Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
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www.dnr.state.md.us/criticalarea/

December 29, 3006

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

Re: L1037 Avalon Limited Partnership
Tax Map 44A, Parcels 4 and 303

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line abandonment. The applicant is requesting to abandon the existing lot line between Parcels 4 and 303 in order to create one lot. Both properties appear to be designated as Limited Development Areas (LDAs).

In general, this office does not oppose an abandonment of the lot line as proposed. However, it is our understanding that the Critical Area portion of the property is prohibited from use for future development as the acreage of Parcel 4 has been previously utilized to calculate impervious surface area and forest clearing allowances on the adjoining Tilghman on the Chesapeake subdivision, Lots 6 through 15. Therefore, a note should be placed on the plat within the development rights summary which clearly states that future development within the Critical Area portion of revised Parcel 303 is prohibited. In addition, it is our understanding that the proposed lot line abandonment does not have an effect on the existing forest conservation easement, which will remain in place both within and outside of the Critical Area.

Thank you for the opportunity to provide comments for this line abandonment request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC832-06

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 29, 2006

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

Re: L1038 Vestry of Wye Parish
Tax Map 1, Parcels 9 and 1

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line abandonment. The applicant is requesting to abandon an existing lot line between Parcels 1 and 9 for the purpose of creating a larger Parcel 9. Parcel 1 lies partially within the Critical Area and is designated as a Resource Conservation Area (RCA). Parcel 9 lies entirely outside of the Critical Area.

Based on the information provided, it appears that the proposed lot line abandonment occurs in an area of Parcel 1 located entirely outside of the Critical Area. In addition, there are no consequential impacts to the Critical Area as a result of the proposed lot line abandonment. Therefore, this office has no comments regarding the applicant's proposal.

Thank you for the opportunity to provide comments for this lot line abandonment request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC811-06

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 29, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-06-42 Hellen Creek-Revised
(Tax Map 42, Parcel 338)

Dear Ms. Vidotto:

This letter is in regard to our continuing review of the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a 3.25-acre property. The property is located within a Limited Development Area (LDA) and is currently developed with two primary dwellings and a shed. Based on our review of the revised plat, this office has no further comments to offer.

Thank you for the opportunity to provide comments for this minor subdivision request. Please provide this office with a copy of the recorded plat and please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA287-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 29, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-11-44 Dowell
Final Plat Review-Parcel 462

Dear Ms. Vidotto:

This letter is in regard to our continuing review of the above referenced subdivision. The comments below are identical to those provided on August 3, 2006 as it does not appear that the applicant has incorporated the necessary changes on the current plat. As a side note, please advise the applicant that the referenced sections of the County's ordinance are not applicable at this time as the County's proposed changes to the Critical Area Program and zoning ordinance have not been formally approved by the Commission.

The impervious surface area information listed on the plat is not accurate. Specifically, the provision within State and County Critical Area Law which permits lots under one-half acre in size to increase imperviousness to 31.25% applies only to grandfathered lots of record. The process of subdivision, as proposed by the applicant, results in the creation of two new, non-grandfathered lots. Therefore, the impervious surface area on proposed Lots 1 and 2 is limited as follows:

"If an individual lot 1 acre or less in size is part of a subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after June 1, 2002 in the Atlantic Coastal Bays Critical Area, then man-made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15%" (Natural Resources Article §8-1808.3).

- Proposed Lot 1= 0.352 acres x 25% = 3,833 square feet
- Proposed Lot 2= 0.371 acres x 25% = 4,040 square feet
- Total property acreage= 0.758 acres x 15% = **4,952 square feet**

Based on the information provided above, the 15% limit for the entire subdivision restricts the lots to less than 25% coverage for each lot. Alternatively, the applicant may choose to abide by the 15% limit for each lot (2,299 square feet for Lot 1 and 2,424 square feet for Lot 2). Please provide Commission

staff with a revised plat which demonstrates that compliance with impervious surface area limits can be achieved in conjunction with the proposed subdivision.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA412-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 28, 2006

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

Re: Charles Carlow Property
S06-032

Dear Ms. Krinetz:

Thank you for providing information regarding the above referenced subdivision. The applicant is proposing to subdivide a 3.906 acre property to create four lots. Currently, the two existing parcels of record are developed with two single-family dwellings and a commercial restaurant. The subdivision would create an additional building lot. Of the total property acreage, 3.11 acres lie within the Critical Area, with 0.14 acres in the Resource Conservation Area (RCA) and 2.96 acres within the Limited Development Area (LDA).

Based on the subdivision plat submitted, it appears that the applicant is proposing to re-subdivide two existing parcels of record for the purpose of creating an additional buildable lot. The applicant proposes a further subdivision of an existing non-conforming situation in regard to impervious surface area limits, and results in additional development of the property. As such, we are not able to support the applicant's subdivision proposal. In regard to our position, we provide the following comments:

1. The Critical Area calculation chart shown is entirely inaccurate. As a result of the proposed subdivision, the four new lots will not have grandfathered status. As such, the impervious surface area limits are not as shown in the chart. Specifically, non-grandfathered lots within the RCA and LDA are limited by law as follows. "If an individual lot 1 acre or less in size is part of a subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after June 1, 2002 in the Atlantic Coastal Bays Critical Area, then man-made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15%" (Natural Resources Article §8-1808.3)." Based on the chart, proposed Lots 1 and 2, if viewed alone, would qualify for a 25% impervious surface area limit provided that the entire subdivision did not exceed 15%. Given that the amount of existing impervious surface area on proposed Lot 3 alone exceeds 15%of the subdivision (20,320 square feet is equal to 15% of 3.11 acres), it would appear that neither Lot 1 nor Lot 2 could qualify for a 25% limit. Therefore, all of the

lots within the proposed subdivision are limited to 15% impervious surface area per lot. The chart should be amended as follows:

- Lot 1 (.219 acres in LDA) * 15% = 1,430 square feet
- Lot 2 (.332 acres in LDA and RCA) * 15% = 2,174 square feet
- Lot 3 (1.03 acres in LDA) * 15% = 6,766 square feet
- Lot 4 (1.42 acres in LDA and RCA) * 15% = 9,292 square feet

2. Based on the information in #1 above, it is not clear whether Lot 1 would exceed the 15% limit within the Critical Area. Please clarify. In addition, it appears that Lot 3 would greatly exceed the 15% limit, resulting in a significant increase in the non-conformity of the existing structures.

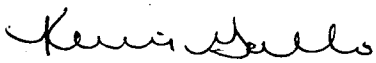
3. It appears that 4,370 square feet is proposed in conjunction with a widening strip, but it is not clear whether this acreage will be in impervious cover or simply constructed as a pervious easement area. Please clarify and please note that if impervious cover is proposed, the square footage will need to be incorporated into one of the lots or the total impervious area of the widening strip will be required to stay within 15% of the dedicated easement area.

4. It appears that there is an existing tower on a portion of proposed Lot 4. Please ensure that this impervious acreage has been included within the impervious surface area totals for Lot 4.

5. As the site currently contains less than 15% forested cover, it appears that afforestation will be necessary to comply with the 15% forest cover requirements within the LDA and RCA. Please provide a planting plan which demonstrates where 20,320 square feet of forested cover will be planted.

Thank you for the opportunity to provide comments for this subdivision plat. Please have the applicant address the issues raised above. If you have any questions, please contact me at 410-260-3482.

Sincerely,



Kerrie L. Gallo
Natural Resources Planner
AA753-06

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 28, 2006

Ms. Debbie Renshaw
Zoning Officer
Town of Saint Michaels
P.O. Box 206
St. Michaels, Maryland 21663-0206

Re: San Domingo Creek Shoreline Restoration – Consistency Report

Dear Ms. Renshaw:

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 Town of Saint Michaels Critical Area Program for the reasons outlined below. The project will:

- Permanently stabilize and eroding shoreline in the identified area while providing natural marsh vegetation to serve for habitat benefits.
- Provide adequate sediment control during construction.
- Avoid clearing.
- Avoid impacts to Habitat Protection Areas

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,

Kerrie Gallo
Natural Resources Planner

cc: Roby Hurley, Circuit Rider
ST773-06

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 28, 2006

Ms. Debbie Renshaw
Zoning Officer
Town of Saint Michaels
P.O. Box 206
St. Michaels, Maryland 21663-0206

Re: San Domingo Creek Shoreline Restoration – Consistency Report

Dear Ms. Renshaw:

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 Town of Saint Michaels Critical Area Program for the reasons outlined below. The project will:

- Permanently stabilize and eroding shoreline in the identified area while providing natural marsh vegetation to serve for habitat benefits.
- Provide adequate sediment control during construction.
- Avoid clearing.
- Avoid impacts to Habitat Protection Areas

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,

Kerrie Gallo
Natural Resources Planner

cc: Roby Hurley, Circuit Rider
ST773-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 21, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-02-03-44 Bonnie's Bounty
Revised Review

Dear Ms. Vidotto:

This letter is in response to our continuing review of the above referenced subdivision. Based on the information provided, it appears that the majority of our previous concerns have been addressed. However, the following comment remains outstanding and must be addressed prior to final plat approval.

The Department of Natural Resources (DNR) has identified the site as containing Forest Interior Dwelling Bird (FIDS) habitat. The Calvert County Critical Area Program (Conservation Manual, Section 5) requires that the developer must develop a Habitat Protection Plan (HPP) where FIDS habitat has been identified. This HPP should address all of the recommendations outlined with the letter from DNR and should clearly identify how the project complies with each. In addition, please have the applicant add a note regarding the presence of FIDS on this site. Additional guidance regarding FIDS can be found in the Commission's guidance paper entitled, A Guide to the Conservation of FIDS in the Chesapeake Bay Critical Area. Please advise the applicant the mitigation for impacts to FIDS habitat require the creation of alternative FIDS habitat or payment into a fee-in-lieu program. The summary of impacts should be provided as a component of the HPP.

Thank you for the opportunity to provide comments for this revised subdivision request. Please provide this office with a copy of a revised site plan when submitted. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA712-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 21, 2006

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

Re: NC8 Endzel

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to front-yard setbacks in order to replace and vertically expand the roof on an existing shed. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the site plan provided, it appears that the existing shed is located outside of the 100-foot Buffer. In addition, it appears that the proposed improvements include only a vertical expansion of a roof structure and that no additional impervious surface area will be created on the property. As such, this office has no concerns regarding the proposed variance.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC746-06

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 21, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-11-44 Dowell
Final Plat Review

Dear Ms. Vidotto:

This letter is in regard to our continuing review of the above referenced subdivision. The comments below are identical to those provided on July 16, 2006 as it does not appear that the applicant has incorporated the necessary changes on the current plat. As a side note, please advise the applicant that the referenced sections of the County's ordinance are not applicable at this time as the County's proposed changes to the Critical Area Program and zoning ordinance have not been formally approved by the Commission.

The impervious surface area information listed on the plat is not accurate. Specifically, the provision within State and County Critical Area Law which permits lots under one-half acre in size to increase imperviousness to 31.25% applies only to grandfathered lots of record. The process of subdivision, as proposed by the applicant, results in the creation of two new, non-grandfathered lots. Therefore, the impervious surface area on proposed Lots 1 and 2 is limited as follows:

"If an individual lot 1 acre or less in size is part of a subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after June 1, 2002 in the Atlantic Coastal Bays Critical Area, then man-made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15%" (Natural Resources Article §8-1808.3).

- Proposed Lot 1= 0.285 acres x 25% = 3,108 square feet
- Proposed Lot 2= 0.210 acres x 25% = 2,285 square feet
- Total property acreage= 0.52 acres x 15% = **3,397 square feet**

Based on the information provided above, the 15% limit for the entire subdivision restricts the lots to less than 25% coverage for each lot. Alternatively, the applicant may choose to abide by the 15% limit for each lot (1,862 square feet for Lot 1 and 1,372 square feet for Lot 2). Please provide Commission

staff with a revised plat which demonstrates that compliance with impervious surface area limits can be achieved in conjunction with the proposed subdivision.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA412-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 21, 2006

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

Re: NC9 Loran

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to side-yard setbacks in order to construct an enclosure over an exiting impervious patio. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the site plan provided, it appears that the existing patio is located outside of the 100-foot Buffer. While the site is not currently in compliance with the impervious surface area limits for the property, the proposed enclosure will not create any new impervious surface area on the site. As such, this office has no concerns regarding the proposed variance.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC772-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 20, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: 07-3387 Rivera

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to reconstruct and enclose and existing deck. The property is designated a Limited Development Area (LDA) and is currently developed.

In general, this office does not oppose the applicant's request to enclose the existing deck. However, we have several comments and recommendations regarding the site plan provided. Specifically, the applicant will be creating new impervious surface area within the Buffer, yet has not provided any stormwater management enhancements. We recommend that the Board require additional stormwater management measures to offset the area of new impervious surface area in the Buffer and to provide an overall improvement in the site's conditions. We note that mitigation plantings will also be required at the time of building permit application to offset the area of new impervious surface area.

In addition, the applicant proposes to convert an existing area, as well as to construct a new area of driveway in blue chip gravel. It appears that the purpose of the conversion is to avoid exceeding the impervious surface area limit on the property. While we recognize that the County generally considers blue chip gravel to be pervious, we question whether the conversion to this material provides any true benefit to improving the stormwater runoff and habitat quality of the property, and whether perviousness will actually be achieved through the use of blue chip gravel. We also question how the County will ensure that future paving of the blue chip will not occur. Alternatively, conversion of the paved area to native vegetation would provide greater benefits to habitat and stormwater quality. Since the applicant has an ample driveway area to provide ingress and egress, it would seem that that conversion of the asphalt area to native shrubs would not be a hardship and would be a reasonable method to ensure that future paving of the blue chip area does not occur.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
CA 794-06

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 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3338 Harding

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to permit the construction of a dwelling addition, garage addition and a driveway. addition, a variance to the 25% impervious surface area limit is requested. The property lies within a designated Limited Development Area (LDA) and is currently developed.

In evaluating the applicant's variance request, this office has several serious concerns. First, it appears that the applicants are requesting a variance to construct approximately 1,120 square feet of new impervious structures within the Buffer. We note that the sum of these proposed improvements is larger than the footprints of most primary dwellings which the Board reviews and grants variance for. In addition, despite the lot's small size and location entirely within the Buffer, extensive improvements currently exist on the property which result in virtually no undeveloped Buffer area available to serve as a transitional area for wildlife and water quality benefits or as a functional riparian Buffer. In consideration of the exiting site improvements and site conditions, it appears that the applicant currently enjoys reasonable and significant use of the entire lot or parcel and that little effort has been made to minimize the footprint and overall impact of new impervious surfaces in the Buffer. As such, it is our view that the applicant has failed to meet each and every one of the County's variance standards and should therefore be denied a variance.

Second, it is my understanding that extensive improvements within close proximity to Mean High Water (MHW) have been constructed without the required County permits. While the complete extent of the illegal improvements is unclear, it is my understanding that the existing paver patio and several decks are without legal permits. The applicants should be required to obtain permits for and/or remove all illegal structures within the Buffer prior to the Board's consideration of new variances to disturb the Buffer. To grant a variance where outstanding violations exist on a property would be in conflict with the goals and intent of the Critical Area Law. Therefore, we oppose the Board's consideration of new variances at this time.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 07-3388 Unkle

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to construct a stormwater management pond. The proposed pond would treat runoff from the existing Dowell Road, as well as from the new Back Creek subdivision. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

While we recognize that the intent of the applicant's request is to provide the County with improved drainage and stormwater management for both the existing Dowell Road and the new Back Creek subdivision, the Commission cannot support a variance to locate stormwater facilities within the 100-foot Buffer. Particularly when reviewing and approving a new subdivision, the County bears the responsibility to ensure that the proposed development can be constructed in a manner which is consistent with the current State and Local zoning laws. The Commission considers stormwater management and drainage improvements associated with and/or located within a new subdivision to be development activities. Since the Back Creek subdivision is newly created, the applicant clearly had the flexibility and opportunity to subdivide the property in accordance with all of the County's development requirements, including designing a location for stormwater management outside of the Buffer. In light of this situation, it is our view that any hardship would be self-created and does not meet the County's standards for granting a variance.

While we acknowledge that the Board's decision on the variance may be independent of other State and County site plan review requirements, we note that the proposed activity qualifies as a Local Agency Action Resulting in Major Development on Private Lands as identified within COMAR 27.02.04. As such, the project will require a conditional approval by the full Commission. While Commission staff cannot predict what the outcome of the conditional approval process will be, the

Commission has not historically approved the location of stormwater management facilities within the 100-foot Buffer.

Thank you for the opportunity to provide comments. Based on the comments above, this office is unable to offer support for this variance as proposed. Please include this letter as a part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA408-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

December 18, 2006

Ms. Debbie Renshaw
St. Michaels Planning Office
P.O. Box 206
St. Michaels, Maryland 21663-0206

Re: Town of Saint Michaels' Nature Trail

Dear Ms. Renshaw:

Thank you for providing information on the above referenced trail project. The purpose of this letter is to provide you with a summary of outstanding questions regarding the site plan and mitigation information submitted in connection with the proposed trail.

Before Commission staff can continue processing the Town's request for presentation to the full Commission, please provide written clarification via a site plan or revised mitigation plan regarding the following:

1. Phase 1, Plate 1: This plate indicates that 6,000 square feet of disturbance will occur within the Buffer associated with the trail, resulting in an 18,000 square foot mitigation requirement. In addition, this plate includes mitigation for 1,300 linear feet of trail at a 2:1 ratio. Please clarify what the 2:1 mitigation is for. In general, impacts outside of the Buffer would be mitigated at a 1:1 ratio, not 2:1 as indicated. In addition, mitigation is not generally required for impacts within the Intensely Developed Area (IDA) where they occur outside of the Buffer.

2. Phase 1, Plate 3: This plate details that the proposed 18,000 square feet of Buffer mitigation is to be accomplished through marsh creation (12,600 square feet) and the removal of invasive species (6,300 square feet). For impacts to the Buffer, 3:1 mitigation is required; however, the Commission can consider a minimum of 1:1 mitigation in the form of upland plantings, and the remaining 2:1 can be accomplished through alternative measures. Generally, the Commission does not consider the creation of marsh habitat to be a trade-off for the creation of upland Buffer habitat, as both are ecologically distinct communities. However, if upland plantings have been provided at a 1:1 ratio and it can be demonstrated that there are no other opportunities to plant the Buffer along the project site or within the upland outside of the Buffer, then the marsh plantings may be considered. Please submit a revised mitigation plan which demonstrates the location, species, and stock of a minimum of 6,000 square feet of upland Buffer plantings. In addition, please indicate whether additional

Buffer planting or upland planting opportunities outside of the Buffer are feasible within the project area.

3. Phase 1, Plate 3-A: Please provide the stock for the upland herbaceous and grass plantings. In addition, please provide a summary of how the quantity of proposed plantings correlates to the required acreage of mitigation. For example, the Commission considers one large tree, minimum 1.5-2 inch caliper, balled and burlapped, equivalent to 100 square feet of credit. A cluster of one large tree and three understory shrub plantings (minimum 2-3 gallon) would be given 400 square feet of credit. Individual 1-2 gallon grass and herbaceous plantings would be granted 25 square feet of credit each, and one seedling-sized tree would be granted 50 square feet of credit.

4. Phase 2, Plate 1: As in Phase 1, there is 2:1 mitigation proposed for the trail through the Limited Development Area (LDA). It appears that the entirety of the trail within the LDA is outside of the Buffer. As such, mitigation would be required only for the amount of vegetation being removed, and only at a 1:1 ratio. Please clarify the extent of impacts to the LDA outside of the Buffer and provide a revised mitigation plan.

5. Phase 2, Plate 2: It appears feasible to utilize the proposed mitigation plantings in mitigation Area #4 to meet the overall mitigation requirements for the site. However, as in Phase 1, please provide a chart summarizing the stock and credits given for the amount and type of plantings proposed.

I hope this letter provides clarification for the nature of the outstanding questions and concerns regarding the proposed project and mitigation. Please contact me at (410) 260-3482 if you have questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
ST 774-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 18, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-547-06 Kurtom-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance to the steep slope requirements for the purpose of constructing a primary dwelling, garage, and septic system. The property lies within a designated Limited Development Area (LDA) and is currently undeveloped.

Based on the revised site plan provided, it appears that the applicant has attempted to minimize overall impacts to steep slopes by eliminating a majority of the impacts to slopes greater than 25% and by decreasing the overall impervious cover by 3%. We note that the construction of a garage does not appear feasible without some impact to steep slopes and that the Board has historically granted variances for the purpose of a constructing a garage where it accompanies the initial construction of the primary dwelling. Given the applicant's attempts at minimization and the modest size of the improvements proposed, this office does not generally oppose the granting of a variance. However, we note that the applicant has removed the proposed deck from the revised site plan. We recommend that the Board include a condition of approval that requires any future deck construction to be completed in the flat area to the north of the proposed dwelling or in an alternative area where steep slopes will not be impacted.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 18, 2006

Ms. Debbie Renshaw
Zoning Inspector
Town of St. Michaels
PO Box 206
St. Michaels, Maryland 21663

Re: Critical Area Comprehensive Review
Town Ordinance #309

Dear Ms. Renshaw:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced amendment. On December 6, 2006 the Critical Area Commission unanimously approved the Town's amendments to the local Critical Area Program and Zoning Ordinance. As a part of this approval, the following conditions were included:

1. Page 4 <u>Section 340-27.E and 340-27.F-H. Critical Area Overlay District</u>
Insert the following language after (H):

<u>Regulated activities and applicability</u>
Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Zoning Administrator after review and approval under the Town's Critical Area Program.

<u>Responsible agencies</u>
These provisions shall be implemented and enforced by the Town Zoning Inspector. Should an infraction of the provisions contained in any law, regulation, or plan related to the Town's Critical Area Program be brought to the attention of any Town official, said official shall contact the Zoning

Inspector who may consult with the Town Attorney to determine the proper remedial course of action. If appropriate, the Zoning Inspector shall inform the Critical Area Commission about the infraction and any decision made regarding remedial action. The Commission, at its discretion, may also take remedial action under the authority it is given under State law.

State and local projects
For all development in the Critical Area resulting from State and local agency projects, the Town shall adhere to COMAR 27.02.02, COMAR 27.02.04 and COMAR 27.02.06. If applicable, consistency reports shall be submitted to the Critical Area Commission.

2. Pages 12, 13, and 25

Sections 340-27.2.C.6.d, 340-27.2.C.8.e.5, and 340-27.6.A.3.c.
Insert the following language:

p.12 (d): "Alternative provisions...of an equivalent forest area; **Appropriate fees shall be set out in the Administrative Fee Schedule as adopted by the Commissioners."**

p.13 (e)(5): "The amount of fee shall be...by the number of square feet of new impervious surface are on the property. **Appropriate fees shall be set out in the Administrative Fee Schedule as adopted by the Commissioners."**

p.25 (b)(3): "Applicants who cannot comply...are required to pay into the Town's Water Quality and Wildlife Fund. **Appropriate fees shall be set out in the Administrative Fee Schedule as adopted by the Commissioners."**

Fee Rates:

Throughout the ordinance, the Town includes provisions for payment of a fee-in-lieu for compliance with the 10% rule, mitigation for clearing of developed woodlands in the RCA and LDA, afforestation to 15% in the RCA and LDA, mitigation to exceed 25% coverage on a grandfathered lot within the LDA, and mitigation for new impervious surface areas within the BEA. Currently, the Town maintains an Administrative Fee Schedule. As the Town's ordinance has not been updated since 1988, an increase in the fee amount is necessary in order to ensure adequate funds are being collected to implement adequate mitigation. The Town Administrative Fee Schedule shall be revised to reflect the following rates:

For BEA and Non-BEA Buffer mitigation, clearing within the LDA and RCA outside of the Buffer, and fees to exceed 25% impervious surface area coverage on a grandfathered lot or record, utilize $2.50 per square foot.

For plantings to offset residential stormwater management requirements in the IDA or for compliance with the 15% afforestation requirements, utilize $1.50 per square foot.

For all other stormwater management, fees should be assessed at a rate of $28,000-$30,000 per pound of phosphorus.

3. Page 19 Section 340-27.5.C.5 The 100-foot Buffer
Revise as follows:

(5) "Any cutting...Town Zoning Inspector or their designee. Any trees cut **or cleared** are to be replaced on an equal basis. Cutting..."

4. Page 53 Section 340-27.16.D.4.c Agriculture in the Buffer
Revise as follows:

(c): "Where agricultural use...the Buffer shall be established. Buffer means an existing, naturally vegetated area or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances. In establishing the Buffer..."

5. Page 42 Section 340-28 Growth Allocation
Insert language as follows:

Guidelines. The area of expansion of Intensely Developed and Limited Development Areas, or both, shall be coordinated with the Town. When locating new Intensely Developed or Limited Development Areas the Town shall use these guidelines:

(1) Locate a new Intensely Developed Area in a Limited Development Area or adjacent to an existing Intensely Developed Area;

(2) Locate a new Limited Development Area adjacent to an existing Limited Development Area or an Intensely Developed Area:

(3) New Intensely Developed Areas shall be at least 20 acres in size unless:

A. They are contiguous to an existing IDA or LDA; or

B. They are a grandfathered commercial or industrial use which existed as of the date of local Program approval. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation

request.

(4) No more than one-half of the County's allocated expansion may be located in Resource Conservation Areas except as provided in paragraph (9) below;

(5) Locate a new Limited Development Area or Intensely Developed Area in a manner that minimizes impacts to Habitat Protection Areas as defined in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

(6) Locate a new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;

(7) New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of the Town for such areas, shall be so designated on the Town Zoning Map and shall constitute an amendment to this program subject to review and approval by the Town Commissioners and the Critical Area Commission.

(8) If the Town is unable to utilize a portion of its growth allocation as set out in paragraphs (1) and (2) above within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the allocated expansion which cannot be so located may be located in the Resource Conservation Areas in addition to the expansion allowed in (4) above. An applicant shall be required to cluster any development in an area of expansion authorized under this paragraph.

(d) **Application of Guidelines.** When the Town submits a request for the Commission to review and approve the use of growth allocation, the request shall state how the Town has applied the preceding guidelines. The Commission shall ensure that guidelines set forth in this section have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all Criteria of the Commission.

Debbie Renshaw
St. Michael's Comprehensive Review
December 18, 2006

Please incorporate the proposed text amendments into the County's zoning ordinance and Critical Area program within 120 days from the date of this letter. Also, please provide this office with an updated copy of the zoning ordinance once the changes have been made. Please contact me at 410-260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Roby Hurley, Circuit Rider

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/

December 15, 2006

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

Re: Appeal #1446 Shortall

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a Buffer variance in order to construct a deck attached to the existing dwelling and a wooden walkway leading to the existing pier. The property is designated a Limited Development Area (LDA) and is currently designated as a Buffer Management Area (BMA).

In general, this office does not oppose variances to construct a reasonably sized deck where it is demonstrated that impacts to the Buffer have been minimized and that the deck is the minimum necessary to provide reasonable and significant use of the outdoor areas of the property. In this case, it appears that the applicant proposes to construct an approximately 578 square foot deck, along with an approximately 168 square foot walkway. The deck will be located 35 feet from Mean High Water (MHW) and the proposed walkway will connect the deck to the existing pier.

In evaluating the variance request, the Board should consider that the County's BMA provisions require the applicant to minimize shoreward encroachment into the Buffer and to locate the proposed improvements no closer than 50 feet from MHW (Section 190-88.1). In addition, the Board should consider that the Buffer, a Habitat Protection Area (HPA), is intended to provide a transitional area between the water and development to serve for water quality and plant and wildlife habitat benefits. Finally, the County's variance standards require the applicant to demonstrate that the proposed improvements do not exceed the minimum adjustment necessary to relieve the hardship and that no adverse impacts to plant, wildlife and water quality will be incurred as a result of the proposed variance.

In reviewing the site plan submitted, it is our view that the applicant's proposal exceeds the minimum adjustment necessary, that the proposed improvements result in excessive encroachment towards MHW, and that the proposed improvements create the potential for adverse impacts to plant, wildlife and water quality by severely limiting the amount of Buffer

available to serve as a transitional area, free of structures. It appears that the applicant could enjoy reasonable and significant use of the outdoor spaces by constructing the square portion of deck attached to the dwelling (approximately 378 square feet). This would permit a 43-foot setback from MHW and would provide a greater area of undisturbed Buffer to serve for water quality and habitat benefits. In addition, it is our view that the proposed walkway to the pier exceeds the minimum variance necessary and creates a special privilege for the applicant that would not be supported by this office on other properties throughout the County. Further, it is our view that denial of a variance for this structure would not represent an unwarranted hardship to the applicant.

In summary, it appears that the applicant could further minimize impacts to the Buffer while constructing a smaller and more compact deck which provides reasonable and significant use of the outdoor spaces on the property. We recommend that the Board require minimization of the footprint and of the encroachment into the Buffer prior to granting a variance for the deck. This office does not support a variance for the proposed walkway, as it is our view that the applicant cannot meet each and every one of the County's variance standards for this structure. Therefore, we recommend that the Board deny a variance for the walkway.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC760-06

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 14, 2006

Ms. Michelle Jenkins
Town Administrator
Town of Chesapeake Beach
8200 Bayside Road
PO Box 400
Chesapeake Beach, MD 20732

Re: The Home Place Growth Allocation

Dear Ms Jenkins:

We have received your request for processing of the above referenced growth allocation proposal. Based on our review of the materials submitted, Commission staff is unable to accept the Town's growth allocation request for processing. Specifically, it appears that information necessary to evaluate the request is missing from the application. As such, it is not possible to determine whether the proposed project is consistent with the purpose and intent of the Critical Area Law and Criteria.

The Town's request for growth allocation has been determined to be incomplete based on the following application deficiencies.

1. The Town's ordinance requires submission of an environmental assessment for all new development within the Intensely Developed Area (IDA). This assessment has not been provided and must be provided in order to process the growth allocation request.

2. All new development within the IDA requires submission of the 10% rule worksheet and calculations in order to demonstrate that a 10% overall reduction in pollutant load is being achieved post development. While this information may be preliminary at this stage, it must accompany the growth allocation request.

3. All growth allocation requests require that the applicant have an evaluation of the property performed by the Department of Natural Resources (DNR) for the presence of any rare, threatened, or endangered species. If present, the applicant will be required to address any protection recommendations made by DNR via submission of a Habitat Protection Plan. This evaluation is required in order for the Commission to process the growth allocation request.

4. Within the IDA, the applicant must demonstrate that all pervious areas have been planted in natural vegetation to the extent possible. As such, a landscaping plan must accompany the growth allocation request which details the locations for proposed plantings, as well as the species and stock sizes proposed. While this information may be preliminary at this time, the Town's request cannot be processed without submission of such a plan.

In summary, the items listed above must be provided to the Commission before the Town's growth allocation can be accepted for processing. If you have any questions regarding the content of this letter, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Bill Watson, Chesapeake Beach

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 13, 2006

Mr. Daniel Reagle
Environmental Analyst
State Highway Administration
707 North Calvert Street
Baltimore, MD 21202

Re: Marina Drive Emergency Repair
Talbot County

Dear Mr. Reagle:

Thank you for providing information on the above referenced after-the-fact emergency repair project located on Marina Drive in Talbot County.

Based on the information provided, it appears that the project fits the category of routine maintenance projects and maintenance of roadways including patching, pavement replacement, and resurfacing that does not increase impervious surface. As such, we concur that the project is consistent with the standards of environmental protection outlined under COMAR 27.02.05.09. Given this determination, the project meets the conditions for a general approval as detailed in the current Memorandum of Understanding between the State Highway Administration (SHA) and the Critical Area Commission, and will not require formal Commission approval.

Thank you for the coordinating with the Commission on this project. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
52-06 DOT

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 11, 2006

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

Re: Chesapeake Beach Wastewater Treatment Plant Upgrades
Shellfish Protection Pond

Dear Mr. Watson:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On December 6, 2006, the Critical Area Commission unanimously approved the Town's proposal to construct a 10,000 square foot shellfish protection pond and to install an additional sequencing batch reactor. This approval included the following condition:

1. Prior to commencement of construction, the Town shall obtain the necessary erosion and sediment control authorization from the Calvert County Soil Conservation District.

In fulfillment of the above condition, please provide Commission staff with a copy of the appropriate permit once it has been obtained. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required.

In considering the Town's request, the Program Subcommittee discussed in detail whether the designation of RCA on the wastewater treatment plant site was appropriate given the intense use currently on the site and the future improvements planned. I will contact you to discuss this further.

Should you have any questions about the Commission's approval of the project, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Cynthia Lane, Stearns & Wheeler

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 11, 2006

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

Re: Chesapeake Beach Railway Trail

Dear Mr. Watson:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On December 6, 2006, the Critical Area Commission unanimously approved the Town's proposal to construct a 7,300 linear foot recreational trail. This approval included the following condition:

1. Prior to commencement of construction, the Town shall obtain the necessary erosion and sediment control authorization from the Calvert County Soil Conservation District.

In fulfillment of the above condition, please provide Commission staff with a copy of the appropriate permit once it has been obtained. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. In addition, please notify the Commission once the mitigation plantings have been implemented so that we may conduct a site visit. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Chris Jakubiak, Jakubiak & Associates

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 8, 2006

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

Re: L1022 Flood & May
Tax Map 30, Parcels 99 & 3

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is requesting a line revision to change the existing layout of boundary lines on Tax Parcel 99, Lot 5, and Parcel 3, resulting in a transfer of .012 acres of land from Tax Parcel 3 to Tax Parcel 99, Lot 5. The property designated a Resource Conservation Area (RCA) and each parcel is currently developed with single-family dwellings and pools.

Based on the revised information provided, this office has no additional comments to offer.

Thank you for the opportunity to provide comments for this lot line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC303-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 8, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Replatting of Jean King Property
(Tax Map 10, Parcel 26)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced replatting request. The applicant is proposing to replat a five lot subdivision. Specifically, the applicant proposes to relocate Lot 1 outside of the Critical Area, thereby combining the acreage of former Lot 1 and 2 into a revised Lot 2, and to reconfigure Lot 5, thereby creating an additional non-buildable agricultural parcel. In addition, the applicant proposes to abandon a 100-foot front roadway buffer on the new Lot 2. The property is located within a Resource Conservation Area (RCA).

Based on the revised plat provided, we have the following comments:

1. While the original plat appears to have been recorded without showing the limits of the 100-foot Buffer, this feature needs to be included on the revised plat. Please have the applicant submit a revised plat showing the limits of the 100-foot Buffer from tidal wetlands.

2. It appears as though the original plat was recorded with an incorrect note # 15. While it is not clear whether original Lots 1-5 have been developed at this point, the impervious surface area limits stated on the original plat are not accurate. Specifically, each of the proposed lots is greater than one acre in size. As such, the lots are limited to a 15% impervious surface area limit, and do not qualify for an increase to 25% regardless of the total amount of impervious surface area for the subdivision as a whole. As the impervious surface area limits are clearly defined within the State Law, please provide information as to how the County will correct this error on the revised plat. In addition, please provide information as to whether the existing lots are able to stay within the 15% limit.

Thank you for the opportunity to provide comments for this replatting request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA72-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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December 7, 2006

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

Re: L1035 Roben LTD/Close Line Revision
Tax Map 51, Parcels 61 and 71

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicants are requesting a line revision to change the layout of lot lines on two existing lots. Both properties lie within a designated Limited Development Area (LDA), and both lots are developed.

Based on the information provide, this office does not generally oppose a revision to the lot lines on this parcel. However, we have the following comments regarding the plat submitted.

1. Please provide a break down of the existing impervious surface areas for Lot 61 and Lot 71. The total area of existing impervious surface area is not clear based on the information shown on the current plat.

2. It appears that an extensive area of tidal wetlands lies on the adjacent Dickson parcel to the east. Please have the applicant field verify the limits of this wetland area to verify whether the 100-foot Buffer encroaches onto Lot 71.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 736-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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December 7, 2006

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

Re: M1081 Sterling Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision, lot line abandonment, and subdivision. The applicant is proposing to revise and abandon lot lines on three existing tax parcels and to create two new lots. The property is designated a Resource Conservation Area (RCA). Revised Tax Parcel 2 is currently developed with a single-family dwelling and pool.

Based on the information provided, we have the following comments:

1) The tax map records show that Parcel 70 directly abuts Parcel 2 along the southeastern boundary of Parcel 2. Tax Parcel 70 is not shown on the plat, yet it appears that some of the acreage from Parcel 70 is being utilized to create the proposed new lots 1 and 2. Please have the applicant provide this office with information clarifying the relationship of parcel boundaries between Parcel 2 and Parcel 70. Specifically, it is not clear that the acreage within proposed Lot 1 and 2 is derived from Parcel 2.

2) Please clarify how much total acreage is within the Critical Area including Parcels 70 and 218. These acreages must be the original acreages.

3) The tidal wetland information provided on the plat indicates that approximately 2.42 acres of tidal wetlands exist within the property boundaries. The plat further states that the wetland limits and ownership information were taken from wetland maps. Given that the total acreage for the proposed subdivision is just over 100 acres (101.897 acres), the amount of development rights available to the applicant may be affected by the ownership of the wetlands areas. Therefore, in this case, it will be necessary for the applicant to provide a professional field determination of private versus State-owned wetlands to verify the limits, extent, and ownership of the wetland areas. Upon completion of an ownership determination, please have the applicant provide information regarding the methods and field indicators used to make the determination to this office.

4) As you are aware, the applicant must obtain an evaluation of the property by the Department of Natural Resources (DNR) for the presence of rare, threatened, and endangered species. If present, the applicant must address the recommendations by DNR for the protection of these species. This office has not received an evaluation from DNR for the Sterling property at this time.

5) It appears that the limit of the 25-foot nontidal pond buffer exceeds the 50-foot building restriction line shown on Sheet 2 of 3 of the plat, and that this limit is not accurately shown. Please have the applicant correct the limits of the buffer.

6) Please clarify where the impervious surface area for the existing entrance road has been included within the impervious surface area calculations.

7) The State wetlands maps indicate that a stream exists east of the tidal wetland and nontidal pond at the southern end of Parcel 218, but this feature is not shown on the plat. Please have the applicant field verify the presence of this feature and include it on the plat if present.

Thank you for the opportunity to provide comments for this subdivision request. Please have the applicant address the comments above and submit a revised subdivision plat. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 49-06

Cc: Doldon Moore, State Wetlands Administrator

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

November 30, 2006

Mr. Dan Gerczak
Development Division
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

Re: Grading Permit #02010606
Building Permit #02226920
Riverdale Lots 3-6

Dear Mr. Gerczak:

Thank you for providing information on the above referenced building and grading permit plans. The applicant is requesting a permit to construct a multi-use structure, with office space and apartments, in addition to a new septic system and parking area. The property is designated a Limited Development Area (LDA) and was formerly developed with a restaurant.

Based on the site plan provided, we have the following comments:

1. The property total as stated on the application is 1.21 acres. Based on this acreage, the property is limited to a 15% impervious surface area limit. The applicant has stated that the property was formerly/is currently developed with 32,642 square feet of impervious surface area. While the former restaurant would have been permitted to remain as a grandfathered non-conforming structure, the new redevelopment plan must comply with the current standards and Critical Area requirements. Alternatively, the applicant may choose to apply for a variance to the 15% impervious surface area limit. However, a grading or building permit cannot be issued in the absence of a variance or a site plan which demonstrates compliance with the 15% limit.

2. It is not clear whether the proposed parking area is proposed to be constructed of gravel or pavement. Please ensure that this area is included within impervious surface area limits for the property.

3. Section 17-8-703(g) of the County Code requires the applicant to densely plant a 25-foot waterfront Buffer setback with native trees and shrubs when redevelopment occurs within a Buffer Management Area (BMA). The applicant's reforestation plan does not indicate that this

requirement is being met. Please provide a planting plan which demonstrates compliance with this requirement.

4. In addition to the requirement that the applicant must plant a 25-foot buffer yard, and in addition to the mitigation required for removal of existing trees and shrubs, the applicant is required to provide plantings within the BMA at a rate of two times the proposed impervious surface area located inside the BMA. Please have the applicant submit a planting plan that demonstrates compliance with this requirement.

Thank you for the opportunity to provide comments on this grading and building permit submittal. Due to the concerns identified above, please have the applicants submit a revised site plan. In addition, please advise whether a variance will be applied for or whether compliance with the 15% impervious surface area limit is intended. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
AA 745-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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November 30, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-06-17-23 Lowell Bowen-Revised
(Tax Map 23, Parcel 3)

Dear Ms. Vidotto:

This letter is in regard to our continuing review of the above referenced subdivision. A revised subdivision plat was received in our office on November 27, 2006.

