciate the circumstances that the applicant describes in his submittal materials. I have offered the following comments and recommendations below.

It is our understanding the site serves as the residence and office for a small marina operation. Given the unique use of the property and the fact that the rebuild request is based on circumstances beyond the applicant's control we do not oppose this request.

If the County determines this variance can be granted, we recommend the applicant explore opportunities to remove existing impervious area on site. Alternatively, the applicant should work with County staff to identify either on-site or off-site mitigation or retrofit opportunities to help offset the additional impervious area created on site.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 348-05

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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May 26, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Langrill Property

Dear Mr. Kulis:

I have received the above-referenced subdivision request. The applicant proposes to create two lots in the Limited Development Area. I have outlined my comments below.

1. The impervious surface calculations do not appear to include the driveways serving each lot. Does the County consider these gravel drives impervious or pervious? If impervious, please have the applicant recalculate existing impervious figures.

2. A note appears on the plan that addresses clearing however; the plan does not mention whether any clearing will be necessary with the construction of the dwelling on proposed lot 2. Please have the applicant clarify this issue.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 347-05

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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May 26, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Malec Property, 05-011

Dear Ms. Stauss:

I have received the above-referenced subdivision and variance requests to create two lots and permit the continued use of an existing boathouse, boat ramp, stone area, and existing lawn in the Critical Area easement on proposed lot 1. I have outlined my comments below.

Subdivision

1. The applicant should provide the County with a letter from the Department of Natural Resources prior to final plat approval to ensure any Habitat Protection issues are addressed.

2. The note at the bottom of the plan indicates that each lot is permitted 25% impervious cover. This is incorrect since both lots are over one acre in size. Therefore, each lot is only permitted 15% impervious cover. Please have the applicant remove that note or correct it.

3. It is our understanding the Critical Area designation of this property is Resource Conservation Area. If this is the case, then only two density rights would be permitted if this is an intrafamily transfer subdivision request. Otherwise, two density rights are not permitted. Please have the applicant clarify this point.

4. If this is an intrafamily subdivision request, appropriate notes should be added to the final plans and plat to indicate to whom the lot is being conveyed and any other pertinent language from the County Code regarding the restrictions on the lot created.

Variance

This office does not oppose the requested variance to permit the continued use of a boathouse, boat ramp, and stone area on lot 2 and lawn area on lot 1 in the Critical Area easement.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 321-05

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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May 24, 2005

Ms. Amy Moredock
Kent County Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: James Gorman – 05-52

Dear Ms. Moredock:

I have received the above-referenced variance request for review and comment. The applicant proposes to construct a 275-foot pier that will require a variance. From the information provided, it is our understanding that the length of the pier is due to efforts to avoid impacting an existing bed of submerged aquatic vegetation. We will defer to the Maryland Department of the Environment (MDE) permit reviewer and your office to determine whether this request can be permitted.

Notwithstanding MDE's or the County's determination, this office does not oppose this request provided the County is satisfied that the applicant can demonstrate minimization. If the Board of Appeals finds the applicant is entitled to relief we recommend mitigation as prescribed by County staff.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: KC 352-05

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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May 18, 2005

Ms. Kathy Schatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Finizio, Tobin Family Subdivision - Resubmittal
S 04-132, P 04-242

Dear Ms. Schatt:

I have received revised plans and information for the above-referenced subdivision request. The applicant addressed some of the comments of my last letter dated November 24, 2004. I have outlined my remaining comments below.

1. The clearing and impervious surface limits notes need to be adjusted. The total allowable impervious area for the Critical Area portion of the site is 3.39 acres, and the 20% clearing limit is 4.42 acres. The total remaining area permitted for clearing under the 20% threshold in the Critical Area is .26 acres.
2. Has the applicant provided the County with a FIDs analysis showing what percent of interior forest will remain based on the current development plan? This should be completed to ensure the FID guidelines have been met according to the Commission's FID Guidance Document.
3. We continue to recommend that the dwelling for lot 1 be moved closer to the road to minimize FID impacts with the understanding that it is a lot generated by the Critical Area intrafamily transfer provision. A plat note could clarify this issue.
4. The plat and Critical Area Report plans still show a 20-foot wide and 10-foot wide pathway to the water. Please have the applicant adjust these labels to reflect a maximum of six-foot wide with no canopy clearing.
5. The note on the plat still indicates "area to be cleared" which has a different meaning than the applicant's response to my last inquiry about this area, which was no canopy will be removed. Please have this note more accurately reflect this statement, and that a Forest Management Plan or Buffer Management Plan will be required.

6. Since clearing will require mitigation that creates new FID habitat this should be indicated on the plat notes.
7. There is a 10-foot wide access path shown between lots 4 and 5. Please clarify where this path goes and its purpose?
8. The note restricting further development activities on lots 4 and 5 is repeated in General Notes 8 and 14 on the plat.
9. General Note 2 is not a completed sentence. Please have the applicant check this item.
10. Note 1 under the Critical Area Analysis has a typographical error. Please have the applicant correct this item. In addition there should be no disturbance permitted in the Forest Conservation Easement Areas.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 863-04

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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May 18, 2005

Mr. William Ingersoll, Town Manager
Town of Chestertown
118 N. Cross Street
Chestertown, Maryland 21620

Re: Scott's Point Marina

Dear Mr. Ingersoll:

I have received a copy of the site plan for the above-referenced project. The applicant proposes to redevelop an existing marina into a residential development. The site is entirely within the Town's Critical Area and has a Critical Area designation of an Intensely Developed Area (IDA) and is also included in the Town's Modified Buffer Area. It is our understanding this project is scheduled before the Town's Planning Commission on Wednesday, May 18, 2005, and this is the preliminary review stage. I have outlined this office's preliminary comments below.

1. Provided the existing impervious area on the site is at 15% or above, the Town's Ordinance concerning the Modified Buffer Area provisions provides for a 25-foot bufferyard. It appears the applicant has shown a 25-foot setback.

2. This bufferyard should be measured from the edge of mean high water from the Chester River. It appears the applicant is currently showing the bufferyard as being measured from the edge of the property. Please have the applicant correct this measurement, if necessary.

3. We recommend that future site plans clearly show the edge of the existing rip rap area and the edge of mean high water.

4. The planting schedule on sheet C-1 includes some non-native vegetation. All plantings installed within the 25-foot bufferyard shall be as prescribed in the Town's Ordinance concerning the Modified Buffer Area. Therefore, all plantings shall consist of native species and shall be of the quantity and stocking as prescribed in the ordinance.

5. We recommend the applicant provide two planting schedules. One associated with plantings required for the Modified Buffer Area mitigation and another for all other proposed plantings on-site not associated with the mitigation.

6. The mitigation for Modified Buffer Areas consists of two requirements. The first is to establish a bufferyard and the second is to provide 2:1 mitigation for the extent of the footprint of the development activity in the 100-foot Buffer. The 25-foot bufferyard is shown; however, the applicant needs to calculate the mitigation required to comply with the 2:1 requirement. This is based on the footprint of development activity in the 100-foot Buffer.

7. The Town ordinance appears to allow credit for impervious area removed in the 100-foot Buffer if the applicant will be unable to meet the 2:1 mitigation requirement on-site. In that case, the Town may consider this credit option as an offset; however, this option cannot be used as an offset to address the 10% pollutant removal requirement.

8. There is a six-foot wide wooden walkway shown within the 25-foot bufferyard. The town's ordinance does not appear to allow any disturbance to this area; therefore, this walkway must be located outside the 25-foot wide bufferyard.

9. Since the site is within the Intensely Developed Area, the 10% Pollutant Removal calculations must be provided to determine whether there will be a removal requirement for the keystone pollutant, phosphorus, and what type of best management practice will be required. Please have the applicant provide those calculations.

10. It appears the applicant has requested comments from the Department of Natural Resources concerning the presence of threatened or endangered species on or near the site. This information must be received prior to final recordation to ensure any habitat issues are addressed.

11. It is unclear at this time what the proposal for the unused pier/slips will be for this site. If the applicant proposes to provide a community pier with slips for the residential subdivision, then the Natural Resources Article, §8-1808.5(d), prescribes the number of allowable slips. Whether the pier can continue to operate as a commercial use raises other issues that should be explored at this early review stage.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Kevin Shearon, Davis, Moore, Shearon & Associates, LLC

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/

May 17, 2005

Mr. Bruce Grey
Deputy Director
Office of Planning and Preliminary Engineering
State Highway Administration
707 North Calvert Street
Baltimore, MD 21202

Re: Project #AA416A21, Interstate 97 - MD 450 to I-695, Anne Arundel County

Dear Mr. Grey:

This office is in receipt of the above-referenced project on Interstate 97 in Anne Arundel County. Based on the type of development activity proposed, Commission staff has determined that this project qualifies under Code of Maryland Regulations Title 27.02.03, General Approval of State Agency Programs, and subsequently, the Memorandum of Understanding (MOU) between the Department of Transportation and the Critical Area Commission. Therefore, this project does not require formal Commission approval. Staff review is required and has been completed. I have outlined my comments below.

It is our understanding that there will be no addition of impervious area within the Critical Area portion of this project and within the 100-foot Buffer. Since only routine maintenance will be performed in the Critical Area, and the project will not increase the quantity or lessen the quality of runoff, this project meets the MOU referenced above. The project may proceed with construction, notwithstanding any other agency approvals.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Angela Willis, MDOT/SHA
Ms. Meg Andrews, DOT Commission Member

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 16, 2005

Ms. Cheril S. Thomas
Town of St. Michaels
P. O. Box 206
St. Michaels, Maryland 21663-0206

Re: Miles Point Property III – Growth Allocation

Dear Ms. Thomas:

At its meeting on May 4, 2005, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays acted pursuant to the Order of the Circuit Court for Talbot County in *Midlands Companies v. Maryland Department of Natural Resources,* No. 5088 (April 11, 2005). That Order directed the Commission to "consider and determine, on the basis of the existing record, whether the program amendment proposed by the Town of St. Michaels meets the criteria for an Intensely Developed Area." The court's Order required the Commission to act at its May 4, 2005 meeting.

Enclosed with this letter are: the circuit court's decision; the May 4, 2005 Report from the Panel considering the St. Michaels' growth allocation request; and the May 4, 2005 Decision of the Commission to approve the program amendment.

Please note that the Commission sought a stay from the Court of Special Appeals of the effective date of the Commission's decision to approve the program amendment. Pending the Court of Special Appeals' decision on that application, the Commission's Decision is stayed and is not effective.

If you have any questions, please contact our office at (410) 260-3460.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

Enclosures

cc: Mr. Michael Hickson, Town Attorney
Mr. George Kinney, Planning Officer Talbot County
Mr. Thomas Deming, Esquire
Mr. Richard DeTar, Esquire
Ms. Marianne Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 11, 2005

Mr. Michael Murray
Anne Arundel County
Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Paul Griffith Property - ADDENDUM
MS 04-123

Dear Mr. Murray:

I would like to provide additional comments on the above-referenced subdivision request. The last comment letter from this office is dated April 27, 2005. It is that letter to which I would like to add the following comments.

The location of the proposed dwellings on Lot 2 and Lot 3 will require a variance to permit a driveway access through the Buffer. It seems the applicant has the burden to show this would be the minimum variance necessary to allow resubdivision of the parcels. It appears the variance could be minimized if the driveway through the nontidal and tidal wetland buffers was only serving one new lot.

Has the applicant considered alternative locations for one of the dwellings? It appears existing parcel 2 has buildable area that would not require any variances. Please have the applicant indicate the reason for not selecting the alternative building area on existing parcel 2.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 777-04

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 11, 2005

Ms. Kathy Schatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Village at Lee Airport – Revised Plans
C 05-001

Dear Ms. Schatt:

I have received the revised plans and responses to my last letter dated February 9, 2005. Below are the comments concerning the latest information included with this submission.

1. The applicant is proposing to provide stormwater treatment at an adjacent location. This offset proposal is acceptable; however, the calculations provided on page 4 of Worksheet A are incorrectly calculated. Since some of the stormwater will be treated by the bioretention and then piped to a wet pond, the Lpost for the wet pond calculation needs to be adjusted to reflect this has been treated by the bioretention (subtract the LR from the bioretention from the Lpost of the wet pond to calculate the LR from the wet pond – 4.15- 0.39 = 3.76 Lpost). This will change the LR from .20 lbs to .18 lbs. The overall RR will still be met. Please have the applicant adjust these figures on Worksheets A and B where appropriate.

2. There is a label for an infiltration trench on some sheets and it is not clearly shown on others. On sheet 4 of 15 there is a note that references an aqua filter type structure. What is an aqua filter type structure? Please have the applicant clarify whether a infiltration trench is proposed on-site, or if some alternative Best Management Practice is proposed.

3. Since the date of our last comment letter, we received an environmental review letter from the Department of Natural Resources. This letter indicates that their database records indicate a record of a State-listed endangered plant species. Please instruct the applicant, if they have not already done so, to contact DNR to find out what the habitat of this species is so that a determination can be made as to whether this species may occur on this site (i.e. the RCA portion of the site in particular).

4. There are at least two proposed herbaceous plants that are considered invasive. They are the Giant Chinese Silver Grass and the Japanese Silver Grass. We recommend these be substituted for a native grass species. This office recommends the other non-natives in the plant list by replaced with native species.

5. There is an area in the Critical Area portion of the site that is labeled as a Reforestation Area of 2.76 acres. While it appears this area is being set aside to meet Forest Conservation Act requirements, we strongly recommend all plantings be native, and that coordination with DNR occur prior to final approval.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 52-05

Robert L. Ehrlich, Jr.
Governor

hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 10, 2005

Mr. Robert Tabisz
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Dominion Cove Point LNG LP
200562048/05-WL-1115

Dear Mr. Tabisz:

This office has received the Public Notice for the above-referenced project. As you are aware, some portions of this project are within the Critical Area. This office has no objection to the boring locations that are in the Critical Area. However, no new temporary or permanent access roads should be permitted within the 100-foot Buffer to tidal waters or tidal wetlands, or tributary streams. It appears that at least one access road is proposed along the Prince George's County side of the Patuxent River. The applicant should be advised that disturbance to the Buffer will need a variance from Prince George's County if on private lands, or will need a conditional approval from the Critical Area Commission if on State lands. Any required clearing in the Critical Area for access or boring locations will require replacement at a 1:1 ratio. Permanent impacts to the 100-foot Buffer may require mitigation.

Thank you for the opportunity to comment. Please include this letter as part of the public comments. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Kerrie Gallo, CAC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 11, 2005

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

Re: Town of Easton -Easton Village Buffer Management Plan and Delmarva Fox Squirrel Habitat Management Plan

Dear Mr. Hamilton:

At its meeting on May 4, 2005 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the Buffer Management Plan, which includes a Habitat Management Plan for Delmarva Fox Squirrel Habitat, with the following conditions:

1. Due to the presence of Delmarva Fox Squirrel habitat, within the 100-foot Buffer and 300-foot setback, the public trails on this site shall be constructed as follows:

    i. The trail that runs parallel to the shoreline shall be four to six-feet wide and shall consist of a mulch surface.

    ii. The trail in quad 3 that connects to the pedestrian bridge that will cross the Tred Avon River shall be no wider than the width of the bridge and shall not involve any clearing beyond the existing power line right-of-way. It may be constructed of a hardened surface.

    iii. The trail to the kayak/canoe launch in quad 6 shall be a maximum of six feet wide, and shall consist of a mulch surface.

    iv. The trail to the community pier, currently shown in quad 7, shall be a maximum of six feet wide and may consist of a hardened surface.

2. Upon completion of a sounding survey, the selected location of the community pier and the community kayak/canoe launch shall be submitted to the Critical Area Commission staff for review and approval in cooperation with the Maryland Department of the Environment.
3. A perpetual easement shall be established over the entire Buffer, including the 300-foot setback, except in quad 6 where the area is to be dedicated to the Town of Easton, and in quad 7 where the 300-foot setback does not apply.

In addition to the above conditions, Elm Street Development has provided an updated copy of the Buffer Management and Delmarva Fox Squirrel Habitat Management Plan, which will remain in our file. As you know, it outlines the specific details of these plans. When they become available, the applicant should furnish the Town and Commission staff with copies of the easement documents for the off-site and the on-site easements.

Thank you for attending the Project Subcommittee Commission meeting for this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Cherry Keller, USFWS
Mr. George Kinney, Talbot County
Mr. Mike Burlbaugh, Elm Street Development
Mr. Joe Stevens, Esquire

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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May 10, 2005

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Atlantic Marina Resort
200501168/05-WL-1513

Dear Mr. Cuthbertson:

I have received the above-referenced project to emplace 651 feet of stone revetment within a maximum of 15 feet channelward of the mean high water line. We defer to your office regarding the appropriate means for shore erosion control at this site.