Based on the revised plat provided, it appears that our previous concerns have been addressed. Therefore, we have no further comments to offer.

Thank you for the opportunity to provide comments for this minor subdivision and replatting request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA402-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Kerrie Gallo

Date: November 29, 2006

RE: POS Project #5018-4-56 Belt Property Acquisition, Calvert County

This office has received the Clearinghouse review notice for the above referenced acquisition. The notice states that the purpose of the project is to acquire 121 acres of waterfront property along Hunting Creek to be utilized as a regional active and passive recreational park. While specific plans may not yet be available, the following factors should be considered.

The parcel is located almost entirely within the Critical Area, with an overlay designation as a Resource Conservation Area (RCA). Within the RCA, there are limits on the amount of impervious surface area permitted, protections for rare, threatened and endangered species, and potential conflicts with certain active recreational uses. In addition, as the attached map indicates, extensive areas of tidal wetlands appear to exist across the property. These wetlands would be afforded a 100-foot Buffer and development activities would be prohibited within the Buffer.

As soon as detailed plans become available, we recommend that coordination be initiated with the Calvert County planning staff and Commission staff to ensure that the proposed plans for a regional park can be completed in manner that is consistent with the requirements for development within the RCA as well as with the State and local Critical Area requirements. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3482.

cc: John Swartz, Calvert County
Dave Brownlee, Calvert County

CLEARINGHOUSE REVIEW

November 20, 2006

TO : Arnold Norden, Greenways and Resources Planning (E-4)
Glenn Therres, Wildlife (E-1)
Nita Settina, State Forest and Park Service (E-3)
Mark Chaney, Natural Resources Police (E-3)
Matthew Fleming, Education, Bay Policy Growth Management (E-2)
Marian Honeczy, Forestry (E-1)
David Goshorn, Resource Assessment Services (C-2)
Ray Dintamin, Environmental Review (B-3)
Regina Esslinger, Critical Area Cmsn. (1804 West St., Suite 100, Annapolis MD 21401)

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

SUBJ : POS # 5018-4-56
Belt Property Acquisition, Calvert County

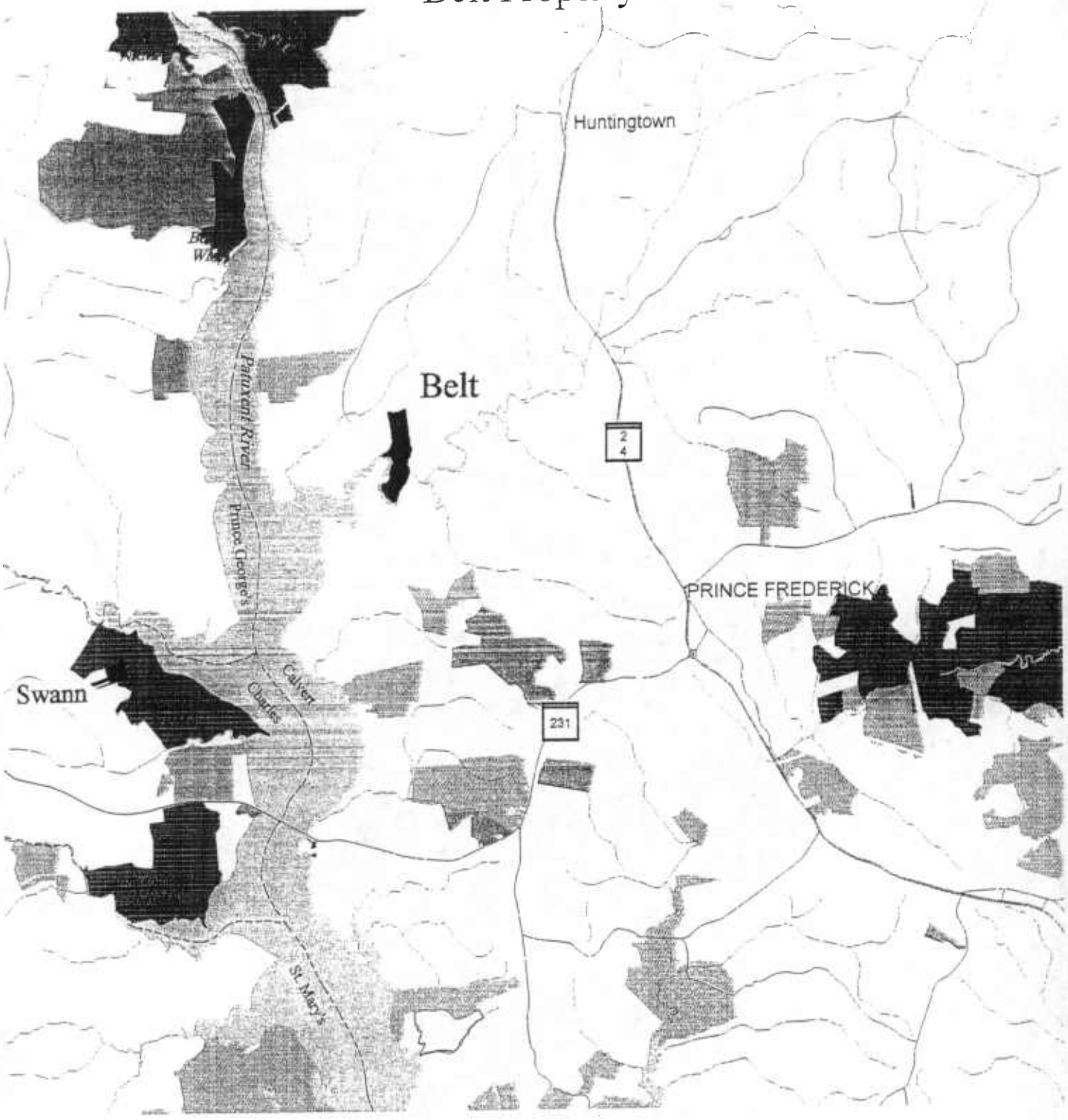
This project proposes the acquisition of 121 acres of waterfront property along Huntington Creek in Calvert County. This property will be utilized as a regional park with active and passive recreational features.

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

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

Upon completion of review, please return to Marti Sullivan or Mary Tolodziecki, Program Open Space, Tawes State Office Building - 580 Taylor Ave., (E-4) - Annapolis, MD. 21401

Program Open Space
Calvert County
Belt Property



Maryland Department of Natural Resources
Watershed Information Center
580 Taylor Ave. E-2 Annapolis, MD 21401
410-260-8753 or 1-877-620-8DNR x8753
dnr.maryland.gov
DNR August 2006

Robert L. Ehrlich, Jr.
Governor
Michael S. Steele
Lt. Governor
C. Ronald Franks
Secretary

- POS Proposed Properties
- DNR Properties
- County Lands
- Other Protected Lands
- Agricultural Districts
- Roads
- Streams

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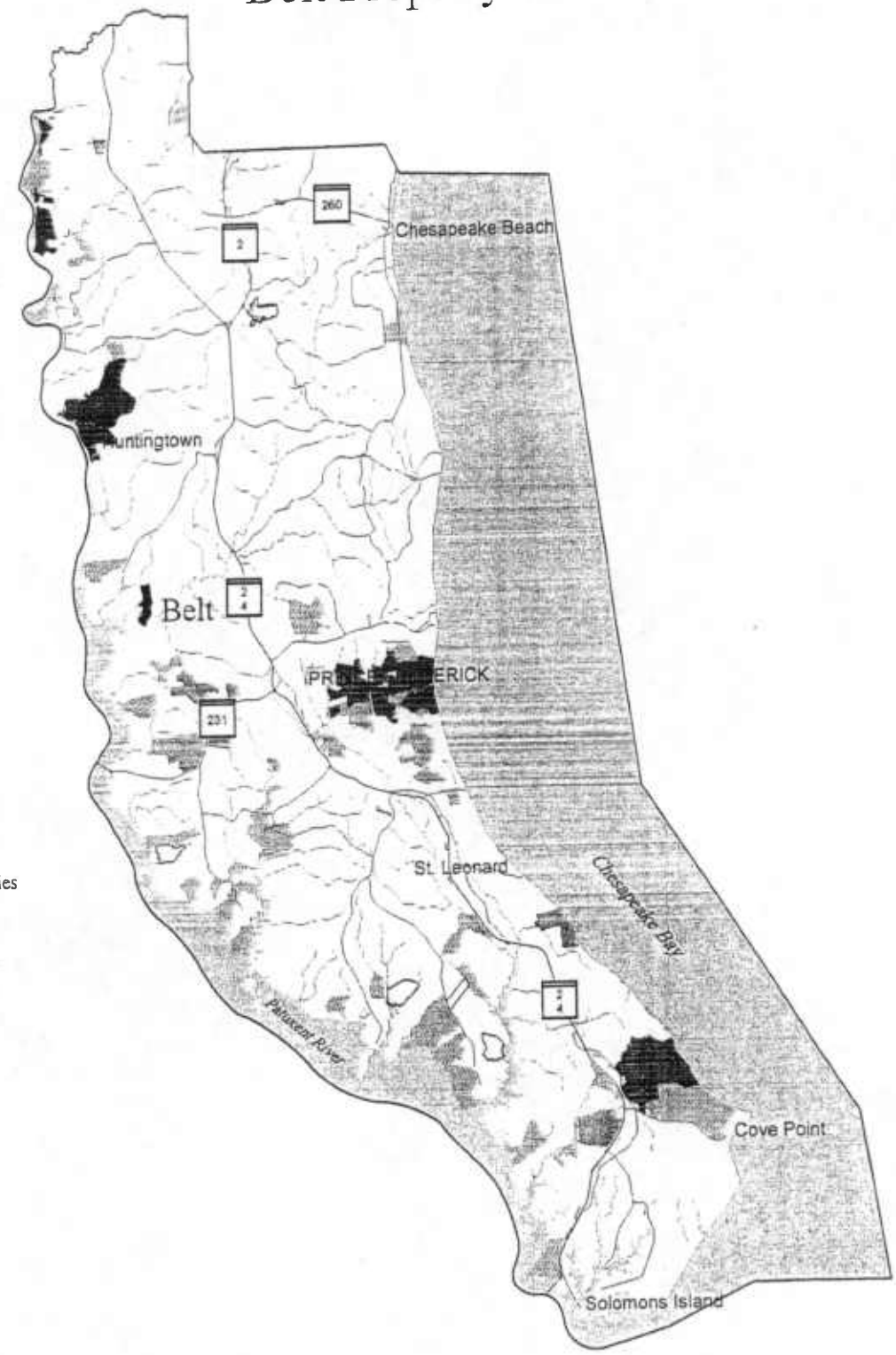
Program Open Space
Calvert County
Belt Property



POS Proposed Properties
DNR Properties
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Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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November 29, 2006

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

Re: SBA Towers Special Exception

Dear Ms. Verdery:

Thank you for providing information on the above referenced special exception. The applicant is requesting a special exception to permit construction of cell tower within an area zoned as a Resource Conservation Area (RCA).

Based on the information provided, it is my understanding that the applicant is currently seeking approval for and comments on only the proposed use of the cell tower. I understand that additional site plans will be provided for review by the Technical Advisory Committee (TAC), and will be sent concurrently to Commission staff for review. While site plan deficiencies would be identified and addressed as a component of the TAC review process, the Board should be aware that there appear to be wetlands on the site which are not shown on the site plan and whose presence or buffers could potentially affect our position regarding the location of the proposed tower. Generally, if the Board finds that the proposed use is consistent with the intent of the County's comprehensive plan and zoning ordinance, this office does not have further concerns with the use. However, our ability to provide effective comments at this point is limited by the uncertainty presented by a lack of site plan detail. Please ensure that the Board considers the lack of clarity regarding the location of the tower and the location of environmental features on the current site plan while evaluating whether the proposed use can be considered consistent with the intent and character of the RCA.

Thank you for the opportunity to provide comments for this special exception request. Please include this letter in your file and submit it as part of the record. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
TC 695-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 28, 2006

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

Re: Ruff Site Plan/ 10% Rule Information-Revised

Dear Ms. Verdery:

This letter is in regard to our continuing review of the above referenced site plan and 10% rule calculations. Based on the revised site plan provided by Lane Engineering, dated November 15, 2006, we have the following comments.

It is my understanding that the initial site plan submitted utilized survey data taken from a site plan dating back to the original construction of the hotel. As a result of requests for further information regarding compliance with the 10% pollutant reduction rule, I understand that Lane Engineering conducted a new field survey and subsequently determined that approximately 223 square feet of the proposed carport lies within the Critical Area Intensely Developed Area (IDA). As such, it appears that the proposed development activity within the IDA falls below the 250 square foot threshold for compliance with the 10% rule. Therefore, the 10% rule worksheet is not needed and this office is satisfied that the site plan is consistent with the County's requirements for development within the IDA as detailed within the zoning ordinance.

Thank you for your coordination efforts in reviewing this site plan submittal. If you have any questions about the content of this letter, please feel free to call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC481-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3382 Stone

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to permit the construction of 3,600 square foot banquet tent on slab as well as a 2,408 square foot storage building on slab. In addition, the applicant is requesting a special exception to permit the use of the property as a banquet facility. The property is designated a Limited Development Area (LDA) and is currently developed.

In regard to the special exception request, this office has no comments to offer. However, in regard to the requested variances, this office has several significant concerns resulting in opposition to the requests. First, while the applicant states that the overall impervious surface area of the site is decreasing from 31.4% to 28%, the permitted impervious surface area limit for the property is 15%. As such, it is necessary for the applicant to apply for an impervious surface area variance in addition to the Buffer variance. In addition, while we recognize that the County may consider the proposed washed stone area to be pervious in nature, it is our view that this material should be considered impervious as it further detracts from the Buffer's ability to provide habitat values and does not provide the water quality benefits and infiltration opportunities that natural vegetation provides. Based on this view, it appears that the site is significantly more impervious in nature than the 28% stated on the site plan, and in direct conflict with the goals for development within the LDA.

Second, it is our view while the site is almost entirely constrained by the Buffer, the variance process is not appropriate for accommodating the extent and nature of redevelopment on the property. Rather, the County should review the property comprehensively and recommend Buffer Exemption Area (BEA) status to the Planning Commission and County Commissioners if there is intent to permit the extent of redevelopment currently proposed. The BEA provisions were put in place to provide flexibility as well as opportunities for reasonable use and redevelopment of an existing grandfathered commercial property while providing for clear and comprehensive environmental benefits to the site, including minimum Buffer setbacks and minimum planting standards. Through the variance process, none of the desired beneficial environmental enhancements are being implemented. In addition, the standards for granting a variance appear difficult to meet.

Specifically, in evaluating the variance request, the Board must determine that the applicant has met each and every one of the variance standards, including that the variance will not adversely affect water quality and plant and wildlife habitat. Since it appears that virtually no area of Buffer will be left to serve for water quality and

plant and wildlife benefits, it is our view that this standard has not been met. Further, it appears that the existing use on the property could continue without the award of a variance. Therefore, it does not appear possible to demonstrate that an unwarranted hardship would exist without the variance.

As a result of the information stated above and because we do not believe that each and every one of the County's variance standards has been met, or that the variance process is appropriate in this situation, this office remains strongly opposed to the granting of a variance. We recommend that the Board deny the variance and return the site plan to the Planning and Zoning office for consideration as a BEA.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 659-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3381 Aboulhosn

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to permit the construction of a 300 square foot deck. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling, septic area, and garage.

Based on the information provided, it appears that the property is entirely constrained by the presence of the 100-foot Buffer. In general, this office is not opposed to the granting of a variance to construct a deck on the property. However, the applicant is requesting to locate the deck 13 feet from Mean High Water (MHW), and there appears to be no existing vegetation between the existing dwelling and revetment. Prior to granting a variance, the Board should consider whether opportunity exists to construct a deck in an alternative location, either on the western or eastern sides of the dwelling. Constructing the deck in either of these locations would prevent further encroachment waterward of the existing dwelling and would provide greater opportunities for the applicant to enhance the Buffer with salt tolerant grass plantings between the dwelling and the revetment. It appears that views of the water would be afforded from either of the alternative locations as well. Particularly given that the existing Buffer appears to provide little habitat and water quality benefits, we question whether the applicant has explored every opportunity to locate the deck in the least intrusive location.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 729-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3379 Parris

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot expanded Buffer requirements in order to permit the construction of an accessory workshop. The property is designated a Resource Conservation Area (RCA) and is currently developed with a primary dwelling, shed, and greenhouse.

Based on the information provided, it appears that applicant proposes to construct a 728 square foot accessory workshop structure, clearing an area of 2,192 square feet of forested cover. In general, accessory structures are not permitted within the Buffer within the Critical Area. In this case, it appears that the applicant has the opportunity to request a zoning variance which would permit construction of the proposed structure outside of the Buffer. In addition, while the northeastern area of the lot appears forested on the site plan, recent aerial photos indicate that this portion of the property appears to be cleared. If opportunity exists to locate the accessory structure outside of the Buffer and in an area that is already cleared, then the Board should require the applicant to first apply for a zoning variance in an effort to minimize impacts to the Buffer and to the existing forested cover within the RCA.

In evaluating the variance request, the Board must determine that the applicant has met each and every one of the variance standards, including the standard of unwarranted hardship. Since it appears that the applicant has an opportunity to locate the proposed structure outside of the Buffer and that reasonable and significant use of the property is currently enjoyed by the applicant, it is our view that the standard of unwarranted hardship has not been met. As a result, this office is not able to support the requested variance. We recommend that the Board deny the request for a Buffer variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 727-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3380 Wilson

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to permit the construction of a primary dwelling, driveway, and septic area. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the property is entirely constrained by the presence of steep slopes and that the location of the septic area imposes further restrictions on the location of the proposed dwelling. Provided that the Board finds that the lot is properly grandfathered, this office is not generally opposed to the granting of a variance to construct a dwelling. However, it appears that the applicant might be able to reduce the amount of disturbance to slopes greater than 25% as well as the overall amount of clearing if the proposed 480 square foot rear deck was reduced in size and/or moved to the western side of the proposed dwelling. In the absence of any site constraints which otherwise prohibit the relocation or a decrease in the size of the deck, the Board should require the applicant to revise the site plan and maximize all opportunity for minimization prior to granting a variance. In addition, we recommend that the Board require the proposed deck to be constructed using pervious construction methods.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 728-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 17, 2006

Ms. Bobbie Hutchinson
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Harbour Square-Phase 2
(Tax Map 46A, Parcel 32)

Dear Ms. Hutchison:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a site plan to construct a two-story commercial, retail building and to pave an area of existing gravel parking. The property is currently developed with a restaurant and gravel drive. The property appears to lie within the Intensely Developed Area (IDA).

Based on the information provided, we have the following comments:

1. The site plan submitted lacks any Critical Area information. Please have the applicant label the limits of the Buffer, indicate whether a Buffer Exemption Area status exists on the site, and state the Critical Area acreage and designation on the site plan.

2. Within the IDA, applicants undertaking any new or redevelopment activities are required to demonstrate that a 10% reduction in pollutant loadings has been achieved. This information, including the 10% rule calculations and worksheets must be provided to Commission staff for review and approval prior to preliminary site plan approval. This information was not provided with the application.

3. Within the IDA, the applicant is required to establish permeable areas in native vegetation to the extent possible. Based on the landscaping plan, it appears that opportunities exist to implement plantings and to minimize the existing areas of impervious cover. Please have the applicant submit a revised landscaping plan which demonstrates compliance with this criterion.

Thank you for the opportunity to provide comments for this site plan submittal. Please have the applicant address the issues outlined above and provide a revised site plan. If you have any questions, please contact me at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA730-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 16, 2006

Mr. Wayne Cooper
President
County Commissioners of Charles County
PO Box 2150
La Plata, Maryland 20646

Re: Swan Point Growth Allocation

Dear Mr. Cooper:

We have received your request to process the above referenced growth allocation request, thereby amending the County's Critical Area maps. At this time, we wish to notify you that the County's request has been accepted for processing.

Chairman Madden will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will notify you of his determination and the procedures for review by the Commission.

Thank you for your coordination in bringing this growth allocation request before the Commission. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Aimee Dailey, Charles County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3378 Kurtz

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements as well as the impervious surface area limitation in order to permit the construction of a deck. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is requesting two variances for the purpose of constructing a 313 square foot deck. In general, this office is not opposed to the granting of a Buffer variance in order to construct the deck. However, given that the proposed deck will be located in close proximity to the water, is located entirely within the Buffer, and that an existing concrete patio appears to exist, this office is opposed to the granting of a variance to the impervious surface area limits. It appears that the applicant could construct a pervious deck, affording reasonable use of the outdoor space without further compromising the ability of the Buffer to serve for water quality benefits. Should the Board be inclined to grant the requested variance, we recommend that pervious construction be required and the variance to exceed a 25% impervious surface area limit be denied.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 726-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 14, 2006

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

Re: Phelps Property
S06-051, TM 16, P 701

Dear Ms. Krinetz:

Thank you for providing information on the above referenced subdivision proposal. The applicant is proposing to subdivide a 5.78 acre property to create eight new lots. The Critical Area portion of the property consists of approximately .75 acres and is designated as a Limited Development Area (LDA). There is one lot proposed within the Critical Area.

The sketch plan provided lacks significant details in regard to Critical Area notation and general development information. Therefore, the comments that can be offered at this time area minimal. At the time of preliminary plat submittal, please ensure that the applicant provides plat notes including information about the Critical Area acreage, limits and amounts of proposed clearing on proposed Lot 22, and proposed impervious surface areas on Lot 22. Please note that the two Critical Area acreages listed in the opening paragraph of the Critical Area report are not consistent. The first reference is listed as .75 acres, while the second is listed as .72 acres. Also, the report refers to Lot 8 within the Critical Area, but the plat shows that Lot 22 is the only lot within the LDA. Please ensure that the applicant corrects these inconsistencies in future submittals. More extensive comments will be provided if necessary at the preliminary plat review stage.

Thank you for the opportunity to provide comments for this subdivision sketch plat. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
A695-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 14, 2006

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

Re: Neavitt Public Landing/Shore Revetment Improvements

Dear Ms. Verdery:

Thank you for providing information on the above referenced development activities and consistency report. It is our understanding that the proposed development consists of placing large stones along the top of an existing revetment in order to stabilize an area which is being back scoured and further eroded.

It is my understanding that the proposed work disturbs approximately 1,300 square feet of disturbance within the Buffer. Provided that mitigation is implemented for any vegetative cover that is disturbed and/or covered by the stones, this office concurs that the project is considered consistent with the regulations for shore erosion control within the County and State Critical Area Program.

We appreciate the opportunity to provide comments on this consistency proposal. If you have any questions or need additional information, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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November 14, 2006

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

Re: Dorothy Karr Property (S06-050)
TM 51, P148

Dear Ms. Krinetz:

Thank you for providing information on the above referenced subdivision. The applicant is requesting to subdivide a 9.45-acre parcel to create six new lots and a stormwater management parcel. Within the Critical Area, there are approximately 1.48 acres of land, designated as Resource Conservation Area (RCA). Portions of two lots and a portion of the proposed stormwater management parcel are located within the Critical Area.

The plat provided shows that lot lines and septic areas for proposed Lots 4 and 5 are located within the RCA. Unless these septic reserve areas are associated with a dwelling unit inside the RCA, and meet the RCA density, they are not permitted. See the County Code 18-13-206 which lists the allowable uses in the RCA and states, "... for a residential use, the density allowed is one dwelling unit per 20 acres." In addition, the list of permitted RCA uses, identified in the County Code and approved by the Critical Area Commission, does not include septic reserve areas associated with development or dwelling units outside the RCA.

In addition, it is not clear whether any plat notes are included on the plat which define the acreage and designation of the Critical Area RCA lands. Please ensure that this information is provided prior to preliminary plat approval.

Thank you for the opportunity to comment on this subdivision request. If you have any questions, please feel free to call me at (410) 260-3482.

Sincerely,

Kerrie Gallo
Natural Resources Planner
AA668-06

Cc: Chris Soldano, Deputy Planning & Zoning Officer

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 9, 2006

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

Re: Cooke's Hope Growth Allocation

Dear Mr. Hamilton:

On October 11, 2006, Commission staff received the final version of the detailed subdivision and reservation of development rights history for the above referenced growth allocation request. This information was provided to our office subsequent to several meetings with Bill Stagg of Lane Engineering, during which Mr. Stagg and Commission staff worked to develop an accurate historical summary of acreages and subdivisions on the Cooke's Hope property.

At this time, Commission staff is comfortable that the October 11th submission provides the most accurate and reliable historical information available. Therefore, the items requested within our July 17, 2006 letter to the Town have been satisfactorily provided. Should the Town wish for the Commission to begin processing of the growth allocation request, please submit a new letter of request. As a component of this request, please ensure that the conservation documents which permanently protect the 20.690 acre remaining unencumbered Resource Conservation Area (RCA) land, as well as the 5.611 acre unencumbered portion of Area A, accompany the growth allocation request. Both of these parcels must remain as they are configured at the time of growth allocation in perpetuity. This restriction must be reflected within the supporting documentation. In addition, the 5.611 acre parcel must be restricted from any future development in perpetuity. The 20.690-acre parcel may be developed with (1) single-family residential dwelling. The remainder of the 20.690-acre parcel must be restricted from future development. Again, these restrictions must be noted in the appropriate recorded documents. This is necessary because the portions of the property that area to remain RCA must retain their RCA character, or their "grandfathered status" as unencumbered.

As you are aware, numerous prior subdivisions, resubdivisions, and lot line adjustments on this property have made it very difficult to track the development and subdivision history on the site. In accordance with the recent amendments to the Critical Area Law, the Commission must ensure that the growth allocation request is consistent with the purposes, policies, goals and provisions of the Critical Area Law and Criteria.

Tom Hamilton
Cooke's Hope
November 9, 2006

Once the Commission receives the Town's formal request for growth allocation, we will notify you as to whether the application can be considered complete. If you have any questions regarding the content of this letter, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Cc: Bill Stagg, Lane Engineering
Mary Kay Verdery, Talbot County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 9, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 04-33-34 Maguire-Revised
(Tax Map 34, Parcel 236)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the above referenced minor subdivision and intra-family transfer request.

As indicated in two previous comment letters, it is still not clear that the proposed subdivision meets the letter and intent of the County and State intra-family transfer provisions. While the applicant has provided an explanation as to the ownership history of Parcel 236, this office requested written clarification from the County regarding how and whether this proposed intrafamily subdivision meets the legal requirements identified within the County ordinance. Specifically, tax maps appear to indicate that Tract 2 was originally part of Parcel 237, not Parcel 236 as indicated by the applicant. In addition, it is not clear that Tract 2 is the original parent parcel on record at the time of adoption of the County's Critical Area Program, or whether subsequent subdivision of the parent parcel has taken place. Written findings, clarifying and defining how the County has determined that the proposal meets the intent of the intra-family provisions was requested prior to preliminary plat approval and was not received. Until this clarification is received, Commission staff cannot support final approval and recordation of the subdivision plat.

Thank you for the opportunity to provide comments for this minor subdivision request. Please consider this a request for additional information under COMAR 27.03.01.02.C. At your earliest convenience, please provide a copy of the requested supplemental information. If you have any questions, feel free to contact me at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA50-06

Cc: David Humphries, Calvert County
Emanuel Demides, County Attorney
Saundra Canedo, 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

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November 8, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-15-44 Broome
(Tax Map 44, Parcel 176)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a .61-acre property. The property is located within a Limited Development Area (LDA) and is currently developed with a primary dwelling garage and shed.

Based on the information provided, we have the following comments regarding the subdivision proposal.

1) Note #2 of the LDA Critical Area notes is not correct. The provisions cited by the applicant on the plat and found within the County's proposed Critical Area Ordinance, as well as those found within State Law, pertain only to grandfathered lots of record. In regard to the creation of new non-grandfathered lots within the Critical Area, the applicant has the following options:
   - For individual lots 1 acre or less, recorded as part of a subdivision after December 1, 1985, each lot may be permitted a 25% impervious surface area limit provided that the impervious surface area of the entire subdivision does not exceed 15%; or
   - Each of the newly created lots is limited to 15% impervious surface area.

   Please have the applicant submit a revised plat which indicates which method of compliance will be utilized and which removes the incorrect plat note.

2) As always, the applicant is required to obtain an evaluation from the Department of Natural Resources (DNR) regarding the presence of any rare, threatened, or endangered species on the property. If present, the applicant will be required to address any recommendations by DNR for the protection of these species. At this time, this office has not received any notice of evaluation of the property.

Thank you for the opportunity to provide comments for this minor subdivision request. Please provide a revised subdivision plat which addresses each of the above concerns. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA686-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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November 6, 2006

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

Re: Patricia Dubbert Property
S 06011, Tax Map 60, Parcel 121

Dear Ms. Krinetz:

Thank you for providing information regarding the above reference revised subdivision. The applicant is proposing to subdivide a 2.70- acre property to create four lots. The property is mapped partially as a Limited Development Area (LDA) and is currently developed with an existing dwelling and garage.

Based on the revised subdivision plat, we have the following comments:

1. While the applicant's Critical Area report states that no hydric soils were found on site, the Department of Natural Resources' wetlands maps, as well as the National Wetlands Inventory maps indicate that a large nontidal wetland exists within the forested area of the property. It is not clear from the report where the soil samples were taken or whether the information submitted by the applicant is accurate. In addition, this office is concerned that if present, the area of nontidal wetlands may be contiguous with the 100-foot Buffer from an adjacent area of tidal wetlands on neighboring properties, thereby making the nontidal wetlands part of the expanded Buffer. I have included a copy of the mapped wetland aerial for clarity. Nontidal wetlands are shown in blue while tidal wetlands are shown in green. Commission staff would be available to conduct a field visit to assess whether nontidal wetlands are present on the site.

2. The Critical Area tabulation on the Critical Area plan should be clarified. Specifically, the applicant has shown the 15% overall impervious surface area limit for the subdivision and then subtracted the existing impervious areas on proposed Lot 4 to determine a remaining pool of impervious surface area for Lots 1-3. While the method utilized by the applicant is not necessarily incorrect, there should be an additional note stating that the remaining impervious surface area pool of 7,414 square feet is to be divided among Lots 1-3, but not to be exceeded. In addition, while the 7,414 square foot limit appears more restrictive, it should be stated that each of proposed Lots 1-3 is restricted to a maximum 25% impervious surface area coverage. This additional language would ensure that one of the lots is not developed in excess of the 25% limit as the impervious pool is divided.

Thank you for the opportunity to provide comments for this revised subdivision plat. Please have the applicant address the concerns above. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
AA~~668-06~~ 210-06

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 2, 2006

Ms. Aimee Warner
Maryland Environmental Service
259 Najoles Road
Millersville, MD 21108

Re: Poplar Island Land Base

Dear Ms. Warner:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On November 1, 2006 the Critical Area Commission unanimously approved the Department's proposal to construct a 23,300 square foot semi-pervious parking area for the purpose of serving as a land base for the Poplar Island Environmental Restoration Project (PIERP). This approval included the following conditions:

1. The MES shall be required to submit detailed site plans to Commission staff, and if necessary, to the full Commission, demonstrating how the .19 lb pollutant load will be removed. This information shall be provided prior to beginning construction activities on the site and no later than 90 days from the date of Commission approval.

2. The MES shall be required to obtain the necessary sediment and erosion control permit from the Maryland Department of the Environment prior to the commencement of construction activities.

Please note that should any changes to the site plan be proposed for completion of the project, additional review and approval by the full Commission would be required.

I have included a copy of the signed planting agreement. Please notify Commission staff once the Buffer plantings have been implemented so a site visit can be conducted. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 30, 2006

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

Re: Michael Daras Property
MS 86-354

Dear Ms. Krinetz:

Thank you for providing information regarding the above reference revised subdivision. The applicant is proposing to subdivide a 17.93 acre property to create three lots. The property is currently mapped partially as a Resource Conservation Area (RCA) and partially as a Limited Development Area (LDA).

Based on the revised subdivision plat, we have the following comments:

1. We note that the applicant is currently seeking reclassification of the property from a RCA to a LDA. Since the ability to subdivide the property as proposed is entirely dependent upon this reclassification, final plat approval cannot be granted until the proposed mapping mistake is approved by the Critical Area Commission.

2. The subdivision plat indicates that a highly erodible Donlonton soil classification (K=.43) exists on the property contiguous with the 100-foot Buffer. Please have the applicant address section 27-13-104 of the County Code which states that the Buffer shall be expanded to include contiguous highly erodible soils whose development may impact streams, wetlands, or other aquatic environments.

3. The applicant states that submission of a Buffer management plan is not necessary since no new disturbance to the Buffer is proposed. However, section 26-8-303 of the County Code requires that a Buffer shall be reestablished and planted in accordance with an approved Buffer management plan where development activities are proposed and no existing natural Buffer exists. Upon recordation of the subdivision plat, establishment of the Buffer on proposed lots 1 and 3 will be required via submission of a planting plan. Please have the applicant add a note referencing this requirement on the plat.

4. Section 26-8-602.e of the County Code states that afforestation and reforestation plantings shall be established first within the 100-foot Buffer if feasible. Given that it appears feasible, payment of a

fee-in-lieu appears inconsistent with the requirements of the County Code. We recommend that the County require the applicant to implement native plantings within the Buffer in fulfillment of the afforestation requirement. We note that the applicant will be required to plant the Buffer anyway in fulfillment of the requirements stated in #3.

Thank you for the opportunity to provide comments for this revised subdivision plat. Please have the applicant address the concerns above and submit a revised plat. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
AA458-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 30, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-06-17-23 Lowell Bowen-Revised
(Tax Map 23, Parcel 3)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised replatting and subdivision request. The applicant is proposing to create one new lot from an 88.27-acre property. Of this acreage, approximately 73 acres are located within the Critical Area. The Critical Area portion of the property is a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, it appears that the applicant has addressed our previous concerns. However, the revised plat contains a note (#11) stating that there are nontidal wetlands or associated buffers affecting the portion of the buildable lot. While this statement does not appear to be accurate, please provide clarification prior to recordation of the plat. If there are conflicts with nontidal wetlands and their associated buffers on the buildable portion of proposed Lot 4, additional review will be needed by this office.

Thank you for the opportunity to provide comments for this minor subdivision and replatting request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA402-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 30, 2006

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

Re: M1077 Stephens Revision Plat-Revised
(Tax Map 40, Parcel 10)

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised revision plat. The purpose of the revision appears to be to designate a former remaining lands parcel as a buildable lot. The property contains 57.546 acres within the Critical Area and is designated as a Resource Conservation Area (RCA).

Based on the information provided, it appears that the concerns outlined within our previous review letter have been addressed. However, it appears that the existing barn on Lot 2 has not been included within the existing impervious surface area calculations on the revised plat. Please ensure that this feature is included on the plat prior to recordation.

Thank you for the opportunity to provide comments for this revised request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC454-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 30, 2006

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

Re: A80 Swaren/Wright Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the Buffer requirements for the purposes of constructing an addition to an existing non-conforming structure. The property is designated a Limited Development Area (LDA), a Buffer Management Area (BMA), and is currently developed.

Based on the information provided, it appears that no new impervious surface area is proposed as the addition will be constructed entirely over the footprint of an existing impervious patio. As such, this office is not generally opposed to the granting of a variance as requested. However, please note that by request of this variance, the applicant is choosing to eliminate the existing brick patio located within the Buffer. Please advise the applicant that a future variance for the purpose of constructing a new patio, closer towards mean high water, would not be supported by this office, particularly since ample areas exist outside of the Buffer to accommodate such a request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC620-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 30, 2006

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

Re: M1076 Mercer-Covey-Revised
TM 25, Parcels 43 & 86

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised subdivision. The applicant proposes to create a 3-lot subdivision in addition to a revision of the lot lines on Parcel 86 and Parcel 43. The majority of the property lies within the Critical Area, and is designated as a Resource Conservation Area (RCA).

Based on the revised information provided, as well as multiple conversations with Bill Stagg of Lane Engineering, we have the following comments:

1. It is my understanding that the acreages of the reservation of development rights areas shown on sheet 2 are not accurate. While Commission staff was able to obtain the correct acreages from Mr. Stagg, this information should be corrected on a revised subdivision plat.

2. Within the development rights summary on sheet 1, please have the applicant change the wording for Tax Parcel 86 that currently reads, Parcel created January 6, 2000. It is my understanding that the parcel was created in 1973, but that a revision in acreage was completed in 2000. If the County has determined that this revised parcel retained its grandfathered status upon recordation of the 2000 line revision, then the language in the development rights notes should read, Parcel revised January 6, 2000.

3. It appears that access to proposed Lot 5 is intended through the perennial stream Buffer, via a 35-foot access easement. If upgrades to the existing agricultural access are proposed, including but not limited to grading, clearing, or laying of gravel or other impervious surfaces, a Buffer variance will be required.

4. The general notes section includes a statement regarding the establishment of the Buffer on lots 4 and revised Tax Parcel 86. It appears that portions of the stream Buffer on proposed Lot 5 may also require establishment. Please have the applicant include Lot 5 in the plat note.

5. While Commission staff does not oppose the relocation and acreage adjustment of the reservation of development rights areas on this property, it has continually come to our attention that the relocation and adjustment of acreages on lands designated as reservation of development right areas is conducted in a manner which is difficult to track over time and which presents potential legal complications. As a result, Commission staff will raise this issue and request a revised process, with stricter provisions during our review of the County's upcoming Critical Area ordinance changes.

Thank you for the opportunity to provide comments for this revised subdivision request. Please provide a copy of the revised plat to this office once it is received. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC304-06

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, 2006

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

Re: S1012 Moorman

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to create two lots within the Critical Area, within a designated Resource Conservation Area (RCA). Proposed Lot 2 is currently developed with a single-family dwelling, pool, pole barn, and two accessory structures. Proposed Lot 1 is currently undeveloped.

Based on the plat provided, we have the following comments:

1. The acreages and descriptions of the proposed lots shown on the plat do not match the acreages and descriptions shown within the impervious surface area calculations chart. It appears that the applicant has reversed the lot numbers in these two locations and erred in providing the correct acreage for Lot 2. Please have the applicant correct these discrepancies.

2. The area of nontidal wetlands shown on proposed Lot 1, directly south of the Lot 2 boundary line appears on the Department of Natural Resources' (DNR) wetland maps as tidal in nature. Please have the applicant conduct the appropriate field work to determine the vegetative composition and hydrologic regime of the wetland area in question. In addition, the DNR wetland maps indicate that a non tidal wetland exists along the northwestern property boundary of proposed Lot 2. Please have the applicant field verify the presence of this wetland area and show it on a revised plat, along with corresponding Buffers, if appropriate.

3. As proposed Lot 1 is less than twenty acres in size, it would appear necessary for the applicant to designate a portion of proposed Lot 2 as a reservation of development rights area, restricted from development. Please clarify whether the natural conservation areas shown on the plat are intended to serve in partial fulfillment of this requirement.

4. The area table chart shown on the plat appears to contain information that is incorrect. Specifically, the chart states that the total upland area of the parcel is 0.570 acres and that the upland area forest is 0.360 acres. Both of these numbers do not appear correct and should be revised.

5. At this time, this office has not received notification of an evaluation of the property by DNR for the presence of any rare, threatened, or endangered species. This evaluation is required as a part of the subdivision process. Should any species concerns be identified through this evaluation, the applicant will be required to address any recommendations for protection made by DNR.

6. The shoreline Buffer management statement contains a grammatical error between the first and second sentences.

Thank you for the opportunity to provide comments for this minor subdivision request. Please have the applicant provide a revised plat which addresses the concerns above. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 639-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 27, 2006

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

Re: Talbot County Country Club
TM 48, P13

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to construct a 995 square foot addition to the existing pro shop. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the revised information provided, this office does not generally oppose the construction of the addition as proposed. However, we have the following comments regarding the site plan.

1. The site plan indicates that the property lies within the Rural Residential zoning district, yet the County application states that the property is mapped as Resource Conservation. It is my understanding that the County's Critical Area maps designate the property as RCA. Please clarify the correct zoning and make any necessary corrections on the site plan.

2. This office is not opposed to the applicant's request because it appears that the addition will be located entirely over an area of existing impervious surface. Please note that future development activities which propose new impervious surfaces would first require a variance. In addition, this office would not support future variances to exceed the existing 31.03% impervious coverage on the property. Rather, the County should require the use of growth allocation for future development activities.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 344-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 26, 2006

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

Re: McDaniels Subdivision
(Tax Map 14, Parcel 83)

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to subdivide a 53.138-acre parcel to create two new lots. The property lies within a designated Resource Conservation Area (RCA) and is currently undeveloped with the exception of an agricultural structure and a [illegible]eway.

Based on the information provided, we have the following comments regarding the subdivision proposal.

1. The environmental assessment states that there is a perennial stream along the northwestern property border which is not currently shown, but of which the applicants are aware. In addition to this feature, the Department of Natural Resources' wetland maps indicate that a perennial or intermittent stream exists along the southwestern property line, flowing between the two areas of nontidal wetlands shown on the plat. Please have the applicant field verify the location of the second stream and include it on future plats. Also, please show the limits of the 100-foot Buffer surrounding both streams.

2. We acknowledge that the applicant has requested an evaluation of the property by the Maryland Department of Natural Resources for the presence of any rare, threatened or endangered species. This office has not received a copy of this evaluation at this time. Should species concerns be identified, Commission staff may have additional comments regarding adequate habitat protection measures.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
[illegible]ural Resource Planner
TC 151-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 25, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Habitat Protection Plan and Planting Plan-Lot 1R
Pricha Phattiyakul Property/Gill Property

Dear Mr. Swartz:

Thank you for providing information on the above referenced planting plan. The plan was provided to this office in fulfillment of the mitigation requirements for protection of Forest Interior Dwelling Bird (FIDs) habitat. The property is designated a Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is providing mitigation at a 1:1 ratio for the 7,797 square feet of clearing within FIDs habitat. Based on the specifications for planting credits within the County's zoning ordinance, it appears that the plantings provided meet the requirements for mitigation on this property. Therefore, we have no further comments regarding the Habitat Protection Plan or mitigation planting

Thank you for the opportunity to provide comments for this planting plan. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA312-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 25, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Habitat Protection Plan and Planting Plan-Lot 3R
Pricha Phattiyakul Property/Gill Property

Dear Mr. Swartz:

Thank you for providing information on the above referenced planting plan. The plan was provided to this office in fulfillment of the mitigation requirements for protection of Forest Interior Dwelling Bird (FIDs) habitat. The property is designated a Resource Conservation Area (RCA) and is currently undeveloped.

In general, the canopy, understory and shrub plantings located around the perimeter of the proposed dwelling meet the mitigation equirements for creation of new FIDs habitat, and are therefore consistent with the planting requirements outlined within the County Zoning Ordinance. However, the shrub plantings proposed to the east of the dwelling would not provide suitable habitat for FIDS. As you are aware, mitigation for clearing within FIDs habitat requires the creation of alternative FIDs habitat. If the applicant wishes to retain the shrub plantings east of the dwelling as currently proposed, additional plantings and/or payment of a fee-in-lieu will be necessary to meet the mitigation requirement. Alternatively, the applicant may choose to revise the planting plan to include plantings which would provide for the creation of suitable FIDs habitat. A diverse mixture of canopy, understory and shrub plantings would accomplish this goal.

In addition, it appears that a Habitat Protection Plan (HPP) has been recorded for this lot which does not include a prohibition or restriction on the draining of pool water on the property. In order for the applicant to have adequately provided for permanent protection of Tiger Beetle habitat, a restriction regarding the drainage of the pool on the property must be stated. We recommend that the County record a revised HPP which requires the applicant either to have pool water pumped and transported by truck to an alternative location, offsite and non-waterfront, for drainage, or that the County prohibit the construction of a pool on this property in perpetuity.

Provided that the applicant addresses the above issues through a revised planting plan and by re-recording a revised HPP, it is not necessary for the County to submit revised site plans for this property

to Commission staff. However, if the applicant is unable or unwilling to address the concerns as requested, Commission staff would then request the opportunity to provide additional comments. If you have any questions regarding the comments in this letter, please give me a call at 410-260-3482. Also, please provide the Commission of a copy of the final HPP once it is ready for recordation.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA314-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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October 25, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Habitat Protection Plan and Planting Plan-Lot 2R
Pricha Phattiyakul Property/Gill Property

Dear Mr. Swartz:

Thank you for providing information on the above referenced planting plan. The plan was provided to this office in fulfillment of the mitigation requirements for protection of Forest Interior Dwelling Bird (FIDs) habitat. The property is designated a Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is providing mitigation at a 1:1 ratio for the 5,581 square feet of clearing within FIDs habitat. Based on the specifications for planting credits within the County's zoning ordinance, it appears that the plantings provided meet the requirements for mitigation on this property. Therefore, we have no further comments regarding the Habitat Protection Plan or mitigation planting

Thank you for the opportunity to provide comments for this planting plan. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
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October 25, 2006

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

Re: L1034 Gourgey/Watch Goose Farm
Tax Map 40, Parcels 173 & 87

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision and abandonment. The applicant is requesting to change the layout of boundary lines on two existing parcels. Both parcels lie within the Resource Conservation Area (RCA). Parcel 173 is developed with a single-family dwelling, while Parcel 87 appears developed with two dwellings.

Based on the information provided, this office does not generally oppose the revision and abandonment as proposed. However, the development rights summary states that two development rights remain for revised Tax Parcel 87. The plat shows two dwellings currently exist on Parcel 87. Please have the applicant clarify this discrepancy. It appears that only one development right may remain for revised Tax Parcel 87. In addition, we note that the Department of Natural Resources' wetland maps indicate that a large area of nontidal wetlands exist along the southeastern property boundary of Parcel 87. While we acknowledge that no further development is proposed on this parcel at this time, the area of wetlands in question should be field located and shown on the plat.

Thank you for the opportunity to provide comments on this line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 696-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 25, 2006

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

Re: L1033 Beasley
Tax Map 31, Parcel 108

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is requesting a line revision to change the layout of boundary lines on two existing deeded tracts within Parcel 108. Both tracts lie within a designated Resource Conservation Area (RCA). Deed Tract 1 is currently developed with a primary dwelling, pool, garage, and cottage, while deed tract 2 is undeveloped.

Based on the information provided, it appears that the applicant proposes only a minor revision to an existing deed tract line and that no new development is proposed at this time. Based on this understanding, this office does not generally oppose the lot line revision and abandonment as proposed. Please note that no information has been provided regarding the existing forest cover on tract 2. Based on aerial photographs, it appears that afforestation may be required at the time of development in order to meet the 15% forested cover requirement. This information should be noted on the plat.

Thank you for the opportunity to provide comments on this line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 670-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 25, 2006

Mr. Frank McKenzie
City of Salisbury-Wicomico County
Government Office Building
125 North Division, Room 203
PO Box 870
Salisbury, Maryland 21803

Re: Village Down River Growth Allocation Request

Dear Mr. McKenzie:

We have received your request to process the above referenced growth allocation request, thereby amending the County's Critical Area maps. At this time, we wish to notify you that the County's request has been accepted for processing.

Chairman Madden will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will notify you of his determination and the procedures for review by the Commission.

Thank you for your coordination in bringing this growth allocation request before the Commission. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3209R Baker
Reconsideration Request-Revised

Dear Ms. Whitt:

This letter is in regard to our continuing review of the above referenced variance request. Based on the information provided, it appears that the applicant has revised the site plan to include curb and gutter construction, directing stormwater runoff to a proposed inlet, piped conveyance system and proposed storm drain. In addition, it appears that the location of the proposed driveway and garage have been changed to an easterly location in order to connect to the proposed conveyance system.

This office has reviewed and commented on this variance request four previous times. As a component of each of those reviews and comment letters, Commission staff has consistently expressed concern over the size of the dwelling footprint, and consistently requested that the applicant make an attempt to minimize the dwelling footprint. While we acknowledge the efforts the applicant has made to address stormwater runoff problems, we remain concerned with the same issues previously and consistently expressed. It is our view that a smaller dwelling footprint or an alternative design would create space for the proposed bioretention facility to be moved away from the cliff and gully, as far as possible. Previous cliff failures throughout the County have seemingly demonstrated a direct relationship between the amount of impervious surface area on a property and the stability of erodible soils.

In this case, the area of the property proposed as a bioretention facility appears to be mapped by the Soil Survey of Calvert County as Sassafrass fine, sandy loam and Sassafrass loam. The soil survey further classifies these soil types as unsuited for shallow, water development and for excavated ponds. This is likely due to their erodibilty and potential for catastrophic slope failure. This office remains concerned about the proximity of the large bioretention facility to the eroding gully and to the edge of the cliff. We question whether it can be assured that adverse impacts to water quality will not occur as a result of this variance.

In summary, it remains our view that the applicant has failed to demonstrate that opportunities for minimization have been fully maximized. Where further minimization is possible and where a variance of a lesser degree could be granted, we question whether the standard of unwarranted hardship can be met. In addition, it appears that further steps could be taken to decrease the dwelling footprint, move the bioretention facility away from the

cliff and to provide greater assurances that adverse impacts to water quality have been minimized. Therefore, this office remains unable to offer support for this variance.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA404-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 19, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 03-21A-44-Revised
(Tax Map 44, Parcel 236)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a 5.41-acre property. The property lies within a designated Limited Development Area (LDA). Proposed Lots 1 and 2 are currently developed with single family dwelling on each lot. In addition, the subdivision creates two non-buildable outlots, one of which is currently developed with a garage and an accessory shed.

Based on the revised information provided, we have the following comments:

1. The lot number identifiers shown in the impervious surface area table do not match those shown on the actual lots. In addition, the lot areas stated in the impervious surface area table appear inaccurate. Lot 1 (or Lot 14) should read 40,073 square feet, Lot 2 (or Lot 13) should read 114,998 square feet, Outlot A should read 52,272 square feet, Outlot B should read 14,810 square feet, and the private lane should read 13,939 square feet. The total for the property should then read 236,092 square feet. Please have the applicant correct these site plan elements.

2. State law restricts proposed Lot 13 and the proposed Outlot A to a 15% impervious surface area limit as each is over one acre in size. While this does not appear to affect the subdivision as proposed, please have the applicant correct this within the impervious surface area chart.

Thank you for the opportunity to provide comments for this revised minor subdivision request. Please provide a revised site plan which addresses the issues outlined above. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA732-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 18, 2006

Tom Hamilton
14 South Harrison Street
P.O. Box 520
Easton, Maryland 21601

Re: Waterside Village at Easton

Dear Mr. Hamilton:

This letter is in reference to the ongoing grading and construction activities within the Critical Area at the above referenced project site. This letter is intended as a follow-up to our telephone conversation on October 17, 2006.

Although site plans for this project were originally sent to this office on November 7, 2005, I notified Lynn Thomas in response that detailed Critical Area plans must be provided prior to local preliminary site plan approval because no Critical Area details were discernable on the November 2005 plans. These plans needed to show the location and nature of any disturbances within the Critical Area. I also notified the Town via email that stormwater treatment facilities which treat development outside of the Critical Area cannot be located within the Resource Conservation Area (RCA). In January of 2006, I inquired as to the status of this project and was told via email that the project was on hold. In August of 2006, I again inquired as to the status of this project and was told via email that architectural approval had been obtained from the Planning Commission, and that the stormwater pond in the RCA issue would be discussed again.

Last week, you contacted me regarding an unrelated project issue. During that conversation, you communicated to me that a grading permit had been issued by the Town for the Waterside Village project. Upon learning of this permit, I requested that you immediately send the Commission a copy of the project plans to review, particularly to ensure that no stormwater facilities or other disturbances were located within the RCA portion of the project. In receiving those plans, it was apparent that a large stormwater pond is located within the RCA and that the wetlands located onsite were possibly designated incorrectly as nontidal in nature.

On October 18, 2006, I conducted a site visit to the property accompanied by Mr. Al Kampmeyer from the Maryland Department of the Environment (MDE). As a result of this visit, I have confirmed that extensive grading activities, including a significant portion of the sediment pond, have been completed at this time within the RCA. In addition, I was able to verify through the MDE planner as well as through the existing tidal wetlands maps, that the wetlands onsite are

tidal in nature, and not nontidal as indicated on the site plans. As communicated to you on several occasions, stormwater facilities, and related sediment facilities, which treat development outside of the Critical Area or are installed for the purpose of facilitating development outside of the Critical Area, cannot be located within the RCA. These facilities must be removed.

Under the application and notification requirements in COMAR 27.03.01.02, the Commission may, at any time, request additional information from either the local approving authority or the applicant if it is necessary for accurate evaluation of the proposed action. The Town is in clear violation of the project notification requirements set out in COMAR 27.03.01.02.

In order to bring the Critical Area portion of the site within compliance with the State Critical Act and Criteria, the Town should take the following actions immediately:

1) The grading permit for development activity within the Critical Area should be revoked and all development and construction activities within the Critical Area should cease immediately.

2) The Critical Area portion of the site should be restored to its pre-graded state and stabilized with native plantings.

Please respond in writing by October 27, 2006 as to what actions the Town has taken to stop the illegal grading and construction activities ongoing within the Critical Area, and provide a time frame for the restoration of the site.

Commission staff will provide comments regarding the remainder of the site plan deficiencies in a separate letter.

Thank you for your cooperation in resolving these violations. If you have any questions about the content of this letter, please contact me at 410-260-3482 or Ren Serey at 410-260-3462.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

cc: Al Kampmeyer, MDE
Ren Serey, CAC
Marianne Mason, OAG
Saundra Canedo, OAG

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 17, 2006

Ms. Bobbi Hutchinson
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SPR 06-38 Skipjack Quay
(Tax Map 44, Parcels 564, 531)

Dear Ms. Hutchinson:

Thank you for providing information on the above referenced site plan. The applicant is requesting site plan approval in order to construct 17 attached dwelling units, renovate an existing structure to create a community center, renovate an existing boat ramp and pier, and to construct a community pool. The property is located within an Intensely Developed Area (IDA) and is currently developed with multiple structures, a pier, and a boat ramp.

Based on the information provided, we have the following comments regarding the site plan and development proposal.

1) The applicant states that an application to designate the property as a new Buffer Exemption Area (BEA) has been submitted to the County. At this time, this office has not received a copy of such as application. As you are aware, all requests for new BEA status must be approved by the Commission. Given that a large portion of the proposed improvements rely upon a reduced Buffer setback in order to be permitted, additional information regarding the nature of this request is needed. Prior to granting of preliminary site plan approval, please provide this office with the information necessary to evaluate a BEA application or a revised site plan which does not include improvements within the 100-foot Buffer.

2) The property is located within the IDA. As such, the applicant is required to demonstrate that a 10% reduction in pollutant loadings can be achieved post development. In order to make this determination, 10% rule calculations must be submitted to this office and a detailed stormwater management plan must demonstrate how compliance with any pollutant removal requirement is achieved. This information is necessary prior to preliminary site plan approval.

3) Given the scale of the proposed project, the applicant should be required to obtain an evaluation of the property by the Department of Natural Resources (DNR) for the presence of any rare,

threatened, or endangered species. Should these species be present, the applicant will be required to submit a Habitat Protection Plan addressing any recommendations for protection provided by DNR in addition to those protections required by the County's zoning ordinance.

4) The site plan indicates a proposed timber walkway over tidal waters as well as a renovated boat ramp. These features may require a permit from the Maryland Department of the Environment (MDE). The applicant should coordinate with MDE on these elements early in the review process.

5) Development within the IDA requires the applicant to demonstrate that all pervious areas have been planted to the extent possible. Based on the landscaping plan provided, it appears that extensive pervious areas exist which are not proposed to be planted. Please have the applicant submit a planting plan which provides greater plantings and which maximizes opportunities for plantings in fulfillment of this requirement.

Thank you for the opportunity to provide comments for this site plan submittal. Please have the applicant provide a revised site plan along with a description of how each of the above concerns has been addressed. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA653-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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October 17, 2006

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

Re: Site Plan #C06-0075
Westhaven Community Pool

Dear Mr. Callahan:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a site plan to construct a community pool facility, with a pool house, access road, and parking lot for 27 vehicles. The property is designated a Limited Development Area (LDA) and is currently utilized as a community recreation parcel.

Based on the site plan provided, it appears that the applicant is proposing to construct an access road which disturbs steep slopes. Section 26-8-201 of the County's zoning code states that development in the LDA may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope or the disturbance is necessary to allow connection to a public utility. Therefore, it appears that a variance will be required in order to construct the access road as proposed. In addition, it appears that the limits of 100-foot Buffer from the intermittent stream may require expansion for contiguous steep slopes. If the access road proposes to disturb the expanded Buffer, a variance to the 100-foot expanded Buffer may also be necessary.

Thank you for the opportunity to provide comments on this site plan submittal. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
AA 642-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 16, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3340 McBride-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer and the impervious surface area limits in order to permit the construction of a replacement dwelling damaged as a result of Hurricane Isabel. The property lies within a designated Limited Development Area (LDA), and is currently developed.

As indicated in our previous review letter, it appears that the applicant is decreasing the overall impervious surface area of the site by 455 square feet. In addition, the site plan indicates that the new dwelling will not encroach closer to Mean High Water (MHW) than the existing dwelling. As a result, this office does not generally oppose the granting of a variance. However, given the extensive amount of impervious surface area both existing and proposed on the lot, it remains our position that the applicant should be required to provide some offsetting measures to enhance water quality, plant and wildlife habitat. While the use of structural best management practices on site may not be appropriate given the sandy conditions of the property, there appears to be opportunity to implement native, salt-tolerant plantings in order to enhance the environmental resources of the site. We recommend that the Board require plantings along the sides of the dwelling, as well as between the replacement septic area and the water as a condition of any variance approval.

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 revised variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
CA 444-06

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 16, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3367 Lester

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to permit the construction of a second driveway access. The purpose of the proposed driveway is to provide access to the primary septic field. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling.

Based on the information provided, it appears that the construction of the primary dwelling was recently completed. Currently, the applicant is requesting a variance to construct a 200 square foot gravel pad and to grade an extensive area of steep slopes along the western property line in order to provide access to the rear of the property. While we acknowledge that the property is steep in grade and that access to the primary septic fields for the purpose of mowing or maintenance may be difficult, it is important for the applicant to provide credible testimony which distinguishes between the two needs. This office does not view the inability to maintain a lawn as an unwarranted hardship within the Critical Area, and would not support a variance for this purpose. In this case, the applicant should implement plantings of native groundcover, perennials, or shrubs which would remove the need to mow while maintaining the integrity of the septic drain fields.

In evaluating whether a variance can be properly granted for this applicant, the Board should evaluate whether it is possible to pump out a septic pit utilizing the existing driveway or existing drive lane shoulders. Where it is determined that pumpout from the existing driveway or roadways is possible, this office would be opposed to the granting of a variance to disturb and grade slopes in the manner proposed. Where it can be reasonably demonstrated that the proposed access is the only method, as well as a necessary feature to provide pump out of the septic system, this office would not oppose a variance. In reviewing this request, Commission staff contacted several septic pump out companies in order to assess whether pump out of this property could be achieved utilizing the existing driveway. Consistently, the company representatives provided information indicating that pump out trucks are equipped with adequate lengths of hose to reach the applicant's tank from the existing driveway. Therefore, we question whether a hardship truly exists in relation to septic maintenance.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 644-06

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 16, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3368 Portner

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the100-foot Buffer and cliff setback requirements in order to permit the construction of a single-family dwelling, garage and well. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is proposing to construct a dwelling with an 1,800 square foot footprint, as well as a 576 square foot attached garage. A portion of the primary dwelling, the entirety of the garage, a portion of the driveway turnaround, and the proposed well are located within the 100-foot Buffer. In evaluating the applicant's variance request, the Board must determine that each and every one of the County's variance standards has been met, including that the request is the minimum necessary and that an unwarranted hardship exists without the variance. In proving that an unwarranted hardship exists, the applicant bears the burden to demonstrate that every opportunity to minimize impacts to the Buffer has been explored; including reduction of the dwelling footprint, alternative dwelling designs, alternative locations for the dwelling, and that further minimization is not possible. Given the information shown on the site plan, it is our view that the applicant has not overcome this burden and that extensive opportunities to minimize impact to the Buffer appear to exist. As a result, it has not been sufficiently demonstrated that an unwarranted hardship truly exists or that the variance is the minimum necessary. Therefore, we oppose the granting of a variance as requested. We provide the following comments.

1. The Department of Natural Resources' wetland maps indicate that an area of tidal wetlands exist on the adjoining recreation area. These wetlands appear to impact the extent of the 100-foot Buffer on the applicant's property. A site plan showing the correct limits of the 100-foot Buffer should be required prior to a variance decision.

2. The applicant has not demonstrated why the dwelling could not be located at the front of the property, near the cul-de-sac. It appears that the same dwelling size and garage could be accommodated in an alternative arrangement directly next to the proposed driveway, but outside of the steep slope area. This location would require a variance to the front building restriction lines.

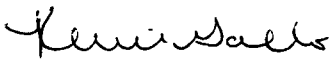
3. The current dwelling proposes an 1,800 square foot footprint. On similar properties in the County where environmental and topographical constraints are present, the Board has considered footprints of this nature to be excessive. It is our view that a smaller dwelling footprint would still provide adequate living space to the applicant while allowing the applicant greater flexibility to locate the dwelling elsewhere and to minimize and/or entirely avoid impacts to the Buffer.

4. At a minimum, the applicant should be required to incorporate the garage into the dwelling and to remove the extensive turnaround area within the Buffer. Removal and/or revision of either of these components would not represent a hardship to the applicant.

In addition to the comments above, we stress the importance of the cliff setback and the 100-foot Buffer for providing a safe, stable cliff front which ensures that the habitat and water quality goals clearly defined within the law are maintained. This office has serious concerns regarding whether the granting of a variance to the cliff setback requirements would be jeopardizing the long-term stability of the underlying soils, as well as compromising the ability of the 100-foot Buffer to provide the essential infiltration and absorption opportunities documented to be of utmost importance within cliff front areas. In this case, the disturbance of the 100-foot Buffer and cliff setback area appears excessive and possibly altogether unnecessary.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
CA 645-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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October 16, 2006

Ms. Tressa Dolbeare
Maryland Department of the Environment
Water Management Administration
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Ruesch Permit-#200665973/07-WL-0320
Follys Cove Road, Talbot County

Dear Ms. Dolbeare:

I am writing in response to the Maryland Department of the Environment (MDE) and Army Corps of Engineers (ACOE) joint public notice dated September 15, 2006. Specifically, this letter is in reference to an application Mr. and Mrs. Otto Ruesch to permit filling, grading, and planting of marsh vegetation at the referenced property in Talbot County.

Based on the information provided, it is not possible to determine the extent of impact proposed to the Critical Area 100-foot Buffer. However, the accompanying site plans indicate that some grading of the bank is proposed in conjunction with this application. While some degree of grading may be permitted to ensure proper shore erosion control per the specifications of the Maryland Department of the Environment (MDE) permit, please advise the applicant that the grading must be limited to that which is necessary to effectively install the shore erosion control measures. In addition, removal of tree and understory coverage within the Buffer for the purposes of shore erosion control or as necessary to grade portions of the bank will require mitigation plantings at a 1:1 ratio. Please ensure that the applicant contacts the Talbot County Planning and Zoning office to obtain all necessary local permits associated with this activity and to ensure compliance with the Critical Area Buffer and mitigation regulations.

Thank you for the opportunity to provide comments regarding this wetlands permit request. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

cc: Mary Kay Verdery, Talbot County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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October 11, 2006

Mr. David Brownlee
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Habitat Protection Plan-Felenchak

Dear Mr. Brownlee:

This letter is in response to your recent request for clarification regarding the most recent Habitat Protection Plan (HPP) submitted to this office, dated September 18, 2006. As you are aware, Commission staff provided comments to County staff, stating that the proposed plantings remain insufficient to provide adequate protections for Tiger Beetle habitat. During our September 20th phone conversation regarding the HPP, you requested that Commission staff provide a specific acreage of plantings which would render the HPP approvable, thereby allowing the County to issue a building permit for the applicant's garage.

In reviewing the comments received from Katharine McCarthy of the Department of Natural Resources' Wildlife and Heritage Division, we note that adequate protection of the Tiger Beetle habitat onsite appears directly related to the amount of plantings and multi-tiered vegetative cover provided. This is true because trees, shrubs, and vegetative groundcover provide enhanced infiltration and absorption opportunities along the top of the cliff, particularly during storm events where runoff from both overland flow and the existing impervious surfaces can be intercepted and absorbed by the plants. When properly slowed and intercepted, the potential for slope failure and destruction of Tiger Beetle habitat significantly decreases. Therefore, it has been repeatedly requested that the applicant maximize all potential areas for plantings and demonstrate that the property has been planted to the extent possible.

Currently, the HPP proposes two understory trees and twenty-five Inkberry and Bayberry shrubs, roughly equivalent to 1,450 square feet of plantings. The DNR has requested that the goal of achieving reforestation of the original forest retention area be stated by the applicant on the HPP. This amount would have been 13,427 square feet (20,829 square feet - 7,402 square feet = 13,427 square feet). As a result of actions undertaken in violation on the lot, the applicant actually cleared 12,212 square feet of vegetative cover, 4,810 square feet in excess of that which was initially approved by the Board of Appeals. Using these calculations, it would appear that 8,617 square feet of forested cover currently exists on the property. Based on observations made in the field at the time of the original variance application, it appeared that the remaining forested area (8,617 square feet) was located primarily along the steep cliff, between the cliff face and mean high water. The area landward of the cliff face consisted of several canopy trees along the applicant's property line and no understory coverage.

To comply with the DNR goal of reforesting the lot to the original forest retention area, the applicant would need to provide 4,810 square feet of plantings. In conjunction with the Board of Appeals' resolution of the violation and issuance of a revised variance, the applicant initially submitted a HPP which demonstrated 6,450 square feet of plantings (copy included for clarity). Consequently, it appears as though there is no spatial restriction on the ability to plant the equivalent of 4,810 square feet on the lot. The 1,450 square feet of plantings proposed within the September 16, 2006 HPP is less than adequate to provide reasonable assurances that impacts to Tiger Beetle habitat have been minimized to the extent possible. Rather, a site-appropriate HPP should at a minimum, include plantings equivalent to 4,810 square feet.

I hope that this information provides you with clarity in regard to the most recent HPP. In addition to these comments, please refer the applicant to the July 18, 2006 comments from Katharine McCarthy of DNR. Should you have any questions about the content of this letter, please do not hesitate to contact me at 410-260-3482. Thank you for your cooperation and consideration of this matter.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Attachments

CC: John Swartz, Calvert County
Katharine McCarthy, DNR
John Felenchak

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 5, 2006

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

Re: Robert Gerber Property
MS 06-021

Dear Ms. Krinetz:

This letter is in response to our continuing review of the above referenced subdivision. The applicant is proposing to subdivide a .9840 acre property to create two lots, Lot 1R and Lot 2R.

Based on the revised site plan, subdivision plat, and Critical Area Planting Plan submitted, it appears that the applicant has adequately addressed our previous concerns. However, two additional concerns have been identified within the revised materials. Specifically, the subdivision plat does not show the limits of the Buffer Modification Area on Lot 1R. This feature should be clearly shown prior to recordation of the plat. In addition, we recommend that a note be included within the General Notes section of the plat which references the applicant's provision of the required 15% afforestation plantings as detailed within the landscape and planting plan. Inclusion of this note on the plat will ensure clarity in perpetuity that all Critical Area requirements have been satisfied.

Thank you for the opportunity to provide comments for this revised subdivision plat. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
AA346-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 5, 2006

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

Re: Telecom Capital Group, LLC Special Exception

Dear Ms. Verdery:

Thank you for providing information on the above referenced special exception. The applicant is requesting a special exception to construct a 163.5-foot monopole cellular tower, with 6,400 square feet of forest clearing. The property is partially located within the Critical Area, and is designated a Resource Conservation Area (RCA).

Based on the information provided, it appears that a portion of the proposed driveway and temporary construction access will be constructed within the Critical Area. The monopole, as well as the majority of the associated clearing, will be located outside of the Critical Area. While it is difficult to assess the amount of clearing proposed within the Critical Area, it appears to be fairly minimal in scale and limited only to that which is necessary to provide access. Provided that the applicant mitigates for any trees removed at a 1:1 ratio, this office is not opposed to the granting of a special exception. If mitigation via replanting is not feasible on-site, it may be necessary for the applicant to investigate off-site planting opportunities.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this special exception. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
TC597-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 3, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-00-13A-11 Chaffee Property
(Tax Map 11, Parcels 121 & 506)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised major subdivision. The applicant is proposing to create a three-lot subdivision on a 79.22-acre property. Approximately 50.29 acres of the property is located within a Resource Conservation Area (RCA). Three lots and two dwellings are proposed within the Critical Area portion of the site.

Based on the information provided, we have the following comments:

1) The notes on the plat state that the Critical Area portion of the property is 64.4 acres, while the application states that there are 50.27 acres within the Critical Area. Please clarify which number is accurate.

2) The plat notes state that 6.70 acres of State-owned tidal wetlands exist within the property boundaries. There are several problems associated with the limits and extent of tidal and nontidal wetlands as currently shown on the plat. Please have the applicant address the following:
   - State how the limits of tidal and nontidal wetlands were determined. Given the extent of wetlands on site, wetland boundaries must be field delineated and not taken from maps. The existing tidal wetlands maps from the Department of Natural Resources (DNR) show that a significant area of wetlands currently labeled on the plat as nontidal are mapped as tidal. I have included a copy of this map for clarity. A field delineation by a qualified wetland delineator is necessary to resolve this discrepancy.
   - It is my understanding that Calvert County requires the deduction of all tidal and nontidal wetlands prior to the calculation of density and development rights. However, the plat notes indicate that the area of State-owned wetlands was deducted to generate a 72.5 acre net land area. If the acreage of State-owned wetlands is necessary in order calculate any density and/or development rights within the Critical Area, a professional determination of private versus State-owned wetland areas must be provided in addition to the delineation of wetland boundaries.
   - While the subdivision application form subtracts all wetlands from the property acreage in order to generate a base density of 37.48 acres, it appears that the applicant it utilizing 50.2772 acres within the Critical Area to generate two development rights. Please clarify how there could be more acreage within the Critical Area than is existing for the entire site.

3) Pending determination of the tidal and nontidal wetlands limits in the field, the limits of the 50-foot buffers currently shown may need to be expanded to reflect a 100-foot tidal wetland Buffer.

4) It appears that the development right for Lot 1 within the Critical Area is already in use via the existing dwelling. Please have the applicant include a plat note that states that no development rights remain for Lot 1 within the Critical Area.

5) There are three perc test sites shown on the plat directly to the west of proposed Lot 1. Given that no additional development rights exist within the Critical Area, please have the applicant clarify the intention of these perc tests.

6) We note that this office has not yet received a copy of an evaluation of the property from the DNR for the presence of any rare, threatened, or endangered species. Should these species be identified, the applicant will be required to address recommendations for their protection via submission of a Habitat Protection Plan (HPP). While the plat notes state that this evaluation is required prior to final plat approval, this evaluation should be required prior to preliminary plat approval so as to ensure any major species concerns are addressed early in the review process.

7) Based on the information shown on the plat, it is not possible to accurately identify the limits of the proposed lots. The lot lines should be clearly identified using metes and bounds descriptions. In addition, the Critical Area application form states that three lots and two dwelling units are proposed within the Critical Area portion of the site. The plat does not appear to show any portion of proposed Lot 3 within the Critical Area. Please clarify.

8) It appears that the applicant will need to obtain a permit from the Maryland Department of the Environment in order to replace the existing culvert through wetlands. Please ensure that this permit is applied for early in the process and please have the applicant provide a copy of this permit for Commission files once obtained.

The comments above represent a review of the information provided to Commission staff at this time. However, a site visit has been scheduled to walk the property with County staff. Upon completion of the site visit, Commission staff may have additional comments to offer. We recommend that the applicant provide a revised site plan along with a description of how each of the above concerns has been addressed. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA607-06

Cc: John Swartz, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 2, 2006

Mr. John Dunn
Regional Manager
USS Real Estate
11390 Lord Baltimore Drive
Swan Point, MD 20645

Re: FIDs Mitigation Parcels

Dear Mr. Dunn:

The purpose of this letter is to provide feedback on the properties which you provided to this office for consideration as potential mitigation sites in early August of 2006. Commission staff has reviewed the information you provided and has had a chance to consider the qualities that each of the properties possess in relation to providing current or future Forest Interior Dwelling Bird (FIDs) habitat. The following comments are provided in a descending order of preference for overall FIDs conservation, with the first property offering the most beneficial habitat qualities and the last property, the least.

James Run Pointe Property (Tax Map 56, Parcel 5)

This property conceivably provides the most beneficial FIDs habitat of the four properties. This assessment is based largely on the amount of contiguous forested cover present on the parcel itself, as well as in combination with forested cover on surrounding parcels. There is no information provided as to the current species composition of the forested cover, so it is not possible to positively assess whether the property currently supports FIDs habitat or not. Information regarding the species composition of the forested areas would be necessary prior to formal consideration of the property as a viable mitigation option for preservation or for planting. Commission staff is concerned that there does not appear to be any protected land, including land within private or State easements, within the surrounding area. Future success of the FIDs habitat on this parcel has great potential to be affected by the development of privately-owned parcels in the general vicinity. In addition, this parcel has no direct or indirect connection to the Critical Area.

Provided that the species composition of the forested tract currently provides FIDs habitat, Commission staff would generally support the planting of 27.92 acres of the property, giving mitigation credit at a 1:1 ratio. Additionally, we would support the preservation of 66.43 acres, giving credit at a 0.5:1 ratio and resulting in 33.21 acres of mitigation credit. The total mitigation potential for this property is 61.13 acres.

Izaak Walton Property (Tax Map 21, Parcel 11)

The information provided states that approximately 30 acres of open, former agricultural lands are proposed for planting within a larger 141.03-acre tract. It is not clear from the information provided whether the blue outline referred to within the property description accurately represents the proposed planting area as stated. Further clarification of the limits of the planting area is needed. In addition, the open areas on the property appear to be mapped as being held within a Maryland Environmental Trust easement. Further information as to the limits of the overlapping existing easement is necessary in order to determine whether potential conflicts exist with planting for FIDs habitat. As with the James Run Pointe property, this parcel offers little connection to the Critical Area.

Commission staff's support of this parcel is limited by the uncertainty surrounding the limits of the existing easements on the property. However, should those uncertainties be clarified, Commission staff would generally support the replanting of 30 acres of the property at a 1:1 ratio.

Waldorf Lions Foundation (Tax Map 21, Parcel 92)

The information provided states the intention to protect 185 acres of undeveloped forested land within a larger 279.15-acre tract. A portion of this property is located within the Critical Area. The limits of the 185-acre preservation area do not appear to be accurately shown on the accompanying exhibit, so it is not entirely clear which portion of the site is proposed for preservation. In addition, the property appears to be enrolled in the Conservation Reserve Enhancement Program (CREP), but the limits of this easement area are not detailed. As with the Izaak Walton league property, greater details regarding the restrictions and limits of the existing easements are needed in order to rule out any conflicts with use of the property for permanent FIDs preservation.

The information provided does not detail the species composition of the existing forested areas. This information is needed in order for Commission staff to evaluate the use of the property for FIDs preservation. Also, in order to determine the credit that can be given for preserving this area, the acreage of forest in the Critical Area should be separated from that outside of the Critical Area. Since the forest within the Critical Area is already afforded some protection by the forest clearing limits, only 30% of the forest within the Critical Area can be considered available for mitigation purposes.

Charleston Partnership Lands (Tax Map 87, Parcel 14)

This property is proposed for planting and preservation of 40 acres. In general, Commission staff has serious reservations about the use of this property for conservation and/or preservation of FIDs habitat. Specifically, we question whether the quality of the FIDs habitat on site has been negatively affected by the methods and/or amount of timber harvesting within the property and within the surrounding properties. The surrounding properties offer somewhat fragmented connections to quality FIDs habitat, and seem to have been additionally impacted by agricultural activities. Commission staff is also concerned about the lack of protected properties surrounding this parcel and the inability of this parcel to provide long-term protection for FIDs. If the proposal to preserve 20 acres of forested area adjacent

to the cultivated land includes land within the Critical Area, the acreage given for mitigation credit would be limited to 30% of the forest within the Critical Area, as stated above for the Lions Club property. This parcel is the least desirable of all options presented to Commission staff.

I hope you find these comments to be helpful in providing feedback about the potential mitigation sites provided. If you have any questions about the comments provided, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 2, 2006

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

Re: George Brooks House Inn
TM 23, Parcel 41

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan and growth allocation request. The applicant is proposing to convert 1.99 acres within a Resource Conservation Area (RCA) to a Limited Development Area (LDA) for the purpose of expanding and renovating an existing bed and breakfast. The property acreage totals 8.5 acres, with 4.251 acres located within the Critical Area.

Based on the information provided, it appears that the applicant proposes renovations of the existing structures as well as the future addition of a parking area for approximately twelve vehicles, the conversion of an existing studio and workshop into poolside villas for use as guest rooms, and the construction a two-story, 1,440 square foot spa building. It is my understanding that the growth allocation request is necessary because the County's zoning ordinance classifies the proposed facility with the proposed number of guest rooms as a hotel. In general, hotels are not a permitted use within the RCA.

The information provided to this office to date fails to detail both the amount of existing impervious surface area and the proposed amount of future impervious areas. Therefore, it is not possible to assess whether the designation of LDA will be sufficient, or whether an Intensely Developed Area (IDA) designation will be necessary. For an LDA designation to be sufficient, the applicant must demonstrate that the 15% impervious surface area limit will not be exceeded, as well as demonstrate compliance with all other criteria for development within the LDA. In addition, the applicant has stated the intention to convert only 1.99 acres within the Critical Area from an RCA to an LDA. The use of growth allocation for only a portion of the site, thereby leaving an area of less than twenty acres as RCA, would be inconsistent with both the Commission's previous approvals of similar requests and the Commission's growth allocation policy. It appears that the entirety of the 4.251 acres within the Critical Area will need to be deducted.

We acknowledge that the applicant's proposal for growth allocation has yet to be heard before the County Planning Commission. As such, these comments are provided as preliminary in nature. It will be necessary to forward additional information to Commission staff regarding the site plan details, including an environmental assessment and a formal growth allocation request should the growth allocation be approved locally.

As you know, provisions of the Critical Area Law were amended this spring through the adoption of Senate Bill 751. The legislature clarified the authority of the Commission and Chairman regarding program changes including growth allocation. The Bill includes language requiring the Commission to ensure that the locational guidelines for growth allocation have been applied in a manner that is consistent with the purpose, policies, goals, and provisions of the Critical Area law, as well as all criteria of the Commission. It is important that the County review this legislation to ensure that the local review process addresses the locational guidelines and that appropriate documentation is provided to the Commission as part of the County's formal growth allocation submittal.

Thank you for the opportunity to provide comment at this early stage of the growth allocation process. Please include this letter in your file and submit it as part of the record for this request. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
TC558-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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October 2, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-00-10A-32 Flag Harbor-Revised
(Tax Map 32, Parcel 64)

Dear Ms. Vidotto:

This letter is in regard to our continuing review of the above referenced subdivision. As you are aware, this office provided comments to the County regarding a revised preliminary subdivision plat on August 14, 2006. Since that time, two additional plats, labeled as existing and proposed condition plats, were sent to this office for review. In response to the additional information provided on those plats, the following concerns remain outstanding:

1) The impervious surface area limitations stated within the State Critical Area law apply to all lots or parcels created as part of a subdivision, not only to those lots designated as buildable at the time of subdivision. Therefore, all lots or parcels created as part of, or by default of the proposed subdivision must comply with the impervious surface area limits in the law. The applicant is proposing to create a non-conforming Outlot A and a nonconforming Residue A. It remains our position that the creation of these lots is not permitted under State law in the manner proposed.

2) The applicants have provided a copy of a letter from the Department of Natural Resources (DNR) which is dated December 31, 2001, stating that there are no known rare, threatened, or endangered species present on the site. We note that the DNR requires that an evaluation of the property for the presence of RTE species be less than three years old in order to be valid. Therefore, it does not appear that a valid evaluation of the property currently exists.

Thank you for the opportunity to provide comments for the revised information provided. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 28, 2006

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

Re: A081 Hockaday

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the 100-foot Buffer in order to raise an existing garage above flood level elevation, retaining the original footprint. The property is designated a Resource Conservation Area (RCA) and is currently developed with a primary dwelling, barn and garage.

Based on the information provided, it is my understanding that the proposed improvement will be contained entirely within the existing garage footprint. It appears that the project proposes to raise the roof and to install minor architectural modifications. In addition, the applicant will place fill directly over the existing slab foundation and will then pour a new slab foundation over the fill. As a result, no change in impervious footprint or new disturbance to the Buffer is proposed. Therefore, we do not oppose the granting of the variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC643-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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September 27, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SPR 06-31 Solomons Town Park
(Tax Map 44, Parcel 679)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced minor subdivision. The Calvert County Department of Parks and Recreation is seeking approval of a subdivision to create one 21.104-acre lot. Approximately 16.8 acres of the property are located within the Critical Area and are designated as a Limited Development Area (LDA). The Critical Area portion of the property appears undeveloped.