All disturbance above mean high water (within the 100-foot Buffer) must be mitigated on an equal area basis. If the permit is issued, we recommend that all local approvals be obtained, including a Buffer Management Plan, if any disturbance or clearing above mean high water is proposed.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Jim Johnson, Anne Arundel County Forester
AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor

:hael S. Steele
Lt. Governor

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May 10, 2005

Mr. Robert Cuthbertson
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Alan Brocious
200561759/05-WP-1027

Dear Mr. Cuthbertson:

I have received the above-referenced project to emplace 88 feet of stone revetment within a maximum of 15 feet channelward of the mean high water line. If your office determines this site is a candidate for this type of shore erosion control, this office supports this request. Any vegetation cleared above mean high water (within the 100-foot Buffer) must be replaced on an equal area basis. If the permit is issued, we recommend that all local approvals be obtained, including a Buffer Management Plan, if any disturbance or clearing above mean high water is proposed.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Jim Johnson, Anne Arundel County Forester
AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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May 10, 2005

Ms. Elinor Gawel
Anne Arundel County
Office of Environmental and Cultural Resources
2664 Riva Road
Annapolis, Maryland 21401

Dear Ms. Gawel:

The Chairman of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays has determined that Anne Arundel County Council Bills 3-05 and 4-05 are amendments to the County's Critical Area Program. The public hearing is scheduled for Monday, May 23, 2005 at the Critical Area Commission offices at 7:00 p.m.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

:hael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 10, 2005

Mr. Michael Murray
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Beards Retreat, Slattery Property
S 02-041, P 02-088

Dear Mr. Murray:

I have received a set of revised Critical Area plans depicting additional areas set aside for reforestation. These areas total .55 acres of additional reforestation. In a conversation with Mr. Vernon Hustead of Sigma Engineering, he confirmed that all additional areas are currently not forested; therefore, this office has no further comments.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 282-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 10, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Simon Property - 05-005

Dear Ms. Stauss:

I have received the above-referenced variance request to permit the construction of a single-family dwelling and associated driveway within the 35-foot residential building setback. This office does not oppose this request given the relatively small buildable area remaining due to the all of the setback requirements on both lots. If the County determines this variance can be granted, we recommend mitigation as prescribed by County staff.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 294-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 10, 2005

District Engineer
US Army Corps of Engineers, Baltimore District
PO Box 1715
Baltimore, Maryland 21203-1715

Re: Kathy Piera – 05-61885-18

To Whom It May Concern:

I have received the above-referenced project to install a total of 2,050 linear feet of segmented stone sill segments, 566 linear feet of stone revetment and emplace 1518 cubic yards of clean sand behind the segmented stone sills and plant shoreline plants for the purpose of shore erosion control. We defer to your office and the Maryland Department of the Environment concerning the most appropriate means of shore erosion control for this site. Nevertheless, this office supports nonstructural methods of shore erosion control where they are appropriate.

Any vegetation cleared above mean high water (within the 100-foot Buffer) must be replaced on an equal area basis. If the permit is issued, we recommend that all local approvals be obtained, including a Buffer Management Plan, if any disturbance or clearing above mean high water is proposed.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Robert Cuthbertson, Maryland Department of the Environment
Mr. Jim Johnson, Anne Arundel County Forester
AA Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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May 9, 2005

Mr. John Wilson
Resource Planning
Department of Natural Resources
580 Taylor Avenue, E-4
Annapolis, Maryland 21401

RE: Franklin Point Master Plan

Dear Mr. Wilson:

At its meeting on May 4, 2004, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the Franklin Point Master Plan with the following conditions and recommendations:

The following are conditions of the approval:

Park Center

The entire footprint of the park center be outside the 100-foot Buffer, but may remain in the RCA since the building would be in the same general disturbance area.

Sculpture Barn

The footprint of the sculpture barn should be moved outside of the RCA and into the LDA.

Trails

1. Recommend trails be of a natural surface material (mulch).
2. Must maintain the tree canopy and understory.
3. Due to the FID habitat, no widening of the existing trails is permitted, except for clearing necessary for construction of crossings or as specifically approved by the Commission when construction is proposed.

4. The maximum width of the trail should be six feet or as specifically approved by the Commission.
5. Wetland areas should be avoided, but where they must be crossed a boardwalk should be used.
6. When the park plan or individual development projects comes back to the Commission for approval, the Commission understands they may include provisions for ADA–type access and will take it into consideration at that time.
7. The location and maintenance of the trail that passes through the rare plant habitat shall be coordinated with DNR.

Observation Platforms

The observation platforms be no larger than 10' x 10' in size.

Ballfields

There shall be no development of ballfields or any parking areas on wetlands on this site.

The following are recommendations proposed by the panel:

Septic System

Recommend the County utilize the latest nitrogen removal technology for the septic systems that will be necessary on this site to support the park center and barn.

Stormwater

Recommend that innovative stormwater management design be utilized on this site and used for public educational purposes.

Green Building Design

Recommend the County incorporate elements of green building technologies in the construction of the park center and barn.

Shoreline Erosion

Recommend DNR include language in the transfer documents for the County to address shoreline erosion.

It is our understanding the next step is to seek approval from the Maryland Board of Public Works for the transfer of this property from the State of Maryland to Anne Arundel County. The above conditions and recommendations should be included in the transfer documents.

Thank you and your staff and the County staff for your cooperation and for attending the public hearing, panel meeting and Commission meeting last Wednesday. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Jack Keene, A.A. Co. Recreation and Parks
Ms. Elinor Gawel, A.A. Co. Office of Environmental and Cultural Resources

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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May 5, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Edwards Property - 05-002

Dear Ms. Stauss:

I would like to take this opportunity to provide final comments on the above-referenced variance request. Based on your analysis of this site it appears protecting the 100-foot Buffer to Frog Mortar Creek is preferred over shifting the dwelling further outside the nontidal wetland. This office is in agreement with that position. The remaining comments below still apply, which I outlined in my last letter dated February 28, 2005.

1. The applicant should demonstrate that authorization from the Maryland Department of the Environment is being sought.

2. We recommend mitigation in the form of native Buffer plantings at the ratio prescribed by the County.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 106-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 5, 2005

Mr. Tom Panzarella
Baltimore County DEPRM
401 Bosley Avenue, Suite 410
Towson, Maryland 21204

Re: BGE Substation Resubmittal

Dear Mr. Panzarella:

Thank you for forwarding the resubmittal documents for this site. Since our review of those documents, this office had the following comments:

1. The applicant should provide the County with the drainage areas on site so the County can make a determination that the percentage of drainage areas served by the Best Management Practices are correct.

2. The mean high water line shown on the plan submitted was shown at the five-foot contour and did not appear to follow the contour lines. We recommended to your office that the applicant show the County a more accurate delineation of the mean high water line.

3. There was a faint line shown on the plan that was not clearly labeled. We recommended that the applicant clarify the meaning of this line.

Based on our telephone conversation this morning, it appears the applicant has addressed all of the above-comments to the satisfaction of DEPRM staff, and the comments of my last letter dated March 16. 2005; therefore, this office has no further comments.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 168-05

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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May 5, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Shining Star Baptist Church

Dear Mr. Shaffer:

This office has received your request for comments on the above-referenced variance application to permit greater impervious surface then permitted on an existing parcel. The applicants propose to expand parking facilities and expand an existing church. I have outlined my comments below.

1. It is our understanding you have worked with this applicant to minimize impervious areas and this site is constrained; nevertheless, this office will be unable to support any additional impervious surface variances, and any additional impervious surface requests should not be granted without growth allocation being awarded to this parcel.

2. If the County determines this variance can be granted, we recommend mitigation as prescribed by County staff.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 145-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 27, 2005

Mr. Michael Murray
Anne Arundel County
Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Paul Griffith Property
MS 04-123

Dear Mr. Murray:

I have received the site plan and plat for the above-referenced subdivision request. The applicant addressed the comments of my last letter dated December 8, 2004. I have outlined my remaining comments below.

1. Prior to final recordation, the County must make a determination that the reconfiguration of these existing, legal parcels is brought into conformance insofar as possible. This is a requirement of the Code of Maryland Regulations 27.01.02.07 B (2) (a). While the applicant's response is that it is accomplished, the County must determine whether the creation of two new riparian lots, that were otherwise not riparian, meet the insofar as possible standard.

2. In addition, the proposed plan indicates a 20-foot wide use-in-common access easement through nontidal wetlands to the shoreline, which did not exist prior to this subdivision proposal. How does this meet the insofar as possible standard?

3. The label, "expanded 100-foot Buffer" should be added to the plan in those areas where it is applicable. For example, the area where the 25-foot nontidal wetland buffer and the 100-foot Buffer coincide should include this label.

4. The Critical Area Note and General Note #6 are inconsistent with regard to which Critical Area designation applies to this site. It is our understanding this site is entirely within the Resource Conservation Area (RCA). Please have the applicant verify and correct this item.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 777-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 22, 2005

Mr. Charles Steen, Chief, Airfield Design
Maryland Aviation Administration
Division of Engineering
P.O. Box 8766
BWI Airport, MD 21240-0766

Re: Martin State Airport - Aircraft Refueling Station

Dear Mr. Steen:

This office is in receipt of the above-referenced project at Martin State Airport. Based on the type of development activity proposed, Commission staff has determined that this project qualifies under Code of Maryland Regulations Title 27.02.03, General Approval of State Agency Programs, and subsequently, the Memorandum of Understanding between the Maryland Aviation Administration and the Critical Area Commission. Therefore, this project does not require formal Commission approval. Staff review is required and has been completed. I have outlined my comments below.

I have had the opportunity to visit the site with your environmental consultants and have reviewed the proposed plans. Since the Commission considers the Martin State Airport site to be in an area of intense development, the 10% Pollutant Removal calculations were performed. The removal requirement calculated is .10 pounds of phosphorus per year required for removal. Your agency proposes to address this removal requirement using a sand filter design. Commission staff have reviewed the most recent plans received, dated April 20, 2005, and concur that this design will meet the removal requirement within .01 pounds.

Since all requirements have been met, the proposed aircraft refueling station is consistent with the Memorandum of Understanding, and the Maryland Aviation Administration may proceed with construction, notwithstanding any other agency approvals.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Meg Andrews, DOT Commission Member
Mr. Greg Frederickson, Michael Baker, Inc.
Mr. Marshall Davidson, Straughan Environmental Service, Inc.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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Chairman

Ren Serey
Executive Director

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April 21, 2005

Ms. Elinor Gawel
Anne Arundel County
Office of Environmental and Cultural Resources
2664 Riva Road, MS 6402
Annapolis, Maryland 21401

Re: Anne Arundel County Council Bills 3-05 and 4-05

Dear Ms. Gawel:

This office has received County Council Bills 3-05 and 4-05. It is our understanding that the purpose of these bills is to comprehensively reorganize the County's current Zoning and Subdivision ordinances. The Critical Area Commission is today accepting these bills 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) 260-3478.

Sincerely,

Lisa A. Hoerger
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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April 19, 2005

Ms. Patricia Farr
Baltimore County DEPRM
401 Bosley Avenue, Suite 410
Towson, Maryland 21204

Re: Alternatives Analysis – Holly Neck Partnership, LLC

Dear Ms. Farr:

This office is in receipt of the above-referenced Alternatives Analysis application for review and comment. The applicant proposes the Alternatives Analysis to address the following issues: relocating existing driveways, locating new stormwater management facilities, expansion of a public right-of-way, locating pedestrian trails, and relocating existing and new utilities. I have outlined my comments below.

It is our understanding that the Alternatives Analysis process is reserved for various types of infrastructure improvements. From a review of the application, it appears that the development activities that require an Alternatives Analysis review are either within the County's required 300-foot buffer or are within the 100-foot Buffer. Since the 300-foot buffer is a requirement of the Baltimore County Code, and is not a requirement of the State Critical Area Criteria or Law, this office will defer to DEPRM on those development activities that affect those areas.

In regard to those activities that may affect the 100-foot Buffer, like the relocation of existing driveways, utilities, and the pedestrian path, this office has the following comments.

1. The relocation of existing driveways that may impact the 100-foot Buffer should be located so that the future location is the minimum disturbance necessary, and if possible, creates less impervious area that the existing driveway. Since there are existing driveways in the 100-foot Buffer, merely relocating these driveways in a way that minimizes disturbance is not contrary to the Baltimore County Critical Area program goals. In fact, our review of the plan suggests the alternative driveways do reduce overall disturbance and impervious area.

2. Utilities in the 100-foot Buffer are permitted to the extent that their relocation may result in adverse environmental impacts. Since all of the proposed units and street systems are located outside the 100-foot Buffer, it seems that most of this activity will be limited to the County's required 300-foot buffer.

3. The Commission encourages public access to the shoreline, especially in Intensely Developed Areas (IDAs). The Commission's guidance paper provides width and surface recommendations for public walkways that may be located within the 100-foot Buffer. Nevertheless, Commission staff routinely recommends the minimum width necessary, which generally is six feet wide. Pervious materials are also recommended. From the plan provided, I was unable to scale with accuracy the exact location of the proposed pedestrian trail from the shoreline. It appears to be either just at 100-feet or just beyond it.

4. Stormwater outfalls are considered water-dependent; therefore, any outfalls that may encroach into the 100-foot Buffer are permitted.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for the Alternatives Analysis application. Please notify this office of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 160-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 19, 2005

Ms. Carolyn Clarke
8820 Avenue B
Baltimore, MD 21219-2408

Dear Ms. Clarke:

I would like to take this opportunity to respond to your letter to our office requesting assistance with some drainage problems from an adjoining property and with some shore erosion control concerns. The issues you raise are important ones. However, our office is unable to provide this type of assistance to landowners. In these types of cases, our office refers citizens to the local government agencies responsible for overseeing these inquiries.

Your letter was forwarded to Mr. Glenn Shaffer of the Baltimore County Department of Environmental Protection and Resource Management (DEPRM). Once the County had a chance to receive your letter and investigate your issues, I was able to speak with Mr. Mike Moorefield of DEPRM's Inspections and Enforcement Division. Based on our conversation, it is my understanding that his agency and the Soil Conservation Service have investigated the adjoining property and the drainage issues you have raised and have confirmed that the adjoining farm has an approved Soil Conservation Plan. It is also my understanding the County has offered free engineering assistance. I would encourage you to continue to work with these agencies that have offered this assistance for a solution. DEPRM's telephone number is (410) 887-3980. The Soil Conservation District telephone number is (410) 666-1188.

In the case of your shore erosion issues, it is the responsibility of the individual landowner to contain any shore erosion on their waterfront properties. The Department of Natural Resources (DNR) is able to provide both technical assistance and low interest construction loans to property owners seeking assistance. For more information on assistance with shore erosion control issues, I recommend that you contact Mr. Tom Brower of DNR at (410) 260-8525.

Thank you for your letter, and your concern for the Chesapeake Bay. I hope this information proves helpful to you.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Glenn Shaffer, DEPRM
Mr. Mike Moorefield, DEPRM
Mr. Tom Brower, DNR

Robert L. Ehrlich, Jr.
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Michael S. Steele
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April 18, 2005

Ms. Amy Moredock
Kent County Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: William & Arlene Kraft – 05-44

Dear Ms. Moredock:

I have received the above-referenced variance request for review and comment. The applicants propose to remove an existing dwelling and replace it within the 100-foot Buffer. Provided this lot is properly grandfathered, this office does not oppose this request. I have outlined my comments and recommendations below.

While I have not had the opportunity to visit this site; it is my understanding that the site is completely within the 100-foot Buffer due to the shoreline of the creek and an adjacent wetland; therefore, the only opportunity to minimize impacts is to keep the footprint as close to the original footprint as possible. It appears the applicant has kept the footprint to a minimum.

This office does not oppose the requested variance provided the County is satisfied that the applicant can demonstrate minimization. If the Board of Appeals finds the applicant is entitled to relief we recommend the applicant provide mitigation at a 3:1 ratio 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 variance. Please notify the Commission in writing of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: KC 251-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 18, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Tanyard Cove North
S 90-210, P 05-062

Dear Mr. Callahan:

I have received the sketch plan for the above-referenced subdivision request. The applicant proposes to create a Planned Unit Subdivision in the Limited Development Area (LDA) portion of this parcel. This sketch plan review is for Tanyard Cove North, and it is our understanding Tanyard Cove South will be separately submitted for review and comment. I have outlined my comments below.

1. The development areas appear to be in the same general location as that proposed in a plan dated February 4, 2004 for the purpose of calculating Forest Interior Dwelling Bird habitat; therefore, it appears the location of the development still meets the FID guidelines and provided it stays in this general location, mitigation for clearing remains at a 1:1 replacement ratio by creating new FID habitat.

2. There are two stormwater management ponds (#3 and #4) that are proposed partially inside the Resource Conservation Area (RCA). Since these ponds are associated with the LDA development of the parcel, their location must also be wholly within the LDA. These facilities are considered development activities like the residential units whose location would similarly not be permitted in the RCA, density issues notwithstanding. If these facilities remain in the RCA, this site will need growth allocation.

3. Proposed units or lots 101,102 and the end of "Road H" are also proposed inside the RCA. These lots and road area must also be wholly inside the LDA for the reason described above.

4. The final plat and development plans should include the total allowable and proposed impervious area for the site (on a lot-by-lot basis, if necessary), and the total clearing figure.

5. We recommend a note for the final plat and plans that indicate the limits of the forest conservation area. We recommend a fence or signs be posted along the rear of those units or lots that will border the conservation areas.

6. We note that there are proposed active recreation areas outside the Critical Area. Are there any proposed recreation areas inside the Critical Area? If so, they should be labeled active or passive since the County's Critical Area regulations in Article 28 only permits passive recreation areas in the RCA.

7. Please have the applicant provide the updated Environmental Review statement from the Department of Natural Resources when it becomes available.

8. According to the notes, it appears the wetlands have been field located and confirmed by the U.S. Army Corps of Engineers. Please have the applicant confirm this information.

9. Have all streams that are on the parcel been shown on the plan, regardless of whether the U.S. Army Corps of Engineers did not recognize them as "Waters of the U.S." for regulatory purposes?