Based on the information provided, it is my understanding that the purpose of the proposed subdivision is to designate Parcel 679 as a buildable lot. This upgrade is necessary in order for the County to pursue its plans to construct ball fields, parking, and a bathroom facility at the site. This office provided comments specific to the site plan component of the project to the County in the attached letter dated August 21, 2006. Provided that the comments within that letter are addressed, we do not have any additional concerns regarding the subdivision plan as submitted. For your convenience, I am also attaching a copy of the letter from the Department of Natural Resources' Wildlife and Heritage Division which indicates that the property contains Forest Interior Dwelling Bird (FIDs) habitat. While it does not appear that any clearing is proposed within the Critical Area portion of the site, submission of a Habitat Protection Plan will be necessary should any clearing within the Critical Area be deemed necessary.

Please note that this project qualifies under COMAR 27.02.02.02 as a local agency action resulting in development of local significance on private lands. Therefore, the County will be required to submit a consistency report to this office prior to local site plan approval.

Thank you for the opportunity to provide comments for this subdivision proposal. If you have any questions, please contact me at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA489-06

Cc: John Swartz, Calvert County
Bobbi Hutchinson, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 26, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: AP66105 Triebell Building & Grading Permit

Dear Mr. Swartz:

Thank you for providing information on the above referenced grading and building permit. The applicant is requesting a permit to construct a 2,030 square foot dwelling, a garage, and a septic area. The property is designated a Limited Development Area (LDA) and was the subject of a Board of Appeals variance case decided in December of 2005.

Based on the site plan provided, it appears that the building and grading permit is consistent with the site plan approved as part of the variance request. Provided that the applicant implements the required mitigation plantings, this office is not opposed to the granting of a building permit. Please note that pervious construction of decks generally includes the installation of plantings along the entire foundation of the deck structure in order to help absorb runoff from underneath. Particularly given the sensitive nature of the steep slopes, we recommend that this additional measure be made a requirement of the building permit.

Thank you for the opportunity to provide comments for this building and grading permit. If you have any questions regarding the content of this letter, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 549-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 26, 2006

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

Re: Ruff Site Plan/ 10% Rule Information

Dear Ms. Verdery:

We have received the calculations and supporting documentation submitted in relation to the proposed redevelopment activities at the above referenced property. The purpose of this letter is to notify you that the information submitted is insufficient.

Specifically, the applicant has submitted a 10% rule worksheet which utilizes non-rooftop disconnection credits to satisfy the pollutant removal requirement associated with the proposed carport. Should the applicant choose to utilize non-rooftop disconnection credits using the drainage area calculation method, information is needed which clearly details the type of disconnection strategy being implemented, including the location and technical specifications of its design. All disconnection strategies must meet the design criteria specified within the 2000 Maryland Department of Environment Stormwater manual to be considered as usable credits within the Critical Area. In addition, the 10% rule worksheet was stated to be based on assumptions regarding the size of the contributing drainage area. The worksheet must be completed using actual drainage divides and genuine contributing areas. Assumptions are not sufficient for this purpose. Finally, when calculating the 10% rule worksheet, the project falls into the category of redevelopment, and not new development as calculated by the applicant's consultant. This changes the calculations shown on the worksheet.

In order to move forward in the review process, it will be necessary to submit a revised 10% worksheet to Commission staff for review. In addition, please provide information with significantly greater detail regarding the specific disconnection strategies intended for use. If you have any questions about the content of this letter, please feel free to call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC481-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

September 26, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-547-06 Kurtom

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance to the steep slope requirements for the purpose of constructing a primary dwelling, garage, and septic system. The property lies within a designated Limited Development Area (LDA) and is currently undeveloped.

Based on the site plan, it appears that the existing topography of the site would render the property non-buildable without some degree of variance to steep slopes. However, in requesting a variance, the applicant bears the burden to demonstrate that the variance is the minimum necessary and that impacts to steep slopes have been minimized to the extent possible. In this case, a large flat area appears to exist along the middle portion of the property. It appears that an alternative dwelling design could be incorporated which better utilizes the flattest portions of the property, thereby significantly decreasing the impacts to steep slopes. The applicant is afforded greater flexibility in design by virtue of having a public water connection and should therefore be required to maximize opportunities to design in concert with the existing features of the property. In evaluating the applicant's variance request, the Board must determine that each and every one of the County's variance standards has been met, including the standard that the variance is the minimum necessary. Because it is our view that a variance of a lesser degree is possible, we cannot offer support at this time. We recommend that the Board require the applicant to consider an alternative dwelling design and submit a revised site plan.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 26, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3360 Lucic

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance to the 100-foot expanded Buffer and steep slope requirements for the purpose of constructing a primary dwelling and septic system. The property lies within a designated Limited Development Area (LDA) and is currently undeveloped.

Based on the site plan, it appears that the existing topography of the site would render the property non-buildable without some degree of variance to steep slopes. In addition, it appears that the location of the dwelling is constrained by the setbacks from the proposed well and septic area. As a result, this office does not oppose the granting of a variance.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 25, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3358 Bereszoski

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer and impervious surface area limits in order to construct a second story addition to an existing detached garage. The property is designated a Limited Development Area (LDA) and is currently developed with a single-family dwelling, garage and septic area.

Based on the information provided, it appears that the applicant proposes to construct a 268 square foot addition, located over an area of existing lawn. We note that the property is currently 47.4% impervious in nature and that the existing garage appears to be utilized as an accessory apartment, developed with an extensive, multi-level deck. The permitted impervious surface area limit for the property is 25%. We note also that the property has been identified as lying within a sensitive species review area for a Federally-listed rare, threatened, or endangered species. In general, this office would not oppose a variance to construct a reasonably-sized addition where it can be demonstrated that a hardship exists. However, in this case, it is our view that the applicant currently enjoys reasonable and significant use of the property, and that the granting of a variance to further exceed the impervious surface area limit and to further disturb the Buffer would be granting the applicant a special privilege and would be entirely in contrast with the strict standards for variances outlined within the County's zoning ordinance. In addition, it is our view that the proposed variance clearly fails to meet the standard of unwarranted hardship as well as further diminishes the quality and ability of the Buffer to function as intended by the Critical Area Law.

Because we believe that the applicant has failed to meet each and every one of the County's variance standards, including the standard of unwarranted hardship, we oppose this variance. I have outlined each of the County's variance standards as it pertains to this case below:

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.* As stated, it is our view that the applicant currently enjoys reasonable and significant use of the property as evident by the existing dwelling and detached garage with decks. In general, detached garages are considered accessory structures. Denial of a variance to significantly expand an accessory structure within the Buffer would not represent an unwarranted hardship within the Critical Area.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction.* This office would not support similar variance requests to expand an accessory structure within the Buffer and to further exceed the impervious surface area limits, particularly where reasonable use of the property already exists. Accessory structures are not an inherent right, nor are they a right commonly enjoyed by others within the Critical Area.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.* If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area.

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

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat with in the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.* In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The applicant is proposing to convert an additional 268 square feet of pervious cover to impervious surface within the Buffer, an area recognized as particularly sensitive to human disturbances. The amount of development on the site provides the applicant with reasonable and significant use of the property and currently exceeds the limits of impervious cover that other properties within similar areas enjoy. To grant a variance to further remove an area of Buffer from providing the functions outlined within the law and criteria, particularly where there may be concern for a Federally-listed rare, threatened or endangered species, 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 overcome the burden to prove that each one of the County's variance standards has been met, the Board must deny the applicant's request for a variance as proposed.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 546-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 25, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3357 Vereecke

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to permit the construction of a driveway and septic area. A single-family dwelling will also be constructed, but will be located outside of the Critical Area. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that a single family dwelling and subsequent access to the dwelling would not be feasible without some amount of disturbance to steep slopes. In addition, it appears that the applicant has made efforts to locate the driveway along the flattest portions of the property and to locate the septic area off of steep slopes. In recognition of the above stated information, this office does not oppose the variance as requested.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 545-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 25, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3356 Puhl/Williams

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct a 625-foot attached garage and to construct a second-story addition to the existing dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the property is largely constrained by the presence of the 100-foot Buffer. While the limits of the Buffer are not shown on the site plan, it appears that construction of a garage would not be feasible without some degree of variance. As a result, this office does not generally oppose a variance. However, the applicant's proposal does not currently include any structural means of addressing stormwater management from the new garage or from the existing dwelling. As a component of a variance request which disturbs and places new impervious surface area within the Buffer, the applicant should be required to provide stormwater management. At a minimum, we recommend that the Board require management of rooftop runoff from the garage as a condition of a variance approval. Ideally, management of rooftop runoff from the existing dwelling should also be required as a condition of approval. These measures would provide greater assurance that adverse impacts to water quality, as well as plant and wildlife habitat are minimized to the extent possible.

Finally, the application provided to this office indicates that topography must be provided to the Board in order to determine whether a variance to steep slopes is also necessary. The comments provided above are based on the assumption that no steep slopes exist as no topography was provided. Should a second variance be required, this office would be opposed to the granting of a variance without prior review of a site plan and the opportunity to submit written comments.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 913-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 25, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3336 Smith-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot Buffer and the steep slope requirements in order to permit the construction of a replacement dwelling. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling and septic area.

Based on the information provided, it appears that the applicant has attempted to address previous concerns by moving the dwelling farther from Mean High Water (MHW), increasing the setback to 55-feet and by planting those existing gravel driveway areas which are not incorporated into the area of new driveway. While we acknowledge the applicant's attempts at minimization, it appears that moving the dwelling towards the north has resulted in the need to locate a portion of the proposed deck over steep slopes. It is my understanding that this move is proposed as a requirement of the Calvert County Health Department in order to provide a replacement septic area. While this requirement may affect the location of the dwelling, it is our position that construction of a replacement dwelling should be conducted so as to conform insofar as possible with the existing County and State regulations. By virtue of this approach, an applicant should be required to design a dwelling that fits the constraints of the site. In regard to the steep slope variance, we recognize that the physical impact to the slope may be limited in scope, but it appears that the applicant could utilize an alternative dwelling design which eliminates the need for a steep slope variance altogether. Where a reasonable opportunity to grant a variance of a lesser degree exists or where further minimization is feasible, the Board should require the applicant to revise the site plan.

In evaluating the features of the site plan, this office also questions the location of the proposed rain garden. Generally, the Commission encourages the use of rain gardens as best management practices. In this case, the rain garden is proposed 5 feet off of the existing wooden bulkhead. Installation of the rain garden requires excavation of the existing soil materials and utilizing a design intended to retain water for periods of time. Given these factors, we question whether the rain garden could pose a threat to the integrity of the bulkhead and whether a heavy storm might result in direct overflow into Mill Creek. We recommend that the applicant consult with the County's engineering division prior to or in conjunction with the Board's approval.

Due to the outstanding concerns identified within this letter, we are unable to offer support for the variance as requested. We recommend that the Board evaluate whether it is possible to utilize an alternative dwelling design which eliminates the need to disturb steep slopes and that the Board consider whether the rain garden would be more appropriately located elsewhere on the property.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 440-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 25, 2006

Ms. Tracey Grangier
Somerset County Roads Department
8981 Sign Post Road
Westover, MD 21871

Re: Jenkins Creek Bridge Replacement
Calvary Road, Somerset County

Dear Ms. Grangier:

We have received the revised mitigation planting plan as well as the revised wetland mitigation site plan showing the new location of the 100-foot Buffer. These plans were submitted in conjunction with the mitigation requirements for the replacement of the Jenkins Creek bridge on Calvary Road.

Based on my review of the mitigation planting plan, it appears that 17,600 square feet of plantings are proposed on the Great Hope Golf Course. These plantings are located adjacent to an existing forested area and adequately satisfy the mitigation requirements as specified within the September 2005 consistency determination for the new bridge footprint. In regard to the location of the newly created wetland at the vocational school property, this office is satisfied that the County has fulfilled their obligations by providing a revised site plan showing the revised 100-foot Buffer, and mitigation plantings at a 1:1 for the area of new wetland created. Please ensure that the location of the revised 25-foot agricultural Buffer are staked and easily identifiable in the field so as to avoid future mowing, and please ensure that this area is allowed to naturally regenerate over time. Should agricultural activities on this property cease, the entire limits of the 100-foot Buffer will be required to remain in a natural, undisturbed state.

While this office has no further comments or concerns regarding the review and/or construction of the Jenkins Creek bridge project, please note that future projects which create wetlands within the 100-foot Buffer will be required to provide mitigation at a 1:1 ratio for the area of Buffer disturbed and will be required to fully establish the limits of the revised 100-foot Buffer. Thank you for your assistance and cooperation in finalizing this project. Should you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Cc: Joan Kean, Somerset County
Joe Kincaid, MDE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 22, 2006

Mr. William Watson
Zoning Administrator
8200 Bayside Road
PO Box 400
Chesapeake Beach, MD 20732

Re: Rod-N-Reel Wedding Pier

Dear Mr. Watson:

Thank you for providing information on the above referenced site plan. The applicants are requesting site plan approval in order to construct a 643 square foot platform over a beach area and to construct a 465 square foot platform over open water. The property is designated an Intensely Developed Area (IDA) and is currently developed with a restaurant and marina.

Based on the information provided, it is difficult to determine what portion of the 643 square foot platform is proposed above Mean High Water (MHW). Further information will be necessary to resolve this uncertainty. Please note that the proposed structures are not considered water-dependent facilities within the Critical Area. As such, a variance would be required to construct any portion of the platform located above MHW and within the Buffer.

Thank you for the opportunity to provide comments for this site plan submittal. Please provide additional information which addresses the concerns raised above. If you have any questions, please contact me at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CB563-06

Cc: Megan Reiser, Ben Dyer
Kathy Anderson, USACE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Kerrie Gallo

Date: September 22, 2006

RE: POS Project #4904-20-92, Moton Park Renovations, Talbot County

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to replace some existing non-ADA compliant and unsafe playground equipment, including a safety surface. While specific plans may not yet be available, the following factors should be considered.

It appears that the site may lie partially within the jurisdictional limits of the Town of Easton and partially within Talbot County. While it is difficult to determine the extent of impacts proposed within the Critical Area portion of the site based solely on the information provided, it appears that the Easton portion of the site may be designated as an Intensely Developed Area (IDA). As such, any new development activities, including any repaving and/or resurfacing of the playground areas will be required to comply with the local requirements for development within the IDA.

We recommend that the Town of Easton and/or Talbot County, if appropriate, work closely with Critical Area Commission staff as early as possible in the planning process. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3482.

cc: Lynn Thomas, Town of Easton
Mary Kay Verdery, Talbot County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2006

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

Re: M1077 Stephens Subdivision
(Tax Map 40, Parcel 10)

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The purpose of the subdivision appears to be to designate a former remaining lands parcel as a buildable lot. The property contains 57.546 acres within the Critical Area and is designated as a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1. The afforestation area of 2.966 acres has been located within the existing reservation of development rights area associated with the creation of Lot 1 in 1993. Please clarify whether afforestation was required as a component of the 1993 subdivision and where that afforestation was located. Aerial photographs indicate that minimal forest cover exits on Lot 1 today. While the location of the proposed afforestaion area appears logical in order to create a wildlife corridor, we question whether the location creates potential for future conflicts in regard to property ownership or future subdivision. In addition, please provide verification that the proposed location does not conflict with any previous restrictions or requirements for planting in relation to the creation of Lot 1.

2. It appears that the Buffer area on Lot 2 will require establishment at the time of development as a change in land use is proposed. Please have this note added to the plat.

3. It appears that a structure exists within the reservation of development rights area shown on proposed Lot 2. Please have this feature added to the plat and indicate the nature of its use.

4. As you are aware, new subdivisions require that an evaluation of the property be conducted by the Department of Natural Resources' (DNR) Wildlife and Heritage Division for the presence of any

rare, threatened or endangered species. This office has not received notification of such an evaluation at this time. Please provide a copy of the DNR letter to Commission staff once received.

Thank you for the opportunity to provide comments for this subdivision request. Please have the applicant address the concerns identified above and submit a revised site plan. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC454-06

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 15, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 04-33-34 Maguire-Revised
(Tax Map 34, Parcel 236)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot, intra-family transfer subdivision. The property lies within a designated Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1. As indicated in our previous comment letter, it is not clear that the proposed subdivision meets the letter and intent of the County and State intra-family transfer provisions. While the applicant has provided an explanation as to the ownership history of Parcel 236, this office requested written clarification from the County regarding how this proposed intrafamily subdivision meets the legal requirements identified within the County ordinance (see attached email). Specifically, tax maps appear to indicate that Tract 2 was originally part of Parcel 237, not Parcel 236. This information was requested prior to preliminary plat approval and was not received.

2. Revised plat note #2 creates additional confusion if the original parent parcel on record at the time the County's Critical Area Program was adopted was 24.64 acres. Based on that acreage, 3 intrafamily transfer lots could be created. If the legal parent parcel size is 8 acres, only two intrafamily lots are permitted. Please address and clarify the size of the original parent parcel, on record at the time of Critical Area Program adoption. In addition, please have the applicant correct the plat note accordingly.

3. Please note that this office has not yet received notice of an evaluation of the property by the Department of Natural Resources (DNR) for the presence of any rare, threatened, or endangered species. Along with the revised information requested, please indicate whether this evaluation has

been obtained. As you are aware, the applicant must obtain this evaluation and will be required to address any recommendations made by DNR for the protection of any species identified.

Thank you for the opportunity to provide comments for this minor subdivision request. Please consider this a request for additional information under COMAR 27.03.01.02.C. Once available, please provide a copy of a revised plat, along with the requested supplemental information. If you have any questions, feel free to contact me at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA50-06

Enclosure

CC: John Swartz, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2006

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

Re: Appeal No. 1438 Levy/Mann
Tax Map 40, Parcel 25

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to replace an existing frame garage with a studio space. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to construct a 576 square foot studio building entirely within the footprint of an existing frame garage. The existing structure is located 28 feet from Mean High Water (MHW) and the proposed structure will remain set back 28 feet from MHW. It is my understanding that the intent of the proposed structure is to provide studio and office space and that the structure will not contain permanent provisions for eating, cooking, or sanitation, and will not require the installation of an additional septic system or connection to the existing system. Provided that the above listed permanent provisions are expressly prohibited by the Board, this office does not oppose the granting of a variance as proposed.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC490-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 15, 2006

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

Re: A079 Levy/Mann
Tax Map 40, Parcel 25

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the 100-foot Buffer in order to construct a second-story addition to the primary dwelling. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing vertical expansion of the existing dwelling and garage in order to create a master bedroom. The existing structure is located entirely within the 100-foot Buffer and is set back 33 feet from Mean High Water (MHW). Given that the proposed addition will encroach no closer towards MHW than the existing dwelling and that no new disturbance to the Buffer appears to be proposed, this office does not oppose the granting of a variance as requested.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this administrative variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC490-06

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 5, 2006

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

Re: Application for New Buffer Management Area Designation
Community #13A, Tax Map 32

Dear Ms. Verdery:

We have received your request to amend the official Talbot County Critical Area and Zoning maps in order to designate the above referenced community as a new Buffer Management Area (BMA). At this time your application is being returned to you as incomplete.

In order to consider the County's request as complete and to begin processing, Commission staff will need a copy of the written findings that should have accompanied the maps when approved by the County Council. It is not clear from the information submitted whether the Talbot County Council has approved the proposed BMA map amendment at this time. I have included a copy of the findings from the County's previous BMA mapping efforts in order to make clear the nature of the information I have requested. Once the above referenced information is received and reviewed, Commission staff will notify you that the County's proposal is accepted for processing. The Chairman will then have 30 days to make an amendment or refinement determination.

Commission staff would like to visit the community proposed for designation as a BMA in order to verify the site conditions. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 12, 2006

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

Re: L983 Harleigh-Revised

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing to revise the lot lines on two existing parcels of record. The properties are designated as Resource Conservation Areas (RCA) and both are currently developed with single family dwellings and multiple accessory structures.

Based on the information provided, it appears that the applicant has addressed our previous concerns relating to the calculation of impervious surface area limits. We have no further concerns regarding the lot line revision and abandonment as proposed.

Thank you for the opportunity to provide comments on this minor lot line revision. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC238-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 11, 2006

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

Re: North Beach Resort Condominium Site Plan-Revised

Dear Mr. Hofmann:

This letter is in regard to our continuing review of the above referenced site plan and development proposal, and in response to the revised site plan received September 9, 2006.

Based on the revised information, it appears that the proposed filtering medium for the stormfilters has been changed to an approved leaf compost medium as requested. In addition, conversations between Commission staff and the project consultant, Robin Barnhardt, have resulted in a clearer understanding of the nature of the proposed stormfilters. Therefore, our previous concerns regarding the size of any potential underdrains have been resolved, and we have no further concerns regarding the project as proposed.

Thank you for the opportunity to provide comments on this revised site plan and development proposal. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
NB790-05

Cc: Robin Barnhardt, CPJ

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 8, 2006

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

Re: Ruff Site Plan
Tax Map 32, Parcel 91

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is seeking approval to construct a 900 square foot carport over an area of existing impervious surface. The parcel lies within a designated Intensely Developed Area (IDA), and is currently developed with a hotel.

In general, this office does not oppose the proposed carport addition. However, the proposed activity is considered a redevelopment activity and proposes greater than 250 square feet of disturbance. Therefore, the applicant is required to provide a 10% reduction in pollutant loadings, demonstrated by submission of a 10% rule worksheet and calculations. While we acknowledge that the proposed activity will occur over an area of existing impervious surface, the 10% reduction requirement within the IDA is expressly intended to address impacts on water quality generated by existing development and to incorporate technologies to enhance and improve water quality where redevelopment activities present an opportunity for such an improvement. Given the small area of redevelopment proposed, the applicant may choose to utilize a drainage area when calculating the 10% rule, as opposed to treating the entire site. Please submit the 10% calculations to this office for review once received.

Thank you for the opportunity to provide comments regarding this site plan and redevelopment proposal. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC481-06

Put in Gallo reader file

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 6, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: AP #65292 Mauche

Dear Mr. Swartz:

This letter is in response to the above referenced building and grading permit. As a component of the January 5, 2006 Board of Appeals reconsideration hearing and subsequent amended order, the Board required that the revised plan of development showing the revised location for the proposed pool be submitted to and approved by the Critical Area Commission prior to the issuance of the building permit by the County.

The intent of this letter is to advise you that I have reviewed the site plan submitted in conjunction with the Board's amended order and concur that the location marked by a star on Exhibit #1 is accurate in regard to the agreed upon location. Therefore, please consider this letter as notice of the Commission's official approval of the building permit application.

Thank you for your coordination in bringing this building permit application to the Commission for review and approval. Should you have any questions regarding our review of the plan, or the contents of this letter, please feel free to contact me. Alternatively, you may also contact Ren Serey at 410-260-3462 or Kerrie Gallo at 410-260-3482.

Sincerely,

Martin G. Madden

Martin G. Madden
Chairman

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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September 5, 2006

Mr. Greg Bowen
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance Cases 04-3033 and 05-3174 (Felenchak)

Dear Mr. Bowen:

The purpose of this letter is to request written clarification regarding the County's process, implementation, and fulfillment of the requirements for a Habitat Protection Plan (HPP) and the payment of fines in relation to the above referenced variance and violation cases, as well as the subsequent Board of Appeals (BOA) Order dated July 11, 2005.

By way of this letter, we wish to notify you of the Commission's position that the most recent HPP submitted to office for review, dated August 29, 2006, remains insufficient to ensure adequate protection of the Federal and State-listed Tiger beetle habitat documented for this property. In addition, we are concerned that the amount of fines paid by the applicant in fulfillment of the BOAs' violation mitigation requirements may have been improperly assessed and may be severely inadequate. In order to be clear about the origin and nature of my inquiry, I have provided a summary of events as I understand them. The information below is based upon written correspondence from the Commission's records as well as upon observations made during a site visit to the property and the oral and written testimony provided by Commission staff during the various variance hearings.

<u>Fulfillment of the Conditions of BOA Case # 05-3174-Decision and Order</u>

- On May 24, 2004, John Felenchak, on behalf of then property owners William and Christine Diehlmann, was granted a variance (BOA Case #04-3033) to clear and disturb 7,402 square feet (sf) of natural vegetation and canopy cover (35.5%) on his 20,829 sf lot.
- April 1, 2005-Due to an improperly placed well, Mr. Felenchak was forced to return to the BOA to ask for a revision to the previously approved variance in order to relocate the garage.
- At the April hearing, the BOA deferred action in order to conduct a site visit. Upon completion of the site visit, the Board found to be true, as indicated within the July 11, 2005 decision and order, that the area of tree cover already cleared by Mr. Felenchak exceeded the 7,402 sf previously approved, and that nearly the entire Limits of Disturbance (LOD) had been cleared of natural vegetation (12,212 sf).
- On Page 3 of the same BOA decision, the Board found that 4,810 sf defined the area by which the actual and revised LOD (12,212 sf) exceeded the previously approved LOD (7,402 sf). In addition, the Board determined that 960 sf defined the area by which the actual (and later approved) canopy clearing on the lot (8,362 sf) exceeded the previously approved canopy clearing (7,402 sf).

- Based on these findings of fact, Page 7 of the decision orders two conditions of approval. First, the applicant shall be required to pay fines in the amount of three times the area that was disturbed without prior authorization and in violation of the Board's previous order. This area was defined by the Board on Page 3 as 4,810 sf. Therefore, fines should be levied at 3 x 4,810 sf, or 14,430 sf. Please clarify the total amount of fines paid by the applicant to satisfy this portion of the Board's order.
- As a second component of the first condition, the Board ordered the applicant to post a bond for replanting the area of canopy cover that was removed without authorization and in violation of the Board's previous order. Page 3 of the decision defines this area as 960 sf. Therefore, 2,880 sf of planting should be required in order to satisfy the second component of the Board's order.
- In order to utilize the provisions for payment of fees-in-lieu, the County's Zoning Ordinance states that a person must demonstrate that requirements for reforestation or afforestation on site cannot be reasonably accomplished. Based on the site plan and particularly in light of the documented Habitat Protection Area on site, it appears that 2,880 sf of planting could have been reasonably accomplished on site. Please provide clarification on how the County determined that on site planting was neither feasible nor practicable given the site conditions.
- Finally, the Board required that a HPP be submitted and approved. The County's Zoning Ordinance requires that a HPP address the recommendations of the Department of Natural Resource's (DNR) Wildlife and Heritage Division. Those recommendations are defined within a July 18, 2006 memo from Katharine McCarthy (attached). Our outstanding concerns are addressed below.

Habitat Protection Plan (HPP)

The most recent HPP was submitted to this office by the applicant, Mr. Felenchak, by fax on August 29, 2006 (copy attached). Based on the information shown on the plan, it is our view that the plan insufficiently addresses the recommendations of DNR and fails to provide adequate assurances that adverse impacts to the State and Federally listed Tiger Beetle habitat have been minimized to the extent possible. Specifically, sufficient control of stormwater runoff remains uncertain and the amount of plantings proposed remains severely inadequate. We provide the following comments:

1. The DNR memo stresses the importance of providing adequate stormwater management measures. Currently, all rooftop runoff from the primary dwelling is directed into a single drywell. Commission staff questions whether a rain garden or another additional stormwater management feature could be constructed between the dwelling and the garage to provide enhanced infiltration and absorption benefits. At a very minimum, enhanced stormwater measures should be incorporated in the form of foundation plantings at the base of the deck and significantly enhanced areas of plantings between the cliff and the primary dwelling to intercept runoff.

2. As evident by the lengthy discussions before the BOA and within the numerous written letters provided to the Board, County, and applicant, adequate protection of the Tiger Beetle habitat onsite is directly related to the amount of plantings and multi-tiered vegetative cover provided. Given the extensive limits of the clearing on the property, it is imperative that an approved HPP maximize all potential areas for plantings and demonstrate that the property has been planted to the extent practicable. Currently, the HPP proposes six inkberry shrubs and 2 understory trees, roughly equivalent to 500 sf of plantings. Given that 12,212 sf

was cleared, 4,810sf of it in violation, the proposed plantings seem severely inadequate. At the very minimum, the applicant should be required to enhance the plantings between the house and cliff, locate plantings between the house and garage, and maximize the space located between the dwelling, garage and street. It appears that at least 4,810 square feet of plantings could be accommodated, if not more. Had the applicant been required to provide mitigation plantings as indicated within the BOAs' order as opposed to paying a fee-in-lieu, these plantings could have contributed to the vegetative cover onsite. Nonetheless, payment of the fee-in-lieu should not be considered as justification for providing less than adequate plantings, particularly where ample opportunity exists to provide better habitat.

As previously indicated, it is the intent of this letter to request a written response to the concerns identified within and to provide the County with the Commission's position on the content of the HPP provided to date. On August 16, 2006, Commission staff requested clarification from the County via email as to the current status of the Felenchak violation, status of the assessment and collection of fees, and an assessment by the County as to whether the BOAs' decision and order has been fulfilled to date. Later that same day, County staff provided a response which I have attached for your reference. While we appreciate the timeliness and cooperative nature of the response, Commission staff respectfully disagrees with the interpretation provided and requests additional consideration as to whether the letter and intent of the Board's decision has been correctly interpreted and applied.

Thank you in advance for your cooperation and consideration of this matter. Should you have any questions, please free to contact me at 410-260-2482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Attachments

CC: Dave Brownlee, Calvert County
John Swartz, Calvert County
Roxana Whitt, Calvert County
Rick Stotler, Calvert County
Katharine McCarthy, DNR
Michael Reber, BOA
Walter Boynton, BOA
Dan Baker, BOA
Carlton Greene, BOA
John Felenchak

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 29, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3209R Baker
Reconsideration Request

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance reconsideration request. The applicant is requesting a variance from the expanded Buffer, steep slope, and cliff setback requirements in order to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

In evaluating the applicant's reconsideration request, we acknowledge that a stormwater management study was provided which attempts to address runoff from Beach Drive. While this study was submitted in support of the applicant's view that by addressing stormwater runoff from Beach Drive, the post-construction condition of the site will be improved and stormwater runoff will be effectively managed, Commission staff respectfully disagrees. Previous concerns by this office included not only addressing runoff from Beach Drive, but design and placement of the proposed bioretention pond, placement of the proposed swale, and the excessive size of the proposed dwelling in relation to the specific erosive conditions of this site. In regard to these concerns, the applicant has provided no additional information which alters the view of Commission staff that a variance of a lesser degree, combined with significant overmanagement of stormwater runoff is the only way to make a determination that each and every one of the County's variance standards has been met. As such, we remain strongly opposed to the variance as requested. I have provided specific concerns which support our continued opposition to the applicant's variance below.

1. The footprint of the proposed dwelling does not appear to have been decreased as previously requested. It is our view that the size of the proposed dwelling footprint is excessive, particularly given the location of the property within the Buffer, as well as the active erosion of the cliff face and gully on the property. While other properties within the neighborhood may enjoy similarly sized dwellings, the Board should consider the erosive conditions particular to this site. It appears that a smaller dwelling, and subsequently a variance of a lesser degree, could be accommodated on the site which would still provide the applicant with adequate habitable space. This reduction in footprint would result in reduced impervious surface area on the site, would allow additional space to move the bioretention pond further back from the cliff and/or construct an additional pond on the northeast side of the dwelling to provide stormwater management in excess of the

standard 1-inch rain event. We continue to recommend that the Board require a revised site plan showing a smaller footprint.

2. As previously mentioned, the addition of the bioretention pond is a desirable feature to the site. However, as currently proposed, the pond employs an outfall pipe which discharges directly into the eroding cliff face and is placed in close proximity to the edge of the cliff. At a very minimum, the outfall pipe should daylight to provide overland flow prior to discharging on to the cliff face or utilize an alternative discharge method. It is our view that channelization of the pond's discharge pipe will lead to further erosion of the soils within the cliff and eventual cliff slump.

3. The proposed swale appears to direct runoff again directly towards the area of the eroding gully. In order to prevent continued erosion of this area, the applicant should consider whether a second bioretention pond could intercept and hold some of the runoff prior to being discharged. A small dwelling footprint would allow the applicant to consider such an option.

4. In regard to the proposed pipe intercepting runoff from Beach Drive, this office has serious concerns. Specifically, the proposed pipe appears to provide only a channelizing mechanism to direct stormwater runoff to a different area of Beach Drive, namely the cliff face near the edge of existing Lot 7. There does not appear to be any quality management provided. While this may address some of the runoff problems inherent to the applicant's property, this office questions whether adverse impacts to Lot 7 will be created, as well as whether adverse impacts to water quality and plant and wildlife habitat will be incurred as a result of this proposed mechanism. In addition, we question whether the proposed pie will require additional review and approval by the County Public Works Department.

In summary, this office has outstanding concerns with the current development proposal and information shown on the site plan. Specifically, because a dwelling of a significantly smaller size than the one proposed could be constructed, it does not appear that the standard of unwarranted hardship has been met. In addition, the applicant must prove that the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area. Due to the concerns associated with the location and design of the bioretention pond, the potential for cliff slump, and the concerns over chanellization of stormwater runoff, we believe that this standard cannot be assured and has not been met. Therefore, we do not believe that the applicant has overcome the burden to meet each of the County's variance standards, and we recommend that the Board deny the applicant's request for a variance as proposed.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA404-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3322 DeBord (Revised)

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a revision to a previously approved variance in order to construct a fence with nine brick pillars, the closest of which would be 38-feet from Back Creek. The fence is proposed to be located partially within the Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

The 100-foot Buffer is an area meant to provide transitional habitat between the land and the water. As previously stated, it is the Commission's view that structures within the Buffer have a negative effect on the use of Buffer areas as riparian habitat and that structures which are perpendicular to the shoreline, such as fences, can affect species that may travel parallel to the shoreline. That being said, the Board previously awarded a variance to construct a fence with a 50-foot setback from Back Creek, finding that no adverse impacts to wildlife would be incurred as a result. In evaluating the revised request, the Board must determine that further encroachment into the Buffer will not degrade the ability of the Buffer to serve for water quality benefits or to provide adequate transitional habitat. In addition, the Board must find that denial of a request for further Buffer encroachment for the purpose of constructing a fence would result in an unwarranted hardship to the applicant. Based on the information provided, this office questions whether each of County's variance standards can be met and assured, and whether the applicant has already been afforded adequate relief from any prior hardship such that further encroachment in to the Buffer provides a special privilege to that applicant that may not be provided to others.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA252-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3352 O'Hennon

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to construct a primary dwelling, driveway and septic system. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that development of the applicant's property would not be feasible without some degree of variance. However, the applicant bears the burden to demonstrate that the variance is the minimum necessary and that impacts to the steep slopes have been minimized to the extent possible. In past variance cases before the Board where the presence of steep slopes has severely constrained a property, applicants have often proposed, and have been permitted to construct a driveway over the second and third septic reserve areas. If a similar revision were possible in this case, it would appear that the limits of disturbance and amount of forested cover cleared could be decreased, impacts to the steep slopes could be further minimized, and a variance of a lesser degree would be possible. We recommend that the Board require the applicant to address whether such a revision is possible prior to granting a variance.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA498-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3353 Ward

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a revision to a previously approved variance from the 100-foot Buffer requirements, cliff setback, and steep slope requirements in order to permit the construction of an addition to the existing deck. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, this office does not generally oppose of the granting of variance in regard to the effect of a deck extension on the environmental resources of the site. However, we question whether an expansion of any structure requiring additional disturbance to the soils is technically prudent from a cliff and soil stability standpoint. Should the Board determine that the proposed deck expansion can be accomplished without further compromise of the existing soil and cliff stability, we recommend the following:

1. The Board should require that the proposed deck expansion be limited to pervious construction materials, with spacing between the boards, and six inches of gravel substrate below the deck. In addition, the Board should expressly include a requirement for the planting of 2-3 gallon sized native shrub or perennials surrounding the entire foundation of the deck. This will help to provide stormwater infiltration and uptake opportunities and will decrease the amount of runoff flowing towards the cliff face.

2. The Board should require that the installation of footers for the deck is implemented by hand construction measures and should prohibit the use of heavy machinery.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 499-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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August 24, 2006

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

Re: San Domingo Farm- Remaining Lands
TM32, P1, Lot 4

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is requesting to create one new building lot on a parcel which was previously recorded as a remaining lands parcel as a component of an earlier subdivision. There are 20 acres within the Critical Area portion of the property, currently designated as a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1) On the previously recorded subdivision of the larger parent parcel 1, an area encompassing 9.10 acres was recorded on the remaining lands parcel (proposed Lot 4) as a natural conservation area. The current plat shows an area of natural conservation of 5.12 acres. Please clarify why this number had decreased and whether this change was recorded with the original subdivision plat for parent parcel 1.

2) It appears that the 100-foot Buffer area on proposed Lot 4 is not fully forested. Please provide information as to how the applicant will comply with the requirements to establish the Buffer via planting at the time of development. Specifically, will the area be planted or will natural regeneration be permitted?

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 452-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 24, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: AP# 65187 Crane

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit. The applicant is requesting a permit to construct a primary dwelling and a septic system with greater than 15,000 square feet of clearing. The property is a designated a Resource Conservation Area (RCA) and is currently undeveloped.

The property appears to lie within a sensitive species review area for a State-listed rare, threatened, or endangered species as indicated by the light blue overlay on the accompanying map. Where development activities and the clearing and cutting of trees is proposed which impact any known habitat protection areas, the applicant must determine the nature of the species and may then be required to provide a habitat protection plan. This plan must demonstrate that impacts to the species have been avoided or at the very least, minimized to the extent possible. We recommend that the applicant contact the Department of Natural Resources' Wildlife and Heritage division in order to initiate this process. In addition, the State's electronic mapping resources indicate that the property contains Forest Interior Dwelling (FID) habitat. Based on this information, the applicant may either conduct a survey to verify the presence or absence of FIDs habitat, or may assume that FIDs habitat exists and submit a habitat protection and mitigation plan which addresses how impacts to FIDs habitat have been minimized. We recommend that the applicant utilize the Commission's guidance document, A Guide to The Conservation of FIDs in the Chesapeake Bay Critical Area, and submit the conservation worksheet found within.

Thank you for the opportunity to provide comments on this building and grading permit. Please call if you have any questions at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA476-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

August 24, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: AP# 62138 Parron Ford

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit. The applicant is requesting a permit to construct a primary dwelling, two detached garages, a pool and a septic system with greater than 15,000 square feet of clearing. The property is a designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, we provide the following comments:

1. The property appears to lie within a sensitive species review area for a State-listed rare, threatened, or endangered species as indicated by the light blue overlay on the accompanying map. Where development activities and the clearing and cutting of trees is proposed which impact any known habitat protection areas, the applicant must determine the nature of the species and may then be required to provide a habitat protection plan. This plan must demonstrate that impacts to the species have been avoided or at the very least, minimized to the extent possible. We recommend that the applicant contact the Department of Natural Resources' Wildlife and Heritage division in order to initiate this process. In addition, the State's electronic mapping resources indicate that the property contains Forest Interior Dwelling (FID) habitat. Based on this information, the applicant may either conduct a survey to verify the presence or absence of FIDs habitat, or may assume that FIDs habitat exists and submit a habitat protection and mitigation plan which addresses how impacts to FIDs habitat have been minimized. We recommend that the applicant utilize the Commission's guidance document, A Guide to The Conservation of FIDs in the Chesapeake Bay Critical Area, and submit the conservation worksheet found within.

2. The site plan provided shows what appears to be an existing structure at the end of the existing dirt road located within the Buffer. Please provide verification that the structure is existing, and describe the nature, condition and use of the structure, as well as indicate whether any additional development activities are proposed in conjunction with this structure. In addition, it is not possible to determine from the site plan whether the proposed paving of the dirt road will require widening

or additional grading. If either of these two activities is proposed, a variance to disturb the Buffer and steep slopes would be needed. Please clarify.

Thank you for the opportunity to provide comments on this building and grading permit. Please have the applicant address the concerns stated above and provide information as requested. Please call if you have any questions at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA477-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 22, 2006

Mr. Robert Wink
Code Enforcement Officer
Town of Princess Anne
11780 Beckford Avenue
Princess Anne, Maryland 21853

Re: Mid Pine Estates-Revised

Dear Mr. Wink:

This letter is in reference to our continuing review of the above referenced project and based on the revised site plan received on August 9, 2006. Please note that this letter represents a coordinated review effort between Tracey Gordy, Circuit Rider for the Town of Princess Anne, and Critical Area Commission staff.

Pending approval and signage of the sediment and erosion control plan by the Natural Resource Conservation Service, it appears that all outstanding Critical Area issues have been resolved. Please forward a copy of the final site plan, approved and signed by all appropriate parties, to Commission staff and to Tracey Gordy for inclusion in our files.

Thank you for your continued efforts in coordinating the review of this site plan. If you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
PA411-05

CC: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 22, 2006

Mr. William Watson
Town of Chesapeake Beach
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, Maryland 20732

Re: North Beach Volunteer Fire Department
Site Plan for Minor Addition-Revised

Dear Mr. Watson:

This letter is in regard to our continuing review of the above referenced project and the revised site plan received July 25th, 2006. Based on the revised information received, we have the following comments.

1. There remain outstanding concerns regarding the limits of tidal wetlands shown on the site plan. Specifically, the State of Maryland's online mapping resources identify the area currently shown as a nontidal wetland as tidal in nature. Please have the applicant provide greater details regarding how the wetlands were determined to be nontidal. In addition, a site visit may be necessary in order to assess the existing site conditions.

2. While the acreage of State-owned wetlands within the property boundaries may be minimal as stated by the applicant's consultant, a field delineation of private versus State-owned wetland areas is necessary. As previously stated, State-owned wetlands cannot be included within property acreage totals for the purpose of calculating the 10% rule pollutant reduction requirement and must be excluded in their entirety.

3. In general, it appears that the existing extended detention pond was adequately oversized in 1991 so that it meets the pollutant removal requirement for the proposed 2006 addition. However, the 10% calculations must be revised to accurately reflect the current status of the total pollutant load removed by the pond and to provide an updated baseline and pollutant loading bank in the event that future development on the site would propose to utilize the same pond. Specifically, please have the applicant revise the following:

    - In order to calibrate the existing pond to current standards, the 1991 pollutant reduction calculations should be recalculated using .30 as the flow-weighted mean concentration. Using this updated (C), the 1991 pollutant removal requirement is .713 lbs/year of phosphorus and the pollutant load removed by the pond is 1.44

lbs/year of phosphorus. This generates a .727 lbs/year surplus pollutant load removal.

- In calculating the 10% rule requirement for the 2006 addition, the predevelopment impervious surface area total should be 1.75 acres, and not the 1991 figure of 1.53 acres. Correcting this number results in an additional pollutant removal requirement of .403 lbs/year of phosphorus. Since the surplus from the construction of the pond is calculated to be .727 lbs/year, the 10% rule requirement appears to be met by the existing pond, and a bank of .324 lbs/year remains for the pond for future use.
- The 1991 10% rule calculations utilized 3.33 acres as the site area. The current site plan lists the property as 3.31 acres, and the current 10% rule calculations are based on a 3.12 acre site area. The total site acreage should be identical on all three documents. In addition, the site acreage may be subject to change based on the deduction of acreage for any State-owned wetlands onsite.

4. Based on information from the State Department of Taxation and Assessments, it appears that the property is owned by the County. As such, it will be necessary for the County to submit a consistency report for the project as detailed within COMAR 27.02.02.

We appreciate the opportunity to provide comments on this site plan and development proposal. Please have the applicant address the above stated concerns and provide a revised site plan and 10% rule calculations to this office. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 309-06

Cc: John Hofmann
John Swartz, Calvert County
Dave Brownlee, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 22, 2006

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

Re: North Beach Resort Condominium Site Plan-Revised

Dear Mr. Hofmann:

Thank you for providing information on the above referenced revised site plan and stormwater management calculations. The applicant proposes to construct eighty condominium units, and fourteen town home units, as well as construct 12,000 square feet of commercial space. The property lies within an Intensely Developed Area (IDA) and is currently developed with multiple structures and parking areas.

Based on the information provided, it appears that there are several outstanding stormwater management design issues which require revision. Specifically, the applicant has proposed the use of the multiple stormfilters in order to meet the 10% pollutant reduction requirement. In order to utilize the proposed stormfilters for compliance with the 10% rule, the design of the structures must meet the criteria described within the Maryland Department of the Environment's (MDE's) 2000 Stormwater Design Manual. Based on our review of these criteria, the proposed underdrains appear inadequately sized. In addition, perlite is not considered an approved filtering medium per the design manual criteria. In order to utilize the stormfilters for 10% compliance, the perlite must be replaced with leaf compost as a medium.

Thank you for the opportunity to provide comments on this site plan and development proposal. Please have the applicant address the above stated concerns and provide a revised site plan to this office. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
NB790-05

Cc: Robin Barnhardt, CPJ

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 21, 2006

Mr. William Watson
Zoning Administrator
8200 Bayside Road
PO Box 400
Chesapeake Beach, MD 20732

Re: Trader's Restaurant
(Tax Map 101, Parcel 32)

Dear Mr. Watson:

Thank you for providing information on the above referenced site plan. The applicants are requesting site plan approval in order to construct two additions to the existing restaurant. The property is designated an Intensely Developed Area (IDA).

Based on the information provided, it appears that the applicants are proposing to convert an existing deck into a full-time seating area and to construct a 1,411 square foot addition to the existing restaurant. While the proposed addition will be constructed over an area of existing driveway, the project is considered redevelopment and therefore a 10% reduction in pollutant loadings must be demonstrated. Upon review of the information provided, it appears that the 10% rule calculations have not been accurately calculated. Specifically, we provide the comments which must be addressed through revised 10% rule calculations and a site plan.

1. On Worksheet A, Step 1, A2, the total proposed site imperviousness adds to .8769, not .8742 as indicated. For the ease of calculation, I have rounded to three and two decimal places. The proposed impervious surface area should be .877 acres.

2. On Worksheet A, Step 1, A3, the existing imperviousness of the site is 76.6% (.766), not 61.96%. Likewise, the proposed imperviousness of the site is 76.8% (.768).

3. On Worksheet A, Step 2, B, lpre should be entered as a percentage, not as a decimal. Using 76.6 as lpre results in an Lpre of 2.06 lbs/year of total phosphorus. Likewise, in Step 3, A, lpost should be entered as 76.8, resulting in an Lpost of 2.07 lbs/year of phosphorus. Using the correct numbers within Step 4 of the worksheet results in a pollutant removal requirement of .216 lbs/year of phosphorus.

4. In order to determine how and whether the pollutant removal requirement can be met, clarification is needed within Step 5 of Worksheet A. Specifically, it is not clear whether the percent drainage area being served is 1.0% or 10%. In addition, there is no supporting documentation which shows the location of the drainage areas or areas served by the proposed Best Management Practice (BMP). A drainage area map is needed.

5. The applicant has indicated that a dry swale is proposed to meet the pollutant removal requirement, yet this BMP is proposed on an adjoining parcel of land. As a first priority, 10% rule compliance should be achieved onsite. Based on the site plan, it appears that there may be room to accomplish some stormwater BMPs onsite. Where it can be reasonably documented that onsite compliance is not possible, offsite BMPs may be utilized. However, greater information is needed to confirm that permission to use the adjacent property has been granted. In addition, details about how maintenance and access to an offsite BMP will be assured, as well as technical details about the design of the proposed BMP are needed.

Thank you for the opportunity to provide comments for this site plan submittal. Given the amount of outstanding issues on the site, please submit a revised site plan, revised 10% calculations and any supporting documentation to Commission staff for review. If you have any questions, please contact me at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA478-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 21, 2006

Ms. Bobbie Hutchinson
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SPR 06-31 Solomons Town Park
(Tax Map 44, Parcel 679)

Dear Ms. Hutchison:

Thank you for providing information on the above referenced site plan. The Calvert County Department of Public Works is proposing to construct multiple athletic fields and paved parking areas to accommodate 340 cars. Approximately 16.8 acres of the property are located within the Critical Area and are designated as a Limited Development Area (LDA). The Critical Area portion of the property appears undeveloped.

Based on the information provided, we have the following comments:

1. As a County government action on property owned by the County, the project falls under the requirements of COMAR 27.02.01 and will require submission of a consistency report from the County Planning and Zoning office. While we recognize that the project is in the preliminary stages of review, please note that this information will be needed prior to final site plan approval.

2. Sheet 8 of 10 shows a water feature labeled as an intermittent stream. Please clarify where this information was taken from. In addition, if an intermittent stream is present on the property, a 100-foot Buffer will need to be shown.

3. Sheet 4 of 10 shows a stormwater management pond proposed partially within the 100-foot Buffer. Stormwater management ponds cannot be located within the Buffer and must be relocated. It appears that ample room exists to locate the pond outside of the Buffer.

4. Currently, the site plan proposes 14.9% impervious surface area coverage within the Critical Area portion of the site. Given the proposed use of the site and that a 15% impervious surface area limit exists for the entire Critical Area portion of the property, the County should consider the use of partially pervious paving materials such as grass pavers for the overflow parking areas. Provided

that underlying soil conditions are favorable and that County resources are available to provide regular maintenance, the use of these materials may provide greater flexibility for future expansion and enhanced environmental and water quality benefits.

Thank you for the opportunity to provide comments for this site plan submittal. Please submit a revised site plan which addresses the issues outlined above. If you have any questions, please contact me at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA489-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 14, 2006

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

Re: A078 Williams

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to the 100-foot Buffer in order to permit the enclosure of an existing deck. The property is designated as a Resource Conservation Area (RCA) and is currently developed with a primary dwelling, guest house, and pool.

Based on the information provided, it appears that the applicant is proposing to enclose an existing deck, remaining within the existing impervious footprint within the Buffer. In general this office is not opposed to the granting of a variance as requested. However, please advise the applicant that this office would not support a future variance to construct a new deck further towards Mean High Water (MHW) once the existing deck is enclosed.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC473-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 14, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-00-10A-32 Flag Harbor-Revised
(Tax Map 32, Parcel 64)

Dear Ms. Vidotto:

This letter is in response to the revised preliminary subdivision plat send to this office by R.A. Barrett and Associates, dated June 5, 2006. In regard to the revised plat and accompanying information, we have the following comments:

1) While the point-by-point response provided by the applicant continuously refers to an existing condition and proposed condition plat, this office received only a revised plat labeled as "preliminary plan." The plat received does not contain any indication of proposed dwelling footprints, proposed impervious surface area limits per lot and/or parcel, nor existing impervious surface area proposed to be removed. Previous plat submittals received by this office contained such information. However, without this information on the revised plat, it is not possible to assess that our previous concerns have been addressed.

2) The applicant refers to a previous approval from Commission staff from May of 2002. While this office did review and provide comments at that time, it is my understanding that the previous preliminary approval has expired, creating the need for a new review. As a part of the new review process, there remain unresolved issues of concern.

3) The 100-foot Buffer in the area of the tributary stream still appears inaccurate in several locations. Please note that the Critical Area Criteria require the 100-foot Buffer to be drawn from the landward edge of tributary streams, not from the mean high water line as indicated by the applicant.

4) While it is not possible to assess whether the impervious surface area information on Outlot A and Residue A has been corrected given the lack of impervious surface area information provided on the plat, we note that the impervious surface area limitations stated within the State Critical Area law, as well as within County law, apply to all lots or parcels created as part of a subdivision, not

only to those lots designated as buildable at the time of subdivision. Therefore, the applicant's response to our previous concern regarding compliance on Outlot A and Residue A does not appear accurate.

5) Please have the applicant label any impervious surface area to be removed on future plats. The use of shading to demonstrate these area would allow for a clearer idea of what exists and what will be removed.

6) The applicants have provided a copy of a letter from the Department of Natural Resources (DNR) which is dated December 31, 2001, stating that there are no known rare, threatened, or endangered species present on the site. We note that the DNR requires that an evaluation of the property for the presence of RTE species be less than three years old in order to be valid. Therefore, it does not appear that a valid evaluation of the property currently exists.

Thank you for the opportunity to provide comments for this revised minor subdivision request. Please have the applicant provide a revised site plan along with a description of how each of the above concerns has been addressed. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA615-01

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 14, 2006

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

Re: A078 Williams

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to the 100-foot Buffer in order to permit the enclosure of an existing deck. The property is designated as a Resource Conservation Area (RCA) and is currently developed with a primary dwelling, guest house, and pool.

Based on the information provided, it appears that the applicant is proposing to enclose an existing deck, converting an area of pervious surface to impervious surface area, but not expanding the extent of the existing footprint within the Buffer. In general, and provided that that the 15% impervious surface area limit on the parcel has not been exceeded, this office is not opposed to the granting of a variance as requested. However, please advise the applicant that this office would not support a future variance to construct a new deck further towards Mean High Water (MHW) once the existing deck is enclosed. In addition, please ensure that mitigation is provided for the area of pervious cover converted to impervious cover within the Buffer. This mitigation should be implemented in the form of native plantings to be placed at an alternative location within the Buffer.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC473-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 14, 2006

Mr. Bill Watson
Zoning Administrator
Town of Chesapeake Beach
8200 Bayside Road
PO Box 400
Chesapeake Beach, MD 20732

Re: Ordinance 0-06-09
Critical Area Text Amendments

Dear Mr. Watson:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced refinement. On August 2, 2006, the Critical Area Commission unanimously concurred with the Chairman's determination that the proposed text amendments could be approved as a refinement to the Town's zoning ordinance and Critical Area Program.

Please incorporate this refinement into the Town's zoning ordinance and Critical Area Program within 120 days from the date of this letter. Also, please provide Commission staff with the appropriately updated section of the ordinance once the changes have been incorporated. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Eric Blitz, Webb & Blitz, L.L.C

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 14, 2006

Robert F. Karge
Town Clerk
Town of Easton
P.O. Box 520
Easton, Maryland 21601

Re: Annexation of Lands and Critical Area Maps

Dear Mr. Karge:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced refinement. On August 2, 2006, the Critical Area Commission unanimously concurred with the Chairman's determination that the proposed annexation could be approved as a refinement to the Town's zoning ordinance and Critical Area maps.

Please incorporate this refinement into the Town's Critical Area maps within 120 days from the date of this letter. Thank you for your coordination in bringing this annexation request before the Commission. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Lynn Thomas, Town of Easton
Mary Kay Verdery, Talbot County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 14, 2006

Mr. Jay Parker
Town Manager
Town of Princess Anne
30489 Broad Street
Princess Anne, MD 21853

Re: Beckford Manor Growth Allocation

Dear Mr. Parker:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced refinement. On August 2, 2006 the Critical Area Commission unanimously concurred with the Chairman's determination that the proposed growth allocation text changes could be approved as a refinement to the Town's zoning ordinance and Critical Area Program. This approval included the following conditions:

1. Prior to the issuance of any new building or occupancy permits, and prior to any grading, clearing, or other development activities within the Critical Area portion of the Beckford Manor subdivision, the Town and developer shall demonstrate full compliance with the outstanding stormwater management concerns as detailed within the attached June 14, 2006 letter to Nathan Noble from Dale Pusey, stormwater reviewer for the Town of Princess Anne. In addition, any additional stormwater management concerns identified within subsequent stormwater reviews shall be fully addressed prior to any grading, clearing, or other development activities within the Critical Area portion of the Beckford Manor subdivision.

2. If future stormwater reviews result in the need to alter the proposed stormwater best management practices (dry swale, pocket pond A, pocket pond B) provided in conjunction with the 10% pollutant reduction requirement, the Town shall submit a revised 10% rule worksheet and stormwater management plan for review and approval to Commission staff and the Circuit Rider, and if necessary to the full Commission.

3. Upon approval of the growth allocation request by the Commission, the Town shall prohibit the issuance of any additional building, grading, and occupancy permits prior to demonstrating compliance with conditions # 1 and #2 above.

Please incorporate this refinement into the Town's zoning ordinance and Critical Area program within 120 days from the date of this letter. Also, please provide this office with updated sections of both documents once the changes have been made. Thank you for your assistance in presenting this project to the Commission. Please contact me at 410-260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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August 14, 2006

Mr. Jay Parker
Town Manager
Town of Princess Anne
30489 Broad Street
Princess Anne, MD 21853

Re: St. Stephen's Growth Allocation

Dear Mr. Parker:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced refinement. On August 2, 2006 the Critical Area Commission unanimously concurred with the Chairman's determination that the proposed growth allocation text changes could be approved as a refinement to the Town's zoning ordinance and Critical Area Program. This approval included the following conditions:

1. At the building permit stage, the stormwater reviewer for the Town must review and approve architectural drawings for each dwelling located on Lots 1 through 8, along Crisfield Lane for compliance with the 500 square foot maximum rooftop drainage per area per downspout. Each individual drawing shall show the position of the dwelling and dry wells on the lot, along with distances and dry well dimensions. The Town's stormwater engineer shall then indicate, in writing, approval of each site plan prior to review of the building permit application by the Critical Area Circuit Rider. Prior to the Town's issuance of occupancy permits for Lots 1 through 8, the Town shall submit an as-built drawing to the Circuit Rider showing the dwelling location, dry well location and dimension, as well as distance from the dwelling. The as-built drawings shall be sealed by a professional engineer or surveyor registered in the State of Maryland.

2. Any proposed increase in impervious surface area beyond that which is specified in Notes #9 and #17 on the revised subdivision plat, dated May 18, 2006, must be resubmitted for review and approval by Commission staff, in conjunction with the Town of Princess Anne.

Please incorporate this refinement into the Town's zoning ordinance and Critical Area program within 120 days from the date of this letter. Also, please provide this office with updated sections of both

documents once the changes have been made. Thank you for your assistance in presenting this project to the Commission. Please contact me at 410-260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

August 4, 2006

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

RE: L1019 Cresswell

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision request. The applicants are proposing to revise the property line between two lots under common ownership. The property is currently designated as a Limited Development Area (LDA) and is developed with a primary dwelling and a shed.

Based on the information provided, there appears to be a possible legal issue with the existing improvements on the property in relation to the existing lot lines. As you are aware, Commission staff and County planners recently discussed the concept of "doctrine of merger" whereby a property owner who utilizes contiguous lots in the service of a single structure essentially merges the two lots for zoning purposes (Remes v. Montgomery County [387 Md. 52 (2005)]). In the proposed lot line revision, the existing dwelling straddles the existing lot line, therby merging Lot 1 and Lot 2, and creating one lot. As a result, the property cannot be reconfigured through a lot line adjustment, but rather, would require a formal subdivision process. As a part of this subdivision process, the applicant would be required to ensure that any lots created would conform with all curennt zoning standards, including setbacks and impervious surface area limits. We note that the current proposal (if proposed in conjunction with a subdivision) creates two lots which would be considered nonconforming. Revised Lot 2 does not conform to the 25-foot setback on the west. In addition, both revised lots would be considered new, non-grandfathered lots and would be subject to the current impervious surface area limitations which appear to be less than those stated on the current plat.

Thank you for the opportunity to review and comment on this subdivision. Please inform us of the County's position on the doctrine of merger issue. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

Kerrie Gallo
Natural Resources Planner
TC97-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 4, 2006

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

Re: L1026 Willse

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision request. The applicant is requesting to revise the lot lines on two existing lots. The properties lie within a designated Resource Conservation Area (RCA). Existing Lot 3 is currently developed with a primary dwelling, out building and gazebo, while existing Lot 1 appears undeveloped.

In general, this office is not opposed to the line revision as proposed. However, please have the applicant clarify the intended use of the second sewage disposal areas shown on revised Lot 1. We note that the existing Lot 1 currently utilizes its only development right and as such, would not be permitted an additional dwelling unit. While the plat contains a note referencing the intention to use the second sewage disposal area for an accessory structure, the nature of this intent is not clear.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC453-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 4, 2006

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

Re: Penn-Rail, LLC-Revised
TM56, P10

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised major subdivision request. The applicant is proposing to subdivide a 131.857-acre parcel to create 6 new lots. The Critical Area portion of the property is currently designated as a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments regarding this revised proposal.

1) No information has been provided regarding the types of soils found on the property. In order to verify the presence and location of any hydric or highly erodible soils, please have the applicant provide this information.

2) The Department of Natural Resources (DNR) has identified the site as containing Forest Interior Dwelling Bird (FIDS) habitat as well as habitat for the state and federally listed Delmarva Fox Squirrel (DFS). As it appears impacts are proposed to both habitats, a habitat management plan must be submitted in conjunction with the requirements set forth in the County's zoning ordinance. Please provide Commission staff with a copy of this management plan when received. In addition, it appears that further consultation with the U.S. Fish and Wildlife Service (USFWS) may be necessary in order to ensure proper protection for the DFS. We strongly encourage the applicant to pursue coordination with the USFWS early in the planning process.

3) It appears that the applicant is proposing to impact a perennial stream and the associated 100-foot Buffer in order to access proposed Lot 1 via a private road. A variance will be necessary for these impacts.

Thank you for the opportunity to provide comments for this revised subdivision request. Due to the significant resource issues present on the property, Commission staff reiterates the request to conduct a site visit and will contact County staff to discuss potential dates. Please have the applicant address the above comments and provide a revised site plan as well as a habitat management plan. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 47-04

CC: Scott Smith, DNR
Mary Ratnaswamy, USFWS

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 3, 2006

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

Re: 500 Riverside Drive-Revised

Dear Mr. McKenzie:

This letter is in reference to our continuing review of the above referenced condominium site plan and in response to the revised site plan received on July 28, 2006 and dated June 7, 2006. Based on the current site plan submittal, it appears that the majority of our previous concerns have been addressed. However, there are several minor items which should be addressed prior to recordation of the site plan.

1. In several locations, it appears that less than a two-foot setback is shown between the new bulkhead and the proposed Riverwalk. Please ensure that a continuous two-foot setback is provided between the new bulkhead line and the Riverwalk along the entirety of the waterfront. In addition, this two-foot strip should be vegetated in native salt tolerant grasses or other native plantings which provide enhanced infiltration opportunities over turf grass.

2. The proposed landscaping plan includes one non-native species known to be invasive within Maryland. This species, Berberis thunbergii, should be replaced with a native, non-invasive alternative.

3. There are two minor spelling errors on the site plan which should be corrected for accuracy. Within the Chesapeake Bay Critical Area Notes, note #3 references the Wicomico River as an "andramadus fish spawning area." This should be corrected to read, "anadromous fish spawning area." Also, note #7 references "Habital Protection Areas", but should read, "Habitat Protection Areas."

Thank you for the opportunity to provide comments for this revised site plan and development proposal. If you have questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SA802-05

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 3, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-10-44 Dowell
(Tax Map 44, Parcel 462)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to subdivide a 0.758-acre property to create two new residential lots within the Critical Area. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on our review of the plat, it appears that the impervious surface area information listed on the plat is not accurate. Specifically, the provision within State and County Critical Area Law which permits lots under one-half acre in size to increase imperviousness to 31.25% applies only to grandfathered lots of record. The process of subdivision, as proposed by the applicant, results in the creation of two new, non-grandfathered lots. Therefore, the impervious surface area on proposed Lots 1 and 2 is limited as follows:

"If an individual lot 1 acre or less in size is part of a subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after June 1, 2002 in the Atlantic Coastal Bays Critical Area, then man-made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15%" (Natural Resources Article §8-1808.3).

- Proposed Lot 1= 0.352 acres x 25% = 3,833 square feet
- Proposed Lot 2= 0.371 acres x 25% = 4,040 square feet
- Total property acreage= 0.758 acres x 15% = **4,952 square feet**

Based on the information provided above, the 15% limit for the entire subdivision restricts the lots to less than 25% coverage for each lot. Alternatively, the applicant may choose to abide by the 15% limit for each lot (2,299 square feet for Lot 1 and 2,424 square feet for Lot 2). Please provide Commission staff with a revised plat which demonstrates that compliance with impervious surface area limits can be achieved in conjunction with the proposed subdivision.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA459-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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August 3, 2006

Mr. Robert Wink
Code Enforcement Officer
Town of Princess Anne
11780 Beckford Avenue
Princess Anne, Maryland 21853

Re: Mid Pine Estates-Revised

Dear Mr. Wink:

This letter is in reference to our continuing review of the above referenced project. Please note that this letter represents a coordinated review effort between Tracey Gordy, Circuit Rider for the Town of Princess Anne, and Critical Area Commission staff.

Based on the information provided, we have the following comments regarding this revised site plan and development proposal.

1. The 10% Rule compliance detail sheet shows partial rooftop disconnect credits for Units 36 and 38 with a total impervious area treated of 2,448 square feet. It appears that the square footage for Units 36 and 38 combined should be 816 square feet instead of 2,448. In addition, Units 36 and 38 have not been included in the 10% Rule calculations. If Units 36 and 38 are to utilize rooftop disconnection credits, they need to be included in the 10% calculations. Otherwise, they should be removed from the 10% Rule detail sheet. Please clarify.

2. Page 2 of the Stormwater Management Report (Project Description) states that the impervious surface of the site will total 1.89 acres. The 10% Rule calculations state 1.86 acres. Please clarify and correct.

3. The Sediment and Erosion Control Plan needs to be approved by the Somerset County Natural Resources Conservation Service. Please provide an approved, signed copy of the plan provided to Commission staff and Tracey Gordy prior to recordation of the final plan.

4. While the landscaping plan generally meets the planting requirements within the Critical Area, there is one non-native, invasive species proposed in the plant list. The "Anthony Waterer" Spirea (Spirea japonica) species should be removed and replaced with an alternative native species.

Thank you for the opportunity to provide comments for this revised site plan proposal. Please submit a revised site plan and necessary supporting documentation to Commission staff and to the Circuit Rider for review. Please keep in mind that the Commission's standard review period for projects of this type of development and scale is generally thirty days. If you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
PA411-05

CC: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 31, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3323 Cellini-revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to permit the construction of a deck, a hot tub, and an addition to the primary dwelling. The property is designated a Resource Conservation Area (RCA) and is currently developed.

While we acknowledge that the applicant has made revisions to the site plan, including the conversion of 340 square feet of existing gravel and impervious surfaces to planted areas, a decrease in the footprint of the proposed deck, and an alternative location for the hot tub, this office remains unable to support the applicant's request for a variance for the hot tub and deck. Specifically, the County's Critical Area variance standards require the applicant to demonstrate that an unwarranted hardship exists prior to being awarded a variance. In addition, it must be demonstrated that the variance is the minimum necessary. As previously stated, this office cannot support a variance for a hot tub, new impervious surface area, within the Buffer, particularly where opportunity exists to locate the hot tub outside of the Buffer. It remains our view that the applicant's property is not severely constrained by the topographical features of the site and that ample opportunity exists to locate the desired hot tub outside of the Buffer. Therefore, denial of a variance for an accessory structure of this nature would not result in an unwarranted hardship to the applicant.

In regard to the revised deck proposal, it remains our position that further minimization of impact to the Buffer as well as general encroachment towards the edge of steep slopes and Mean High Water (MHW) appears possible. Specifically, it is unclear why the applicant is precluded from constructing a deck outside of the Buffer, or at the very minimum, from constructing a deck in the alcove created by the dwelling, where encroachment into the Buffer would be minimized. If opportunity exists to prevent a continued decrease in natural Buffer area while still providing reasonable living space to the applicant, the Board should deny a request for a variance, as all opportunities for minimization have not been fully optimized and an unwarranted hardship would not exist. As previously stated, it does not appear that the applicant's property is severely constrained by the topographical and natural features of the site. Conversely, it appears that ample areas exist outside of the Buffer to construct new improvements to the site. Therefore, this office questions whether the applicant can meet the standards for a variance and subsequently cannot support the request.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 361-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 31, 2006

Ms. Tressa Dolbeare
Maryland Department of the Environment
Water Management Administration
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Rogers Firth Shoreline Erosion Control/Revetment
La Trappe Creek, Talbot County

Dear Ms. Dolbeare:

I am writing in response to the most recent Maryland Department of the Environment (MDE) and Army Corps of Engineers (ACOE) joint public notice. Specifically, this letter is in reference to an application by Rogers Firth to permit the placement of 785 feet of riprap revetment along a property located near the end of South Side Island Creek Road in Talbot County.

Based on the information provided, the requested permit appears to be consistent with the provisions for shore erosion control outlined within the Critical Area Law and Criteria. However, it appears that significant grading and/or clearing of portions of the 100-foot Buffer may be necessary in order to emplace the riprap. Please note that the County Critical Area Program and Zoning ordinance requires that mitigation be provided at a 1:1 ratio for all clearing of natural vegetation and disturbance of the Buffer associated with the proposed shore erosion control measures. This mitigation requirement can be met by submission of a Forest Preservation Plan, submitted to the County Planning and Zoning Department. Please ensure that the applicant is aware of this requirement in association with any permits issued by MDE and the ACOE.

Thank you for the opportunity to provide comments regarding this permit request. We recommend that the applicants work with County staff as early as possible to ensure that all appropriate permits and mitigation plans are obtained and provided. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Mary Kay Verdery, Talbot County

200664749/06-WL-1978: EDGAR & JOYCE VAN ORDEN has applied to remove existing timber breakwaters and construct 157- and 47-foot long vinyl replacement breakwaters within a maximum of 78 feet channelward of the mean high water line; to construct and backfill 185 feet of replacement bulkhead within a maximum of 18 inches channelward of a deteriorated bulkhead; to fill, grade, and plant marsh vegetation along 77 feet of eroding shoreline with 70 cubic yards of sand and a low profile, stone, sand containment sill emplaced within a maximum of 33 feet channelward of the mean high water line; to emplace 72 feet of low profile stone marsh edging within a maximum of 5 feet channelward of the mean high water line; to emplace 717 feet of rip rap revetment within a maximum of 6 feet channelward of the mean high water line; to remove existing pier and construct a 100-foot long by 6-foot wide timber pier with a 10-foot by 20-foot "L" and 4 mooring piles, all extending a maximum of 105 feet channelward of the mean high water line; to construct one boatlift extending a maximum of 13.5 feet channelward of the mean high water line. The project is located on Fishing Creek-Southeast Branch at the end of Plantation Road in Cambridge, Dorchester County. For more information contact Tressa Dolbeare at 410-537-4023 or tdolbeare@mde.state.md.us.

TALBOT COUNTY

Tidal Wetlands Division - (410)537-3837

200664686/06-WL-1956: ROGERS FIRTH has applied to emplace 785 feet of riprap revetment within a maximum of 10 feet channelward of the mean high water line. The purpose of the project is to control shore erosion. The project is located on La Trappe Creek near the end of South Side Island Creek Road in Trappe, Talbot County. For more information contact Tressa Dolbeare at 410-537-4023 or tdolbeare@mde.state.md.us.

WICOMICO COUNTY

Tidal Wetlands Division - (410)537-3837

200664456/06-WP-1931: CHRISTOPHER GALEN GARDNER has applied to fill an existing 26.5-foot wide by 30-foot long boat ramp and construct a 26.5-foot bulkhead within a maximum of 28 feet channelward of the mean high water line; to install four mooring piles and one boatlift, all extending a maximum of 57 feet channelward of old bulkhead. The purpose of the project is to improve navigable access. The project is located on the Wicomico River at 635 N. Pinehurst Avenue in Wicomico County. Please direct any comments or questions to Joseph R. Kincaid at (410) 901-4044. 200664456

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 31, 2006

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

Re: A074 Whelan-Revised

Dear Ms. Verdery:

This letter is in reference to the revised site plan and information received regarding the above referenced variance request.

Based on the revised information provided, it appears that the applicant is proposing to construct a second story addition to the existing garage, located within the 100-foot Buffer. As the proposed vertical expansion does not create any new impervious surface areas within the Buffer, nor create any new areas of disturbance, this office does not oppose the granting of a variance for a vertical expansion as proposed.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 308-06

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 28, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3334 Zalusky

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer and steep slope requirements in order to permit the construction of a single-family dwelling and septic system. The property is a designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the property is properly grandfathered and would not be developable without some degree of variance. In addition, we note that several features of the applicant's proposed design are mandated by a consent decree from 1996 from the Maryland Department of the Environment (MDE). Specifically, the wooden retaining wall (bulkhead), construction of the dwelling on pilings, and limited size of the dwelling are elements which are limited or required by the consent decree. In appears that the applicant has generally minimized disturbance to the extent possible. As a result, this office does not oppose the granting of a variance. However, we note that disturbance and clearing within the Buffer requires mitigation at a 2:1 ratio. Since it does not appear feasible to accommodate mitigation on-site, payment of a fee-in-lieu may be necessary.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA176-04

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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July 27, 2006

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

Re: A077 Quigley

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to replace an existing frame shed with a new accessory structure. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling and pool.

While we acknowledge that the applicant is proposing to replace the existing non-conforming frame shed with an accessory structure which is smaller and less impervious in footprint, this office cannot support a variance to construct an accessory structure within the Buffer, particularly where new disturbance within an entirely new footprint is proposed and where opportunity exists to locate it outside of the Buffer. In general, this office would not oppose a request to conduct repairs and/or an expansion to the existing non-conforming structure provided that there is no net increase in impervious footprint or area of disturbance.

In evaluating the applicant's variance request, it must be sufficiently demonstrated that each and every one of the County's variance standards has been met. Given that it appears possible to construct the new accessory structure to the north of the primary dwelling, outside of the Buffer, it does not appear that the standard of unwarranted hardship has and can be met. Therefore, this office is opposed to the variance as requested and is opposed to any reconstruction of the structure which exceeds the area of the existing footprint and/or proposes new disturbance to the Buffer. We recommend that the County either deny the request for a variance or limit the project strictly to remain within the footprint of the existing frame shed.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC390-06

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 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3339 Lawson

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to permit the replacement of an existing retaining wall with a boulder retaining wall and to permit the construction of boulder steps down to the water. The property lies within a designated Limited Development Area (LDA), and is currently developed.

regard to the applicant's request for both the steps and the retaining wall, this office would not generally oppose a variance to construct the requested features. However, the site plan provided lacks information needed to make a determination that the applicant's request is consistent with the County and State Critical Area Criteria. Specifically, the applicant states that 1000 square feet of vegetation will be removed in conjunction with the proposed activities, yet does not provide the existing area of tree cover on the property, nor any indication of where the area of vegetation to be removed is located. In addition, it is not clear whether grading is required in conjunction with either aspect of the proposed activities. Finally, since no topography has been provided, it is difficult to assess whether an unwarranted hardship exists which would justify the granting of a variance. Is there active erosion on the property? Does any other access to the water currently exist?

Given that both development activities are proposed within the Buffer, the outstanding uncertainties inherent in the site plan render this office unable to conclude that each and every one of the County's variance standards have been met. Therefore, we recommend that the applicant be required to submit additional information for review prior to the Board's decision on a variance.

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

Sincerely,

Kerrie L. Gallo
atural Resources Planner
CA 443-06

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/

July 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3340 McBride

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to permit the construction of a replacement dwelling damaged as a result of Hurricane Isabel. The property lies within a designated Limited Development Area (LDA), and is currently developed.

Based on the information provided, it appears that the applicant is decreasing the overall impervious surface area of the site by 455 square feet. In addition, the site plan indicates that the new dwelling will not encroach closer to Mean High Water (MHW) than the existing dwelling. As a result, this office does not generally oppose the granting a variance. However, we note that while the overall impervious surface area is decreasing, the proposed amount of impervious surface area will still exceed that which is permitted by State and County Law. Given that the existing dwelling will be demolished and that a new dwelling will be constructed which exceeds the impervious surface area permitted in State Law, it is our view that a variance to the impervious surface area limits should be required in order to legally permit the proposed development activity.

In addition, in order to exceed the impervious surface area limits outlined within the State and County Law, the applicant should be required to provide some offsetting measures to enhance water quality, plant and wildlife habitat. While the use of structural best management practices on site may not be appropriate given the sandy conditions of the property, there appears to be opportunity to implement native, salt-tolerant plantings in order to enhance the environmental resources of the site. We recommend that the Board require an area of planting between the dwelling and the water as a condition of any variance approval.

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

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
CA 444-06

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 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3336 Smith

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot Buffer in order to permit the construction of a replacement dwelling. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling and septic area.

Based on the information provided, it appears that the existing dwelling is non-conforming and located approximately 41-feet from the bulkhead. While we recognize that the applicant proposes to construct a replacement dwelling no closer towards Mean High Water (MHW) than the existing dwelling and that the overall impact to the site may be decreasing, it appears that ample opportunity exists to construct a replacement dwelling further from MHW. Specifically, it appears as though the applicant could move the dwelling east, towards Deer Drive, as much as 25 feet. This move would provide an increased Buffer area, increased opportunities for stormwater runoff infiltration, enhanced plant and wildlife habitat areas, and allow greater potential for an overall improvement to the natural resources of the site. In addition, an alternative design could be considered which minimizes the footprint of the garage and driveway, allowing for greater flexibility in locating the dwelling farther from MHW.

In evaluating the variance, the Board must determine that the applicant has met each and every one of the County's variance standards, including the standard of unwarranted hardship, and that the variance is minimum necessary in order to provide relief. As it appears that opportunities exist to locate the dwelling further from MHW, thereby requesting a variance of a lesser degree, and allowing for greater minimization of impact to the Buffer, this office questions whether the variance standards have been met. Because it is our view that further opportunities for minimization exist, in addition to opportunities to decrease the nonconformity within the Buffer, we recommend that the Board require the applicant to submit a revised site plan.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 440-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3335 Tewell

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot expanded Buffer and steep slope requirements in order to permit the construction of a primary dwelling, driveway, septic system, and future deck. The property is a designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the property is largely constrained by the presence of steep slopes and expanded Buffer, and may therefore not be developable without some degree of variance. As a result, this office does not generally oppose a variance for the construction of a dwelling, septic and driveway as proposed. However, we note that a future deck is shown to be located in an area of steep slopes. It appears that an area exists directly to the east of the proposed dwelling which could accommodate the deck without impacting steep slopes or encroaching into the side-yard setbacks. Where opportunity exists to locate a deck outside of steep slopes, thereby requiring a variance of a lesser degree, the Board should consider whether minimization to the extent possible has been demonstrated.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA439-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3341 O'Neill

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to construct a 98 square foot addition to the existing deck and dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the site plan provided, this office does not generally oppose the applicant's request for a variance. However, it appears that ample room exists on the property to ensure that the new portion of deck is constructed no closer towards Mean High Water (MHW) than the closest point of the existing dwelling and deck. In addition, pervious construction of the deck should be required by the Board in order to ensure that adverse impacts to water quality and the Buffer in general, are minimized to the extent possible.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA445-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 26, 2006

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

Re: A075 Ivey/White

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a Buffer variance in order to construct a 151 square foot deck. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the proposed second story deck will extend no closer towards mean high water than the existing non-conforming dwelling. While the application states that the proposed deck will not result in any new impervious area given the grassed area below, please ensure that the proposed construction materials are pervious. Provided that pervious construction is utilized, this office does not oppose the applicant's request for a variance as proposed.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC383-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 26, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: AP# 64946 Gilbert

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit. The applicant is requesting a permit to construct a primary dwelling, garage and septic with greater than 15,000 square feet of clearing. The property is a designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is proposing to clear 30.1% of the existing developed woodland on the property. The County's zoning ordinance states that the total amount of allowable clearing of forest or developed woodland is 6,000 square feet, or 30%, whichever is greater. Clearing in excess of this amount requires variance approval and replacement on a 3:1 basis. In order to avoid the need for a variance, it appears that the applicant must reduce the clearing to less than 30%. In addition, we note that the County's development standards for the alteration of developed woodlands in the LDA requires that development activities shall be designed and implemented in order to minimize destruction of woodland vegetation. The applicant is proposing a significantly sized dwelling with excessive clearing in order to accommodate a large driveway and what appears to be a lawn area at the rear of the dwelling.

Based on our assessment of the County's zoning ordinance and minimization requirements, it appears that the criteria for minimization have not been met. Specifically, it appears that ample opportunity exists to minimize the destruction of developed woodland. For example, further reductions in clearing appear feasible by decreasing the dwelling footprint, reducing the driveway area, removing the proposed retaining wall and subsequently reducing the proposed grading and lawn area. Exercising any of these options would help to alleviate the adverse effects of significant clearing, as well as continue to provide reasonable living space for the applicant. Finally, we note particular concerns regarding the effect of the proposed clearing in relation to the proximity of the development to the 100-foot Buffer and Old House Cove. Given the sensitive nature of the Buffer, as well as the potential for adverse impacts to water quality from excessive clearing, we recommend that the County require the applicant

to revise the application, demonstrating an attempt at minimization as well as greater consistency with the County's criteria for preservation of developed and vegetated woodlands.