10. On the Sketch Plan on sheet 15 of 21, there appears to be a labeling error near the top right-hand side of the page. The Critical Area boundary is shown with the Critical Area designation as RCA; however, it appears this is LDA. Please have the applicant check this item.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 118-04

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 18, 2005

Ms. Kathy Schatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Beards Retreat, Slattery Property
S 02-041, P 02-088

Dear Ms. Schatt:

I have received another set of revised plats and plans for the above-referenced subdivision request. The applicant has addressed the comments of my last letter dated February 8, 2005. I have reviewed the revised materials and have no remaining comments.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 282-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 15, 2005

Mr. Milt McCarthy
McCarthy & Associates, Inc.
14458 Old Mill Road, #201
Upper Marlboro, MD 20772

Re: Letter of Authorization 04-NT-0155/200463041
Crystal Glen (Chesapeake Custom Homes) - Anne Arundel County, Maryland

Dear Mr. McCarthy:

At your request, the Commission's Science Advisor, Ms. LeeAnne Chandler, visited the above-referenced site with me today to make a determination as to whether the ditch shown on plan sent to this office was a roadside drainage ditch or a tributary stream subject to additional regulations by Anne Arundel County's Critical Area program. This office's determination regarding this specific ditch is that it is a roadside ditch and is therefore not subject to the 100-foot Buffer criteria found in the County's Critical Area program.

Please be advised that this determination was for a specific ditch referenced on a site plan provided to this office by your company. Determination such as this for other sites in the Critical Area would be required on a case-by-case basis; therefore, this letter does not confer a blanket assumption that all ditches can be assumed to be roadside ditches not requiring a 100-foot Buffer.

Thank you for your patience in awaiting our response. Please do not hesitate to contact us at (410) 260-3460 if you have any questions.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. LeeAnne Chandler

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 14, 2005

Mr. Steve Callahan
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Gerald Plaza Estates - S 83-073, P 04-101

Dear Mr. Callahan:

I have received a resubmittal of the final plans. The applicant has addressed the comments of my last letter dated December 16, 2004. I have outlined my remaining comments below.

I discovered one minor addition error on the "Critical Area Computations" concerning the total Critical Area. I get 709,810 square feet instead of 709,820 square feet. This figure shows on the Forest Conservation Plan, the plat and the Final Development Plan. It appears all other figures concerning allowable impervious surfaces and clearing have been corrected.

In regard to my comment concerning the lots not include the conservation areas, if the County is satisfied with an easement on those lots in the Critical Area that include the conservation areas, we will accept that response.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Philip C. Jimeno
The Honorable Joan Cadden
Mr. Frederick W. Hager, Citizen
AA 695-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 14, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: David McCollough
MS 05-031

Dear Mr. Callahan:

I have received the above-referenced request to subdivide an existing parcel into two residential lots. It appears the Critical Area portion of this parcel, and the 300-foot Limited Activity Area of a Bog Protection Area are located on the rear of the parcel. Our recommendation is that the entire rear portion of the parcel that is within the Bog Protection Area and the Critical Area be placed in a permanent conservation easement, and used for any required reforestation. We recommend deed restrictions or covenants be recorded to state this is a perpetual easement and no clearing or disturbance of any kind is permitted.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 234-05

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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April 14, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Cole Property
MS 04-100

Dear Ms. Krinetz:

I have received a resubmittal for the above-referenced subdivision request. As stated in our last comment letter dated December 29, 2004, it appears the applicant has addressed all previous comments with the exception of the updated information from the Department of Natural Resources regarding the rare species issue. Once that information becomes available, please forward a copy to this office.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 637-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 14, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Johlitz Property
05-004

Dear Ms. Stauss:

I have received the above-referenced request to permit a single family dwelling within the 100-foot Buffer to Seneca Creek. Provided this lot is properly grandfathered, this office has no objection to the granting of a variance for a single family dwelling. However, based on the information provided, it appears the applicant performed several unauthorized development activities on this lot that include clearing of native vegetation, installing six parking spaces at the water's edge, and siting a shed on the property. I have outlined my comments and recommendations below.

1. The photographs submitted show those activities not permitted by DEPRM, and in the case of the riprap, the State of Maryland must also permit this activity. Therefore, this office recommends that if the variance to construct the dwelling is granted, the applicant restore the area that is currently in gravel parking, and remove the unauthorized riprap if County staff determine a non-structural method of shore erosion control is appropriate.

2. We recommend removal of the parking area since it appears, based on the photographs, site plan, and aerial photograph, that parking can be accommodated in a less intrusive area and with less impacts. The photographs show what appears to be six parking spaces, which can be limited to two.

3. The aerial photograph suggests, and the applicant's narrative indicates, the lot supported native vegetation that was cleared without DEPRM authorization. We recommend the area be restored to the extent possible, given the size of the lot.

4. If the variance for the proposed dwelling is granted, which this office supports, we recommend mitigation as prescribed by the County.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 250-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 13, 2005

Mr. Darin Bryant, P.E.
Project Manager
T. Y. LIN International
5285 Shawnee Road, Suite 210
Alexandria, Virginia 22312

Re: Anacostia Riverwalk Trail - Bridge Concept Report
Design Section 1 and Section 3

Dear Mr. Bryant:

Thank you for forwarding the Bridge Concept Report and subsequently the Wetland Investigation Report for the Anacostia Riverwalk Trail project. The wetland report proved helpful in determining where the existing wetlands were located in relation to the proposed trail location. As you may recall, our office has jurisdiction inside the Chesapeake Bay Critical Area in the Maryland; therefore, any portion of the trail above New York Avenue Bridge is within our area of review. I have outlined my remaining comments below.

1. The wetlands north of the New York Avenue Bridge are wetlands identified as WP019a, WL019, and WL020. According to Figure 6, the Wetlands Location Map, the trail will impact WP019a and WL020. It is unclear whether the portion of the trail that passes WL019 will impact the 25-foot nontidal wetland buffer.

2. It seems that moving the trail further out of WP019a will push the trail into the 100-foot Buffer to the Anacostia River. Has the routing of the trail behind this wetland area been explored? If so, what are the limitations of this route?

3. Any disturbance to the nontidal wetland or its 25-foot buffer may require mitigation from the Maryland Department of the Environment. As suggested in previous correspondence, this agency should be consulted concerning these impacts.

4. Any impacts to the 100-foot Buffer to the Anacostia River require mitigation at a 3:1 ratio. Mitigation is in the form of native Buffer plantings on site where possible. If on-site locations are exhausted, then off-site locations may be considered.

5. The same mitigation requirements will be required for the other wetland impacts to WL020.

6. Any forest cleared outside the wetlands should be replaced at a 1:1 ratio on site.

7. The width of the proposed alternative appears to be 14 feet. It is our understanding the MNCPPC trail will be a maximum of 12 feet. Since the MNCPPC portion of the trail will require Commission approval, the MNCPPC must demonstrate to the Commission that 12 feet is necessary; however, it is possible that final Commission approval could result in a different width. We recommend you continue to coordinate with MNCPPC regarding their trail width and construction materials.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Eileen Nivera
FED/NPS

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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April 13, 2005

Mr. Darin W. Bryant, P.E.
Project Manager
T.Y. Lin International
5285 Shawnee Road, Suite 210
Alexandria, Virginia 22312

Re: Anacostia Riverwalk Trail
90% Plan Submission, Design Section 2

Dear Mr. Bryant:

Thank you for providing this office with the 90% design for Section 2 of the Anacostia Riverwalk Trail. Since this section of the trail is not in Maryland's Critical Area we have no comments, and will not be attending the April 20, 2005 meeting.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to telephone me anytime at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
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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April 11, 2005

Mr. Nathaniel K. Brown
Maryland Port Administration
Maritime Center II
2310 Broening Highway
Baltimore, Maryland 21224-6621

Re: Cox Creek DMCF – Unloading Pier

Dear Mr. Brown:

Thank you for sending this office a copy of the final stormwater and sediment and erosion control permit for the above-referenced project. It appears the Port Administration has met the conditions of the Commission's December 1, 2004 approval; therefore, commencement of construction may proceed. In conjunction with the impervious removal requirements, please alert this office when this is completed.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: DOT/MPA 8-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 11, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Chu Property, 05-006

Dear Ms. Stauss:

I have received the above-referenced variance request to permit the construction of an addition to an existing garage within the 35-foot residential building setback. This office does not oppose this request given the location of the existing structure and the zoning setbacks from the road. If the County determines this variance can be granted, we recommend mitigation as prescribed by County staff.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 216-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 5, 2005

Mr. Paul Dennis
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Bear Creek Development

Dear Mr. Dennis:

I have received the preliminary stormwater management report and hydrologic map for the above-referenced subdivision request. It appears the other issues outlined in this office's last comment letter dated July 8, 2004 still remain outstanding with this submission. This office will provide comments on a revised plan when it becomes available. In the meantime, I have outlined my comments below concerning the stormwater management information.

1. The applicant correctly calculated the removal requirement based on the .77 acre development site; however, the applicant claims there is no opportunity to provide a best management practice on this site due to a high water table and is requesting the use of an offset.

2. The applicant should provide the County with supporting documentation to request an offset since the stormwater management report does not include this information.

3. The second set of 10% calculations performed was completed to determine the feasibility of providing an offset. The applicant should use Worksheet B instead of Worksheet A to calculate the total load removed for an offset. Please have the applicant provide Worksheet B to address load removed from the proposed offset.

4. The total load removed on Worksheet B must be equal to or greater than the removal requirement from Worksheet A for the original site (in this case the RR = .75 lbs.).

5. Provided there are no feasible options for treating stormwater on-site, and the County concurs, this office will accept an offset as an alternative.

6. The proposed alternative location may present issues for the County by either eliminating an existing recreational field, or disturbing a wetland area.

7. Is the location of the offset on County property, or does the applicant own this area? If County-owned, it seems the County must concur with the use of these locations.

8. If the County concurs this location is acceptable as an offset for this project, we recommend that the issue of long-term maintenance be addressed.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 440-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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April 5, 2005

Ms. Patricia Farr
Baltimore County DEPRM
401 Bosley Avenue, Suite 410
Towson, Maryland 21204

Re: Variation of Standards - Holly Neck Partnership, LLC

Dear Ms. Farr:

This office is in receipt of the above-referenced Variation of Standards application for review and comment. The applicant proposes encroachment into the 35-foot setback to the 100-foot Buffer to tidal waters and tidal wetlands, and proposes encroachment into the 100-foot buffer to a nontidal wetland. I have outlined my comments below.

It is our understanding that items processed through the Variation of Standards process are typically items that do not go through the Administrative Variance process, but instead are reviewed by the Planning Board. From a review of the application, it appears the Variation of Standards being sought are setback requirements from the Baltimore County Code, and are not requirements of the State Critical Area Criteria or Law. These setback requirements are in addition to that required by State Law. Therefore, this office will defer to the local Planning Board for its consideration of the proposed Variation of Standards application.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for the Variation of Standards application. Please notify this office of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 160-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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April 1, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: North Beach Resubdivision - Holland Point, LLC
S 04-068, P 05-050

Dear Ms. Krinetz:

I have received the above-referenced resubdivision request for review and comment. The applicant proposes to resubdivide numerous lots into 20 lots. I have outlined my comments below.

1. It appears the lots have been resubdivided so that they are situated in upland areas and near the edge of existing forest, and it is our understanding the remaining lots owned by Holland Point, LLC would be placed in a conservation easement. This conservation easement should be a perpetual easement.

2. The letter from the Department of Natural Resources (DNR) indicates the site contains Forest Interior Dwelling Bird (FID) species and may support habitat for Long-awned Diplachne. The DNR recommends a 100-foot buffer around wetlands on this site. Since most of the development is not outside a 100-foot buffer from the wetlands, we recommend further coordination with DNR.

3. Since the rear of many of these lots includes the minimum 25-foot nontidal wetland buffer, we recommend these areas be clearly marked and the final plat includes notes prohibiting further clearing or development activities on these portions of the lots affected.

4. Provided the proposed clearing for the lots will be no further than 300-feet inside the existing forest edge, the FID guidelines are met; however, mitigation for clearing should occur at a 1:1 ratio, and if planted, should be creating new FID habitat.

5. The final plans should indicate the allowable impervious surface for each lot and the allowable clearing. We recommend this information be provided in a table.

6. The driveway to proposed lot 15 is inside the required 100-foot Buffer to the tidal wetlands. This will require a variance.

7. A note should appear on the final plat indicating the location of the 100-foot Buffer from the tidal wetland for those lots that border the tidal wetland area.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 200-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 28, 2005

Mr. Steve Callahan
Anne Arundel County Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: The Villas at Severna Park (Formerly Sonneborne Land) - S 01-038, P 04-086

Dear Mr. Callahan:

I have received another set of the revised plans and plat for the above-referenced subdivision request. I have outlined my comments below:

1. How will future homeowners accommodate decks and patios given the small LCE area on each site?

2. It appears the sidewalk along one side of Manhattan Beach Road was added to the impervious surface table on the plat, but was not included in the total. Please have the applicant amend his total in that column to read 7,678 square feet.

3. The sidewalk information did not make it on impervious table on the plan sheet. Please have the applicant amend the table to include the sidewalk and the adjusted total.

4. It appears the letter from the Department of Natural Resources is still pending. Please forward a copy when it becomes available.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 347-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 24, 2005

Mr. Keith Ramsay
Rummel, Klepper, & Kahl, LLP
81 Mosher Street
Baltimore, Maryland 21217-4250

Re: MdTA Contract # MA 258-000-002/6 (Formerly Redline Revision #6)
Bay Bridge Toll Plaza Widening

Dear Mr. Ramsay:

Thank you for forwarding the revised set of plans and the MDE approval letter dated February 17, 2005. This satisfies the outstanding condition of your December 2004 approval; therefore, provided no other MDE approvals are required the project may proceed.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Robert Anderson, MdTA
Ms. Sarah Williamson, Coastal Resources

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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March 24, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Mill Creek Landing - MS 04-105

Dear Mr. Callahan:

I have received a revised plat and plan all dated March 2005 for the above-referenced subdivision request. In discussions with your office and the applicant's representative, it appears the applicant has addressed the comments of my last letter dated December 15, 2004; however, I have a few remaining comments, which I have outlined below.

We continue to recommend removal of the nonconforming structure that is inside the 100-foot Buffer. Our position is that creation of new lots requires conformance to all County Critical Area regulations, including maintaining or enhancing the 100-foot Buffer. We understand this applicant does not create more lots than was otherwise existing, however, the new configuration creates additional riparian access that previously did not exist. This creates five new access paths and potentially five new piers; therefore, the structure should be removed in keeping with the spirit and intent of the County's Critical Area regulations concerning the Buffer.

The four access ways shown for lots 1-4 appear to have landings, which we recommend be removed from the plans and plat. Only stairs should be provided, where necessary, for riparian access.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 659-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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March 24, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Coxby's Estates, Section 3 Revision of Lot 23
S 95-030, P 04-165

Dear Ms. Krinetz:

I have received another revision to the above-referenced project. This revision shows the building envelope in the center of lot 23. As you may know, the site supports Forest Interior Dwelling Bird (FID) habitat, and this was the subject of many of our discussions with the previous applicant when the subdivision was first platted. The location of the platted LOD for lot 23 was purposefully sited not just because of the stream issue, but primarily because of the FID issue on this site.

Therefore, it is our recommendation that the County require the applicant to submit a FIDs analysis based on the Commission's FID Guidance Document, which Anne Arundel County has used on past projects to determine whether this proposal adequately protects FID habitat. This analysis should be submitted to County staff and reviewed using in-house expertise to determine the validity of the results. If necessary, Commission staff will provide the County with assistance in that review.

Based on previous LOD locations on this lot in the initial subdivision review stage, it is our position that this LOD location will likely not meet those guidelines and will therefore result in FID mitigation that the applicant should be prepared to provide prior to final plat approval. When a site does not meet the guidelines, FID mitigation is much greater than the usual forest replacement mitigation.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Ed Brown
Mr. Milt McCarthy
Kathy Schatt
AA 238-99

Robert L. Ehrlich, Jr.
Governor

chael S. Steele
Lt. Governor

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March 24, 2005

Mr. Jim Stasz
Maryland National Capital Park and Planning Commission
Natural Resources Division
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: Conservation Plan CP-04021 - Tantallon on the Potomac

Dear Mr. Stasz:

Thank you for forwarding the conservation plan and site plan for the above-referenced project. It is our understanding the applicant seeks a variance to the County's impervious surface requirements, and has subsequently secured that variance from the Prince George's County Planning Board.

While we recognize the Board's Resolution indicates written approval is required from this office prior to final signature approval, we would like to clarify that this office does not issue approvals for variances. We typically review and provide written comments to local governments prior to the local government's final decision. In that regard, I have outlined our comments and recommendations below.

The applicant has requested an impervious surface variance to permit 4,328 square feet in lieu of the maximum permitted under Section 27-548.17 of the Subdivision Regulations. Since the lot is 23,974 square feet the Subdivision Regulations would permit 15% impervious cover or 3,596 square feet.

As you are aware, the State Law permits lots between 21,781 square feet and 36,300 square feet to have a maximum of 5,445 square feet of impervious cover; however, Prince George's County's current ordinance language does not permit this additional increase in impervious area for lots of this size. While it is unclear whether the County has purposely excluded this language, or intends to include it in the future, the staff report indicates support of the application. This office concurs and also does not oppose the requested variance.