Thank you for the opportunity to provide comments on this building and grading permit. Please call if you have any questions at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA421-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 26, 2006

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

Re: A076 Moore

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a Buffer variance in order to construct a 546 square foot deck. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the proposed deck will be located no closer towards mean high water than the existing non-conforming dwelling and that no clearing of forested vegetation or developed woodlands will be required in order to construct the deck. While the application lists the proposed deck as a new impervious area, the accompanying applicant statement indicates that the deck will be constructed with spacing between the boards. Given the location of the deck within the Buffer, we recommend that the deck construction be expressly limited to pervious construction, with spacing between the boards, six inches of gravel substrate below the deck area and foundation plantings surrounding the base of the deck. Provided that the above detailed pervious construction is utilized, this office does not oppose the applicant's request for a variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC383-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 20, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-06-01-20 Carole Bowen
(Tax Map 20, Parcel 50)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced property replatting, subdivision, and intra-family transfer request. The applicant is proposing to create one new lot from a 12.42-acre property. The property is a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, we have the following comments:

1. Plat note #23 indicates that a wetlands waiver has been granted for Proposed Lot 2. However, the Department of Natural Resource's wetland maps indicate that an area of nontidal wetlands exists adjacent to the tidal wetlands shown on the non-buildable residue. If present, these nontidal wetlands or portions of their buffer may encroach onto Lot 2. Therefore, a field verification and/or delineation of wetland boundaries is necessary prior to preliminary plat approval.

2. Prior to preliminary plat approval, please provide a professional determination as to the ownership of the tidal wetlands shown within the non-buildable residue parcel. This information is important as State-owned wetlands cannot be included within property acreage totals for purposes of generating density. Therefore, the number of lots available to the applicant through the intrafamily transfer provisions, and/or the ability to utilize the intrafamily transfer provisions to create a lot may be affected pending the outcome of the ownership determination.

3. Plat note #5 indicates that the proposed subdivision is an intrafamily transfer request. Based on the existing tax maps, it is not clear that the existing Parcel 50 meets the intrafamily transfer criteria stating that the parent parcel must be on record as of March 1, 1986. Specifically, please provide information to demonstrate that parent parcel 50 has not been previously subdivided.

4. Please note that the Department of Natural Resources has flagged portions of the property as containing possible Forest Interior Dwelling Bird (FIDs) habitat. As with all subdivisions in the Critical Area, please provide an evaluation of the property by DNR for the presence of any rare, threatened, or endangered species. This evaluation should be complete prior to preliminary plat approval.

5. The Critical Area form indicates that the use of growth allocation is necessary for the subdivision. Please verify whether the County is requesting growth allocation or whether this information was provided in error.

Based on the comments listed above, please provide a revised plat and supporting information for review by Commission staff. Thank you for the opportunity to provide comments for this minor subdivision and replatting request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA402-06

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 20, 2006

Mr. Winslow Parker
Town Manager
Town of Princess Anne
30489 Broad Street
Princess Anne, Maryland 21853

Re: Beckford Manor Growth Allocation Request

Dear Mr. Parker:

We have received your request to process the above referenced growth allocation request as a refinement to the Town's Critical Area Program and Zoning Ordinance. At this time, we wish to notify you that the Town's request has been accepted for processing.

In addition, the Commission Chairman has determined that the Town's request can be handled as a refinement. Therefore, the Beckford Manor growth allocation request has been scheduled for consideration by the full Commission at their August 2, 2006 meeting. Please let me know at your earliest convenience who will attend this meeting to represent the Town.

Thank you for your coordination in bringing this growth allocation request before the Commission. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 20, 2006

Mr. Winslow Parker
Town Manager
Town of Princess Anne
30489 Broad Street
Princess Anne, Maryland 21853

Re: St. Stephen's Corner Growth Allocation Request

Dear Mr. Parker:

We have received your request to process the above referenced growth allocation request as a refinement to the Town's Critical Area Program and Zoning Ordinance. At this time, we wish to notify you that the Town's request has been accepted for processing.

In addition, the Commission Chairman has determined that the Town's request can be handled as a refinement. Therefore, the St. Stephen's Corner growth allocation request has been scheduled for consideration by the full Commission at their August 2, 2006 meeting. Please let me know at your earliest convenience who will attend this meeting to represent the Town.

Thank you for your coordination in bringing this growth allocation request before the Commission. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 18, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-11-44 Dowell
(Tax Map 44, Parcel 499)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to subdivide a 0.52-acre property to create two new residential lots within the Critical Area. The property is designated a Limited Development Area (LDA) and is currently developed with a primary dwelling and a shed structure.

Based on our review of the plat, it appears that the impervious surface area information listed on the plat is not accurate. Specifically, the provision within State and County Critical Area Law which permits lots under one-half acre in size to increase imperviousness to 31.25% applies only to grandfathered lots of record. The process of subdivision, as proposed by the applicant, results in the creation of two new, non-grandfathered lots. Therefore, the impervious surface area on proposed Lots 1 and 2 is limited as follows:

"If an individual lot 1 acre or less in size is part of a subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after June 1, 2002 in the Atlantic Coastal Bays Critical Area, then man-made impervious surfaces of the lot may not exceed 25% of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed 15%" (Natural Resources Article §8-1808.3).

- Proposed Lot 1= 0.285 acres x 25% = 3,108 square feet
- Proposed Lot 2= 0.210 acres x 25% = 2,285 square feet
- Total property acreage= 0.52 acres x 15% = **3,397 square feet**

Based on the information provided above, the 15% limit for the entire subdivision restricts the lots to less than 25% coverage for each lot. Alternatively, the applicant may choose to abide by the 15% limit for each lot (1,862 square feet for Lot 1 and 1,372 square feet for Lot 2). Please provide Commission

staff with a revised plat which demonstrates that compliance with impervious surface area limits can be achieved in conjunction with the proposed subdivision.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA412-06

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 18, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-06-17-23 Lowell Bowen
(Tax Map 23, Parcel 3)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced property replatting, subdivision, and intra-family transfer request. The applicant is proposing to create one new lot from an 89.96-acre property. Of this acreage, approximately 73 acres are located within the Critical Area. The Critical Area portion of the property is a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, we have the following comments:

1. The Critical Area acreage stated within plat note #5 (73 acres) and the Critical Area acreage stated within the subdivision application and Critical Area form (60.53 acres) do not match. Please clarify the discrepancy.

2. The Critical Area form and plat note # 23 indicate that Lot 4 is being created as an intra-family transfer lot. Within the RCA, intra-family transfer lots can only be permitted by State and County law when properties are more than seven acres and less than sixty acres in size (Natural Resources Article §8-1808.2). It does not appear that this property meets this criterion and would therefore not be permitted as an intrafamily transfer lot in the RCA. However, given the acreage of existing Parcel 3, it does not appear that the use of the intra-family provisions is necessary, as ample acreage appears to exist to support the creation of proposed Lot 4 at the one lot per twenty acre permitted density.

3. Please provide information which describes how the additional density to support the creation of proposed Lot 4 will be notated and tracked in conjunction with the proposed replatting.

4. The Critical Area form indicates that the proposed replatting contains a request for 1.6998 acres of growth allocation. While this appears to be in error, please verify whether the use of growth allocation is being requested by the County.

Based on the comments listed above, please provide a revised plat and supporting information for review by Commission staff. Thank you for the opportunity to provide comments for this minor subdivision and replatting request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA402-06

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 18, 2006

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

Re: L1025 Jackson
Tax Map 39, Parcels 1 &96

Dear Ms. Verdery:

This letter is a follow-up to the comments provided at the July 12, 2006 Technical Advisory Committee (TAC) meeting. The applicant is requesting approval of a line revision to change the layout of the existing lot lines between Parcel 1 and Parcel 96. The property is designated as a Resource Conservation Area (RCA). Revised Parcel 96 is currently developed while revised Parcel 1 is undeveloped.

Based on the information provided, it appears that there may be an area of nontidal wetlands located adjacent to the eastern side of the tidal wetlands shown on revised Parcel 1. Field delineation of these wetland areas will be necessary in order to determine accurate wetland boundaries. A map showing the limits of the wetlands in question was provided to the applicant's consultant at the TAC meeting. Please have the applicant provide a revised site plan which addresses this concern.

Thank you for the opportunity to provide comments for this line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 389-06

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 17, 2006

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

Re: Cooke's Hope Growth Allocation

Dear Mr. Hamilton:

We have received your request for processing of the above referenced growth allocation proposal. Based on our review of the materials submitted, Commission staff is unable to accept the Town's growth allocation request for processing. Specifically, the parcel history is unclear as provided and requires further supporting documentation and explanation. As such, it is not possible to determine whether the proposed project is consistent with the criteria for growth allocation outlined within COMAR.

The County's request for growth allocation has been determined to be incomplete based on the following:

1. While the information provided includes a general history of subdivision and lot line revisions on the property to date, further details are required regarding the acreages and boundaries of the original and current tax parcels. This information is necessary in order for the Commission to fully understand the relationship between the parcels as they existed as of 12/1/85 and the area proposed to be deducted for growth allocation.

2. The plat shows extensive reservation of development rights areas. It is necessary to provide further documentation showing how the current densities within the existing Resource Conservation Areas (RCA) are supported by the reservation of development rights area and to demonstrate that the proposed growth allocation request does not compromise the permitted densities within the area of land remaining as RCA.

In order to expedite resolution of the above referenced issues, we recommend that Commission and Town staff meet jointly with the project engineers. At that time, the most appropriate action and format for resolution of these issues can be discussed. If you have any questions regarding the content of this letter, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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July 11, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-06-42 Hellen Creek-Revised
(Tax Map 42, Parcel 338)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a 3.25-acre property. The property is located within a Limited Development Area (LDA) and is currently developed with two primary dwellings and a shed.

Based on our review of the revised plat, it appears that the applicant has revised the plat notes. Therefore, we have no further comments on the subdivision as requested.

Thank you for the opportunity to provide comments for this minor subdivision request. Please provide this office with a copy of the recorded plat and please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA287-06

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, 2006

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

Re: L1024 Seaside Holdings, LLC
Tax Map 16, Parcel 3

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor lot line revision. The applicant is requesting a line revision to change the existing lot lines on Deed Tracts 2, 3, and 4. The Critical Area portion of the property is designated as a Resource Conservation Area (RCA). Deed Tract 2 is currently developed with multiple dwellings and farm structures, while the remainder of the property exists as undeveloped agricultural fields.

Based on the information provided, we have the following comments:

1. The development rights summary for Tract 2 is stated as 8 development rights, with one right in use and seven rights remaining. However, it appears that there are two dwellings on Tract 2, which would result in the existing use of two development rights, with six remaining. In addition, we note that the area of State-owned tidal wetlands has been determined based on the existing National Wetlands Inventory (NWI) maps and not delineated in the field. At the time of development, a field delineation and determination of State versus private wetland areas must be provided along with a description as to how wetland ownership was determined. We note that the stated development rights information may be subject to change depending on the outcome of the above referenced ownership determination.

2. The State mapping resources indicate that areas of tidal wetlands extend onto Deed Parcel 2A. Please add the appropriate 100-foot Buffer on this parcel.

Mary Kay Verdery
L1024 Seaside Holdings, LLC
July 11, 2006

3. The note listed under property owner declaration is not accurate in reference to Critical Area regulations. Specifically, while the Army Corps of Engineers maintains final jurisdiction over Federal Waters of the U.S., wetlands and waterways, including tidal wetlands, nontidal wetlands and intermittent and perennial streams within the Critical Area may be subject to further regulation by the Maryland Department of Environment (MDE) to exceed Federal jurisdiction, and are always subject to the regulations outlined within the State Critical Area provisions and the County's Critical Area Program. Please correct this note or remove any reference to jurisdiction within the Critical Area.

4. Please note that portions of the property lie within an area designated as a sensitive species review area. The species in question is identified as a Federally-listed species. Prior to future development of the property, an evaluation of the property by the Department of Natural Resources' Wildlife and Heritage division will be required in order to determine any necessary protective measures for rare, threatened, or engendered species.

Thank you for the opportunity to provide comments for this lot line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC388-06

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/

July 10, 2006

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

Re: Appeal # 1429 McDaniels

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer and 15% impervious surface area limits to permit the construction of an addition to the existing dwelling on the property. The construction of the addition results in 758 square feet of additional impervious surface area within the Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it is my understanding that the proposed dwelling addition will encroach no further towards mean high water than the existing 37-foot setback. In addition, we note that a 134 square foot pervious deck is also proposed within the Buffer. Provided that the required mitigation is provided at a 2:1 ratio and implemented by virtue of native plantings placed at an alternative location within the Buffer, this office is not opposed to the Buffer variance as requested.

However, this office opposes the applicant's request to exceed the 15% impervious surface are limit on the lot. Specifically, the property appears to be developed with walkways, a brick pad, multiple garages, and a pool and concrete pool patio. It appears that ample opportunity exists to remove additional accessory impervious surface area on the property in order to accommodate the proposed additions and to remain within the 15% impervious surface area limit. Therefore, it does not appear that the standard of unwarranted hardship can be met in relation to the impervious surface area variance. Further, we note that the 15% impervious surface area limit represents a threshold for a property, beyond which impervious surface areas are known to cause adverse impacts to water quality and plant and wildlife habitat. Particularly given the close proximity of the applicant's existing and proposed improvements to tidal waters, this office has serious concerns about surpassing the 15% limit on this lot.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 836-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 6, 2006

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

Re: 500 Riverside Drive-Revised

Dear Mr. McKenzie:

This letter is in reference to our continuing review of the above referenced condominium site plan and in response to the revised site plan received on June 16, 2006 and dated June 7, 2006. Based on the current site plan submittal, the following items remain outstanding.

1. There are four areas on the site plan where the 20-foot Buffer setback is not shown correctly or is not shown at all. Please have the applicant correct this and submit a revised site plan.

2. The City of Salisbury has proposed an 8-foot wide Riverwalk, with a two-foot wide filter strip adjacent to the bulkhead side of the walkway which is to be incorporated into this development project. The current site plan shows a 10-foot wide Riverwalk. Please have the applicant adjust the width of the proposed Riverwalk.

3. The landscaping plan provided does not include plantings within the 20-foot setback area or within the remainder of the 100-foot Buffer. Please have the applicant provide a revised landscaping plan which includes greater plantings within the Buffer setback. This will enable the project to demonstrate consistency with the goals for Buffer management outlined within COMAR and within the City's Critical Area zoning ordinance and program.

Thank you for the opportunity to provide comments for this revised site plan and development proposal. Please have the applicant address the comments above and submit a revised site plan for review by this office. If you have questions, please call me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
SA802-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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July 5, 2006

Robert F. Karge
Town Clerk
Town of Easton
P.O. Box 520
Easton, Maryland 21601

Re: Annexation of Lands and Critical Area Maps

Dear Mr. Karge:

Thank you for providing information regarding the annexation of lands within the Critical Area from Talbot County into the Town of Easton. Effective May 15, 2006, the Town of Easton adopted a resolution to annex a parcel of land from Talbot County (Tax Map 34, Parcels 17 and 121), located on the south side of Port Street and bordering the South Branch of the Tred Avon River. Parcel 121 is designated as a Limited Development Area (LDA) under the Talbot County Critical Area Program and Parcel 17 is designated as an Intensely Developed Area (IDA). Both parcels will retain the existing County Critical Area designations when they are annexed into the Town.

At this time, we have accepted the Town's annexation request for processing. The request will be forwarded to Chairman Madden, who will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will then notify the Town of the Chairman's determination and the procedures for review by the Critical Area Commission.

Thank you for your coordination in bringing this annexation request before the Commission. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Lynn Thomas, Town of Easton
Mary Kay Verdery, Talbot County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 30, 2006

Mr. Bill Watson
Zoning Administrator
Town of Chesapeake Beach
8200 Bayside Road
PO Box 400
Chesapeake Beach, MD 20732

Re: Ordinance 0-06-09
Critical Area Text Amendments

Dear Mr. Watson:

This letter is in response to the above referenced Town request to consider multiple minor text amendments to the Town of Chesapeake Beach's Critical Area Program and zoning ordinance. The Commission received notice on June 16, 2006 that the Town Council voted in favor of the proposed changes.

At this time, I wish to notify you that the Town's request for consideration of the proposed text amendments has been accepted for processing. The Town's request will be forwarded to Chairman Madden, who will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will notify you of his determination and the procedures for review by the Commission.

Thank you for your coordination on these text amendments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Eric Blitz, Webb & Blitz, L.L.C

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 30, 2006

Mr. Jay Parker
Town Manager
Town of Princess Anne
30489 Broad Street
Princess Anne, Maryland 21853

Re: Beckford Manor Growth Allocation Submittal

Dear Mr. Parker:

This letter is in response to the most recent subdivision plat, dated May 31, 2006, and the revised 10% Rule calculations received in regard to the Beckford Manor growth allocation request. The following comments represent a coordinated and joint review effort between Tracey Gordy and Commission staff.

1. The existing and proposed impervious surface numbers still appear to be incorrect. The impervious surface numbers listed on the chart, labeled as A1, for Lots #15, #16, #22, and #39 are different than the impervious surface totals listed on the plat. For example, the chart lists Lot #15 as having a proposed impervious amount of 5,602 square feet, but the plat lists Lot #15 as 4,539 square feet. Please clarify and submit revised 10% calculations and/or a revised plat.

2. The impervious surface notes for roads and sidewalks in the chart (A1) compared to the ones on the plat appear inconsistent. The plat note states that the area of proposed roadway is 2.60± acres and there is no plat note for sidewalks. The chart states that total roadbed is 65,340 square feet or 1.50 acres and the sidewalks are 8,200 square feet or .188 acres. The two totaled are 1.688 acres, thus the discrepancy. This needs to be further clarified.

3. On Tuesday, June 27, Tracey Gordy had a telephone conversation with Ms. Carolyn "Beth" Modiano, owner of the Beckford Mansion, Lot 30A. Ms. Modiano informed Ms. Gordy that she intends to construct two patios on her lot. Ms. Modiano was granted permission to construct these patio additions in September of 2005 and she has decided to construct them in an impervious manner. This will allow her to establish an impervious footprint should she ever want an addition to her home. The proposed patios are 250 square feet and 366 square feet for a total of 616 square feet. This impervious surface must be factored into the 10% Rule calculations for the Beckford Manor subdivision and growth allocation request. Please provide revised calculations and be sure to reflect any impervious surface area revisions within Lot 30A on a revised plat.

4. The applicant needs to submit written documentation that the project meets the Town's Forest Conservation Act Program and produce a signed copy of the long-term protection agreement for the 2.50 acres.

5. Mr. Dale Pusey's most recent stormwater review comments need to be fully addressed.

6. The Town desires assistance in the review of future requests to exceed the designated impervious surface area limits on individual lots as shown on the plat. Therefore, we suggest adding the following note to Sheet 1: "Notwithstanding the impervious surface limitations noted for each individual lot, an individual lot may exceed such limitation only upon specific approval by the Chesapeake and Atlantic Coastal Bays Critical Area Commission staff and any increase in impervious surface beyond the stated amount for that lot must be offset through best management practices as a condition of approval by Critical Area Commission staff and reviewed in conjunction with the Town of Princess Anne.

7. The following notes need to be revised (eliminate/revise text in strikethrough and add text in bold) as indicated:

   Sheet 1 of 3

   - Setback Requirements (Lots ~~30~~ 31 Thru 40, Including 30B);
   - Total Number Of Lots = ~~25~~ 24 (Duplex Residences Proposed);
   - Area Shown As 30B Is Not Proposed For Development ~~At This Time~~;
   - 31 Lots Are **Wholly Or** Partially Within The Critical Area Boundary;
   - There Are No Tidal Or Non-Tidal Wetlands ~~Located~~ Located Within The Subdivision;
   - No Streams Or ~~Andronomous~~ **Anadromous** Fish Propagation Waters Are ~~Streams~~ Located Within The Subdivision;
   - No Hydric Soils Are Located ~~On The Lots~~ Within The ~~New~~ Subdivision ~~Lots;~~
   - No Known Natural Resource Protection Areas Or Habitat Protection Areas ~~On This~~ **Exist Within The Critical Area Portion Of The Site**;

   Sheet 3 of 3 (Forest Conservation Notes)

   - The first note states there are no streams on the site, but the second notes states "forested stream buffer as shown by field verification." This needs to be clarified.
   - The fourth notes states "non-tidal wetlands as shown on N.W. I Maps", but earlier notes state that there are no non-tidal wetlands on site. This note should be removed if there are no wetlands on the site.
   - The fifth note should be revised to read: "No known rare, threatened, or endangered species are located on the site."
   - The sixth note is confusing. Lot 30B has no proposed disturbance. Realizing that these notes are relevant to the Forest Conservation Act, they still need to be consistent and reflect the intent of all other plat notes on previous sheets, otherwise it is contradictory and confusing.

- The "No slopes greater than 8%" note is listed twice.

In order for the Beckford Manor growth allocation to be heard at the Critical Area Commission's August 2 meeting, a revised plat and corrected supporting documentation must be received by Tracey Gordy and Commission staff no later than July 7. Should you have any questions regarding this review letter, please contact me at 410-260-3482, or Tracey Gordy at 410-713-3460.

Sincerely,

Kerrie Gallo

Kerrie Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP
Robert Wink, Town of Princess Anne
Dale Pusey, Town of Princess Anne
Ren Serey, CAC
Regina Esslinger, CAC
Beth Modiano

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 29, 2006

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

Re: M1006 Schwaninger Farm

Dear Ms. Verdery:

This letter is in response to our continuing review of the above referenced major subdivision proposal.

Based on the revised plat dated March 21, 2006, it appears that the applicant has addressed the previous concerns of this office. As a result, we have no further comments to offer.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 511-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 28, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Hance Subdivision-Lots 7-10
(Tax Map 19, Parcel 238)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the above referenced subdivision. The applicant is proposing to create four new lots, one of which, Lot 7, lies within the Critical Area. The Critical Area portion of the site is designated as a Resource Conservation Area (RCA) and is currently developed as a trailer park.

Based on our review of the site plan provided, it appears that the applicant has made the necessary plat revisions. As a result, this office has no further comments to offer.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA538-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 28, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Building Permit AP 52136, Felix
Tax Map 30, Parcel 243, Lot 23

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit. The applicant is requesting a permit to construct a single family dwelling, garage and septic system. The property is a designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, we have the following comments:

1. The State of Maryland's online mapping resources indicate that there is a tidal wetland on the adjacent recreational area and Lot 22 which necessitates the application of a 100-foot and expanded 100-foot Buffer. The Buffer and expanded Buffer for steep slopes appear to encroach significantly onto Lot 23 and may surpass the limits of the steep slopes shown on the site plan. Please have the applicant delineate the tidal wetland and associated Buffer in the field and submit a revised site plan. I have included aerial photographs from 2005, as well as an overlay of the mapped wetland areas for clarification.

2. Please clarify whether the proposed driveway will be paved. If the driveway is to be paved, please ensure that it is included within impervious surface area totals for the property. It does not appear that it has been included on the site plan provided.

Thank you for the opportunity to provide comments for this building and grading permit request. Please provide a copy of a revised site plan for additional review once it is submitted. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA356-06

Enclosures

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 28, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-03-24A Hance Subdivision Revised-Lots 1-5
(Tax Map 19, Parcel 48)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the Hance subdivision. The applicant is proposing to subdivide a 14-acre property to create five new residential lots within the Critical Area. The property is designated a Resource Conservation Area (RCA) and is currently developed with 39 mobile homes.

Based on our review of the most recent plat dated April 11, 2006, it appears that the applicant has made the necessary revisions and that all of our previous concerns have been addressed. Therefore, we have no further comments regarding this subdivision request.

Thank you for the opportunity to provide comments for this revised subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA610-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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June 23, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-06-42 Hellen Creek-Revised
(Tax Map 42, Parcel 338)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a 3.25-acre property. The property is located within a Limited Development Area (LDA) and is currently developed with two primary dwellings and a shed.

Based on our review of the revised plat, the LDA Critical Area Notes remain incorrect. Specifically, notes #2 and #4 do not apply to this subdivision, as each of the proposed lots is greater than one acre in size. Both of these notes must be removed from the plat. Note #5 sufficiently summarizes the correct impervious surface area limits and information. Finally, we note that proposed Lot 1-A currently has 10,583 square feet of impervious coverage and is permitted a total of 10,590 square feet of impervious surface area coverage. Please advise the applicant that once the subdivision is recorded, Lot 1-A will no longer retain grandfathering status. As such, this office would not support future variances to exceed the impervious surface area limits on Lot 1-A.

Thank you for the opportunity to provide comments for this minor subdivision request. Please have the applicant make the appropriate revisions and send a corrected plat to this office for review. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA287-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 23, 2006

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

Re: A074 Whelan

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to permit the construction of an addition to the existing dwelling as well as an addition to the existing garage. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the applicant proposes to construct a 360 square foot addition to the existing primary dwelling. The addition will be located mostly within the Buffer. In regard to the dwelling addition, we note that the existing primary dwelling has existed in its current location since approximately 1920 and that the proposed addition will encroach no closer towards mean high water than the existing dwelling. Provided that the applicant implements the required mitigation, calculated at a 2:1 ratio measured by the entire area disturbed within the Buffer, this office does not oppose a variance for the dwelling addition.

In regard to the applicant's request to construct a 400 square foot addition to the existing 600 square foot garage, it is our position that each and every one of the County's variance standards, and in particular, the standard of unwarranted hardship, has not been met. In order to be granted a variance, the applicant must sufficiently demonstrate that each and every one of the County's variance standards has been met. As a component of meeting these standards, the applicant must demonstrate that denial of the variance would result in an inability to enjoy reasonable and significant use of the entire lot or parcel. We note that the property is currently developed with a reasonably sized accessory garage and that the applicant appears to currently enjoy reasonable and significant use of the parcel as evident by the large dwelling, pool, pool house and garage. In addition, we note that a 1000 square foot accessory garage within the Buffer is not a right commonly enjoyed by others within the County or within other jurisdictions, and that the proposed garage size is in fact larger than some houses within the County. Further, we note that sufficient room appears to exist outside of the Buffer to locate a second garage if so desired.

As you are aware, in 2002 and again in 2004, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values, by strengthening the Critical Area law. In particular, the General Assembly reinforced the importance of the Buffer as an area of transitional habitat. It is our position that the granting of a 600 square foot addition to an accessory structure within the Buffer would be in direct contrast with the general spirit and intent of the law. In summary, because we believe that the application does not present information sufficient for the County to make the required findings under the variance standards, we oppose this Buffer variance request.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 308-06

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 23, 2006

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

Re: A074 Whelan

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to permit the construction of an addition to the existing dwelling as well as an addition to the existing garage. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the applicant proposes to construct a 360 square foot addition to the existing primary dwelling. The addition will be located mostly within the Buffer. In regard to the dwelling addition, we note that the existing primary dwelling has existed in its current location since approximately 1920 and that the proposed addition will encroach no closer towards mean high water than the existing dwelling. Provided that the applicant implements the required mitigation, calculated at a 2:1 ratio measured by the entire area disturbed within the Buffer, this office does not oppose a variance for the dwelling addition.

In regard to the applicant's request to construct a 400 square foot addition to the existing 600 square foot garage, it is our position that each and every one of the County's variance standards, and in particular, the standard of unwarranted hardship, has not been met. In order to be granted a variance, the applicant must sufficiently demonstrate that each and every one of the County's variance standards has been met. As a component of meeting these standards, the applicant must demonstrate that denial of the variance would result in an inability to enjoy reasonable and significant use of the entire lot or parcel. We note that the property is currently developed with a reasonably sized accessory garage and that the applicant appears to currently enjoy reasonable and significant use of the parcel as evident by the large dwelling, pool, pool house and garage. In addition, we note that a 1000 square foot accessory garage within the Buffer is not a right commonly enjoyed by others within the County or within other jurisdictions, and that the proposed garage size is in fact larger than some houses within the County. Further, we note that sufficient room appears to exist outside of the Buffer to locate a second garage if so desired.

As you are aware, in 2002 and again in 2004, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values, by strengthening the Critical Area law. In particular, the General Assembly reinforced the importance of the Buffer as an area of transitional habitat. It is our position that the granting of a 600 square foot addition to an accessory structure within the Buffer would be in direct contrast with the general spirit and intent of the law. In summary, because we believe that the application does not present information sufficient for the County to make the required findings under the variance standards, we oppose this Buffer variance request.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 308-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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Executive Director

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June 23, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3302 Widen-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to construct a 414 square foot addition to the primary dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, we acknowledge that the applicant has made revisions to the previous site plan by proposing to remove a large area of gravel within the Buffer, restoring the area with native ground cover and shrubs. In addition, two drywells have been proposed which will help to provide additional infiltration opportunities for rooftop runoff from both the dwelling and addition. While our position remains that gravel surfaces become compacted and impervious over time, and therefore the amount of actual impervious surface area on the property most likely exceeds the 25% coverage stated on the site plan, we recognize that the applicant has made attempts to enhance the condition of the Buffer. In addition, the proposed addition appears to be modest in size. As a result, this office does not generally oppose the variance for an addition as proposed. However, we recommend that the Board be explicit in requiring the proposed planting area to be established in native ground cover and shrubs, as opposed to lawn. In addition, please ensure that mitigation is provided at a 2:1 ratio for the entire area of disturbance within the Buffer. This mitigation should clearly be defined as in addition to the area proposed for conversion. Finally, we note that this office would not support any future variances to place additional impervious surface area on this property.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA231-06

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 23, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-06-42 Hellen Creek-Revised
(Tax Map 42, Parcel 338)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a 3.25-acre property. The property is located within a Limited Development Area (LDA) and is currently developed with two primary dwellings and a shed.

Based on our review of the revised plat, the LDA Critical Area Notes remain incorrect. Specifically, notes #2 and #4 do not apply to this subdivision, as each of the proposed lots is greater than one acre in size. Both of these notes must be removed from the plat. Note #5 sufficiently summarizes the correct impervious surface area limits and information. Finally, we note that proposed Lot 1-A currently has 10,583 square feet of impervious coverage and is permitted a total of 10,590 square feet of impervious surface area coverage. Please advise the applicant that once the subdivision is recorded, Lot 1-A will no longer retain grandfathering status. As such, this office would not support future variances to exceed the impervious surface area limits on Lot 1-A.

Thank you for the opportunity to provide comments for this minor subdivision request. Please have the applicant make the appropriate revisions and send a corrected plat to this office for review. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA287-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 22, 2006

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

Re: Suder Administrative Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to the rear yard setbacks in order to permit the construction of a screened porch addition to the primary dwelling. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is required to obtain a variance solely based on the nonconforming nature of the dwelling in regard to local County setbacks. It appears that the impervious surface area on the property will remain within the 31.25% limit, and that the dwelling is not located within the Buffer. In general, this office does not oppose the granting of this variance. However, we note that in order for the applicant to exercise a right to the 31.25% impervious surface area limit, additional stormwater best management practices are required to offset the area of impervious surface which exceeds 25% of the property total. This information has not been provided to this office and should be shown on the accompanying site plan. Prior to the award of a variance, please ensure that the applicant has provided offsetting and mitigating measures as required and that these measures are detailed on the site plan.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC307-06

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 22, 2006

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

Re: Suder Administrative Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to the rear yard setbacks in order to permit the construction of a screened porch addition to the primary dwelling. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is required to obtain a variance solely based on the nonconforming nature of the dwelling in regard to local County setbacks. It appears that the impervious surface area on the property will remain within the 31.25% limit, and that the dwelling is not located within the Buffer. In general, this office does not oppose the granting of this variance. However, we note that in order for the applicant to exercise a right to the 31.25% impervious surface area limit, additional stormwater best management practices are required to offset the area of impervious surface which exceeds 25% of the property total. This information has not been provided to this office and should be shown on the accompanying site plan. Prior to the award of a variance, please ensure that the applicant has provided offsetting and mitigating measures as required and that these measures are detailed on the site plan.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC307-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 22, 2006

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

Re: A Village Down River-Growth Allocation

Dear Mr. McKenzie:

As you are aware, the Commission was unable to accept for processing the County's recent request for growth allocation for the above referenced project. As a component of that determination, Commission staff has identified several significant outstanding issues which must be resolved prior to resubmission of the request by the County.

1. The growth allocation wetlands plan shows that there are nontidal wetlands contiguous with the Critical Area 100-foot Buffer, yet these areas have not been shown as part of the Buffer on the site plan. Where nontidal wetlands are contiguous with the Buffer, the Buffer must be expanded to include the wetland, and the wetland becomes regulated as a part of the Buffer. This is significant in that proposed lots 1-3 and lots 21-32 are shown on the site plan within the area of expanded Buffer. Any impact to the Buffer requires a variance, and a growth allocation request and new development plan which requires a variance is not likely to be considered consistent with the State and local Critical Area laws and regulations, and therefore may not be approvable by the Commission.

2. In addition to the concern regarding the expanded Buffer, the current County zoning ordinance and Critical Area Program includes nontidal wetlands as Habitat Protection Areas (HPAs). New development projects must demonstrate that impacts to HPAs have been minimized. Projects which are not able meet these criteria may not be considered consistent with the State and local Critical Area laws and regulations. Again, significant impacts to HPAs are indicated within proposed lots 1-3 and lots 21-32.

3. The water feature shown on the southern portion of the property near White Creek has been labeled as a nontidal wetland on the site plan and afforded a 25-foot nontidal wetland buffer. This feature appears on the United States Geological Survey (USGS) topographic quads as a

blue line stream. The County's zoning ordinance defines a tributary stream as, "Perennial and intermittent streams in the Critical Area that are so noted on the most recent USGS seven-and-one-half minute topographic quadrangle maps or on more detailed maps or studies at the discretion of the local jurisdictions." Therefore, a 100-foot Buffer would appear to be necessary. We note that the area labeled as, future lots, may be affected by the application of a 100-foot Buffer.

4. Previously, this office requested a copy of the permit application materials and site plan approved by the Maryland Department of the Environment (MDE) and the Corps of Engineers in 1989 in order to verify that MDE still considers the project to be the same as that which was approved in 1989, and therefore grandfathered. We have received a copy of the requested site plan and letter, but it appears that the current proposed development is substantially different from the plan approved in 1989. Specifically, there was no development proposed within the area of proposed lots 21-36 under the 1989 plan and the current plan proposes to impact significant areas of nontidal wetlands within this area. Therefore, it is not possible to assess whether MDE's decision to grandfather the proposed site plan is valid.

5. While not directly related to the growth allocation request, the site plan contains some errors within the portion of the property designated as an Intensely Developed Area. In addition, the application materials submitted to this office state that the proposed project obtained condominium site plan approval by the Planning Commission in August of 2004. We have no record of receipt of a proposed site plan as is required by Natural Resources Article 8-1811 and COMAR 27.03. Please clarify immediately.

As previously mentioned, the above listed issues must be resolved prior to resubmission of a growth allocation request to Commission staff. If you have any questions or would like to meet to discuss these comments, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 21, 2006

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

Re: A Village Down River-Growth Allocation

Dear Mr. McKenzie:

We have received your request for processing of the above referenced growth allocation proposal. Based on our review of the materials submitted, Commission staff is unable to accept the County's growth allocation request for processing. Specifically, it appears that significant impacts to Habitat Protection Areas (HPAs) are proposed, yet all HPAs on the property have not been properly shown on the site plan. As such, it is not possible to determine whether the proposed project is consistent with the criteria for habitat protection as outlined within COMAR.

The County's request for growth allocation has been determined to be incomplete based on the following site plan deficiencies.

1. Nontidal wetlands, designated as HPAs within the County's Critical Area Program and Zoning Ordinance appear extensively throughout the project in areas in locations where lots and dwellings are proposed. This design conflicts with State and County regulations for protection of Habitat Protection Areas.

2. A tributary stream appears to exist on the property which is not correctly labeled nor afforded the appropriate 100-foot Buffer.

3. A growth allocation request should not be submitted without a reasonable expectation that any permits necessary for impacts to wetlands are obtainable. While the letter provided to us by the applicant from the Maryland Department of the Environment (MDE) states that the project is grandfathered based on the version of the site plan approved in 1989, it is unclear to us that the site plan we are reviewing is the same as that which was approved in 1989. In contrast, it appears that the current version may be

significantly different as it shows development on portions of the site where development was not proposed on the 1989 plan.

As a follow-up to this letter, Commission staff will provide a second letter which summarizes in greater detail the issues which must be resolved in order for the Commission to accept the County's request for growth allocation for processing. If you have any questions regarding the content of this letter, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Gary Setzer, MDE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3333 Solomons Town Center Association

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the height restrictions from 36' to 50' in order to permit the construction of town homes, a clubhouse and a hotel. The property is designated an Intensely Developed Area (IDA) and is currently developed as a marina.

Based on the information provided, it appears that the applicant's variance seeks relief only from the local height restrictions as outlined within the County's zoning ordinance. Regarding this matter, this office has no concerns or additional comments to offer. Please note that the Commission's review of this site plan has been limited solely to review of the stated height variance. Site plan review for redevelopment within the IDA is required under separate cover. As such, comments regarding any aspect of the development outside the scope of this variance will be reserved until the time that a site plan submittal is received.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 365-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3327 Hazell

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to construct an accessory shed. The property is designated a Resource Conservation Area (RCA). It is my understanding that a primary dwelling is currently under construction.

The applicant has stated that the proposed shed is 160 square feet and will be constructed on cinder blocks or wood pilings. Based on the site plan provided, as well as aerial photographs from June of 2005, it appears that ample opportunity exists outside of the Buffer to accommodate a 160 square foot shed. In evaluating the applicant's variance request, the Board must determine that each and every one of the County's variance standards has been met. Because we believe that the applicant has failed to meet each of these standards, particularly the standard of unwarranted hardship, this office opposes the variance request.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA364-06

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 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3324 Brinlee

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to permit the construction of a primary dwelling, garage, and septic area. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the construction of a single family dwelling would not be feasible without some disturbance to steep slopes. In addition, it appears that the applicant has made efforts to manage rooftop runoff as well as provide enhanced measures for sediment erosion control. As a result, this office does not generally oppose the variance as requested. However, we note that the applicant is stating the intent to construct the driveway in a pervious manner. While the nature of the intended pervious material is not clear, if gravel is proposed, we recommend that the Board require the applicant to include the area of driveway within the proposed impervious surface area total. Specifically, gravel is known to become compacted over time, essentially prohibiting infiltration opportunities in the long-term. In addition, this office has concerns regarding the ability to monitor and prevent the conversion of gravel into pavement at a later date.

We further note that the applicant has stated that 25.8% clearing is proposed on the property. Based on this amount of clearing, the County's zoning ordinance requires mitigation at a 1.5:1 ratio. As it appears that on-site planting may not be feasible, payment of a fee-in-lieu may be necessary.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
VA 362-06

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 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3322 DeBord

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to construct a 450-foot fence with eight brick pillars, consisting of a total of 82 square feet of new impervious surface area. The fence is proposed to be located partially within the Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

The applicant states that the proposed fence is necessary in order to ensure safety and security of the property. We recognize that a fence is a man-made structure within the Buffer, an area meant to provide transitional habitat between the land and the water. Structures within the Buffer have a negative effect on the use of Buffer areas as riparian habitat. Structures that are perpendicular to the shoreline, such as fences, can affect species that may travel parallel to the shoreline. That being said, there are also many types of fences. Simple split rail or picket fences can have little or no impact to the movement of wildlife along the shoreline and could have similar impacts as a simple swing set. In contrast, a solid wall that would require a foundation and likely involve the use of heavy equipment would have much greater impact. Based on the information provided, the type of fencing material proposed is not clear. Therefore, we defer to the County to determine which type of fencing material is being proposed and to determine whether the avoidance of adverse effects to wildlife can be assured with type of structure proposed.

Should the Board determine that the applicant has met each of the County's variance standards, please ensure that mitigation is provided at a 2:1 ratio for any disturbance to the land and/or natural vegetation that occurs as a result of the proposed construction.