Thank you for the opportunity to comment. Please include this letter in your variance file. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: PG 192-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 24, 2005

Mr. Calvin D. Farr, Jr., PE
URS Corporation
Montgomery Park Business Center
1800 Washington Blvd., Suite 320
Baltimore, Maryland 21230

Re: Patapsco Interceptor

Dear Mr. Farr:

Thank you for arranging the field visit to the above-referenced project. I would like to take this opportunity to provide you with some preliminary feedback from the Critical Area Commission staff concerning various elements of your project.

1. It appears that the total area of your project is only partially inside the Critical Area. Based on the maps in our office and that of the Baltimore County Department of Environment and Resource Management (DEPRM), it appears the 1,000 foot Critical Area boundary lines extends from the eastern portion of your project to approximately where it intersects with I-695. Therefore, all proposed development activities west of I-695 are not in the Critical Area and will not require review and approval by the Commission.

2. For those portions of the project inside the Critical Area, I will need the followed information:

   Total square footage of area cleared.
   Total square footage of area graded.
   Total square footage of road area.
   The 100-foot tidal Buffer delineated on the plan sheets.
   For those areas where hydric soils are contiguous with the 100-foot line, the Buffer should be expanded to the edge of those hydric soils.
   The limits of the 1,000-foot Critical Area boundary should appear on Sheet 8.

3. Since some of the proposed road alignment is within the 100-foot Buffer to the Patapsco River all disturbance will require mitigation. A 3:1 mitigation ratio will be required for all disturbance.

4. As discussed in the field today, timber mats as an alternative to crusher run may be the preferred method for truck access for this project. Please continue to consider this option in consultation with the Army Corps of Engineers and the Maryland Department of the Environment reviewers.

5. Please provide us with a copy of the survey your office performed for the Swamp Pink, and include any verification received from the Department of Natural Resources.

6. The issue of Forest Interior Dwelling Bird (FID) habitat may require further review. Any forest removed in a FID habitat will require mitigation that creates new FID habitat; therefore, please inform us as soon as possible of potential sites for replanting. This information should be known prior to approval by the Critical Area Commission.

7. The proposed clearing and construction must take place outside the FID breeding season, which can vary from February-April through August.

8. Every effort should be made to maintain canopy closure along those areas of the roadway that currently have canopy closure.

9. The impacts to the nontidal wetland and their associated 25-foot buffers, including any required mitigation, will be handled by the Corps and MDE reviewers.

10. All other permits, including sediment and erosion control and stormwater management must be secured prior to Commission approval.

11. Appropriate stormwater management measures should occur along the roadway. Please provide us with those plans.

12. All permits and required information must be submitted to Commission staff a minimum of 30 days prior to the next meeting of the Critical Area Commission. The Commission meets the first Wednesday of each month. If you have any questions about scheduling your project for Commission review and approval, please contact me at anytime to discuss it.

Thank you again for arranging the site visit. Please telephone me with any questions or concerns at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Abby Hopkins, ACOE
Mr. Aaron Brown, MDE
Mr. Gary Burnett, DNR
Mr. Dave Lykens, Balto. Co. DEPRM
BC 32-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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Chairman

Ren Serey
Executive Director

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March 24, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley, Suite 416
Towson, Maryland 21204

Re: Eric and Kimberly Hrica
6900 Circle Road

Dear Mr. Shaffer:

I have received the above-referenced appeal to the Department of Environmental Protection and Resource Management's decision to deny a variance to locate a swimming pool in the 100-foot Buffer. The property is .78 acres in size, is designated as a Limited Development Area (LDA), and is currently developed with a principle dwelling, porch and shed. I have outlined our comments below.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the 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 County 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 800 square feet of new impervious surface within the Buffer for a swimming pool. Because pools are accessory structures, not permitted in the Buffer, the applicant must present competent and material evidence to show that he meets the burden of proof on each of the variance standards described below. Under the law as established by the General Assembly, even if there is nowhere else on the lot to site the proposed 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 County's variance 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 the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information in our file, we do not believe that 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. The applicant stated that neighbors who have waterfront property have a swimming pool, but offer no evidence as to when that pool was permitted. Certain structures that existed prior to December 1, 1985 or the effective date of the Baltimore County 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 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. To grant a variance to place new impervious surface in the 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 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 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 and supplemental information from County staff, it is our understanding this variance request is not based upon conditions or circumstances that are a result of actions by the applicant, 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 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. It appears that five trees need to be removed in order to construct the pool, and 800 square feet of new impervious surface would be permanently placed within the Buffer. This new impervious surface area and consequential disturbance to the land 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. Given that the 100-foot Buffer is currently forested, 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 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,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Marianne Mason, Assistant Attorney General
BC 148-05

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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CHESAPEAKE AND ATLANTIC COASTAL BAYS

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March 23, 2005

Mr. Michael Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Lakes at Stansbury Shores
Schaefer Industries

Dear Mr. Kulis:

This office is in receipt of the subdivision and variance plan for the above-referenced project. The applicant proposes to create 149 units by constructing a combination of single family and condominium residences. The variance requests involve disturbance to the 25-foot nontidal wetland buffer, a building setback for a condominium unit, and for greater slips at a community marina than permitted. Based on our site visit to this property on March 10, 2005, and the information provided in the submittal package I have outlined my comments below.

Subdivision

1. The applicant has provided the letter we requested from the Department of Natural Resources, and a letter from the U.S. Fish and Wildlife Service. It appears there are no known threatened or endangered species on this site; however, the U.S. Fish and Wildlife Service has requested avoidance of wetland impacts given the Chesapeake Bay Program's goal of no net loss of wetlands.

2. The information on the plans regarding total developed woodlands is 49,687 square feet. I calculate the plans showing 47,957 square feet of developed woodlands. Please have the applicant recheck these figures.

3. The square footage reported for the afforestation appears to match the areas shown as afforestation.

4. The plans show 13,700 square feet of clearing and the table indicates 13,700 square feet will be reforested; however, I was unable to locate on the plans where this reforestation would occur. Please have the applicant show this area or areas.

5. The information concerning buffer impacts versus buffer mitigation is not clear. Please have the applicant clarify the impacts and mitigation provided for the nontidal wetland impacts versus the impacts and mitigation provided for the 100-foot Buffer impacts.

6. We recommend the final plat and plan includes notes referencing the required 100-foot and the County's required 300-foot buffers and the restrictions on clearing and disturbance in these areas. We recognize the applicant proposes access through the Buffer to the community pier, which this office will address with our variance comments below.

7. I have reviewed the 10% pollutant removal calculations and they appear to be correct pending some additional information. Please have the applicant clarify where the offsite area to be treated is located.

Variance Requests

It is our understanding that variances are requested to impact several areas of nontidal wetlands or the nontidal wetland buffer. Based on the explanation of the variance standards provided, including the alternative analysis, this office does not oppose the requested variances to disturb these areas. It appears the former uses on this site and the current remediation efforts have already resulted in disturbance to the area and these activities have impacted the quality of these nontidal wetland areas. If these variances are granted, we recommend mitigation as prescribed by your office.

A setback variance is proposed for one of the condominium units. We understand the Baltimore County Code requires a 35-foot building setback If the County grants this setback variance, we recommend a condition that no further intrusion or structures be permitted within the setback area.

The final variance request is for more slips than allowed. As you know, State law and the Baltimore County Code impose a slip to lot ratio, or a slip to shoreline ratio, whichever is the lesser of the two. In this case, the lesser would be based on the site shoreline which results in 14 slips; however, the applicant has requested 50 slips, which would be the number permitted under the slip to lot ratio. This office cannot support the requested variance for 50 slips for the reasons I have outlined below.

The slip limits are found in the State Law in the Natural Resources Article §8-1808.5(d). The General Assembly included with the slip limits instructions to all local jurisdictions to amend their programs accordingly (NRA §1-1808.5(f)). While variances are allowed, specifically under this section, they are permitted only in accordance with the Commission's standards in the Code of Maryland Regulations at Title 27.01.11. In the 2002 and 2004 sessions of the Maryland General Assembly, amendments were made to these variance standards.

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 County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

I have discussed each one of the County's variance standards below as it pertains to this site:

That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. The General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. It is our position that the proposed residential use of the site would continue without 50 slips, therefore, we do not believe the applicant has met this standard.

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. Piers that may have existed prior to the adoption of the Baltimore County Critical Area program have grandfathered rights that new piers do not enjoy. We do not believe that the applicant has met this standard.

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. The applicant has the burden of proof and the

burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area law. Our position is that since the standard from which the applicant seeks a variance is in State law, the presumption that the variance activity does not conform to State law is strong; therefore, we do not believe the applicant has overcome this burden.

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 applicant and supplemental information from County staff, it is our understanding this variance request is not based upon conditions or circumstances that are a result of actions by the applicant, nor does it arise from any neighboring conforming condition.

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.

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 this application.

In regard to the access to the proposed pier, this office acknowledges the five-foot width as an acceptable width and recommends that mitigation for the area of disturbance to the 100-foot Buffer be mitigated at a minimum 2:1 ratio since this will provide access to the shoreline. Also, please have the applicant clearly mark the limits of the Buffer once the new wetland will be established. It appears to be marked in red however, it is not labeled.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3478. Please include this letter as part of the variance request and submit it as part of the record. Please notify this office of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Marianne Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 17, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Back River Neck Water Main J.O. #203-0035-0143
Critical Area Consistency Report

Dear Mr. Shaffer:

I have received the Consistency Report for the above-referenced project. This office has reviewed this project per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report, and the 90% design submittal plans from the Department of Public Works (DPW), this office agrees that the project is consistent with the Baltimore County Critical Area Program found in the Baltimore County Code.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Bruce F. Keller, P.E. - DPW

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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March 16, 2005

Mr. Tom Panzarella
Baltimore County DEPRM
401 Bosley Avenue, Suite 410
Towson, Maryland 21204

Re: BGE Substation

Dear Mr. Panzarella:

I have received the above-referenced project for review and comment. The applicant proposes to expand an existing substation. I have outlined our comments below.

1. It is our understanding that the Baltimore County Code requires the recordation of a Critical Area easement, and the applicant has requested a variance to this requirement. This office has no comment on this request and defers to your office on this matter.

2. I have reviewed the current 10% calculations and concur with your March 9, 2005 letter to the applicant requesting more details. When that information becomes available, please forward copies to our office for further review and comment.

3. The edge of mean high water is faint and in some areas non-existent. Please have the applicant provide this information to ensure the 100-foot Buffer is properly shown on the plan.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 168-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 14, 2005

Mr. Paul Dennis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Gale Property

Dear Mr. Dennis:

I have received a subdivision and variance request for the above-referenced property. The applicant proposes to subdivide an existing parcel into two lots, and requests a variance to continue a nonconforming use in the 100-foot Buffer. I have outlined my comments below.

Subdivision Request

We recommend those Environmental Notes that appear on the "Forest Protection and Establishment Plan" also appear on the final plat.

Proposed Lot 1 and Lot 2 will be limited to 15% impervious area. We recommend this specific information appear on the final plat.

The information sent to this office did not include a letter from the Department of Natural Resources, Heritage and Biodiversity Division, indicating they had reviewed the site for threatened or endangered species.

Variance Request

It appears the Baltimore County Code requires a variance to allow for a continued use in the 100-foot Buffer. This office does not oppose this request. Mitigation should be provided as prescribed by your office.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 112-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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March 14, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Koplin Property - 05-001

Dear Ms. Stauss:

I have received the above-referenced variance request to permit the construction of two single-family dwellings within the 35-foot residential building setback to the 100-foot Buffer from Seneca Creek. I have outlined my questions and comments below.

1. We recommend the proposed dwellings be sited as closed to Clarks Point Road as possible to minimize intrusion into the County's additional 35-foot setback area. It appears the proposed freestanding garages may be the primary reason these dwellings may not be able to accommodate the 35-foot setback. Perhaps the garage can be incorporated into the dwelling footprint.

2. The dwelling on Lot 52 appears to be 60 feet wide. We recommend minimizing the footprint to reduce the variance needed to the 35-foot setback.

3. The site plan submitted does not provide for sidewalks around these dwellings or decks on the waterward size. We recommend these amenities be included on the plans, or at a minimum, contemplated at this stage to ensure they will not impact the minimum 100-foot Buffer to Seneca Creek.

4. The mitigation proposed is not consistent among the site plans submitted. One plan suggests that Bayberry shrubs will be planted behind the existing row of trees near the shoreline. The other site plans suggests that new trees will be planted perpendicular to the creek within the 100-foot Buffer. Does "new trees" refer to trees recently planted or to trees proposed to be planted for mitigation purposes? Please have the applicant clarify this issue.

5. If the County finds a variance can be granted, we recommend mitigation in the form of native Buffer plantings at the ratio prescribed by the County.

6. We recommend the note on the site plans add the words "maximum impervious permitted" where the allowable impervious percentage is listed.

7. We recommend a similar note be added on the site plans to indicate when 15% afforestation is required versus where it has been met. The current notes do not make it clear whether the lots currently have 15% forest cover, or if additional plantings are required to meet the 15% threshold.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 107-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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March 14, 2005

Mr. Michael Murray
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Molly Properties LLC/ Lawrence Property
MS 04-126

Dear Mr. Murray:

I have received a revised plan and plat for the above-referenced subdivision request. It appears the applicant addressed the comments of my last letter dated November 18, 2004. I have outlined my remaining comments below.

1. The Woodland Clearing Tabulations information appears incorrect. The maximum allowed for clearing would be 30% of the existing forested area. The figure shown is well over 60% of the existing forested area. Please have the applicant adjust these figures.

2. The proposed Forest Conservation Area does not appear to meet the threshold required for retention (i.e. 70% of the existing forested area). We recommend the area of the 100-foot Buffer that will be reestablished be included in this easement to help meet the minimum requirement.

3. Some of the area shown in the Forest Conservation Area is not currently forested. Will this area be planted?

4. Why is the applicant proposing to plant the Buffer on lot 3 equal to the impervious area created on lot 3? It seems that on newly created lots, there is an expectation that the Buffer will be reestablished regardless of the new impervious created outside the Buffer. Please clarify.

5. A well is shown inside the 100-foot Buffer on lot 3. This will require a variance.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 818-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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March 9, 2005

Ms. Amy Moredock
Kent County Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Robert Switzer - 03-48

Dear Ms. Moredock:

I have received the revised site plan for the above-referenced variance request. The applicant proposes to construct a single family dwelling, driveway and turnaround that will require a variance to the 100-foot Buffer and a variance to the 25-foot nontidal wetland buffer. I have not had the opportunity to visit this site; however, it is our understanding this site is a former landfill and that this lot is almost entirely in the 100-foot Buffer. Based on the verbal information submitted to this office along with the site plan, I would like to offer the following comments and recommendations:

- We understand the applicant will seek approval from the County for stormwater management and sediment and erosion control.

- Provided this lot is properly grandfathered, this office does not oppose the requested variance to the 100-foot Buffer.

- Provided the Town is satisfied that the applicant can demonstrate minimization of the house footprint, and therefore finds the applicant is entitled to relief, we recommend mitigation at a 3:1 ratio be provided for all new disturbance to the 100-foot Buffer.

- We recommend that the variance to the nontidal wetland buffer be avoided by reducing the footprint of the dwelling.

- Any disturbance to the nontidal wetland or its buffer should be mitigated at a 3:1 ratio for any necessary disturbance to accommodate the driveway and turnaround.

- We recommend the mitigation prescribed by the Town be performed 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 variance. Please notify the Commission in writing of the decision made in this case.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: KC 385-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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March 4, 2005

Mr. George Kinney
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: County Council Bill #970
Buffer Management Area Maps

Dear Mr. Kinney:

At its meeting on March 2, 2005 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved County Council Bill #970 which adopted the County's Buffer Management Area maps. Please incorporate these maps into the County's Critical Area program within 120 days from the date of this letter.

Thank you for providing Commission staff with the relevant documentation and thanks to County staff for attending the Commission meeting. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Hope R. Harrington, Council President
Mr. Andy Hollis, County Manager
Ms. Mary Kay Verdery, Assistant Planning Officer
Mr. Mike Pullen, County Attorney

Robert L. Ehrlich, Jr.
Governor

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March 4, 2005

Mr. Michael Murray
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Richard Burgess Property
MS 04-130

Dear Mr. Murray:

I have received the revised plan and plat for the above-referenced subdivision request. The applicant has addressed the comments of my last letter dated November 18, 2004. I have reviewed the revised plan and plat and have no further comments.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 838-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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February 28, 2005

Ms. Suzanne Schappert
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Mike's Restaurant, c/o Piera Family Limited P/S - 2005-0002-C
Paul's Restaurant, c/o Food Service, Inc. - 2005-0003-C

Dear Ms. Schappert:

I have received the above-referenced requests to reclassify the above-referenced properties totaling 2.74 acres from a Limited Development Area (LDA) to an Intensely Developed Area (IDA). The applicants propose this change on the basis that Anne Arundel County mistakenly mapped these properties as LDA at the time of the original Critical Area mapping. Commission staff's comments are provided below.

In evaluating map amendments that involve the correction of mistakes made during the original Critical Area mapping, local governments are guided by the Court of Special Appeals decision in August Bellanca v. County Commissioners of Kent County. See Enclosure (1). The Commission's role in reviewing these amendments is to ensure that when a local government finds that a mistake was made at the time of the original mapping, that the subject properties met the required mapping standards at that time.

In both requests, the County would need to determine that a mistake occurred and that the property should have been designated IDA. The Commission would then need to determine that at the time of original mapping, the area met the mapping standards for IDA. At that time, the property would have had to have at least one of the following features:

1. Housing density equal to or greater than four dwelling per acre;
2. Industrial, institutional, or commercial uses were concentrated in the area; or
3. Public sewer and water collection and distribution systems were currently serving the area and housing density was greater than three dwelling units per acre.

The information submitted does not include any aerial photography of the properties at the time of original mapping; however we do not dispute that these areas were mostly impervious. What is also missing is additional documentation that demonstrates the County made a mistake at the time of original mapping if these property were clearly impervious and met the three mapping standards listed above. For example, in this case it appears the County may have used Riva Road as a dividing line between two neighborhoods that appeared to have different densities. Can the applicant demonstrate that this was not the County's practice in looking at other similar areas?

In any case, it appears the applicant may need to perform additional research and provide the County with additional documentation in order to demonstrate a mistake was made on these properties at the time of original mapping.

Thank you for the opportunity to comment. Please include this letter in your files and submit it as part of the record for reclassification for these two cases. As you know, the Critical Area Commission staff provides preliminary comments on these types of proposals, and should the County approve these requests, they must be submitted to the Commission and the Commission may have additional comments or request additional information during its review.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Eric See, See Environmental Services
AA 70-05
AA 71-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 28, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Edwards Property - 05-002

Dear Ms. Stauss:

I have received the above-referenced variance request to permit the construction of a single-family dwelling within the 100-foot Buffer and within a nontidal wetland and its buffer. Provided this lot is properly grandfathered, this office does not oppose a variance with certain conditions, which I have outlined below.

1. It appears the dwelling is relatively modest in size. Our only recommendation would be to explore siting the dwelling further outside the nontidal wetland recognizing that this would intrude into the 100-foot Buffer; however, this area is currently established lawn area.

2. The applicant should demonstrate that authorization from the Maryland Department of the Environment is being sought.

3. We recommend mitigation in the form of native Buffer plantings at the ratio prescribed by the County.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: BC 106-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 28, 2005

Ms. Martha Stauss
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Parcel 85, Edwards Lane - 05-003

Dear Ms. Stauss:

I have received the above-referenced variance request to permit the construction of a single-family dwelling within the 35-foot residential building setback and within the 25-foot nontidal wetland buffer. This office does not oppose a variance to either setback with certain conditions, which I have outlined below.

1. The dwelling appears to be 60 feet wide. We recommend minimizing the footprint to reduce the variance needed in both setback areas.

2. The applicant should demonstrate that authorization from the Maryland Department of the Environment is being sought.

3. If the County finds a variance can be granted, we recommend mitigation in the form of native Buffer plantings at the ratio prescribed by the County.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 105-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 28, 2005

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Gronki Property - 04-018

Dear Mr. Shaffer:

This office has been in receipt of the above-referenced variance to grade in the 100-foot Buffer and to emplace a pipe and stone area. We have withheld commenting on this case pending the submittal of a grading study or plan and the applicant bringing the site into compliance. It is our understanding the site is required to be in compliance by March 1, 2005. We would like to provide our comments at this time.

Your office has informed us that the applicant is required to restore the finished grade so that it is no higher than the neighboring property, to replace the stone with clean fill suitable for planting trees, and to plant trees within the 100-foot Buffer area.

Had the applicant first applied for a variance, this office would have supported the variance with the same recommendations for restoring this site post storm events; therefore, provided the applicant has complied with the County's compliance orders, this office does not oppose the variance to grade in the Buffer. In regard to the proposed sediment tank, we defer to your office concerning its location and function.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 790-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 25, 2005

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

Re: Spriggs Cove, Curtis Payne
P 03-153, S 01-056

Dear Ms. Allen:

I have received revisions to the plat and plan for the above-referenced resubdivision request. The applicant responded to the comments of the last letter this office sent dated November 7, 2003. I have outlined my remaining comments below.

1. The 10% Pollutant Reduction Rule still applies on this site assuming the development of this site will require a grading permit. The Grading Ordinance at 3-205 (b) (2-4) requires development sites on which a grading permit is required to reduce pollutant loadings by at least 10%; therefore, the applicant must complete a 10% worksheet and provide a Best Management Practice for any removal requirement.

2. The letter from the Department of Natural Resources (DNR) Heritage and Biodiversity Division is dated April 21, 2000. The DNR considers letters more than two years old to be outdated; therefore, an updated letter should be provided.

3. The proposed impervious area for lot 1 has not been reduced as compared to the last plan. We continue to recommend a smaller footprint in order to accommodate future accessory uses outside the required buffers on this lot.

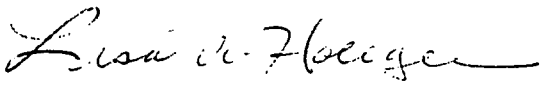
4. The October 19, 2004 decision of the Administrative Hearing Officer states that a variance to disturb steep slopes was denied. Was this in conjunction with the driveway request, and if so, how has that been addressed? Or, was this variance in conjunction with the corner of the dwelling on proposed lot 2, and if so, this disturbance still appears on the current plans.

5. Where is the proposed mitigation going to be located on site? We recommend this area be shaded on the plan and plat with a corresponding note.

6. Why were the site calculations removed from the plat? We recommend this information should stay, or at a minimum, the maximum allowable impervious area for each lot remain on the plat.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: AA 756-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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February 25, 2005

Mr. Michael S. Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Anchor Bay East Marina

Dear Mr. Kulis:

I have received the above-referenced request by Anchor Bay East Marina to replace and to reconfigure an existing pier. From the information provided it appears the new configuration will result in less slips, but with an additional waterward encroachment of approximately 70 feet. Provided the proposal meets the requirements of the Baltimore County Water-Dependent Facilities Manual, this office has no comment.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 98-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 24, 2005

Ms. Amy Moredock
Department of Planning and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Joseph W. Suydam Subdivision
05-13

Dear Ms. Moredock:

I have received the above-referenced subdivision request to create one 15 acre parcel from an existing 132.5 acre parcel of which 52 acres are inside the Critical Area. I have outlined my comments below.

1. A letter from the Department of Natural Resources, Heritage and Biodiversity Division should be furnished prior to final plat approval.

2. The site plan provided by the applicant does not indicate whether the site is currently forested or open field area. If clearing is proposed reforestation is required according to the County's Critical Area program. Also, a note should be added to the final plat indicating the total existing forested area, area proposed for clearing, and required reforestation, including the area on the site to be planted in a perpetual easement.

3. If the site is not forested then the new parcel is required to afforest the site to a 15% threshold. This information should also be noted on a final plat.

4. We recommend the final plat and plan indicate the total allowable impervious area for each resulting parcel inside the Critical Area. This information should include any existing impervious area on the site.

5. The final plat and plan must show the limits of the minimum 100-foot Buffer and any expanded Buffer if required (hydric or highly erodible soils).

6. The area of the 100-foot Buffer on the newly created lot must be reestablished in native vegetation. This should also be a note on the plat.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

LH/jjd

cc: KC 103-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 25, 2005

Mr. John Wilson
Resource Planning
Department of Natural Resources
580 Taylor Avenue, E-4
Annapolis, Maryland 21401

Re: Franklin Point Draft Master Plan

Dear Mr. Wilson:

At your request, I am providing comments concerning the Franklin Point Draft Master Plan and information on the Critical Area Commission's review process.

General Comments

As you know, we visited the site and met with staff from Resource Planning and the County Departments of Planning and Zoning, and Recreation and Parks. Below are general comments on the Draft Plan.

1. The site has a split Critical Area designation of Limited Development Area (LDA) and Resource Conservation Area (RCA). It appears that most of the development activities, including the proposed active recreation areas, are located in the LDA. This is consistent with the Anne Arundel County Critical Area Program. The passive recreation uses (i.e., trails, nature observation) are proposed in the RCA portion of the site, which is appropriate for that Critical Area designation. Any future additions to this plan should follow these requirements.

2. It appears that only the existing, abandoned dwelling is located in the 100-foot Buffer to tidal waters. This footprint may be used for the proposed visitors' center. However, all new non-water-dependent development activities must be located outside the Buffer

3. There appear to be five platforms/blinds shown on the plans; some of these structures are in the 100-foot Buffer. The impacts to the Buffer and adjacent wetlands from the construction and use of these structures should be minimal; therefore, considerations for the Department include the size, exact locations, methods of construction and materials used. Because the park is intended primarily to provide passive recreation opportunities, we suggest that the individual platforms/blinds be on the order of 100 square feet.

4. Based on our review of this property when it was proposed as a residential subdivision, we are aware that the site supports designated Habitat Protection Areas (HPAs) in addition to the 100-foot Buffer. For example, the site supports Forest Interior Dwelling Bird (FID) habitat, and may include Black Rail habitat, and a rare plant habitat. Ms. Katherine McCarthy of the Heritage Division has provided some comments on these HPAs, which should be part of your file. We defer to her expertise concerning management of the Black Rail and rare plant habitats.

5. It is our understanding that a Jurisdictional Determination (JD) of wetlands was performed on this site when it was proposed for residential development, and that the JD has subsequently expired. We understand that the County prefers not to initiate another review since it also could expire before permits are issued for the development activities. We recommend that the expired JD be used solely for planning purposes, with the understanding that a future JD may reveal pockets of wetlands not previously identified. If additional wetlands are identified later, the County will need to adjust any proposed development activities so they will not impact nontidal wetlands or their buffers.

6. The proposed trail system on this site crosses through FIDs habitat. It is our understanding and experience from the site visit that a majority of this trail system already exists. We have no objection to this trail system, provided it is limited to pedestrian, equestrian and non-motorized cycles or bicycles. Any portion of new trail should be rerouted to avoid clearing in the forested area even if that clearing would only involve understory clearing. We recommend your office seek further advice from Ms. McCarthy regarding this issue. Any clearing would require mitigation in the form of new FIDs habitat; it appears the site has ample open areas to support a trail network that will not require clearing.

7. We recommend that the trails be pervious to the extent possible, but we understand that it may be necessary to provide a hard surface trail in certain areas.

Process and Standards of Review

The Critical Area Commission will review the Master Plan under COMAR 27.02.05. This section of COMAR applies to State development activities in the Critical Area proposed for State-owned lands. Section 27.02.05.01 C describes various aspects of the Master Plan that DNR, as the sponsoring agency, should address. These include, among others, the location of new development; determining suitable areas for water-dependent facilities; and protecting forest land, the Buffer and other Habitat Protection Areas.

The Commission will conduct a public hearing on the Master Plan. We will coordinate the date and time for the hearing with your office. The Master Plan will require formal Commission approval before transfer of the property to Anne Arundel County. We will review the individual development projects covered by the Master Plan when actual development is proposed by the Department or Anne Arundel County.

We recognize that during the master planning process the Department and the County devoted considerable time to the potential impacts of the park on the community, including, for example, traffic impacts. However, as we have discussed, COMAR 27.02.05.02 A authorizes the Commission to review the proposal solely on the extent to which it conforms to the Critical Area requirements. The Commission will not be able to consider matters outside of its purview.

When the Department is ready to submit the Master Plan to the Commission for approval, it will greatly assist our review if you are able to provide aerial photographs of the property and any other photographic documentation of the various site features.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Jack Keene
Ms. Elinor Gawel

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 22, 2005

Mr. Michael S. Baker
Environmental Construction Manager
Woodrow Wilson Bridge Center
One Constellation Centre
6009 Oxon Hill Road, Suite 410
Oxon Hill, Maryland 20745

Re: Woodrow Wilson Bridge Project
Request to Shift Northern Sediment Trap to for Temporary Haul Road

Dear Mr. Baker:

I have reviewed the proposal to relocate the existing sediment trap to accommodate a temporary haul road for the delivery of the steel girders to the construction staging area. It is my understanding this trap was originally outside of the 100-foot Buffer and is being moved further outside of the Buffer. The new haul road will also be outside of the 100-foot Buffer. It appears this request will not alter the conditions of the Commissions June 6, 2001 approval. Provided proper sediment and erosion control measures will be assured through MDE this office has no further comment.

This office approves the request. If any of the above items change, then the request must be resubmitted to this office for review. Thank you for your cooperation. If you have any questions, please contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Donna M.P. Wilson, Director, Prince George's County DER
Mr. Richard Thompson, Prince George's County DER

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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February 14, 2005

Mr. Henry G. Gruber
Zoning Board of Appeals
118 North Cross Street
Chestertown, MD 21620

Re: 216 Mill Street - Robert Kestell Property

Dear Chairman Gruber:

I would like to take this opportunity to notify the Zoning Board of Appeals of the Critical Area Commission staff's role in this case. Ms. Marian Honeczy of the Maryland Department of Natural Resources notified our office of this issue. Ms. Honeczy had received a package in the mail from the Girones, neighboring property owners, who expressed concern over the area disturbed on this site. Our office became involved when we determined that the site was in the town's Critical Area and the property had an Intensely Developed Area (IDA) designation.

The primary question posed to us by the neighbors, Mr. and Mrs. Girone, was whether the clearing that had allegedly occurred in an easement on the property was a violation of a Critical Area easement. In speaking with the Town Manager, it seems that any easement on this property was not a Critical Area easement. In fact, the IDA designation of this property does not require any afforestation or reforestation. The Girones provided an afforestation plan; however, that plan was not identified as a Critical Area afforestation easement. Therefore, we must conclude that if any clearing that occurred for the construction of the driveway and retaining wall did not violate an easement for Critical Area purposes absent other evidence that the easement was instituted for Critical Area purposes.

The other issue we investigated separately from the Girone's inquiry was whether the waterbody in that area was an intermittent or perennial stream, which would require a minimum 100-foot setback from any development activities. In speaking with several individuals familiar with the property, it seems the stream is an ephemeral stream; therefore, no 100-foot setback would be required.

From the information provided to this office by the Girones and the Town, it appears that this clearing and subsequent development activity was not in violation of the Town's Critical Area Program.

Thank you for the opportunity comment. If I can provide the Zoning Board of Appeals any assistance either present or future, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. and Mrs. Girone
The Honorable Margo Bailey, Mayor
Mr. Bill Ingersoll, Town Manager
Ms. Marian Honeczy, Forest Conservation Act Coordinator, MD DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 11, 2005

Ms. Kathy Schatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: E.L. Gardner Property
S 04-065, P 04-122

Dear Ms. Schatt:

I have received a revised plat for the above-referenced subdivision request. The applicant addressed the comments of my last letter dated September 18, 2004. I have outlined my remaining comments below.

1. The maximum allowable impervious area per lot cannot exceed 15%. Please have the applicant adjust these figures.

2. It appears the applicant proposes to clear 30% of the site; however, less than 70% is being put into an easement. The easement must be a minimum of 70% otherwise this project does not meet the County's Critical Area requirements.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 636-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 11, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Oyster Harbor Resubdivision of Lots 8 & 9 - S 91-070, P 04-003

Dear Ms. Krinetz:

I have received the revision for the above-referenced subdivision. I have outlined my remaining comments below.

1. The total allowable impervious area for proposed lot 2 should be 6,698 square feet (44,652 x .15). Please have the applicant adjust this figure.

2. The reforestation plan shows three areas proposed for tree planting. One area appears to be within the tidal wetland area. We recommend this planting be moved in the Buffer closer to Oyster Creek. If the applicant is concerned with the water view, we recommend shrubs be planted with trees scattered through the area to provide increased water quality benefits.

3. The plan mentions shrubs but none are placed on the plan. We recommend a mix of trees and shrubs be planted in the Buffer to provide more diverse habitat.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 20-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 11, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Bonney Property, Lot AR
S 99-009, P 05-022

Dear Mr. Callahan:

I have received the above-referenced project for review and comment. The applicant proposes to create three lots from one existing lot in the Limited Development Area. I have outlined my comments below.

1. Please verify whether this subdivision is in a Bog Protection Area.

2. The proposed clearing exceeds 30%. It appears there is a 25-foot setback and the proposed dwelling is currently sited 50 feet from the road. In order to reduce clearing, we recommend that the proposed dwelling be sited closer to Ross Landing Road.

3. We recommend the remaining forested areas be placed in an easement. We also recommend that some replanting occur on-site on lots 1 and 2 where a connection can be made with remaining forested areas.

4. We recommend a note or table that indicates the total allowable imperious area for each lot. Please remind the applicant that the overall impervious area for the entire subdivision cannot exceed 15%, and any proposed sidewalks and accessory structures must be included.

5. We recommend the existing driveway on proposed lot 1 be labeled "to be removed".

6. What type of stormwater management is proposed for these lots?

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 62-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 10, 2005

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

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

Dear Ms. Skilling:

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

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Carolyn Sorge

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 9, 2005

Ms. Kathy Schatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Village at Lee Airport
C 05-001

Dear Ms. Schatt:

I have received the above-referenced project for review and comment. The applicant proposes to construct a commercial development that is partially within the Critical Area and has an Intensely Developed Area (IDA) Critical Area classification. The other portion of the site in the Critical Area does appear to be proposed for development.

As you know, the Critical Area requirements in the IDA are generally limited. While there are no afforestation or reforestation requirements, this office strongly recommends that plantings be a priority in those pervious areas that will remain on the site. In addition, all plantings should be native species as provided for in the County's own Native Plant Booklet.

Also, there are no limits on impervious area; however, the 10% Pollutant Reduction Rule is required. The applicants have correctly computated a pollutant removal requirement (RR) of 2.54 pounds of phosphorus. Page four of Worksheet A indicates that 1.31 pounds of phosphorus will be removed by several proposed Best Management Practices (BMPs – actually, we computed 1.30 pounds due to a slight calculation error); therefore, a balance of 1.24 pounds of phosphorus is required for removal. While the applicant attempted to address the remaining removal efficiency with Worksheet B, the methodology is incorrect.