Thank you for the opportunity to provide comments. Based on the comments above, this office is unable to offer support for this variance as proposed. Please include this letter as a part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

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 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3325 Winn

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to permit the construction of an addition to the primary dwelling as well as a deck addition. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant proposes to construct a total of 280 square feet of new impervious surface area on the property. In addition, a second story deck will be constructed above the existing deck, and a new deck will be constructed in the general vicinity of an existing concrete walkway. It appears that none of the proposed structures will encroach closer towards mean high water than the existing primary dwelling. In addition, the applicant has indicated the intent to provide on-site water quality enhancements by virtue of meeting the 10% pollutant reduction requirement, generally required only within the Intensely Developed Area (IDA). Given that no additional means of improving the quality of stormwater runoff are currently indicated on the site plan, and that the applicant has proposed to provide a 10% overall pollutant reduction, we recommend that the Board include compliance with the 10% rule as a condition of approval. With the inclusion of this condition, this office does not generally oppose the granting of a variance on this property. However, we note that the applicant is proposing to convert the existing driveway to pervious cover, by using a gravel substrate, thereby avoiding the need for an impervious surface area variance. As gravel is known to become compacted over time, essentially prohibiting infiltration opportunities in the long-term, our position remains that gravel driveways should be considered impervious and included within the impervious surface area totals for the property.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 275-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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June 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3326 Anderson

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to permit the construction of a deck. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant proposes to construct a 552 square foot deck, part of which is proposed to be located over an existing impervious walkway. The applicant has stated that approximately 204 square feet of new impervious surface area is proposed within the Buffer in conjunction with the deck. In general, this office would not oppose a variance to construct a reasonably-sized deck within the Buffer where no opportunity exists to locate the structure outside of the Buffer. However, the site plan raises several questions which preclude this office from making a determination as to whether each of the County's variance standards has been met and whether the variance is the minimum necessary. Specifically, it appears that ample room exists to construct all or a majority of the deck along the southern (driveway side) of the dwelling. At the very minimum, it would appear that the deck could be located no closer towards mean high water than the existing dwelling, while still providing reasonable outdoor space and access to the waterfront. Prior to the granting of any variance, we recommend that the Board consider whether opportunity exists to construct the deck outside the Buffer, or whether the amount of intrusion to the Buffer can be minimized. In addition, the applicant has stated that the proposed deck is to be impervious in nature. Given its location within the Buffer, we recommend that pervious construction be required by the Board as a condition of any approval.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 363-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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STATE OF MARYLAND
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June 19, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3323 Cellini

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to permit the construction of a deck, a hot tub, and an addition to the primary dwelling. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the applicant proposes to construct a 364 square foot deck, part of which is proposed to be located over an existing impervious walkway, a 50 square foot hot tub, and a 117 square patio. In reviewing the site plan, we note that the applicant has stated that the proposed hot tub will be located on the proposed deck, but has shown this accessory structure on the site plan as an add-on to the north side of the proposed deck. This office cannot support a variance to place an accessory hot tub within the Buffer, particularly where opportunity exists on the property to construct it elsewhere. Hot tubs are not a right commonly enjoyed by others, nor would denial of a variance to construct a hot tub in the Buffer impose an unwarranted hardship to the applicant. We recommend that the Board require this feature to be located outside of the Buffer or in an area of existing impervious surface area within the Buffer.

In regard to the applicant's request for a deck and patio addition, this office would not generally oppose a variance to construct a reasonably-sized deck within the Buffer where no opportunity exists to locate the structure outside of the Buffer. However, the site plan raises several questions which preclude this office from making a determination as to whether each of the County's variance standards has been met and whether the variance is the minimum necessary. Specifically, the proposed deck encroaches ten feet closer to mean high water than the existing dwelling, reducing the setback from the bulkhead to 40 feet. At the very minimum, it would appear that the deck could be located no closer towards mean high water than the existing dwelling, by constructing it within the alcove on the northern side of the dwelling. Alternatively, it appears possible to locate the deck outside of the Buffer altogether.

In evaluating whether the applicant has met each of the County's variance standards, we question whether the standard of unwarranted hardship has been met. It appears that the applicant currently enjoys reasonable use of the property, as evident by the significant improvements located mainly within the Buffer. Also, it appears that

the applicant has alternative areas around the dwelling which could accommodate a deck without encroaching further into the Buffer. Finally, we question how the applicant has demonstrated that no adverse impacts to water quality, plant and wildlife habitat will occur as a result of the proposed development. It would appear that the management goals for the Buffer, including the provision for maintenance of a transitional area between aquatic and upland areas, have already been degraded and that further encroachment into the Buffer would contribute to greater potential for adverse impacts.

In summary, this office is unable to offer support for the applicant's variance request as proposed. Alternative locations for the deck appear feasible and it is not evident that that applicant has met each and every one of the County's variance standards. We recommend that the Board require the applicant to revise the site plan and minimize impacts to the Buffer prior to the granting of a variance for this property.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 361-06

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, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Variance for Docket #1172-The Villages at Swan Point

Dear Ms. Dailey:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to construct a wooden bridge over an area of State-owned tidal wetlands, impacting the 100-foot Critical Area Buffer in two places. The property lies within a designated Limited Development Area (LDA), but is proposed to be designated as an Intensely Developed Area (IDA) through the use of growth allocation. It is my understanding that this variance request is necessarily concurrent with, and directly tied to the pending growth allocation request on the Swan Point property.

Based on the information provided, it appears that the applicant is proposing to impact approximately 0.393 acres within the Buffer. As the Weir Creek peninsula is entirely surrounded by wetlands and tidal waters, development of this portion of the property would not be feasible without road or bridge access and subsequently, some degree of variance for the access. We note that the applicant has chosen to construct a bridge, which provides enhanced assurances that no adverse impacts to tidal wetlands and the buffer will occur as a result of the development. In addition, we note that portions of the bridge are proposed to be constructed in the general vicinity of a historically documented road and that additional stormwater management measures are proposed to divert stormwater runoff from the bridge into managed stormwater facilities, providing enhanced filtering and infiltration opportunities prior to discharge and/or outfall of runoff to tidal waters.

In evaluating the applicant's variance request, this office does not generally oppose the construction of a wooden bridge in the location as described. However, given the sensitive nature of the Buffer, as well as the concurrent nature of this variance with the ongoing growth

allocation request, we recommend that the Board incorporate the following as conditions of any variance approval.

1. The Critical Area Criteria require that within the IDA local jurisdictions shall conserve and enhance fish, wildlife, and plant habitats, as identified in COMAR 27.01.09 to the extent possible. In addition, all disturbance within the 100-foot Buffer is subject to mitigation. Therefore, we recommend that mitigation be provided at a 3:1 ratio for the entire area of disturbance within the Buffer. This mitigation should be provided in the form of native plantings, and implemented at an alternative location within the property boundaries.

2. Should the pending growth allocation request to change the designation surrounding the Weir Creek peninsula from a LDA to an IDA not be approved, any variance approval to disturb 0.393 acres of Buffer in order to construct a bridge across the Weir Creek peninsula should become null and void as the growth allocation and the variance request are necessarily and directly associated with one another.

3. The construction of a bridge across State-owned tidal wetlands may require a permit from the Maryland Department of the Environment (MDE) as well as the Army Corps of Engineers. Successful attainment of these permits prior to the commencement of construction activities, including clearing and grading, should be required as a condition of any variance approval.

Thank you for the opportunity to provide comments for this variance request. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

cc: Charles County Board of Appeals
Marianne Mason, OAG
Bob Tabisz, MDE
Mike Hitchings, ACOE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 15, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Swan Point Growth Allocation

Dear Ms. Dailey:

The purpose of this letter is to provide a summary of the Program Subcommittee's discussion of the Swan Point growth allocation on June 7, 2006, as well as provide a brief summary of any outstanding issues of concern. During the presentation, the Program Subcommittee members focused on the recent changes to the growth allocation request and took the opportunity to ask questions of the developers and applicants regarding consistency of various elements of the request with County and State Critical Area Law and Regulations. The following summarizes the status of the outstanding issues upon completion of the County presentation to the Program Subcommittee.

Growth Allocation Envelopes and Criteria

The revised growth allocation request proposes the use of four development envelopes, for a total growth allocation request of 159 acres. A total of 138.12 acres is proposed to change from a Limited Development Area (LDA) to an Intensely Developed Area (IDA). A total of 20.88 acres is proposed to change from a Resource Conservation Area (RCA) to an IDA. The Subcommittee members expressed concurrence that the proposed use of development envelopes, as well as the application of the County's growth allocation criteria and guidelines appears to be consistent with the local and State Critical Area programs. Assurance was provided by County Staff, as well as by the developers, that adequate space exists within the growth allocation envelopes to accommodate all stormwater management facilities necessary for compliance with the 10% pollutant reduction requirement.

Buffer Management

The Subcommittee members were presented with a summary of the proposed impacts to the Buffer, as well as with typical sections representing how the County and developers envision meeting the establishment of the Buffer requirement. It was expressed that more detailed information and discussion regarding impacts to the Buffer for shore erosion control, trails and pathways, access to piers, beaches, and other waterfront amenities will be expected through submission of a Buffer Management Plan. It is likely that submittal of a Buffer Management Plan to Commission staff or to the full Commission for review will be included as a condition of approval for the growth allocation. Based on the typical Buffer sections presented at the meeting, further

discussion of Buffer establishment will be necessary, including quantity, size, and location of plant species to be established. Discussion of shore erosion control measures and public access through and within the Buffer were specific concerns raised by Subcommittee members as topics requiring further discussion at the time of Buffer Management Plan submission. These discussions would focus on consistency with the goals for Buffer Management outlined within the County's zoning ordinance and within the State criteria.

The issue of expansion of the Buffer for contiguous hydric soils remains outstanding to date, as confirmation has not been received from the Natural Resources Conservation Service (NRCS) stating that the applicant's independent soil study and subsequent conclusions are sufficient to override the information regarding hydric soils found in the published soil surveys and within the new soil maps provided to this office by NRCS.

Variances

Five impacts to the 100-foot or expanded Buffer remain proposed in conjunction with the location of roads. Since the June 7th meeting, Commission staff has received notice of an application for a variance for the Weir Creek Peninsula bridge. Due to the historical presence of a road along the Weir Creek Peninsula, as well as the potential for an unwarranted hardship to exist should the variance be denied, Commission staff does not anticipate opposition to this variance request. However, no resolution has been achieved relating to the remainder of the four proposed impacts. Commission staffs' position remains that further variances appear to be necessary. The Subcommittee identified alternatives to several of the road crossings, so further analysis is warranted. Where feasible alternatives exist to locate a roadway outside of the Buffer, variances would not be supported by this office.

Forest Interior Dwelling Bird (FIDs)

The Program Subcommittee was presented with a status update on the applicant's ability to meet the 404-acre FIDs mitigation requirement. Since the June Subcommittee meeting, no new information regarding FIDs mitigation has been submitted officially to this office; however, it is our understanding that several promising mitigation sites are being actively pursued. The Program Subcommittee was assured that greater details regarding the outcome of this mitigation would be provided prior to formal consideration of the growth allocation request by the Commission. In addition, we note that the County's June 5th approval of the growth allocation request includes a condition requiring County review and approval of a final FIDs mitigation plan prior to the Commission's consideration of a growth allocation request.

Thank you for your assistance in presenting this project to the Program Subcommittee. We recommend that further discussion of the outstanding issues be initiated by the County and applicants as soon as possible in an effort to move the project forward in its review process. Please let me know if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Marianne Mason, OAG

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 12, 2006

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

Re: Appeal #1417
Blackwater Estates, LLC & Blackwater-Saulsbury, LLC

Dear Ms. Verdery:

Thank you for providing information on the above-referenced allegation of error. The applicant has filed a request, alleging that the Talbot County Planning Officer and the Talbot County Attorney erred in their interpretation of the reservation of development rights restrictions detailed within Section 168-29 of the Talbot County zoning ordinance. The subject property, Tax Map 55, Parcels 11 and 41, is located partially within the Critical Area, within a Resource Conservation Area (RCA).

It appears that the applicant's claim mainly seeks an interpretation as to whether County review of a proposed subdivision on Parcel 11 can begin prior to the expiration date (July 22, 2007) of the five year restriction on development activities within a parcel created exclusively for agricultural purposes, under a recorded reservation of development rights agreement. The process for the creation and dissolution of agricultural subdivisions and reservations of development rights agreements appears appropriately contained and clearly defined within the County's zoning ordinance. Therefore, this office has no comments to offer and defers to the Board's interpretation of the County's ordinance language on this matter.

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

Sincerely,

Kerrie Gallo

Kerrie Gallo
Natural Resources Planner
TC 500-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 9, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 00-08A Bresnik-Revised
(Tax Map 44, Parcel 127)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the above referenced subdivision. The applicant is proposing to create two lots within the Intensely Developed Area (IDA). Proposed Lot 1 is currently undeveloped, while the proposed residue parcel is developed with a primary dwelling.

Based on the most recent plat provided, the applicant has made revisions to plat notes #12 and #13 which now adequately address the requirements for development and redevelopment within the IDA. As a result, we have no further comments on this subdivision request.

Thank you for your efforts in coordinating the review of this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA732-05

Cc: Stephanie Taylor, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 9, 2006

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

Re: M1076 Mercer-Covey
TM 25, Parcels 43 &86

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant proposes to create a 3-lot subdivision in addition to a revision of the lot lines on Parcel 86 and Parcel 43. The majority of the property lies within the Critical Area, and is designated as a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1. Aerial photographs from 2005 indicate that structures may exist on proposed Lot 1 which are not shown on the plat. Specifically, the photos show multiple structures to the north of the existing two-story stable and barn shown on the plat. Please provide further verification of all existing structures, as well as information to support that the existing structures are not considered dwellings.

2. Please clarify why there are two sewage disposal areas shown on proposed Lot 2.

3. In evaluating the current published soil surveys, it appears that highly erodible Keyport and Mattapex soils exist on portions of the site contiguous to the 100-foot Buffer. In addition, it appears that hydric Othello soils exist on portions of the site contiguous to the 100-foot stream Buffer. The Talbot County Zoning Ordinance states that the Buffer shall be expanded beyond 100 feet to include contiguous, sensitive areas, such as hydric or highly erodible soils, whose development or disturbance may impact streams, wetlands, or other aquatic

environments. Please have the applicant provide a soils overlay in order to identify potential areas requiring Buffer expansion.

4. There is a proposed SDA shown within the reservation of development rights area on Revised Tax Parcel 43. Based on the Critical Area acreage, there is no development right permitted within the Critical Area portion of revised Tax Parcel 43. Therefore, a sewage disposal area should not be shown on the plat in this area.

5. The development rights summary states that there are 18.49 acres of land within the Critical Area portion of Tax Parcel 43, south of Glebe Road. Detail sheet 3 shows that proposed Lot 3 is 11.43 acres in size and that revised Tax Parcel 43 contains 11.47 acres within the Critical Area, on the south side of Glebe Road. Based on the acreage shown on detail sheet 3, there are a total of 22.90 acres within the Critical Area on the south side of Glebe Road. This number is inconsistent with the 18.49 acres stated within the development rights summary. Please clarify.

6. Please note that the nontidal wetlands shown on revised Tax Parcel 43, on the south side of Glebe Road, are contiguous with the 100-foot Buffer and therefore become part of the 100-foot Buffer. While it does not appear that any activity is currently proposed which impacts these wetlands, we note that a future proposed impact would require a variance, in addition to a permit from the Maryland Department of the Environment (MDE). Please have the applicant label these wetlands as part of the Buffer on the plat.

7. On Sheet 1, under the development data notes, the applicant has stated that a 50-foot Buffer is required from intermittent streams within the RC portion of the site. Within the Critical Area, intermittent and perennial streams are subject to a 100-foot Buffer. Please have the applicant correct this note.

Thank you for the opportunity to provide comments for this minor subdivision request. Please provide a copy of the revised plat tot his office once it is received. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC304-06

Cc: Al Kampmeyer, MDE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 6, 2006

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

Re: Caldwell Subdivision
Tax Map 22, Parcel 36

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to subdivide a 6.56-acre parcel to create 2 lots. Both proposed lots are currently developed with what appear to be primary dwellings. The property lies within a designated Resource Conservation Area (RCA).

Based on the information provided, we have the following comments regarding this subdivision proposal.

1) It appears that the applicant is proposing to draw lot lines around two non-conforming primary dwellings in regard to density within the RCA, and that no new development is proposed in conjunction with the subdivision. In general, this office does not oppose the request to draw lot lines around the existing dwellings. However, please provide verification that each of the existing structures meets the definition of a grandfathered primary dwelling found within the County's zoning ordinance.

2) It appears that a tidal wetland exists on the adjacent Parcel 104 to the south. Based on the mapped limits of this wetland, a portion of the 100-foot Buffer appears to fall on proposed Lot 2 and possibly a portion of proposed Lot 1. Please have this feature added to the plat.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC316-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 6, 2006

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

Re: M1071 Marth Subdivision-Revised

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant proposes to create a 2-lot subdivision. The property lies partially within the Critical Area, within a designated Resource Conservation Area (RCA). Within the Critical Area portion of the site, 1 lot is proposed.

Based on the information provided, it appears that the majority of our previous concerns have been addressed. However, this office has not yet received notification of an evaluation of the property from the Department of Natural Resources' (DNR) Wildlife and Heritage Division for the presence of any rare, threatened, or endangered species. Should any species be identified by DNR once this evaluation is received, further review and coordination with this office may be necessary. This evaluation letter should be received and any species concerns addressed prior to preliminary plat approval.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC834-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 30, 2006

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

Re: L1022 Flood & May
Tax Map 30, Parcels 99 & 3

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is requesting a line revision to change the existing layout of boundary lines on Tax Parcel 99, Lot 5, and Parcel 3, resulting in a transfer of .012 acres of land from Tax Parcel 3 to Tax Parcel 99, Lot 5. The property designated a Resource Conservation Area (RCA) and each parcel is currently developed with single-family dwellings and pools.

Based on the information provided, it appears that the proposed lot line revision does not include any new development activities on the properties. Rather, the request appears to be solely for the purpose of amending the boundary lines. As a result, we have no comments regarding the applicant's request.

Thank you for the opportunity to provide comments for this lot line revision request. Please call me with any questions at (410) 260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC303-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 30, 2006

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

Re: Minor Line Revision-Roche
Tax Map 34, Parcel 66

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing to revise the lot line between existing Lot 1 and Lot 2, as well as abandon the existing lot line between Lot 2 and the existing road parcel. The property lies within a designated Limited Development Area (LDA) and is currently developed.

This office previously reviewed a request to altogether abandon the lot line between Lots 1 and 2, as well as abandon the existing lot line between Lot 2 and the road parcel. At this time, it appears that the abandonment of the boundary line between Lot 1 and 2 is no longer proposed, but instead, a revision of the boundary line is proposed, allowing the continued existence of two, separate and distinct lots. It does not appear that any other change has been proposed since our last review. Therefore, this office has no additional comments and does not oppose the lot line revision and abandonment request. Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC833-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 26, 2006

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

Re: A073 Olsen

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a Buffer variance in order to construct an addition to the existing primary dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the proposed 396 square foot addition, of which 139 square feet is proposed within the Buffer, will be constructed entirely over the footprint of an existing impervious patio. When complete, the proposed addition will lie 91 feet from Mean High Water (MHW), which is no closer to MHW than the existing dwelling foundation. As a result, this office does not oppose the applicant's variance request and we have no additional comments.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC197-106

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 26, 2006

Mr. William Watson
Town of Chesapeake Beach
8200 Bayside Road
P.O. Box 400
Chesapeake Beach, Maryland 20732

Re: North Beach Volunteer Fire Department
Site Plan for Minor Addition

Dear Mr. Watson:

Thank you for providing information on the above referenced site plan. It appears that the North Beach Fire Department is proposing to construct two additions to the existing structure on the property. The proposed additions result in a total new footprint of 3,150 square feet, but result in an overall decrease in impervious surface area of 596 square feet. The property lies within an Intensely Developed Area (IDA).

Based on the information provided, we have the following comments.

1. The site plan indicates an area of wetlands along the northern portion of the site. Please have the applicant clarify whether these wetlands are tidal or nontidal and label them on the site plan. In addition, please add a note that states whether the wetlands have been field delineated. Please note that the 100-foot Buffer must be delineated in the field from the landward edge of any tidal wetlands.

2. Should the wetlands shown on the site plan be determined to be tidal, it will be necessary to determine in the field whether they are State or privately-owned tidal wetlands. State-owned wetlands cannot be included within property acreage totals for the purpose of calculating the 10% rule pollutant reduction requirement.

3. The 10% rule calculations as submitted are incorrect. Specifically, in calculating the pre and post development pollutant loads, the applicant has utilized 1.08 mg/l as the constant, (C), the flow-weighted mean concentration of the pollutant. As a component of the updated 2000 Maryland Department of the Environment (MDE) stormwater design manual, as well as the 2003 Critical Area 10% Rule Compliance Manual, this constant (C) was changed to 0.30 mg/l. Incorporating this change into the 10% worksheets, the pollutant removal requirement

for the proposed project changes to 0.387 lbs of phosphorus per year. I have included a copy of the Commission's 2003 10% Rule Guidance Manual for future use by the Town.

4. The applicant states that the overall decrease in impervious surface area post development should result in the applicant not having to comply with the 10% pollutant removal requirement. This statement is not accurate in that the project must demonstrate that a 10% improvement in pollutant loadings have been achieved onsite post development. While some net pollutant benefit is provided by simply decreasing the amount of total impervious surface area, the 597 square foot reduction represents less than a 10% improvement, and therefore 10% compliance not been achieved. However, the applicant also claims that an existing stormwater management pond was constructed in the early 1990's for the purpose of meeting the Critical Area 10% requirement at the time that the existing structure was constructed. It is not clear to this office what amount of phosphorus the existing pond was designed to remove and whether the pond may have been over-designed. If the applicant can demonstrate that the existing pond was in fact over designed so that an additional 0.387 lbs of phosphorus could be treated by the pond, then it may be possible that no additional stormwater management measures are necessary. Documentation to support such an over design must be provided to this office in order to be considered adequate for the additions.

We appreciate the opportunity to provide comments on this site plan and development proposal. Please have the applicant address the above stated concerns and provide a revised site plan and 10% rule calculations to this office. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 309-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 25, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-06-06-42 Hellen Creek
(Tax Map 42, Parcel 338)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a 3.25-acre property. The property is located within a Limited Development Area (LDA) and is currently developed with two primary dwellings and a shed.

Based on the information provided, the proposed subdivision does not comply with State Law. Specifically, each of the proposed new lots is greater than one acre in size, and as such is limited to a 15% impervious surface area per lot (Annotated Code of Maryland §8-1808.3). Proposed Lot 1-A contains 10,583 square feet of existing impervious surface area. Based on the proposed acreage of Lot 1-A, the impervious surface area limit is 10,428 square feet. In order for proposed Lot 1-A to comply with the State and County impervious surface area limits, and for the subdivision to be legal, the applicant must revise the lot lines on proposed Lot 1-A to create a larger lot. Based on the proposed acreage of Lot 1-B, the impervious surface limit for this lot is 10,630 square feet. It appears that the proposed Lot 1-B currently complies with impervious surface area limits. However, we note that the total acreage of Lot 1-B is subject to change in order to make Lot 1-A larger and therefore legal. Please have the applicant revise the lot lines and submit a revised subdivision plat.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA287-06

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 25, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-00-10A-32 Flag Harbor
(Tax Map 32, Parcel 64)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create four new building lots, three outlots, and one residue parcel on a 10.50-acre property. The property is located within a Limited Development Area (LDA) and is currently developed with parking areas, a pool, tennis courts and a condominium building.

Based on the information provided, we have the following comments regarding the plat and subdivision proposal.

1) Based on the acreages provided, it appears that the proposed subdivision creates a non-conforming Outlot A and Residue A in relation to impervious surface area limits. A new subdivision within the Critical Area must comply with the impervious surface area limits within the State Law. The creation of non-conforming lots cannot be permitted.

2) General Note #6 indicates .14 acres of nontidal wetlands exist on the property, but this feature is not shown anywhere. Please have the applicant clarify.

3) Based on the forested cover shown on the plat, it appears that establishment of the Buffer will be necessary on Lots 1-4 prior to or at the time of development. Please have the applicant add a note which references this requirement.

4) The limits of the 100-foot Buffer are not correctly shown on Lots 1, 2, and Outlot A. In addition, it appears that the Buffer is not correctly measured as drawn from the tributary stream on Lot 4 and Residue A.

5) General Note #20 references a total impervious area of 3.66 acres. Please have the applicant clarify whether this exists, proposed, or permitted.

6) The labels for Outlot B and Outlot C, as well as their proposed acreages should be easily identifiable and removed from underneath the septic reserve areas. The use of leaders would help solve this problem.

7) Note #4 of the Critical Area Notes states that the plan reduces impervious surface area by 30%, but does not specify which existing features are to be removed and how this will be accomplished. Will the tennis courts remain?

8) We note that the property appears to fall within a sensitive species review area for a Federally listed species. At this time, this office has not received notification that an evaluation of the property has been conducted by the Department of Natural Resources (DNR) for the presence of rare, threatened, or endangered species. Please have the applicant provide information that details the particular species of concern and whether any protective measures are necessary per the County's ordinance. A map showing this sensitive species review area has been enclosed.

Thank you for the opportunity to provide comments for this minor subdivision request. Please have the applicant provide a revised site plan along with a description of how each of the above concerns has been addressed. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA615-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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May 22, 2006

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

Re: Appeal #1409 Avalon Limited Partnership

Dear Ms. Verdery:

Thank you for providing information on the above referenced allegation of error. This letter constitutes the comments of the Critical Area Commission, and we request that the County submit this letter as part of the record of the proceedings on May 22, 2006. The applicant alleges that the decisions and orders of the Zoning Enforcement Officer are not authorized by law, and are incorrect as a matter of law and fact. Other than this statement, the applicant provides no details as to the legal or factual basis of the allegation of error.

The applicant is the owner of the subject property, which lies within a designated Resource Conservation Area (RCA). According to the information provided by the County, and testimony from the earlier session of the Board's hearing in this matter on April 24, 2006, the Talbot County Zoning Enforcement Officer issued a notice of violation and order to abate in response to the clearing of natural vegetation, specifically by way of bushhogging, within the 100-foot Critical Area Buffer. This unauthorized bushhogging occurred on the applicant's property, in Phase II of a subdivision known as Tilghman on the Chesapeake. Based on testimony during the April Board of Appeals hearing, the applicant alleges that the bushhogging and clearing activities were authorized by virtue of an outstanding permit from 2002 issued to the property owner specifically for pruning, thinning, and removal of selected plants, on a different portion of the property, namely Phase I, of the subdivision. The testimony was uncontradicted that that the 2002 limited permit was issued for a location, separate and distinct from Phase II, where the recent unauthorized bushhogging took place. The applicant acknowledged the intent to apply for a Critical Area Forest Preservation Permit for the proposed clearing within Phase II, and indeed submitted a permit application. That application, however, identified the already cleared Phase I site on the permit application. The clearing of Phase II was accomplished shortly after the erroneous permit application was submitted, but before the County acted on the application.

In evaluating the allegation of error, we ask the Board to consider the following:

1) The applicant has argued that the 2002 permit, issued specifically for pruning, thinning, and removal of selected plants within Phase I of the property, remains a valid permit for the new bushhogging at a different location in Phase II of the subdivision. If the Board accepts this proposition, we note that the removal of natural vegetation which occurred on the Phase II portion of the property exceeds that which would be allowed under a permit to prune, thin and remove select plants. The clearing on Phase II was accomplished by indiscriminate bushhogging. As the Commission's prior written communications to the County have made clear, the Commission considers the practice of bushhogging generally inconsistent with the intent of the Critical Area Buffer regulations, and not a necessary, required, or desirable component of Buffer Management.

   Further, we note that within the past several years, Talbot County made significant changes to the Buffer clearing portions of the County's ordinance to be more consistent with the State Law and Criteria. Specifically, the ordinance was changed to eliminate the widespread and non-permitted practice of bushhogging. The Commission reviewed and approved these changes to the County ordinance, and views them as positive changes to the County's Critical Area Buffer and forest preservation provisions. The 2002 permit is superceded by operation of law, and cannot be read to have any further force and effect given the 2004 change to the County's Critical Area Ordinance.

2) State law requires Talbot County to have and to maintain an enforceable Critical Area Program, including enforcement of restrictions on clearing in the Buffer. (Annotated Code of Maryland, Natural Resources Article 8-1808.) Accordingly, the Talbot County ordinance contains specific provisions which govern how the County will enforce the Critical Area Law and Criteria. Based on these provisions, the Commission believes that, under the circumstances of this case, the County correctly exercised its authority to enforce its own Critical Area Program. A local jurisdiction's ability to enforce the Critical Area Law is a crucial component of that jurisdiction's ability to implement its own Critical Area Program. The applicant proposes either that the County lacks enforcement authority or that a loophole exists regarding this specific citation. We believe that the County's Critical Area regulations are clear and have been properly enforced in this case.

In summary, the Commission's position, as reinforced in the attached letter, is that the practice of bushhogging within the Critical Area, and specifically within the Buffer, is not generally permitted as an accepted horticultural practice, and is never permitted without a specific Buffer Management Plan and/or Critical Area Forest Preservation permit. Whether a permit exists from 2002 which may or may not allow continued pruning, thinning, and removal of select plants on a different portion of the property, should be secondary to the fact that a clearing violation appears to have occurred. Therefore, we concur with the County's determination that there was a violation on the subject property and that the County correctly interpreted and applied its own ordinance in enforcing said violation.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC94-06

Cc: Marianne Mason, OAG

Enclosure

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 16, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Building Permit Plat-Lot 2R
Pricha Phattiyakul Property

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit. The applicant is requesting a permit to construct a single family dwelling, garage and septic system on slopes greater than 15% and within the expanded Buffer. The property is a designated a Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is proposing to construct a dwelling with 2,530 square footprint, as well as a deck, porch, and garage. We note the Board of Appeals' decision dated May 27, 1992 permits the applicant to disturb steep slopes and to construct a dwelling within the expanded Buffer, in accordance with the conditions stated in the decision. However, we note that the Board of Appeals decision does not make reference to the presence of Forest Interior Dwelling Bird (FID) habitat which has been documented to exist on the property. As you are aware, the presence of FIDs habitat requires the applicant to submit a Habitat Protection Plan (HPP) detailing how protection of FIDs habitat will be assured as well as how any required mitigation will be implemented. At this time, this office has not received a HPP along with the site plan. Therefore, it is not possible to make a determination that the applicant's building permit request is consistent with the County's zoning ordinance requirements.

While we are not able to offer support for or provide comments regarding this building permit request at this time, we note that any HPP submitted should fully address each of the protection guidelines found within the Critical Area Commission's Guidance document, A Guide to the Conservation of FIDS in the Chesapeake Bay Critical Area. Please ensure also that the FIDs mitigation worksheet found in Appendix D of the afore mentioned document is completed by the applicant and provided to this office. Once this information is received, Commission staff would be happy to provide further comment on both the applicant's development proposal and the HPP.

Thank you for the opportunity to provide comments for this building and grading permit request. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Katharine McCarthy, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 16, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Building Permit Plat-Lot 1R
Pricha Phattiyakul Property

Dear Mr. Swartz:

Thank you for providing information on the above referenced building and grading permit. The applicant is requesting a permit to construct a single family dwelling, garage and septic system on slopes greater than 15% and within the expanded Buffer. The property is a designated a Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, it appears that the applicant is proposing to construct a dwelling with 2,334 square footprint, as well as a porch, deck, and garage. We note the Board of Appeals' decision dated May 27, 1992 permits the applicant to disturb steep slopes and to construct a dwelling within the expanded Buffer, in accordance with the conditions stated in the decision. However, we note that the Board of Appeals decision does not make reference to the presence of Forest Interior Dwelling Bird (FID) habitat which has been documented to exist on the property. As you are aware, the presence of FIDs habitat requires the applicant to submit a Habitat Protection Plan (HPP) detailing how protection of FIDs habitat will be assured as well as how any required mitigation will be implemented. At this time, this office has not received a HPP along with the site plan. Therefore, it is not possible to make a determination that the applicant's building permit request is consistent with the County's zoning ordinance requirements.

While we are not able to offer support for or provide comments regarding this building permit request at this time, we note that any HPP submitted should fully address each of the protection guidelines found within the Critical Area Commission's Guidance document, A Guide to the Conservation of FIDS in the Chesapeake Bay Critical Area. Please ensure also that the FIDs mitigation worksheet found in Appendix D of the afore mentioned document is completed by the applicant and provided to this office. Once this information is received, Commission staff would be happy to provide further comment on both the applicant's development proposal and the HPP.

Thank you for the opportunity to provide comments for this building and grading permit request. Please call me if you have any questions at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

cc: Katharine McCarthy, DNR

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 16, 2006

Mr. John Hofmann
Town Engineer
Town of North Beach
8916 Chesapeake Avenue, PO Box 99
North Beach, Maryland 20714

Re: POS Project #4793-4-55
North Beach Waterfront Park, Streetscape Project

Dear Mr. Hofmann:

Thank you for providing information on the above referenced proposal to conduct streetscaping improvements, construct a 400 square foot stage on top of the existing pavilion deck at Bay Avenue, between 3rd and 5th streets, and to construct showers and changing rooms at the existing Welcome Center Building .The project lies within a designated Intensely Developed Area (IDA).

Based on the information provided, it is my understanding that the proposed improvements will be conducted entirely within the confines of the existing impervious footprints, and that no new disturbances, tree removal, or expansion of impervious surface area will occur as a result of the project. As a result, this project appears to be consistent with the provisions for a local agency action resulting in development of local significance on lands owned by local jurisdictions outlined within COMAR 27.02.02. Therefore, I concur that no further Commission review or action is necessary.

Thank you for your coordination in forwarding project specific information to this office for review. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 16, 2006

Mr. Robert Wink
Code Enforcement Officer
Town of Princess Anne
11780 Beckford Avenue
Princess Anne, Maryland 21853

Re: Beckford Manor Growth Allocation

Dear Mr. Wink:

This letter is in response to the growth allocation site plan and 10% rule calculations received in regard to the Beckford Manor subdivision. The following comments represent a coordinated and joint review effort between Tracey Gordy, Circuit Rider for the Town of Princess Anne, and Commission staff.

1. There are several discrepancies within the 10% rule compliance calculations report prepared by Wilkins-Noble, LLC and Chris Custis Surveying, Inc., and dated April 22, 2006. These discrepancies result in an incomplete 10% rule submission and require additional information. Specifically, please address the following:
    - Lots 31 and 32 have been included within the proposed impervious surface area totals, but these lots are not located within the Critical Area. If these lots have been specifically included within 10% calculations for the purpose of enhanced pollutant removal benefits, please provide a statement which makes this intention clear.
    - Lots 37 and 30B appear to lie partially and entirely within the Critical Area respectively and have not been included within proposed impervious surface area totals. These lots must be included in 10% calculations.
    - Page A.2 of the report, Step 3, utilizes .26 as (C), but should utilize .30 as (C), as described within the 10% compliance manual. There is no explanation as to why a deviation from the constant (C) described in the manual is utilized, but in combination with the inaccurate lot summaries stated above, this deviation appears to result in an inaccurate calculation of the Lpost, as well as within the corresponding pollutant removal requirement. Please submit revised 10% calculations which address this problem.

2. In regard to the wet ED ponds proposed to meet the 10% pollutant reduction requirement, the MDE 2000 stormwater manual design criteria states that a wet ED pond shall have a minimum 10-acre

drainage area contributing to it in order to retain the permanent pool levels. Based on the calculations provided, it appears that both drainage areas for both wet ED ponds are below this 10-acre minimum. Specifically, it appears that wet ED pond A has a contributing drainage area of 8.14 acres, and wet ED pond B has a contributing drainage area of 1.89 acres. Therefore, neither pond appears to meet the MDE design criteria for the use of wet ED ponds.

3. In addition to the design and use concern stated above in regard to the proposed wet ED ponds, I reference comment # 3 within the May 7, 2006 letter from Dale Pusey, stormwater reviewer for the Town of Princess Anne (see attached). This comment suggests that there are deficiencies in the current design of the wet ED ponds which may affect the pollutant removal efficiency rate of 60%. Resolution of these design concerns must be achieved, with assurance provided by the Town's stormwater reviewer prior to the Commission's acceptance for processing of the Beckford Manor growth allocation request.

4. Comment # 18 within the attached May 7, 2006 letter from Dale Pusey states that a ten-foot maintenance easement will be required on the portions on Lots 23, 24, 25, and 29 that border the stormwater management pond. Given that this stormwater pond is proposed to meet the 10% pollutant reduction requirement, clarification and/or further assurance is necessary to ensure that the required easements can be acquired. This office has concerns that the stated lots may have already been sold, and as such, acquisition of a 10-foot easement area may be difficult and or impossible to assure. Should this situation affect the feasibility of the proposed pond, an alternative stormwater management measure will be needed. This issue must be resolved prior to the Commission's acceptance for processing of a growth allocation request.

5. In regard to the subdivision plat submitted, and intended to be recorded, in conjunction with the award of growth allocation, please address the following:
    - The total number of lots appears to be 41, not 40 because Lot 30B is shown as a separate lot.
    - Has Lot 30B been included within the calculation of the average lot size stated on the plat?
    - The total number of lots either partially or fully within the Critical Area appears to be 31, not 28.
    - Please include a note on the subdivision plat stating that the property is located partially within the Critical Area and designated as an Intensely Developed Area (IDA).
    - The previously recorded forest retention area remains included within the proposed subdivision plat submitted to this office. Please verify that the 6.18 acres of forest retention and afforestation is to remain a component of the Beckford Manor subdivision.
    - In order to assure that the best management practices associated with 10% rule compliance are not compromised throughout the build-out phase of the subdivision, the budgeted impervious surface area totals for each lot area must be stated on the subdivision plat and shown within the individual lots.
    - It is my understanding that the Town ordinance contains building setback requirements for each lot which are more strict than those previously recorded on the County

subdivision plat. Please clarify whether the existing dwellings will be able to comply with the Town's setback requirements. Specifically, this office has concerns that any existing non-conforming dwellings would require a variance or alteration of existing lot lines prior to recordation of the new plat. Clarification is needed as to whether this situation presents the potential for revision to the lot lines currently shown within the Critical Area.

Thank you for the opportunity to provide comments on this subdivision plat and preliminary growth allocation request. By addressing these concerns early in the growth allocation process, the Town can assure that the project is able to move forward in a timely manner. Should you have any questions regarding what is needed in relation to the Beckford Manor subdivision, or in regard to the procedural requirements for growth allocation and subdivision plat review by Commission staff, please contact me at 410-260-3482, or Tracey Gordy at 410-713-3460.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

cc: Chairman Martin G. Madden, CAC
Marianne Mason, OAG
Tracey Gordy, MDP
Jay Parker, Town of Princess Anne
Town of Princess Anne Commissioners

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 16, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3318 Rosen

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the steep slope requirements in order to construct a primary dwelling and septic system. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the property is partially constrained by the presence of steep slopes, and that it may not be possible to develop the property without some degree of variance. Therefore, this office does not generally oppose some form of variance to the steep slope requirements. However, the applicant bears the burden to demonstrate that the variance is the minimum necessary and that a variance of a lesser degree would not be possible. Prior to the award of a variance, we recommend that the Board consider whether an alternative design and/or placement of the rectangular dwelling and garage footprint would allow for better use of the flat portions of the property. For example, the garage could be incorporated into the dwelling, allowing a more compact footprint, or the current footprint could be flipped horizontally and moved to the southern, flattest part of the property. At the very least, would a swap of the primary and secondary septic drain fields lessen the impact to steep slopes and help reduce the amount of clearing? While it is not entirely clear from the site plan whether these alternatives are possible or have been considered, we recommend that the applicant be required to address all possible alternatives to assure that impacts to steep slopes have been minimized to the extent possible prior to the award of a variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA294-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 16, 2006

Mr. David Brownlee
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Gallery Building at Annemarie Gardens

Dear Mr. Brownlee:

Thank you for providing information on the above referenced proposal to construct a new gallery building at the County-owned Annemarie Gardens property. Based on the information provided, the County proposes to construct a 17,683 square foot gallery building in addition to multiple parking spaces, and an access ramp to the new building. The project lies within a designated Limited Development Area (LDA).

It is my understanding that the proposed improvements require the clearing of approximately 0.29 acres of forested cover. Mitigation will be provided at a 1:1 ratio and will be implemented on site. In addition, the addition of the gallery building and associated parking improvement results in a total impervious cover of 10% on the property. Further, it appears that there are no rare, threatened, or endangered species known to occur on the site, and thus no impacts to habitat protection areas. Based on the information provided, I concur that that the project appears to be consistent with the provisions of COMAR 27.02.02 and requires no further Commission review or action.

We appreciate the opportunity to provide comments on this development proposal. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 284-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 15, 2006

Ms. Debbie Renshaw
Zoning Enforcement Officer
Town of St. Michaels Planning Office
P.O. Box 206
St. Michaels, Maryland 21663-0206

Re: Hatton's Gardens Growth Allocation

Dear Ms. Renshaw:

The purpose of this letter is to provide a summary of the Program Subcommittee's discussion of the Hatton's Gardens preliminary growth allocation and development proposal presented by Karen McJunkin of Elm Street Development on May 3, 2006. It was the Program Subcommittee's first look at the project, so much of the discussion centered on the members' efforts to gain a basic understanding of the project. The following summarizes some of the issues raised by the subcommittee members which will require further consideration prior to a formal growth allocation request submittal.