Worksheet B should be used when off-site runoff is being treated by an on-site BMP (In other words, the on-site BMP could be over-sized to treat runoff that would otherwise remain untreated). The proposed wet pond that treats the non-Critical Area portion of the site is already required by the County's stormwater regulations and cannot be used as an offset for the 10% requirement.

Alternatives include oversizing either the on or off-site BMPs to treat runoff from currently untreated adjacent areas (Worksheet B) or exploring opportunities for offsets as described in Section 6 of the 10% Guidance Manual. Offsets could include treating another site in the Critical Area. For example, are the two buildings adjacent to this site that are in the Critical Area currently addressing the 10% Pollutant Removal Rule? If not, perhaps these sites could be treated with appropriate BMPs. This offset could be explored on other adjacent sites as well since this area is heavily developed and could benefit from increased water quality treatment.

Finally, it is our understanding that the State Highway Administration constructed a stormwater pond or nor near this site. Where or will this pond be moved in order to accommodate the proposed development activity?

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 52-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 8, 2005

Ms. Kathy Schatt
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Beards Retreat, Slattery Property
S 02-041, P 02-088

Dear Ms. Schatt:

I have received revised plats and plans for the above-referenced subdivision request. The applicant has addressed some of the comments of my last letter dated October 13, 2004. I have outlined my remaining comments below.

1. While the applicant has corrected the total allowable impervious surface area for lots over one acre (15%) and lots under one acre (25%), the total figure appears incorrect. I calculate the total square footage, based on the figure provided in the last column, to be 105,764 square feet. That is slightly over the 15% overall limit for the entire subdivision. The figure provided is 102,165 square feet, which is the 15% limit; however, the total allowable figures should be adjusted to not exceed this figure otherwise the developer or future homeowners might exceed the allowable limits for the overall subdivision.

2. The total figure provide for "Woodlands to be Removed" also appear incorrect. I calculate the total, based on the figures provided, to be 96,519 square feet. This is slightly less than the figure provided. Please have the applicant check this figure, and adjust the required reforestation figures accordingly.

3. The buildable area remaining on the rear yards of proposed lots 5, 6 and 7 are small. Lot 7 has only ten feet remaining behind the proposed dwelling and the expanded Buffer for steep slopes. Lots 5 and 6 appear to have approximately 15 feet remaining. We recommend a note be added to the final plat stating that no variances to the expanded Buffer for steep slopes will be permitted.

4. The response #7 from the applicant indicated that the wetland plantings proposed along Beards Creek have been revised to woody shrub material. While I requested in my last comment letter that herbaceous species not be credited for reforestation, it was my understanding this planting was for reforestation of the upland areas and not a wetland planting. Is the applicant also proposing to install some wetland plantings along the shoreline area? Please clarify?

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 282-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 8, 2005

Mr. Rick Ayella
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Douglas Price
200561039/05-WL-0769

Dear Mr. Ayella:

I have received the above-referenced project to install a marsh vegetation project and repair a storm damaged stone revetment for shore erosion control. This office supports non-structural means of shore erosion control where possible; therefore, if your office determines this site is a candidate for this type of shore erosion control, this office supports this request. Nevertheless, any vegetation cleared above mean high water must be replaced on an equal area basis. If the permit is issued, we recommend that all local approvals be obtained, including a Buffer Management Plan, if any disturbance or clearing above mean high water is proposed.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Amy Moredock, Kent County Planner
KC Co. Tidal Wetlands File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 8, 2005

Mr. George Kinney
Talbot County Planning Officer
Talbot County Planning and Zoning
Courthouse
11 N. Washington Street
Easton, Maryland 21601

Re: Talbot County Council Bill #970 -Buffer Management Area Maps

Dear Mr. Kinney:

This office has received County Council Bill #970 which constitutes the adoption of the County's Buffer Management Area maps. Thank you for forwarding the findings that accompanied these maps. The Critical Area Commission is today accepting these bills 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) 260-3478.

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: The Honorable Hope R. Harrington, Talbot County Council President
Mr. Andrew Hollis, Talbot County Manager
Ms. Mary Kay Verdery, Assistant Planning Officer
Mr. Michael L. Pullen, Esquire, Talbot County Attorney
Ms. Marianne Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

February 7, 2005

Ms. Elinor Gawel
Anne Arundel County
Office of Environmental and Cultural Resources
2664 Riva Road, MS 6402
Annapolis, Maryland 21401

Re: Comprehensive Review
County Council Bill #65-04

Dear Ms. Gawel:

At its meeting on February 2, 2005 the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays concurred with the Chairman's determination that County Council Bill #65-04 was a refinement to the County's Critical Area Program with certain conditions. Before the Commission could concur, they voted to delete the previous condition of approval of County Council Bill #49-03. The subsequent concurrence with the Chairman's determination of refinement with conditions of County Council Bill #65-04 substitutes for the former condition # 1 of the April 2004 approval. . The conditions of the refinement approved on February 2, 2005 are:

1. The County will comprehensively review and revise their stormwater provisions in the coming year, and the revisions will address the fees collected in lieu of constructing a stormwater treatment practice and the types of projects that can meet the pollutant reduction requirement through plantings. These revisions will be completed and adopted by the County for submission to the Commission by August 2006.

2. The County will revise the planting requirements in their policy, "Stormwater Management Requirements for Single Family Residential Lots in the Critical Area." The planting requirements will be increased to the planting recommended in the Commission's *Critical Area 10% Rule Guidance Manual – Fall 2003.* This change will be completed within 30 days.

The County told the Commission panel that the administrative policy change in condition #2 would occur immediately. Please forward Commission staff a copy of this change when it becomes available. We understand that the bond associated with these plantings will not be changed until the update of Article 21 occurs.

We also understand that the requirements of Condition #1 will require legislation; therefore, the County's Comprehensive Review remains approved by the Commission subject to this outstanding condition. Once the Commission receives approved legislation that is consistent with the requirement of Condition #1, and approves this legislation, the condition will be satisfied and the 2004 Comprehensive Review will be completed.

The County is required to finalize these changes associated with County Council Bill #65-04 in the applicable ordinances within 120 days of this notice. Please forward a copy of the revisions to this office. Thank you for your cooperation. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Betty Dixon, Assistant Land Use Officer
Mr. Joe Rutter, Director, Planning and Zoning
Mr. Spurgeon Eismeier, Director Inspections and Permits
Ms. Marianne Mason, Esquire, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 4, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Silver Sands, Section L, Lots 1, 2 and Parcel 129
Lot A - S 96-051, P 04-064

Dear Mr. Callahan:

I have received the revised plat for the above-referenced subdivision request. I have outlined my comments below.

1. We recommend that the applicant label lot AR on the plat so it is clear what lot the Critical Area calculations table is referring to with regard to the clearing and impervious information.

2. The information on the current table appears to be incorrect with regard to square feet permitted for the maximum allowable clearing and impervious surface information. Please have the applicant recalculate these percentages. The total clearing allowed should be based on the total woodland, not total lot area.

3. It appears that the total area for each lot listed in the table may be based on the lot area before the subdivision. This table should reflect the lot areas and subsequent allowable clearing and impervious areas based on the resulting lot areas.

4. Will a letter from DNR be required for this subdivision?

5. There is a note on the grading plan that indicates the fee for clearing is .60 per square foot; however, most of the clearing will occur within the 100-foot Buffer. It seems the fee should be the fee applicable to a 3:1 disturbance ratio. Please verify this item.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 638-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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February 4, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Oak Harbor
S 86-017, P 04-113

Dear Mr. Torney:

I have received a revised sketch plan for the above-referenced subdivision request. The applicant addressed four of my six comments from my last letter dated October 14, 2004, and also addressed the comment of my letter dated November 8, 2004. I have outlined my remaining comments below.

1. The impervious area chart totals need to be updated since the removal of one of the lots. It appears the totals were adjusted in note #7 of the Critical Area analysis.

2. The notes regarding the forest conservation easement indicate the total area under easement will be 4.05 acres or 30% of the existing forest; however, this area on sheet 2 is not labeled to demonstrate this area is 4.05 acres. Currently, the only acreage information on sheet 2 indicates the area of the Recreation Area. Please have the applicant provide notes or labels to ensure the easement totals a minimum of 4.05 acres.

3. The recreation area is not labeled as passive or active. Since the recreation area overlaps the forest conservation easement, we recommend this area be labeled as a passive recreation area. Of course, no clearing associated with future passive recreation activities would be permitted.

4. A portion of the area shaded for the forest conservation easement is a separate strip of land that appears to be within a variable utility and stormdrain easement. We recommend that no portion of the forest conservation easement be within another type of easement area to ensure no future clearing will occur for other purposes.

5. While the applicant has indicated that no sidewalks will be installed, what about on the individual lots? Currently, the only impervious areas contemplated are for stoops. This may need to be adjusted to account for individual sidewalks.

6. The plant survey must be completed prior to final.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 379-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 4, 2005

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Scott Mielke Property
S 03-055, P 04-098

Dear Mr. Torney:

I have received the revised plans and the plat for the above-referenced subdivision request. The applicant has addressed the comments of my last letter dated October 13, 2004. The only remaining comment I have is for the applicant to correct a minor error that appears in the Woodland Clearing Tabulations. The acreage figure for the proposed public right-of-way should be .03 rather than .35.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 291-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 1, 2005

Mr. Tom Burke
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Beall Property, Lot 1 – Resubdivision of Steele/Marshall
MS 05-002

Dear Mr. Burke:

I have received the above-referenced subdivision request for review and comment. From the information provided, it appears the applicant proposes to create a lot from two adjoining parcels. I have outlined my comments below.

1. The resulting acreage of the parent parcels (parcels 209 and 297) should be provided, including the resulting impervious surface figures to ensure these parcels still comply with the County's Critical Area program requirements.

2. The letter from the Department of Natural Resources, Wildlife and Heritage Division must be received prior to final approval.

3. In addition to the setback notes for the R 1 zoning district, we recommend a note be added to the final plat regarding the 100-foot Buffer from Crab Creek and the limits on clearing and disturbance.

4. We recommend a note be added to the final plat indicating the maximum allowable impervious area for this lot.

5. Any clearing must be replaced at a minimum 1:1 ratio. We note the Critical Area Planting note that appears of the site plan/grading plan; however, this plan does not show the proposed planting area on the lot.

6. The site plan shows the proposed dwelling to be five feet from the edge of the 100-foot Buffer. We recommend that the dwelling be sited to accommodate any future plans for a patio or deck to be located entirely outside the 100-foot Buffer. Otherwise a variance would be required, and this office typically does not support variances on non-grandfathered lots with new development.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 33-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 1, 2005

Ms. Kathy Schatt
Anne Arundel County Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Shelley Muffley Property - S 01-003, P 03-160

Dear Ms. Schatt:

I have received another revision for the above-referenced subdivision request. It appears the applicant has addressed the comments of my last letter dated November 18, 2004. I have outlined my remaining comments below.

1. It is our understanding that the County is not able to enforce the intrafamily transfer provisions in accordance with the Critical Area Law, so how will the County ensure that by approving this subdivision, the intrafamily transfer lots on this parcel will not be subsequently conveyed to non-family members without the County's knowledge? We recommend including appropriate notes on the plat, so that the title search will reveal the status of the lot.

2. The dwellings on lots 4 and 5 are too close to either the 100-foot Buffer or the 25-foot buffer to nontidal wetlands. These dwellings should be sized appropriately so that the grading associated with their construction will not be in any buffer areas, or require a variance to disturb these buffers.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 772-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 31, 2005

Ms. Kathy Schatt
Anne Arundel County Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Shelley Muffley Property - S 01-003, P 03-160

Dear Ms. Schatt:

I have received another revision for the above-referenced subdivision request. It appears the applicant has addressed the comments of my last letter dated November 18, 2004. I have outlined my remaining comments below.

1. It is our understanding that the County is not able to enforce the intrafamily transfer provisions in accordance with the Critical Area Law, so how will the County ensure that by approving this subdivision, the intrafamily transfer lots on this parcel will not be subsequently conveyed to non-family members without the County's knowledge? We recommend including appropriate notes on the plat, so that the title search will reveal the status of the lot.

2. The dwellings on lots 4 and 5 are too close to either the 100-foot Buffer or the 25-foot buffer to nontidal wetlands. These dwellings should be sized appropriately so that the grading associated with their construction will be in any buffer areas, or require a variance to disturb these buffers.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: AA 772-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 27, 2005

Mr. Steve Callahan
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6305
Annapolis, Maryland 21401

Re: Harkers Point
MS 04-034

Dear Mr. Callahan:

The engineer has provided this office with the revised plans for the above-referenced subdivision request. Prior to receiving the revised plans, I received Ms. Penny Chalkley's comments dated January 7, 2005, which address the remaining issues. Provided Ms. Chalkley's comments are addressed prior to final recordation, I have no further comments regarding this subdivision.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: AA 206-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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January 21, 2005

Mr. Rick Ayella
MDE, Water Management Administration
Wetlands and Waterways Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Baltimore Yacht Club Holding Corp.
200465331/05-WL-0359

Dear Mr. Ayella:

I have received the above-referenced request to reconfigure an existing marina and construct a boat ramp. The Commission staff defers to Department of Environment regulations concerning the proper siting of piers; therefore, we have no comments regarding the reconfiguration of the gas/slip pier and various finger piers that are proposed.

In regard to the proposed boat ramp and the proposed boardwalk area that will be part of the new pier, we recommend mitigation in the form of plantings for all new disturbance associated with their installation. In particular, we recommend that clearing be avoided or minimized for the boat ramp. The recommended mitigation ratio should be at the discretion of the Baltimore County Department of Environmental Protection and Resource Management.

Thank you for the opportunity to comment. Please include this letter in your file. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Michael S. Kulis, Balto. Co. DEPRM

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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January 21, 2005

Mr. Michael S. Kulis
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Weaver's Marine Services

Dear Mr. Kulis:

I have received the above-referenced request by Weaver's Marine Service to reconfigure and expand an existing marina from 90 slips to 112 slips. From the information provided it appears the new configuration will result in a total waterward encroachment of 890 feet. Provided the proposal meets the requirements of the Baltimore County Water-Dependent Facilities Manual, this office has no comment.

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

Sincerely,

Lisa A. Hoerger
Natural Resources Planner

cc: BC 7-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 21, 2005

Mr. Joseph Rutter, Planning Director
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: Critical Area Fees for Reforestation

Dear Mr. Rutter:

Commission staff have been discussing the proposed reforestation fee of $1.20 per square foot for clearing inside the Critical Area with Ms. Elinor Gawel in the Office of Environmental and Cultural Resources. Ms. Gawel suggested we contact you regarding some staff concerns that we have identified.

It appears the proposed fee will be $1.20 per square foot for all clearing up to 30%. It is our understanding that any illegal clearing will still be assessed a $1.80 per square foot fee. The Critical Area Criteria establish mitigation ratios for clearing that occurs up to 30%. These mitigation ratios are established on a sliding scale, which provides a disincentive for clearing more than necessary on any particular development site. Local governments establish the fee rates based on the cost of planting, monitoring and maintaining off-site forested areas. All local governments, including Anne Arundel County, have done so on a sliding scale basis.

It is our understanding that the current fees and the proposed fee will cover the County's costs; however, a blanket fee does not address the incentive issue. In order to ensure that only the minimum forest necessary is cleared, we recommend that the County identify an alternative incentive, if the fee proposed would be the same regardless of percent cleared.

If you have any other questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Elinor Gawel, Office of Environmental Resources

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 11, 2005

Ms. Kelly Krinetz
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Margaret's Glen
S 85-390, P 04-253

Dear Ms. Krinetz:

I have received the final plat and plans for the above-referenced subdivision request. The applicant proposes to subdivide two existing parcels and create a total of 22 lots. I have outlined my comments below.

1. It appears Parcel 48 was subdivided in 2000 via the intra-family transfer provision. Therefore, the density afforded to this parcel has already been used. The RCA acreage of this reserve parcel cannot be combined with the RCA acreage of Parcel 58 to generate lots.

2. Parcel 58 appears to have only 16.61 acres of RCA; therefore, it has one grandfathered development right. The applicant may choose to locate the lot generated from this parcel onto Parcel 48, which appears to be the case.

3. Given the two items listed above, there should only be a total of two lots inside the RCA portion of this subdivision rather then the three shown. The two lots are from the one lot that remains from the intrafamily transfer subdivision, and one lot generated from parcel 58. We recommend a note be added to the final plat that indicates all RCA density will be used with this subdivision, and that no further subdivision will be permitted.

4. Please have the applicant provide a table that lists those lots in the Critical Area with the allowable impervious area and forest clearing.

5. On plat 1 of 7 please have the applicant insert "RCA" into the "Critical Area Note."

6. Please have the applicant adjust all the acreage figures in the tables so that they are consistent.

7. Since the site is documented as Forest Interior Dwelling Bird (FID) habitat, all forest outside the LODs should be placed into a perpetual easement with specific notes that restrict any clearing activities.

8. Clearing performed inside the Critical Area must be mitigated as FID habitat; therefore, if a fee is collected, this money should be spent on the creation of new FID habitat.

9. We recommend that the applicant first plant on-site where possible.

10. The grading associated with the public stormwater management pond should be completely outside the RCA since this is a development activity that serves development outside the RCA and the Critical Area.

11. The "Active Recreation Area" in the LDA appears to be completely forested. This area should be accounted for in the potential forest clearing, and not placed in the conservation easement.

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

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. David Grimm, P.E.
AA 905-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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January 11, 2005

Mr. Darin W. Bryant, P.E.
Project Manager
T.Y. Lin International
5285 Shawnee Road, Suite 210
Alexandria, Virginia 22312

Re: Anacostia Riverwalk Trail
65% Plan Submission, Design Section 2

Dear Mr. Bryant:

Thank you for providing this office with the 65% design for Section 2 of the Anacostia Riverwalk Trail. Since this section of the trail is not in Maryland's Critical Area we have no comments, and will not be attending the January 25, 2005 meeting.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to telephone me anytime at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Eileen Nivera, MNCPPC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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Chairman

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January 3, 2005

Mr. Stephen W. Syphax
Chief - Resource Management Division
National Capital Parks – East
1900 Anacostia Drive S.E.
Washington D.C. 20020-6722

Re: Anacostia Riverwalk Trail
Final Draft Environmental Assessment – Dated December 2004
TYLI Project Number 421573.03

Dear Mr. Syphax:

Thank you for forwarding the above-referenced document to this office for review and comment. Some of the comments of my last letter dated December 2, 2004 in response to the Draft Environmental Assessment, dated November 2004 were addressed; however, I have some remaining comments, which I have outlined below.

1. Thank you for clarifying that the boardwalk sections of the trail are two feet wider due to the railings. Since this section of the trail will eventually link to the Maryland National Capital Parks and Planning Commission's (MNCPPC) trail on its property, we recommend that the trail widths be coordinated to ensure consistency, particularly since this portion of the trail is proposed to be boardwalk.

2. The last time I reviewed any information regarding the MNCPPC trail, it was my understanding that the proposed maximum trail width was 10 feet wide, notwithstanding the Commission's Guidance Document on public walkways, which recommends widths of no more than six feet in these areas. Any width greater than six feet will require some justification on the part MNCPPC; therefore, we request the reasons for the proposed trail width of NPS lands.

3. The wetland information provided in this document differs slightly than the last document. A new wetland, WL020, is now included and appears to be classified as a perennial stream; therefore, not only the area of the stream that is crossed, but the area of the 100-foot Buffer on either side of the stream that is impacted should be mitigated in the form of plantings. Typical mitigation is prescribed at a 3:1 ratio for all new disturbance, which includes grading, footprint and clearing.

4. In addition to the stream buffer, any impacts to the 100-foot Buffer to the Anacostia River, which is expanded beyond 100-feet in the case of hydric soils or highly erodible soils, should be mitigated at a 3:1 ratio for all new disturbance as described above.

5. Section 5.2 mentions that required mitigation may include restoration of park land or credits from an approved mitigation bank. Any disturbance to the Critical Area 100-foot Buffer should be mitigated in the form of replanting on site. The order of preference is on site within the Buffer or on site outside the Buffer.

6. Impacts to and mitigation for disturbance to nontidal wetlands or their buffers will be at the discretion of the Maryland Department of the Environment (MDE) and the Army Corps of Engineers (ACOE). If this has not occurred already, please be sure to coordinate the wetland information with the appropriate persons in MDE and ACOE.

7. We still request information on how wetland WLO19a, will have 812.5 square feet of impacts? Is the 25-foot nontidal wetland buffer being impacted, or is the wetland itself being impacted?

8. There is another wetland labeled WL019 that does not appear on the map, but appears in the Table 4.4. Is this wetland not shown on Figure 3-7 because no impacts are proposed?

9. We continue to recommend an alternative route north of New York Avenue to avoid the 100-foot Buffer to the Anacostia.

10. It appears the table in Section 4.10.1 was adjusted to show the total wetland impacts associated with all three alternatives for Section 3 of the trial. However, Section 5.1.3 of the document states that alternative 3B had the most wetland impacts, but the table suggests that alternative 3C had the most wetland impacts. Please check this items.

11. Since we still have several questions concerning the wetland impacts listed, we request a copy of the Draft Wetland Delineation Report, specifically for those wetlands mentioned above.

Thank you again for the opportunity to comment on the Final Draft Environmental Assessment. If you have any questions concerning these comments, please do not hesitate to contact me at (410) 260-3478.

Sincerely,

Lisa A. Hoerger

Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Colin P. Henderson, T.Y. Lin International
Mr. Matthew R. Martin, T.Y. Lin International
Ms. Eileen Nivera, MNCPPC
Mr. Richard Thompson, PG Co. DER
Mr. Elder Ghigiarelli, MDE

Robert L. Ehrlich, Jr.
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December 28, 2005

Mr. Otis Rolley, III
Baltimore City Department of Planning
417 E. Fayette Street
8th Floor
Baltimore, Maryland 21202

Dear Mr. Rolley:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable provision of the law is Section §8-1804 (c) (b). It states:

> "Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the nonattendance with the statement of the nonattendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you attended 6 of the 11 (55%) meetings held by the Commission during the calendar year 2005. The meetings that you were not in attendance are: March, June, September, November and December. If your records differ, please let us know. Because the Governor, for satisfactory reasons, can waive the attendance requirement to continue on the Commission, I would urge you to provide a letter explaining the reasons for any of the absences, such as for business purposes, illness or other reasons, and submit it before January 10th, so I may include it with the attendance report. Our fax number is (410) 974-5338.

Thank you for your cooperation with this request. We greatly value your attendance and participation on the Commission. If you have questions, please contact me at (410) 260-3467 or Ren Serey at 410-260-3462.

Sincerely,

Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

October 20, 2005

Honorable Richard Scott, Mayor
Members of the City Council
City of Crisfield
City Hall
319 W. Main Street
Crisfield, Maryland 21817

Dear Mayor Scott and Council Members:

I am writing to thank you for meeting with us last week. I think we had a very productive meeting that will ultimately strengthen the partnership between the City and the Critical Area Commission.

As promised, I have outlined how we decided to proceed on several matters.

Revising the City's Critical Area Ordinance

We distributed copies of the Commission's model Critical Area ordinance and discussed advantages that adopting the model would bring in terms of streamlining, clarity and consistency in applying the law. I believe that adopting the model ordinance is the most effective and efficient way for the City to carry out its responsibility to implement a local Critical Area program.

An important component of the law, as we discussed, is the requirement for the City to comprehensively review its local program every six years and make any necessary changes including amendments enacted by the Maryland General Assembly. The City's Critical Area program was adopted in 1988 and has never been updated. Council Members Purnell and Thompson agreed to review the model ordinance and contact Tracey Gordy or Ren Serey, the Commission's Executive Director, to schedule a time to meet with the two Council Members. I appreciate the Council Members' willingness to take on this review and hope that we will have a new Critical Area ordinance in place in Crisfield early in 2006.

City Staffing Needs

You asked for our guidance concerning expertise the City needs to properly implement the local Critical Area regulations. We said that the City would best be served by the following:

1) Hiring a full-time planner experienced in zoning, development review, enforcement, and comprehensive planning, who could work effectively with the Mayor and Council, the Planning Commission, and the Board of Zoning Appeals; and

2) Hiring on retainer a certified stormwater engineer to review and approve stormwater management plans related to private development proposals and public projects undertaken by the City.

New Projects

We discussed development projects anticipated within the next six months. You agreed to provide a list of these projects as well as updated information on the McCready Hospital and Maryland Crabmeet Company projects. We also discussed a variance apparently granted to the Maryland Crabmeet Company. You agreed to investigate and notify us whether this was a variance to the City's Critical Area requirements.

Tracey Gordy will continue to review development proposals for the City and, in order to keep everyone fully informed, will provide copies of her reviews and recommendations to the Mayor and the individual Council Members.

Following our meeting, the City Attorney contacted Assistant Attorney General Marianne Mason and discussed with her Crisfield's legal obligations under the law. Tracey Gordy also will provide the City Attorney with copies of her letters.

Development Review Procedures

We discussed the City procedures for reviewing and approving development proposals in the Critical Area. There appeared to be some uncertainty regarding the authority of City personnel, commissions and boards to grant final approval for various types of development applications. You agreed to provide us with an outline of the City's review procedures and a listing of personnel authorized to approve development projects.

Critical Area Guidance and Training

Ren Serey offered to meet with the Mayor and Council, Planning Commission, Board of Zoning Appeals and other City officials to discuss the goals of the Critical Area law, the details of the City's ordinances, and the procedures necessary to carry out the requirements of the law. Council Members Purnell and Thompson suggested that this training would be most helpful after they complete their review of the model ordinance.

Connelly Variance

We discussed the necessity of bringing the Connelly project into full compliance with the City's regulations and State law. The only way to accomplish this is for the Board of Zoning Appeals to consider a formal variance application for development in the Critical Area Buffer.

The City needs to take immediate action to advertise and schedule a variance hearing before the Board. Tracey Gordy volunteered to contact Mr. Connelly's attorney. However, as we discussed, the City ultimately is responsible for ensuring that this matter is properly concluded as required by law.

Please notify us as to the City's actions in this regard.

Thank you, again, for taking the time to meet with us. As I said, I am encouraged by your positive response to our concerns. I expect to hear from you soon, but if you have additional questions or need information, please contact me at (410) 260-3467 or Ren Serey at (410) 260-3462.

Sincerely,

Martin G. Madden
Chairman

cc: City Council Members

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

Honorable Cecilia Januszkiewicz, Secretary
Department of Budget and Management
45 Calvert Street
Annapolis, Maryland 21401

Dear Madam ~~Secretary~~ Cecilia

Thank you for your time yesterday and your consideration of the Critical Area Commission's FY 2007 budget request.

As you requested, I have attached summaries of the Commission's annual grants to four representative Critical Area counties. The attached budget summaries are from Baltimore County, St. Mary's County, Kent County, and Queen Anne's County.

Each packet contains the following:

- **A proposed Scope of Work for FY 2006 submitted to the Commission by the County.** The Scope sets out how the County intends to use the grant for implementation of the local Critical Area Program. Each scope describes various tasks including the review of development projects; management of the local approval process; and enforcement of regulations.

- **A contract between the Critical Area Commission and the County for FY 2005.** The contract sets out the County's responsibilities for administering the local Critical Area Program; managing the grant funds; and reporting activities to the Commission.

- **Two sets of grant management guidelines.** These guidelines contain standard State of Maryland requirements concerning receipt and use of State funds and a model reporting format specific to the Critical Area Commission.

- **Invoices from the County to the Commission requesting reimbursement for funds spent FY 2005 in support of the contract.** The invoice packets contain descriptions of the work tasks completed, and timesheet and payroll verifications for local personnel who have worked on the tasks.

Local governments depend on these grants to help with the costs of implementing their individual Critical Area Programs. The Critical Area, which is measured 1,000 feet inland from tidal waters and tidal wetlands, encompasses approximately 10% of the State. Sixteen counties, Baltimore City, and 46 municipalities have land within the Critical Area.

Under State law, the local jurisdictions are responsible for implementing State requirements for land development, water quality protection, and wildlife habitat conservation within the Critical Area. While the Commission is required by statute to provide both technical and financial assistance to the jurisdictions, these grants are vital to fulfill this role.

Thank you again for your time and consideration…it is very much appreciated.

Sincerely,

Marty Madden

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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July 15, 2005

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

Dear Ms. Elliott-Rossing:

Thank you for your letter of June 24, 2005 regarding the Critical Area violations at Corsica River Estates.

The actions by the owner of Lots 11 and 12 were significant and I believe that you have outlined positive steps to restore the site and mitigate for the violations. In addition, you have proposed short term procedures for handling violations, and a time table for completing the comprehensive review of the County's local program. As we discussed, it was essential to undertake these actions as soon as possible. I appreciate your commitment to improving local enforcement of the Critical Area law.

We have reviewed the proposed Buffer Management Plan for Lots 11 and 12 that you provided. You will receive by separate letter a list of planting and maintenance measures that the County should require for full and successful Buffer restoration of the site. In addition, the County should retain a bond for an extended period of time to cover survival of the plants. Please provide us with a copy of the approved Buffer Management Plan.

We also have consulted with the Department of the Environment in regard to the proposed shore erosion control measures on these lots. As you know, the Department does not review for land disturbance above Mean High Water or outside of tidal wetlands. Therefore, any local approval of the revetment should specify the means of access to the shoreline and be conditioned on final County approval of the Buffer Management Plan.

In regard to the overall Program update, our staff is available to assist in any way possible to expedite the process. When work begins on the ordinance, I recommend regularly scheduled work sessions between County and Commission staff to ensure timely progress. This is especially important given the recognition that the County's ordinance does not properly include all requirements related to Buffer establishment. We will continue to support the County in

addressing this requirement on a case-by-case basis. However, if problems in implementation arise, the Commission may need to require immediate correction of omissions in the County's Program.

As you requested, we will provide you with sample Buffer Management Plan forms that have been useful in other jurisdictions. Additional information on planting densities and other planting options will also be forthcoming.

Thank you for your prompt attention in addressing these serious matters. If you have questions, or need additional information, please contact me at (410) 260-3467 or Executive Director Ren Serey at (410) 260-3462.

Sincerely,

Martin G. Madden
Chairman

cc: County Commissioners
Paul Comfort, Esq., County Administrator
Rachel Eisenhauer, Assistant Attorney General
Ren Serey
LeeAnne Chandler

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 8, 2005

The Honorable Audrey E. Scott, Secretary
Maryland Department of Planning
301 West Street
Baltimore, Maryland 21201-2365

Dear ~~Secretary Scott~~: Audrey,

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays has enjoyed a long and productive relationship with the Department of Planning. As you know, the Secretary is a statutory member of the Commission. Over the years, the Department's representatives have provided valuable insight and guidance to our staff.

I am writing in regard to a staffing matter and hope that you may be able to provide us some temporary assistance. As a small agency with 15 employees, including myself, we are particularly affected with the loss of even one staff member. At the moment we have two vacant Natural Resource Planner positions. These positions review development projects within the Critical Area, which encompasses 10% of the State, and work closely with local governments, State agencies, landowners and developers, to ensure compliance with Maryland's Critical Area law. Our staff has done an admiral job adjusting its work load and streamlining its reviews while we seek permanent replacements; nevertheless, the recruitment process is quite long.

I have recently learned that another of our planners is leaving State service at the end of this month. I am concerned that the loss of an additional position for an extended period will prevent the Commission from providing landowners and local governments with the level of service that I believe is necessary and appropriate.

State law authorizes agencies to provide assistance to the Commission under Natural Resources Article, Section 8-1805 (a) (2). The section provides that "The State departments represented on the Commission may lend staff or other assistance to the Commission."

I would like to request that you assist us on a temporary basis if at all possible. I have attached for your consideration a brief outline of the type of assistance that would be most helpful. I believe that the services of just one planner during our four-to-six month recruitment would get us through this difficult time. Full-time assistance would be ideal, but even part-time help, two or three days a week, would be of huge benefit to our Commission. Because this assistance would be temporary, the training at first would be minimal in order to allow the planner to start contributing as quickly as possible. We would, of course, provide ongoing training, as well as supervision, as needed.

I think that the experience gained working closely with the Critical Area Commission, its staff, and the variety of parties involved in the development process would be valuable for anyone interested in land use, environmental protection and the needs of a growing state. In addition, they would be providing a valuable service to our state and the citizens of Maryland.

Thank you very much for your consideration of this important request.

Sincerely,

Martin G. Madden
Chairman

Knowledge and Skills for Temporary Critical Area Assistance

1. The individual should be able to communicate clearly in two primary ways: writing letters, memos and reports; and responding to questions over the telephone, in the field and at meetings. We will provide training, direction and supervision in regard to content. Due to the nature of this temporary assignment, good communication skills are more important, for example, than research or computational skills.

2. The individual should have a general understanding of the structure of State and local government and be able to distinguish between a requirement and a recommendation. Most aspects of the State's Critical Area law and regulations are carried out by local governments. The Commission is charged with oversight responsibility to ensure that local governments implement their Critical Area programs in a consistent manner. In most instances the Commission fulfills this responsibility by providing technical assistance and recommendations to local governments in the review of proposals for land development. We will provide training and close supervision in the technical aspects of the law. But the role of the Commission and the extent of its legal authority are subjects of daily questioning, and the individual must appreciate that certain questions should be referred to other Commission staff when appropriate.

3. The individual must be aware that much of their time will be spent providing information to homeowners, developers, attorneys, engineers, elected officials, and local planning staff. In all of these interactions, the planner represents the 29 members of the Critical Area Commission, its Chairman and the State of Maryland. What is said and the way it is said are important.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 8, 2005

The Honorable Robert L. Flanagan, Secretary
Maryland Department of Transportation
P. O. Box 548
7201 Corporate Center Drive
Hanover, Maryland 21076

Dear Secretary Flanagan:

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays has enjoyed a long and productive relationship with the Department of Transportation. As you know, the Secretary is a statutory member of the Commission. Your designee, Meg Andrews, is not only a capable representative, but also provides valuable insight and guidance to our staff.

I am writing in regard to a staffing matter and hope that you may be able to provide us some temporary assistance. As a small agency with 15 employees, including myself, we are particularly affected with the loss of even one staff member. At the moment we have two vacant Natural Resource Planner positions. These positions review development projects within the Critical Area, which encompasses 10% of the State, and work closely with local governments, State agencies, landowners and developers, to ensure compliance with Maryland's Critical Area law. Our staff has done an admiral job adjusting its work load and streamlining its reviews while we seek permanent replacements; nevertheless, the recruitment process is quite long.

I have recently learned that another of our planners is leaving State service at the end of this month. I am concerned that the loss of an additional position for an extended period will prevent the Commission from providing landowners and local governments with the level of service that I believe is necessary and appropriate.

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departments represented on the Commission may lend staff or other assistance to the Commission."

I would like to request that you assist us on a temporary basis if at all possible. I have attached for your consideration a brief outline of the type of assistance that would be most helpful. I believe that one or two people available during our four-to-six month recruitment would get us through this difficult time. Because this assistance would be temporary, the training at first would be minimal in order to allow the planner to start contributing as quickly as possible. We would, of course, provide ongoing training, as well as supervision, as needed.

I think that the experience gained working closely with the Critical Area Commission, its staff, and the variety of parties involved in the development process would be valuable for anyone interested in land use, environmental protection and the needs of a growing state. In addition, they would be providing a valuable service to our state and the citizens of Maryland.

Thank you very much for your consideration of this important request.

Sincerely,

Martin G. Madden
Chairman

Knowledge and Skills for Temporary Critical Area Assistance

1. The individual should be able to communicate clearly in two primary ways: writing letters, memos and reports; and responding to questions over the telephone, in the field and at meetings. We will provide training, direction and supervision in regard to content. Due to the nature of this temporary assignment, good communication skills are more important, for example, than research or computational skills.

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3. The individual must be aware that much of their time will be spent providing information to homeowners, developers, attorneys, engineers, elected officials, and local planning staff. In all of these interactions, the planner represents the 29 members of the Critical Area Commission, its Chairman and the State of Maryland. What is said and the way it is said are important.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 2, 2005

C. Daniel Saunders, Esquire
106 Church Alley
P. O. Box 158
Chestertown, Maryland 21620

RE: *Queen Anne's Conservation Assoc. et al. v. County Comm'rs of Queen Anne's County,* Circuit Court for Queen Anne's County

Dear Mr. Saunders:

Thank you for your letter and for the courtesy copy of the complaint that you filed in the above-captioned case on behalf of the Queen Anne's Conservation Association and several individual clients. As you requested, I have reviewed the complaint and the attached maps. I have also given considerable thought to your request that the Critical Area Commission join in this action against the County Commissioners, and I have discussed this request with my Assistant Attorney General.

On the advice of my attorney, I must respectfully decline to intervene in the lawsuit. As you know, the Commission has statutory responsibility for oversight of local jurisdictions' implementation of their Critical Area programs. The Critical Area statute provides certain remedies to the Commission and the Chairman, if a local jurisdiction fails to enforce all or part of its Critical Area program, or if a part of a local Critical Area program is found to contain a mistake, omission, or conflict with the State law or criteria. The Commission is bound to follow the statutory processes available to it in either of these circumstances.

I appreciate your informing me about this matter.

Sincerely,

Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 20, 2005

Mr. Paul Comfort, Esq., County Administrator
107 N. Liberty Street
Centreville, MD 21617

Re: Notice of Failure to Enforce Requirements of Critical Area Program – Lots 11 and 12, Corsica River Estates

Dear Mr. Comfort:

I write this letter reluctantly but with considerable concern about Queen Anne's County's implementation of its local Critical Area program regarding the Buffer clearing violation on Lots 11 and 12 of the Corsica River Estates subdivision.

The Annotated Code of Maryland, Natural Resources Article Section 8-1815(b), requires the Chairman of the Critical Area Commission, whenever he or she has reason to believe that a local jurisdiction is failing to enforce the requirements of its Critical Area program applicable to a particular development, to serve notice upon the local jurisdiction. After consultation with the Assistant Attorney General, I have concluded that the statute requires me to issue this notice. I believe that the County's enforcement actions do not meet the requirements of the County's Critical Area ordinance or the Critical Area law based upon the following facts and circumstances.

The Queen Anne's County Chesapeake Bay Critical Area Act (Chapter 14:1 of the County Code) prohibits the clearing of natural vegetation within the Buffer except under specific circumstances, such as to prevent trees from falling and causing damage to structures or to the shoreline. This permissible removal of trees may occur under an approved Buffer Management Plan. The clearing that occurred on Lots 11 and 12 of Corsica River Estates over the weekend of March 25th, 2005 was done without an approved Buffer Management Plan or any other permit.

As you know, I previously contacted Ms. Faith Elliott-Rossing regarding this violation, asking specific questions about how the County was handling the situation to ensure restoration of the site. The response received indicated that after-the-fact sediment control permits were issued requiring 1:1 mitigation for trees removed that had a diameter greater than 1 inch. The trees

were to be replaced on site within the 100-foot Buffer. The County further indicated that the landowner will be required to submit more formal Buffer Management Plans to the Department of Planning and Zoning for review and approval.

The County's response to the clearing violations is inconsistent with the following sections of the Queen Anne's County Critical Area Act:

- §14:1-38(D)(6)(b)[5] – "A sediment control permit shall be required prior to any clearing or cutting of trees associated with any development or development activities. If the cutting or clearing of forests or developed woodlands occurs before a sediment control permit is obtained, **the area removed must be replaced on site at the rate of three times the area removed.**" *Replacement of individual trees at a 1:1 ratio is not consistent with the County's regulations.*

- §14:1-51(A) – "New development activities, including **clearing of existing natural vegetation**, erection of structures, construction of new roads, parking areas or other impervious surfaces, and the placement of sewage disposal systems, are **not permitted in the Buffer** except as provided in the Buffer exemption section of this Chapter 14:1." *The County has not calculated the clearing of "undergrowth" (Ms. Elliott-Rossing's term) in the Buffer as part of the "natural vegetation" that must be included as part of the violation*

- §14:1-51(B)(2) – "Limited cutting or clearing of individual trees shall be permitted for the following purposes under an approved Buffer management plan…" *Acceptance of a sediment control permit as a Buffer Management Plan is not consistent with the County's definition of a Buffer Management Plan. The County Code at §14:1-11 defines Buffer Management Plan as "A plan designed for the management of the Buffer tailored for an individual lot or subdivision. It may include, among other things, planting plans, vegetation management and/or provisions for access to the water."*

Please be aware that the plat notes for the subdivision require establishment of a forested Buffer on Lots 11 and 12 when the lots are developed. The mitigation outlined in this letter is required solely for the violations. Establishment of the Buffer at the time of development must be in addition to the restored Buffer. It may be necessary for the County to find an offsite location to address the planting that would have been required if not for the violations.

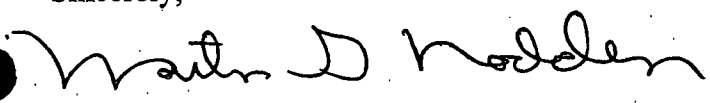
The County has a number of options for ensuring restoration of the site. A civil action may be filed to compel restoration of the site and the County may sue for damages equal to the estimated cost of replanting trees under Natural Resources Article 8-1815.1. In addition, Chapter 526 of the 2004 Laws of Maryland, "Chesapeake and Atlantic Coastal Bays Protection Program – Miscellaneous Enforcement Provisions," provides the County with the means of assessing an appropriate fine up to $10,000, based on the gravity of the violation, any willfulness or

negligence involved in the violation and the environmental impact of the violation. In enacting this law, the General Assembly also authorized local jurisdictions to request assistance from the Attorney General and the Commission for enforcement actions (Natural Resources Article 8-1815(a)).

Please respond to this letter within 30 days and notify the Commission of the action the County has taken to effectively implement the requirements of the County's Critical Area Program for protection of the Buffer, developed woodlands and forested areas. Should the Commission fail to receive a satisfactory response from you within 30 days, the Critical Area law authorizes me to refer this matter to the Attorney General for appropriate legal action pursuant to the Code, Natural Resources Article 8-1815(b-c).

If you have questions about this letter or the County's responsibilities to properly implement its local Critical Area Program, please contact me at (410) 260-3467 or Mr. Ren Serey at (410) 260-3462. I look forward to hearing from you.

Sincerely,



Martin G. Madden
Chairman

cc: Honorable Joseph Cupani, President
Honorable Rodney "Nemo" Niedomanski, Vice President
Honorable Benjamin F. Cassell, Jr.
Honorable Michael S. Koval
Honorable Gene M. Ransom, III
Ms. Faith Elliott-Rossing
Marianne D. Mason, Assistant Attorney General
LeeAnne Chandler
Ren Serey

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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May 2, 2005

Honorable Glenn L. Bramble, President
Dorchester County Council
County Office Building
P.O. Box 26
Cambridge, Maryland 21613-0026

Honorable Cleveland L. Rippons, Mayor
City of Cambridge
P.O. 255
Cambridge, Maryland 21613-0255

Honorable Edward E. Watkins, President
City of Cambridge, City Commission
P.O. 255
Cambridge, Maryland 21613-0255

RE: Little Blackwater River Watershed Study

Dear Councilman Bramble, Mayor Rippons, and Commissioner Watkins:

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays recently requested that I write to you regarding the comprehensive feasibility study for the Little Blackwater River Watershed. I believe that a contract for the study has been awarded; however, the study has not been initiated yet because the effort is not fully funded. I am writing to urge you to appropriate the necessary funds to accomplish this important effort now, so that the information collected can be used to guide the significant land use decisions facing Dorchester County and the City of Cambridge in the next year.

I understand that the study will consist of four elements: 1) a floodplain study that includes analysis of future hydrology as it relates to stormwater management and storm events of varying frequencies; 2) a characterization of the subwatershed that provides baseline data and a conservation areas assessment; 3) a review of the two proposed development projects in the watershed and potential approaches to meeting stormwater management goals; and 4) a phased approach to the development of a sustainable watershed protection plan that can be effectively implemented.

As you know, the Critical Area Commission recently reviewed two growth allocation projects in Cambridge and has been briefed on two other growth allocation projects. One of the projects, Blackwater Resort Communities, borders the shoreline of the Little Blackwater River for approximately 2.6 miles and involves 3,200 residential units, an 18-hole golf course, a conference center, and retail and commercial uses on 1,080 acres. These projects have the potential to substantially change the character of the City of Cambridge and portions of Dorchester County. They also may dramatically alter the stormwater volume, hydrology, flood risk, and water quality of the Little Blackwater River and its surrounding watershed.

When making decisions on growth allocation projects, involving the reclassification of lands designated as Resource Conservation Areas (RCA) to Limited Development Area (LDA) or Intensely Developed Areas (IDA), Section 27.01.02.06 of the Code of Maryland Regulations directs local governments and the Commission to use specific guidelines. One of these guidelines states that, *"New IDAs and LDAs should be located in order to minimize impacts to habitat protection areas as specified in COMAR 27.01.09 and in a manner that optimizes benefits to water quality."* Because these projects represent significant growth and development affecting a large portion of the watershed of the Little Blackwater River, the data generated by the study will be extremely useful to the Commission.

The Commission is interested in this important effort and hopes that the study will be underway as soon as possible. The study should provide a basis for sound decision making that accomplishes the County's and the City's goals for growth and economic development, as well as the goals of the Critical Area law to protect the Chesapeake Bay and its tributaries.

Thank you for your consideration of this request. If you have any questions, or if I or a member of the Commission staff can assist you with the study in any way, please contact me at (410) 260-3467, or Ren Serey, the Commission's Executive Director, at (410) 260-3462.

Sincerely,

Martin G. Madden
Chairman

cc: Honorable Kenneth P. Knox, City Commissioner
Honorable Gilbert Cephas, City Commissioner
Honorable La-Shon M. Brooks, City Commissioner
Honorable Walter Lee Travers, City Commissioner
Honorable David Yockey, County Council Member
Honorable William V. Nichols, County Council Member
Honorable Thomas A. Flowers, County Council Member
Honorable Effie M. Elzey, County Council Member
Jim Newcomb, Dorchester County Soil Conservation District
Steve Dodd, Dorchester County Planning and Zoning Office
Anne Roane, City of Cambridge Department of Public Works and Planning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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/

April 14, 2005

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

Re: Corsica River Estates Lots 11 and 12

Dear Ms. Elliott-Rossing:

On March 29, 2005 Ms. LeeAnne Chandler of the Critical Area Commission staff received a telephone call from Ms. Eileen McLellan, the Chester Riverkeeper, in regard to tree clearing and grading along the shoreline of Tilghman Cove adjacent to Corsica River Estates. Ms. McLellan reported that she had contacted both your office and the Maryland Department of the Environment (MDE).

Ms. Chandler immediately contacted Mr. Jim Barton in your office to inquire about the reported activity and to arrange a site visit with County inspectors for the next day. The site visit also included MDE enforcement personnel.

I understand that there have been two previous violations on this site. I am concerned about the apparent history of non-compliance and I am especially concerned about the current situation. Our records indicate that the final plat of Corsica River Estates included specific plat notes that required establishment of the Buffer when the lots were developed, and further provided protection of the existing forest along the shoreline. The current situation on Lots 11 and 12 graphically illustrates that the development is not in compliance with the recorded plat.

As you know, local governments are the primary enforcement authority for violations of the Critical Area law. I understand that the County has assessed a $500 fine on each of the two lots where the illegal clearing occurred. You may recall that in 2004 the Commission worked closely with the Maryland General Assembly to authorize local

governments to assess fines up to $10,000 per violation, which was signed into law. Section 8-1808 (c)(xiv)(2) of the Critical Area law now provides that in assessing a higher penalty for unauthorized clearing, a local jurisdiction may consider the gravity of the violation; any willfulness or negligence involved; and the environmental impact.

The Critical Area Commission also has certain enforcement authority under the law. In this regard, I would appreciate your responses to the following questions.

> Did the County approve a Buffer Management Plan for the clearing and disturbance to the Buffer prior to commencement of the current activity?
>
> Under the requirements of the Critical Area Criteria violations must be mitigated at three times the area disturbed. If the County is requiring an after-the-fact Buffer Management Plan, how will the required 3:1 mitigation be calculated and monitored?
>
> In addition to mitigation, how will the County assure restoration of the site? Does the County intend to file a civil action to compel restoration, and if so, when does the County propose to file the action(s)?

I would appreciate hearing from you by April 25, 2005. If you have questions concerning this request, please contact me at (410) 260-3467 or Ren Serey at (410) 260-3462.

Sincerely,

Martin G. Madden
Chairman

cc: Honorable Joseph Cupani, President
Honorable Rodney "Nemo" Niedomanski, Vice President
Honorable Benjamin F. Cassell, Jr.
Honorable Michael S. Koval
Honorable Gene M. Ransom, III
Paul Comfort, Esq.
Marianne D. Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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January 4, 2005

Mr. Otis Rolley, III
Baltimore City Department of Planning
417 E. Fayette Street
8th Floor
Baltimore, Maryland 21202

Dear Mr. Rolley:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable provision of the law is Section §8-1804 (c) (b). It states:

> "Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the nonattendance with the statement of the nonattendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you attended 5 of the 11 (55%) meetings held by the Commission during the calendar year 2004. The meetings that you were not in attendance are: May, July, August, October, November and December. If your records differ, please let us know. Because the Governor, for satisfactory reasons, can waive the attendance requirement to continue on the Commission, I would urge you to provide a letter explaining the reasons for any of the absences, such as for business purposes, illness or other reasons, and submit it before January 12th, so I may include it with the attendance report. Our fax number is (410) 974-5338.

Thank you for your cooperation with this request. We greatly value your attendance and participation on the Commission. If you have questions, please contact me at (410) 260-3467 or Ren Serey at 410-260-3462.

Sincerely,

Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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January 4, 2005

Honorable James N. Mathias
Town Hall
301 Baltimore Avenue
Ocean City, Maryland 21842

Dear Mayor Mathias:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable provision of the law is Section §8-1804 (c) (b). It states:

> "Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the nonattendance with the statement of the nonattendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you attended 6 of the 11 (55%) meetings held by the Commission during the calendar year 2004. The meetings that you were not in attendance are: May, July, August, September and October. If your records differ, please let us know. Because the Governor, for satisfactory reasons, can waive the attendance requirement to continue on the Commission, I would urge you to provide a letter explaining the reasons for any of the absences, such as for business purposes, illness or other reasons, and submit it before January 12th, so I may include it with the attendance report. Our fax number is (410) 974-5338.

Thank you for your cooperation with this request. We greatly value your attendance and participation on the Commission. If you have questions, please contact me at (410) 260-3467 or Ren Serey at 410-260-3462.

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January 4, 2005

Honorable Judith M. Cox
Mayor, Town of Rising Sun
28 North Queen Street
P.O. Box 460
Rising Sun, Maryland 21911

Dear Mayor Cox:

As you may be aware, there are specific attendance requirements for Critical Area Commission members set out in the law. The applicable provision of the law is Section §8-1804 (c) (6). It states:

> "Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the nonattendance with the statement of the nonattendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public."

Our records indicate that you attended 6 of the 11 (55%) meetings held by the Commission during the calendar year 2004. The meetings that you were not in attendance are: February, April, August, September, and December. If your records differ, please let us know. Because the Governor, for satisfactory reasons, can waive the attendance requirement to continue on the Commission, I would urge you to provide a letter explaining the reasons for any of the absences, such as for business purposes, illness or other reasons, and submit it before January 12th, so I may include it with the attendance report. Our fax number is (410) 974-5338.

Thank you for your cooperation with this request. We greatly value your attendance and participation on the Commission. If you have questions, please contact me at (410) 260-3467 or Ren Serey at 410-260-3462.

Sincerely,

Martin G. Madden
Chairman