100-foot Buffer

The Program Subcommittee requested further information regarding the establishment of the Buffer in forest vegetation. Given the nature of this discussion, it is likely that the Subcommittee members will want to see the submission of a Buffer Management Plan that is consistent with the goals for Buffer establishment and management set forth in COMAR 27.01.09.01 prior to or at the same time as their formal consideration of a growth allocation request. While the criteria do not include provisions for maintaining a view through the Buffer, there was discussion about whether a combination of varying plant species and clustering could be utilized to establish a fully vegetated Buffer which provides both habitat and water quality values and aesthetic benefits. The Town and the developer should be prepared to address how the Buffer Management Plan will provide a forested Buffer that performs the functions set forth in COMAR 27.01.09.01. B(1) through (5).

300-foot Setback

As you are aware, the Critical Area Criteria state that when locating new Limited Development Areas (LDAs) within the Resource Conservation Area (RCA), a 300-foot setback should be provided. Currently, the Hatton's Gardens project does not include a 300-foot setback. Instead, approximately two thirds of the project area will be permanently protected through conservation easements, with significant areas of the property set aside for reforestation and afforestation. The Subcommittee members expressed the opinion that in addition to these mitigating conservation measures, deed covenants and restrictions should be included which restrict access through the Buffer and which provide a mechanism for long term maintenance of the Buffer areas on each lot.

Other Habitat Protection Areas
At the time of the Program Subcommittee presentation, an evaluation of the property by the Department of Natural Resources (DNR) for the presence of any rare, threatened, or endangered species had not been completed. This information will be necessary prior to the Commission's formal consideration of a growth allocation request. In addition, should the DNR identify the property as containing species of concern or habitat for species of concern, submission of a Habitat Protection Plan will be required.

Shoreline Access
It was communicated to the Subcommittee members that a total of eight shared piers are proposed in conjunction with the development. As indicated within the Buffer comments above, the Subcommittee members are likely to request a comprehensive Buffer Management Plan which demonstrates consistently with the goals for Buffer management set forth in COMAR 27.01.09.01. Access through the Buffer for piers should be discussed within this document.

Compliance with Growth Allocation Guidelines
Prior to the submission of a request for approval of growth allocation to the Commission, the adjacency and locational guidelines in §8-1808.1(c) of the Natural Resources Article of the Annotated Code of Maryland and COMAR 27.01.02.06 will need to be addressed before the Program Subcommittee. These guidelines were recently revised and clarified by the General Assembly. There was concern expressed regarding whether the location of the proposed development was appropriate given the historical agricultural use of the parcel, as well as questions about whether the Town or County had given consideration to requiring a portion of the property to remain in agricultural use.

Area of Growth Allocation Deducted
The project proposes to utilize a 30-acre development envelope to accommodate the proposed development. The remainder of the property is proposed to remain as a RCA. Given the use of cluster development and the extensive acreage permanently protective by way of easement, the Subcommittee members did not express significant concerns regarding the use of the development envelope or the lack of a 300-foot setback.

In summary, Ms. McJunkin's presentation to the Program Subcommittee was helpful in providing an opportunity for the members to ask questions and identify possible issues of concerns early in the review and approval process. Once more information is available, Commission staff would be happy to provide further preliminary written comment as to any outstanding issues of concern. In the meantime, please let me know if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Cc: Marianne Mason, OAG
Karen McJunkin, Elm Street Development
Roby Hurley, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
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May 9, 2006

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

Re: L1020 Duvall

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing to revise the lot lines on two existing parcels of record. The property is designated partially a Resource Conservation Area (RCA) and partially a Limited Development Area (LDA). Both revised parcels are currently developed with single family dwellings and multiple accessory structures.

Based on the information provided, it appears that no new development is proposed in conjunction with the lot line revision. As a result, we generally have no concerns regarding the applicant's proposal. For informational purposes, we note that the Department of Natural Resources (DNR) has identified the property as lying within a sensitive species review area and that the existing pond shown on Revised Parcel 260 appears as a nontidal wetland within the State's mapping database.

Thank you for the opportunity to provide comments on this minor lot line revision. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC89-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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May 9, 2006

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

Re: L1020 Duvall

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing to revise the lot lines on two existing parcels of record. The property is designated partially a Resource Conservation Area (RCA) and partially a Limited Development Area (LDA). Both revised parcels are currently developed with single family dwellings and multiple accessory structures.

Based on the information provided, it appears that no new development is proposed in conjunction with the lot line revision. As a result, we generally have no concerns regarding the applicant's proposal. For informational purposes, we note that the Department of Natural Resources (DNR) has identified the property as lying within a sensitive species review area and that the existing pond shown on Revised Parcel 260 appears as a nontidal wetland within the State's mapping database.

Thank you for the opportunity to provide comments on this minor lot line revision. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC89-05

Robert L. Ehrlich, Jr.
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www.dnr.state.md.us/criticalarea/

May 5, 2006

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

Re: Critical Area Zoning Amendments-Historic Waterfowl Staging and Concentration Areas
County Bill No. 997

Dear Ms. Verdery:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced refinement. On May 3, 2006, the Critical Area Commission unanimously concurred with the Chairman's determination that the proposed text changes could be approved as a refinement to the County's zoning ordinance and Critical Area Program.

Please incorporate this refinement into the County's zoning ordinance within 120 days from the date of this letter. Also, please provide this office with updated sections of the zoning ordinance once the changes have been made. Please contact me at 410-260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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May 5, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 00-08A Bresnik-Revised
(Tax Map 44, Parcel 127)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on a .744-acre property. The property lies within a designated Intensely Developed Area (IDA). Proposed Lot 1 is currently undeveloped, while the proposed residue parcel is currently developed with a primary dwelling.

Based on the information provided, it appears that the applicant has addressed the majority of our previous comments. However, there is one remaining outstanding issue which has not been sufficiently addressed. Specifically, the County's zoning ordinance, Section 8-1.02.F, Criteria for Development in the IDA, contains two separate criteria germane to this subdivision. The first, that the County shall require technologies to minimize adverse impacts to water quality caused by stormwater, or in the case of new development where technologies do not reduce pollutant loadings by at least 10% below the level of pollution on the site prior to redevelopment, then offsets shall be used to reduce pollutant loadings by at least 10% of the pre-development levels, appears to be addressed in general by proposing a forested buffer strip where one does not currently exist. If the County determines that this type of offset effectively reduces pollutant loadings by 10% on either lot where new or redevelopment is proposed, this method appears to be consistent with the County's ordinance. However, plat note #12 implies that 10% compliance is considered only where redevelopment is proposed. We note that 10% rule compliance applies to both new development and redevelopment. Plat note # 12 should be refined to avoid confusion at the building permit stage.

In addition, plat note #12 claims that planting of a forested buffer strip will also satisfy the criteria for development within the IDA stating, if practicable, permeable areas shall be established in vegetation. While the buffer strip plantings implemented for compliance with the 10% rule may be utilized to also meet the IDA vegetation establishment requirement where appropriate, it is not clear where the buffer

strip is intended to be located, whether new or redevelopment is intended for one or both lots, and whether this offset will sufficiently meet the establishment of vegetation criteria included as a separate and distinct provision in the County's ordinance. We recommend that plat note #12 be refined to specifically address the IDA criteria as it pertains to a specific lot where new or redevelopment is proposed.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA732-05

Cc: Stephanie Taylor, Calvert County
Dave Brownlee, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 4, 2006

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

Re: M1058 Callahan-revised
(Tax Map 4, Parcel 3)

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised major subdivision request. The applicant is requesting to subdivide a 167.34-acre parcel to create 10 new lots. The property is partially within the Critical Area (60.93 acres) and is a designated Resource Conservation Area (RCA).

Previous reviews of a subdivision proposal on this property included acreage and proposed lots on the neighboring Parcel 54. It appears that Parcel 54 has been excluded from this revised subdivision plat. In addition, we note that the current subdivision plat is labeled as "revised sketch" and still does not contain any information regarding environmental features of the site or plat notes. As such, the following comments are largely a reiteration of comments from our previous review. Once the required environmental information is provided by the applicant, this office will have additional comments to offer regarding the Critical Area component of the site.

1. The current plat does not include the following required elements: Critical Area 100-foot Buffer, tidal and non-tidal wetland boundaries and their buffers, steep slopes, hydric soils, and perennial or intermittent streams and their buffers. Please advise the applicant that these features must be field delineated and shown on future plats.

2. While the plat states that there are three Critical Area development rights in use, there are six lots with boundary lines extending into the Critical Area. At the preliminary plat stage, please ensure that the location of the three proposed dwellings is specified on the plat. In addition,

future plat notes should contain a statement regarding the prohibition of development activities on those lots shown within the Critical Area, but not utilizing a development right.

3. There are several areas where tidal wetlands appear to lie within the property boundaries. These wetland areas will be considered to be State-owned unless the applicant provides a jurisdictional determination made by a certified professional detailing the field-determined acreage of state and private tidal wetland areas. We note that the current Critical Area acreage is noted as 60.93 acres. Should State-owned wetlands lie within the property boundaries, it appears that the Critical Area development rights could be affected. We recommend that a field determination of private and State tidal wetlands be made early in the subdivision review process.

4. As described in detail in previous letters, this site has been identified by DNR as containing Delmarva Fox Squirrel (DFS) habitat, Forest Interior Dwelling Bird (FIDS) habitat, and known occurrences for six rare, threatened or endangered species. The presence of the DFS habitat requires the applicant to consult with the US Fish and Wildlife Service to determine any necessary protection measures. In addition, the applicant is required to submit a habitat protection plan for the DFS, FIDS, and rare, threatened and endangered species habitat as detailed within the Talbot County Zoning Ordinance. Based on the level of information provided on the site plan, Lots 3, 4, 7, and 10 may be affected by these protection requirements.

5. A stated in the DNR Heritage letter, the portion of Mill Creek that overlaps with the project site is designated as a Wetland of Special State Concern (WSSC). In general, WSSC require that a 100- foot buffer surround the wetland. The applicant should coordinate with the Maryland Department of the Environment (MDE) to determine the exact location of this WSSC, as well as determine the need for special permits should development be proposed within the wetland or its buffer.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 829-04

Cc: Mary Ratnaswamy, USFWS
Scott Smith, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 4, 2006

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

Re: M1058 Callahan-revised
(Tax Map 4, Parcel 3)

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised major subdivision request. The applicant is requesting to subdivide a 167.34-acre parcel to create 10 new lots. The property is partially within the Critical Area (60.93 acres) and is a designated Resource Conservation Area (RCA).

Previous reviews of a subdivision proposal on this property included acreage and proposed lots on the neighboring Parcel 54. It appears that Parcel 54 has been excluded from this revised subdivision plat. In addition, we note that the current subdivision plat is labeled as "revised sketch" and still does not contain any information regarding environmental features of the site or plat notes. As such, the following comments are largely a reiteration of comments from our previous review. Once the required environmental information is provided by the applicant, this office will have additional comments to offer regarding the Critical Area component of the site.

1. The current plat does not include the following required elements: Critical Area 100-foot Buffer, tidal and non-tidal wetland boundaries and their buffers, steep slopes, hydric soils, and perennial or intermittent streams and their buffers. Please advise the applicant that these features must be field delineated and shown on future plats.

2. While the plat states that there are three Critical Area development rights in use, there are six lots with boundary lines extending into the Critical Area. At the preliminary plat stage, please ensure that the location of the three proposed dwellings is specified on the plat. In addition,

future plat notes should contain a statement regarding the prohibition of development activities on those lots shown within the Critical Area, but not utilizing a development right.

3. There are several areas where tidal wetlands appear to lie within the property boundaries. These wetland areas will be considered to be State-owned unless the applicant provides a jurisdictional determination made by a certified professional detailing the field-determined acreage of state and private tidal wetland areas. We note that the current Critical Area acreage is noted as 60.93 acres. Should State-owned wetlands lie within the property boundaries, it appears that the Critical Area development rights could be affected. We recommend that a field determination of private and State tidal wetlands be made early in the subdivision review process.

4. As described in detail in previous letters, this site has been identified by DNR as containing Delmarva Fox Squirrel (DFS) habitat, Forest Interior Dwelling Bird (FIDS) habitat, and known occurrences for six rare, threatened or endangered species. The presence of the DFS habitat requires the applicant to consult with the US Fish and Wildlife Service to determine any necessary protection measures. In addition, the applicant is required to submit a habitat protection plan for the DFS, FIDS, and rare, threatened and endangered species habitat as detailed within the Talbot County Zoning Ordinance. Based on the level of information provided on the site plan, Lots 3, 4, 7, and 10 may be affected by these protection requirements.

5. A stated in the DNR Heritage letter, the portion of Mill Creek that overlaps with the project site is designated as a Wetland of Special State Concern (WSSC). In general, WSSC require that a 100- foot buffer surround the wetland. The applicant should coordinate with the Maryland Department of the Environment (MDE) to determine the exact location of this WSSC, as well as determine the need for special permits should development be proposed within the wetland or its buffer.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 829-04

Cc: Mary Ratnaswamy, USFWS
Scott Smith, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 4, 2006

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

Re: Kemp Subdivision
(Tax Map 24, Parcel 41)

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is requesting to subdivide a 79.26-acre parcel to create two Critical Area lots, the revised Deed Parcel 2, Lot 2 and Lot 3. The property lies partially within a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, we have the following comments regarding the subdivision proposal.

1. The plat contains a note stating that a fee-in-lieu was paid for 4.92 acres of afforestation required to meet Section 190-93.E.9.d.1.i of the County's ordinance. Please provide explanation as to how the County's ordinance permits the payment of a fee-in-lieu in order to meet the 15% afforestation requirement, particularly where ample opportunity appears to exist to accommodate plantings onsite. In addition, [d] of the above referenced ordinance section states that a fee-in-lieu shall be provided, adequate to ensure the restoration or establishment of an equivalent forest area, if the site precludes the implementation of subsections [b] and [c]. Please provide documentation which illustrates how the planting of 4.92 acres of forest will be achieved, through the payment of $2,460.00.

2. The impervious surface area calculations include a note stating that the impervious area within the Critical Area of revised Deed Parcel 2, remaining lands, east of Nursery Road, shall be located to Lot 3 for a future driveway. The intention of this note is not clear. Specifically, is the note intended to mean that the impervious surface area associated with a driveway through the 5.17-acre remaining land parcel will be included within the impervious surface area calculations for Lot 3, or that the acreage of the 5.17-acre remaining lands parcel will be allocated to Lot 3 in order to provide

additional impervious coverage on Lot 3? The former is permitted and the latter is not. Please clarify.

3. The Department of Natural Resources (DNR) has identified the site as containing habitat for Delmarva Fox Squirrel (DMF). While it does not appear that clearing of forested areas are proposed in conjunction with the proposed subdivision, please advise the applicant that any future clearing first requires coordination with DNR, as well as with the US Fish and Wildlife Service.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 38-05

Cc: Mary Ratnaswamy, USFWS
Scott Smith, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 4, 2006

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

Re: S1002 Nave-Revised

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to create a one lot agricultural subdivision, partially within the Critical Area. On the newly created lot, 1.087 acres will lie within the Critical Area, while revised Parcel 7 will contain approximately 119 acres within the Critical Area. The Critical Area portion of the property is designated a Resource Conservation Area (RCA). Revised Tax Parcel 7 is currently developed with a primary dwelling and multiple out buildings, while proposed agriculture Parcel 1 is undeveloped.

It is my understanding that the purpose of the proposed subdivision is to create one, 52.541 acre agricultural parcel, and that no additional building lots are proposed at this time. While we generally have no significant concerns regarding the subdivision as proposed, we note that the impervious surface area calculations for revised Tax Parcel 7 appear incorrect. The area of State-owned wetlands must be subtracted from the Critical Area acreage and cannot be included within property totals for the purpose of calculating impervious surface area limits. In addition, should future development of revised Tax Parcel 7 be proposed, more detailed information regarding the nature of the out buildings will be required prior to verification of remaining Critical Area development rights.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 769-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3302 Widen

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to construct a 414 square foot addition to the primary dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to construct a 414 square foot addition to the existing non-conforming dwelling. In order to remain within the 25% impervious surface area limit on the property, the applicant is proposing to remove a 239 square foot portion of existing impervious cover. In general, this office does not oppose variances to construct reasonable additions to existing grandfathered dwellings. However, the applicant's property poses unusual circumstances which warrant consideration of further impacts to the Buffer prior to award of a variance.

Specifically, the applicant's property contains extensive pervious decking in addition to a large pool and extensive areas of gravel, all within the Buffer. While we acknowledge that the property is non-conforming and that many of the improvements have been in place for a considerable amount of time, the area of Buffer capable of fulfilling the habitat and water quality goals outlined within the County's ordinance appears to be negligible. Further, we recognize that the Board generally considers gravel as pervious cover, yet it is our view that by nature, gravel surfaces become compacted over time and essentially become impervious. As a result of the extensive amount of gravel located both within and outside of the Buffer, this office has concerns about an additional 400 square feet of impervious cover placed within the Buffer. Therefore, we recommend that prior to the award of any variance, the Board require the applicant, via a condition or a revised site plan, to implement some mitigating measures which result in an enhanced Buffer area. Our recommendation for a specific measure is to require the removal and/or conversion of existing gravel areas within the Buffer to native ground cover.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA231-06

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 26, 2006

Ms. Tracey Gordy
Maryland Department of Planning
201 Baptist Street, Suite 24
Salisbury, MD 21801

Re: Town of Princess Anne-Sidewalk Project

Dear Ms. Gordy:

I am writing in response to your May 3, 2005 letter regarding the replacement and installation of multiple areas of sidewalk within the Town of Princess Anne. It is my understanding that the project has been completed at this time and that the Town is requesting after-the-fact approval of the project. It appears that all disturbance associated with the project occurred within the Intensely Developed Area (IDA), and that a majority of the sidewalk project is considered replacement in-kind with no new impact to the BEA or IDA. However, it also appears that a large area of new sidewalk was constructed, some of which was located within the BEA.

For the portion of sidewalk which is new, it will be necessary to address the 10% pollutant reduction calculations. In addition, for new impacts within the BEA, details regarding mitigation are required. At this time, it does not appear that this information has been provided. I recommend that the Town provide 10% calculations for the area of new sidewalk installed, as well as a mitigation planting plan for the area of new sidewalk within the BEA.

Thank you for the opportunity to provide comments on this development activity. Please contact me with any questions at 410-260-3482

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
PA301-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 26, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3301 McDougall

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to convert an existing deck into a screened porch, replace the existing pool, rebuild an existing gazebo, relocate a pool shed, and remove a portion of an existing concrete pad. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided as well as a recent site visit, it appears that the reconstruction of the gazebo will be conducted within the footprint of the existing gazebo and that the relocation and rehabilitation of the existing pool shed will be confined to an area currently in concrete. In addition, the applicant is proposing to remove a portion of the existing concrete trailer pad, returning the area to pervious cover. While the applicant is also proposing to cover an existing area of pervious decking with new roofing and enclose it with screens, it appears that the net result of the above listed improvements will be an overall decrease in impervious cover of 130 square feet. Based on this information, we do not oppose a variance for the above listed components of the request.

In regard to the applicant's request to replace an existing pool within the Buffer, this office would not generally oppose a request to conduct repairs to the existing non-conforming pool provided that there is no increase in impervious footprint. However, it appears that the applicant is proposing to fill a portion or the entirety of the existing pool and to replace it in the same general vicinity, but in a different configuration. Given that the property is located within a RCA, is 8.949 acres in size, and that ample room outside of the Buffer exists to construct a new pool, this office is opposed to any reconstruction of the pool which exceeds the existing footprint and/or proposes new disturbance to the Buffer. Specifically, it is our view that the standard of unwarranted hardship has not and cannot be met in regard to the current pool proposal. We recommend that the Board either deny the request for pool reconstruction or limit the project to strictly repair within the existing pool footprint.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA231-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 26, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3303 LWR, INC.

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the steep slope requirements in order to construct a primary dwelling, driveway, and septic area. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the subject property would not be buildable without some degree of variance to steep slopes. In addition, it appears that the applicant has proposed a modest-sized dwelling in addition to stormwater management measures. Provided the lot is properly grandfathered, this office does not generally oppose the variance request. However, prior to the award of a variance, we recommend that the Board evaluate whether the Limits of Disturbance (LOD), and subsequent clearing as shown could be decreased by bringing the LOD closer to the dwelling on both the north and south sides. This change would help to decrease the 48% tree clearing currently proposed.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA231-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 26, 2006

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

Re: NC5 Ghodsi-Soulati Administrative Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to the side-yard setbacks for the purpose of constructing an addition to the primary dwelling. The property is located within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the need for a variance arises solely from the encroachment of the proposed location within the building restriction lines. It does not appear that any encroachment into the Buffer is proposed. In addition, it appears that the property will remain within the permitted impervious surface area requirements. As a result, we do not oppose the applicant's request for a variance. While it is not clear whether any clearing of vegetation is proposed in order to accommodate the proposed addition, please ensure that mitigation is provided at a 1:1 ratio for all vegetation removed.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC240-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 26, 2006

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

Re: Tyler Administrative Variance

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to the front-yard setbacks for the purpose of constructing an addition to the primary dwelling. The property is located within a designated Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the need for a variance arises solely from the encroachment of the proposed location within the building restriction lines. It appears that the property will remain within the permitted impervious surface area requirements. As a result, we do not oppose the applicant's request for a variance. While it is not clear whether any clearing of vegetation is required for the proposed addition, please ensure that mitigation is provided at a 1:1 ratio for all vegetation removed.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC223-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 20, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Swan Point Growth Allocation

Dear Ms. Dailey:

The purpose of this letter is to provide a summary of the Program Subcommittee's discussion of the Swan Point growth allocation in response to the preliminary information presented by the County staff on April 5, 2006. It was the Program Subcommittee's first look at the project, so much of the discussion centered on the members' efforts to gain a basic understanding of the project. Upon completion of the County's presentation, the Subcommittee members expressed their desire to discuss several of the project components in greater detail at a future Commission meeting. I would like to schedule another opportunity for discussion of this project with the Program Subcommittee prior to the County's formal submittal of the growth allocation request to the Commission.

100-foot Buffer

As you are aware, the 100-foot Buffer is a designated Habitat Protection Area (HPA). As such, the proposed Swan Point development must comply with the protection provisions for HPAs, as well as with the provisions for Buffer management outlined in the County's ordinance. The current general development plan shows multiple areas of impact to the Buffer for road crossings. During the presentation, the County stated that variances may be sought for these impacts, either prior to or after award of the requested growth allocation. The Program Subcommittee members expressed significant concern about a request for growth allocation also requiring one or more variances. COMAR 27.01.02.06.B(4) states that new IDAs and LDAs should be located in order to minimize impacts to HPAs and in a manner that optimizes benefits to water quality.

A second item that was discussed by the Program Subcommittee was the requirement to establish the Buffer in forest vegetation. In the time period since the Subcommittee meeting, Commission staff has been contacted by the project consultants regarding the nature of the Buffer Management Plan which would be required in conjunction with the growth allocation request. It is not clear that the consultants understand that it is likely that if the Commission approves the growth allocation request, a condition of the approval will be the submittal of a Buffer Management Plan that is consistent with the goals for Buffer establishment and management set forth in COMAR 27.01.09.01.

Forest Interior Dwelling Bird (FIDs)
The Program Subcommittee was presented with the current general development plan which results in a 404-acre mitigation requirement for impacts to FIDs habitat. As indicated above, COMAR 27.01.02.06.B(4) states that new IDAs and LDAs should be located in order to minimize impacts to HPAs, and in a manner that optimizes benefits to water quality. Several of the Subcommittee members expressed the view that clustering and environmentally sensitive design strategies could be better utilized to minimize clearing and overall impact to FIDs habitat. While detailed information regarding options for meeting the FIDs mitigation requirement were not presented to the Subcommittee, the members requested further discussion of the proposed impacts as well as proposed mitigation measures.

Shoreline Access
While this topic was not discussed in great detail during the subcommittee meeting, it is expected that the impacts through and to the Buffer for all shoreline access will be addressed through a Buffer Management Plan. As indicated above, the Subcommittee members have expressed the need for a comprehensive Buffer Management Plan that is consistent with the goals for Buffer management set forth in COMAR 27.01.09.01.

Stormwater Management
The applicant has not provided detailed information about the stormwater management design for the project. For the project as a whole, but particularly where growth allocation is proposed to create new IDAs, the Program Subcommittee members will expect that basic compliance with the 10% pollutant reduction requirement can be demonstrated at the time of growth allocation request. It is likely that a condition of approval requiring on-site compliance with the 10% rule will accompany any future growth allocation approval. Therefore, future discussions should include some information regarding this aspect of the project.

Shore Erosion Control
The Subcommittee members were interested in greater details regarding the establishment of new beach habitat and recreational areas along the southern portion of the property. Specifically, there were questions regarding the extent of the proposed beach areas, use of the area, restrictions for habitat protection and management of the area. While it is expected that these questions will be addressed within the Buffer Management Plan, the Subcommittee would like to discuss this proposal in more detail.

Sewage Treatment
Several questions were raised in regard to the Swan Point sewage treatment plant and how it relates to the proposed development. The nature of the questions focused on the quality of effluent and to what degree the new plant will meet and/or exceed the MDE requirements. During the meeting, there was no one present to address the details of the wastewater treatment plant and to speak specifically to the technology and planning aspects which went into designing a new treatment plant. It would be a reasonable expectation that future discussions will involve sewage treatment questions as it relates to the density and intensity of the proposed development.

Compliance with Growth Allocation Guidelines
Prior to the County's submission of a request for approval of growth allocation to the Commission, the adjacency and locational guidelines in §8-1808.1(c) of the Natural Resources Article of the Annotated Code of Maryland and COMAR 27.01.02.06 will need to be addressed before the Program Subcommittee.

Area of Growth Allocation Deducted
The County's zoning ordinance states, "Only one development envelope shall be established per parcel or set of record parcels, unless it can be demonstrated that multiple development envelopes will better promote environmental and other conservation considerations of the Charles County Critical Area Program. The use of multiple development envelopes shall be allowed only if such a practice is consistent with Critical Area Commission policy or regulations." Through concerns about impacts to HPAs, the Subcommittee members raised significant concerns relating to the use of development envelopes on the property. Further discussion of the number, location, and extent of growth allocation envelopes proposed was requested. The County must be prepared to address how the proposed use of growth allocation envelopes is consistent with the language within their ordinance.

Buffer Management Area Setbacks
It was noted before the Subcommittee that a difference in interpretation exists between the County and Commission staff on the required setbacks for non-residential and multi-family uses within the BEA setback as required within the County's ordinance. The Subcommittee members expressed an interest in hearing more details on the proposed uses within the BEA, as well as discussing the setback issue in more detail.

Impervious Surface Area Limits Within the LDA
During the County's presentation, the County Attorney alluded to some confusion with the language for impervious surface area limitations contained within Natural Resources Article § 8-1808.3, and expressed concern regarding the ability to comply with these limitations in some areas of the property. The Commission's Attorney provided clarification for the County and Program Subcommittee members as to the language in the law and suggested that further evaluation of the proposed Critical Area designations may be appropriate where concerns about compliance exist. Future discussions of this issue will need to provide clarification to the Subcommittee members that the project will fully comply with the impervious surface limits in the law and Criteria.

As I stated earlier, I would like to schedule another opportunity for discussion of this project with the Program Subcommittee. Preferably, this should occur within the next few months, and could be accommodated as early as the Commission's regular meeting on May 3, 2006. I will contact you within the next two weeks to determine how the County would like to proceed. Thank you for your assistance in presenting this project to the Program Subcommittee. Please let me know if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Marianne Mason, OAG

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

To: Tressa Dolbeare

From: Kerrie Gallo

Date: April 20, 2006

RE: 200662557/06-WL-1311
The Commissioners of St. Michaels

I am writing in response to the above referenced joint public notice. The notice states that the Commissioners of St. Michaels have applied to construct a 56-foot long by 8-foot wide pedestrian bridge six feet above Mean High Water (MHW). It appears that impacts to the 100-foot Buffer landward of MHW are also proposed in conjunction with the construction of the bridge. In addition, the attached site plans show a trail proposed along the upland portion of the property.

Per the requirements outlined within COMAR 27.03.01.03 and within COMAR 27.02.04, this project will require review by Critical Area Commission staff, and possibly formal approval by the full Commission. Greater details as to the projects' impacts and the Critical Area designations on the subject property will be needed at the time of application to the Commission.

In order to avoid delays as the project progresses, we recommend that the applicant coordinate with Commission staff early in the planning process. The Town of St. Michaels participates in the Critical Area Circuit Rider Program, which provides local planning assistance to the Town. As such, we recommend that the applicants contact Roby Hurley, Critical Area Circuit Rider for the Town of St. Michaels, to coordinate the review of this project. Should the applicant have further questions regarding the specific Critical Area regulations as they pertain to this project, they are also welcome to contact me at 410-260-3482. Thank you for the opportunity to review this document.

Cc: Roby Hurley, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 19, 2006

Ms. Tracey Gordy
Maryland Department of Planning
201 Baptist Street, Suite 24
Salisbury, MD 21801

Re: Town of Princess Anne/Beechwood Street Storm Drain Repair

Dear Ms. Gordy:

I am writing in response to your October 12, 2005 letter regarding the in-kind replacement of a damaged catch basin and terra cotta pipe at the above referenced location.

It is my understanding that this request is for an after-the-fact consistency report and that the proposed improvements have been completed at this time. Further, I understand that the project area is located within an Intensely Developed Area (IDA), Buffer Exemption Area (BEA), but that the project area for the pipe replacement was outside of the 100-foot Buffer. As the project represents an in-kind stormwater retrofit, I agree that the submission of 10% calculations is not necessary. It is also my understanding at this time that the project area has been reseeded and stabilized. Based on the information provided, I concur that the project can be handled as a consistency report. Furthermore, the project appears to be consistent with the Princess Anne Critical Area Program and Ordinance for development within an IDA and BEA.

Thank you for the opportunity to provide comments on this consistency report and development activity. Please contact me with any questions at 410-260-3482

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

To: Kathy Anderson

From: Kerrie Gallo

Date: April 17, 2006

RE: CENAB-OP-RMS-MD SHA & Calvert County DPW
Project No. CA325A21/MD2-4/Southern Lusby Connector/06-61228-4
Calvert County, Maryland

I am writing in response to the above referenced US Army Corps of Engineers public notice. The notice states that the MD SHA and the Calvert County DPW have applied to construct a 1.2-mile, 36 to 58-foot wide road called the Lusby Southern Connector. Along with road widening and new impervious surfaces, the applicants propose to impact 1.037 acres of wetlands and streams. While the limits of the project are not entirely clear based on the information received, it appears that portions of the project may lie within the Critical Area.

Per the requirements outlined within COMAR 27.02.05 and within COMAR 27.02.04, where the project lies within the Critical Area, the proposed action qualifies as a State agency action resulting in development on State-owned lands and/or as a State or local agency action resulting in major development on private lands or lands owned by local jurisdictions. As such, the applicants will be required to submit an application for Commission review, and possibly obtain formal Commission approval of the proposed activity.

In order to determine the level of review required, we recommend that the applicant coordinate with Commission staff early in the planning process. Should the applicant have further questions regarding the specific Critical Area regulations as they pertain to this project, please have them contact me at 410-260-3482. Thank you for the opportunity to review this document.

Cc: Dave Brownlee, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 18, 2006

Ms. Bobbie Hutchison
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Annmarie Gardens Gallery Building Site Plan

Dear Ms. Hutchison:

Thank you for providing information on the above referenced gallery building site plan and project. It appears that the Calvert County Board of County Commissioners is proposing to construct a 17,683 square foot gallery building in addition to multiple parking spaces, and an access ramp to the new building. The property lies within a Limited Development Area (LDA).

It is my understanding that the proposed improvements are located entirely outside of the 100-foot Buffer and that there is approximately 12,809 square feet of tree clearing proposed in conjunction with the project. Based on the site plan submitted, it appears that the project qualifies under COMAR 27.02.01 as a project of local significance and that the Commission review can be handled through submission of a consistency report. As a component of the consistency report submission, please ensure that information regarding proposed mitigation is included and that any impacts to Habitat Protection Areas (HPAs) have been addressed. Once the report is received, Commission staff will review the materials for concurrence with the County's determination.

We appreciate the opportunity to provide comments on this site plan and development proposal. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 150-06

CC: David Brownlee, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 18, 2006

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

Re: Appeal #1418 Lavin

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the County's floodplain ordinance requirements in order to permit the continuation of interior renovations on an accessory structure. The property lies within a designated Limited Development Area (LDA) and is currently developed with a primary dwelling, pool, and accessory structure. The accessory structure lies within the 100-foot Buffer.

Based on the information provided, it appears that all renovations to the existing accessory structure were considered interior in nature and that no changes in the structure's footprint or other exterior features were made. As a result, the variance appears to relate solely to the County's floodplain ordinance requirements and does not contain Critical Area issues of concern. Therefore, we have no comments regarding the requested variance.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this administrative variance. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC186-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 13, 2006

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

Re: Talbot County Bill No. 997

Dear Ms. Verdery:

The purpose of this letter is to provide an update of the Commission's processing of the proposed text amendments to the County's zoning ordinance and Critical Area Program. On April 14, 2006, Chairman Madden determined that County Bill No. 997 could be processed as a refinement to the Talbot County Critical Area Program.

The proposed text amendments have been scheduled for consideration by the Commission at the May 3, 2006 meeting in Crownsville. As soon as it becomes available, I will forward a copy of the meeting agenda, as well as a copy of my staff report. I will contact you shortly to determine whether a representative from the County will be present at the meeting. In the meantime, please contact me at (410) 260-3482 if you have questions.

Sincerely,

Kerrie Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 13, 2006

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

Re: Mathias Subdivision
(Tax Map 44A, Parcel 293)

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is requesting to subdivide a .478-acre parcel to create two Critical Area lots. The property lies within a designated Limited Development Area (LDA). Proposed Lot 1 is currently developed, while proposed Lot 2 is undeveloped.

Based on the information provided, it appears that the afforestation calculation is not accurate. The area to be subdivided is stated on the plat as 20,864.2 square feet. Based on this acreage, the 15% afforestation requirement would be 3,129.63 square feet and not 2,086 square feet as shown. Provided that this information is corrected, we have no further comments on the proposed subdivision.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 168-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

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Chairman

Ren Serey
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April 13, 2006

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

Re: Pretzler/Centaur Farm Subdivision
TM23, P22

Dear Ms. Verdery:

Thank you for providing information on the above referenced major subdivision request. The applicant is proposing to subdivide a 253.40-acre property to create 2 new lots and a revised Tax Parcel. There are 245.60 acres within the Critical Area portion of the property, currently designated as a Resource Conservation Area (RCA).

Based on the information provided, we have the following comments regarding this major subdivision proposal.

1) There are multiple areas of discrepancy between the tidal and non-tidal wetlands shown on the subdivision plat and those shown within the State of Maryland's online mapping system, MERLIN. As the location of the 100-foot Buffer is potentially affected by a differing determination of tidal versus nontidal wetlands, as well as the potential for development rights to be affected, a site visit is requested.

2) The subdivision plat states that there would be 3 developments rights in use after the proposed subdivision, 1 for Lot 1, 1 for Lot 2, and 1 for revised tax parcel 22, leaving 9 development rights remaining. Based on 2005 aerial photos, this does not appear to be an accurate assessment of the existing dwellings on the property. Specifically, we note the existence of a dwelling on the northern portion of revised tax parcel 22, which is noted on Sheet 2 of 3. We also note that aerial photos show a series of structures on the southern peninsula of revised tax parcel 22 which appear to be 2 or 3 independent dwellings. I have

included aerials which indicate the areas in questions. In addition, we refer to the 2003 Board of Appeals decision regarding the private road issue which stated that there were seven total residential units in existence on Parcel 22 and adjoining Parcel 104. While it is not clear exactly where the seven dwellings were/are located, the Board's decision required that two of the seven units be abandoned prior to the construction of the second new residence on either proposed Lot 1 or Lot 2. Given the confusing nature of this information, we recommend that resolution of this issue be achieved through the requested site visit.

3) While it does not appear that development is proposed within the forested areas of the property, please advise the applicant that the Department of Natural Resources (DNR) has identified the sit as containing Delmarva Fox Squirrel habitat. Should any clearing be proposed in the future, further coordination with both the DNR and the U.S. Fish and Wildlife Service would be required.

Thank you for the opportunity to provide comments for this major subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 744-02

Enclosures

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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April 12, 2006

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

Re: Appeal #1417 Miles River Yacht Club

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot and Buffer Exemption Area (BEA) requirements in order to construct multiple additions to the existing clubhouse facility. The property is designated a Limited Development Area (LDA) and is currently developed.

While there are multiple variance requests contained within the application received, Exhibit A, #7 of the variance application indicates that the Critical Area component of the request is to construct approximately 1,427 square feet of new impervious surface area, all within the Buffer, and to further exceed the 15% impervious surface area limit on the parcel. Based on the information received, this office opposes the applicant's variance request. Specifically, we note that this variance is the second request on the property to exceed the impervious surface limit since August of 2005. As such, it is our view that use of growth allocation and conversion of the site to an Intensely Developed Area (IDA) would be a more appropriate action.

As you may be aware, the land classification system required by the Critical Area Criteria was adopted by the Commission to address the various goals of the Critical Area Law. Within the LDA, these goals include a 15% impervious surface area limit, intended to assure protection of water quality. Given that the applicant's property is already 31% impervious in nature, there is concern that the goals for the LDA are significantly compromised on the applicant's property. To further compromise the integrity of the LDA by award of another impervious surface variance would not be consistent with the goals of the County and State Critical Area regulations, and not in keeping with the spirit and general intent of the Critical Area Law. Rather, the Board should deny the variance and recommend that the County request growth allocation from the County Council. Conversion to an IDA would ultimately result in

greater flexibility to the applicant, would remove the limit on impervious surface areas, and ensure consistency throughout the County and State with the goals of the Critical Area law.

Thank you for the opportunity to provide comments on this variance request. Please include this letter into the record for the variance and please provide a written copy of the Board's decision to Commission staff. If you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 10, 2006

Mr. John Moulis
Regional Manager
Maryland Department of Natural Resources
Wildlife and Heritage Service
PO Box 68
Wye Mills, MD 21679

Re: Deal Island Berm Repair

Dear Mr. Moulis:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On April 5, 2006 the Critical Area Commission unanimously approved the Department's proposal to repair approximately 8,000 linear feet of damaged berm at the Deal Island Wildlife Management Area. This approval included the following conditions:

1. The DNR shall conduct all work outside of the May 15th through August time of year restriction.

2. The DNR shall obtain the necessary sediment and erosion control permit from the Maryland Department of the Environment prior to commencement of work.

Please note that should any changes to the site plan be proposed for the completion of the project, additional review and approval by the full Commission would be required. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
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April 10, 2006

Ms. Angela Willis
Environmental Planning
Maryland State Highway Administration
Mailstop C-301
707 North Calvert Street
Baltimore, MD 21202

Re: MD 260 & MD 261 Roadway Improvements

Dear Ms. Willis:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On April 5, 2006 the Critical Area Commission unanimously approved the State Highway Administration's (SHA) proposal to place approximately .03 acres of new impervious surface area within the 100-foot Buffer. This disturbance was approved in conjunction with sidewalk installation. As previously discussed, the remainder of the proposed street improvements appear to be consistent with the Memo of Understanding between the Critical Area Commission and the SHA and require no further review.

Please note that should any changes to the site plan be proposed for the completion of the project, additional review by Commission staff and/or approval by the full Commission would be required. In addition, please ensure that Commission staff is notified once the mitigation plantings have been implemented as indicated on the signed planting agreement. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

CC: Darrell Sacks, SHA

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 10, 2006

Mr. William Watson
Zoning Administrator
8200 Bayside Road
PO Box 400
Chesapeake Beach, MD 20732

Re: Variance #2006-2
8715 C Street

Dear Mr. Watson:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to construct an enclosed porch within the footprint of an existing deck structure. The property is designated an Intensely Developed Area (IDA), a Buffer Exempt Area (BEA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to reconstruct an existing deck and to enclose approximately 150 square feet of the deck with screening. In general, this office does not oppose a variance for the applicant's request. However, it is not clear whether reconstruction of the deck requires any additional or new disturbance to the Buffer, including any disturbance required for installation of footers. As you are aware, all disturbances as well as all new impervious surface areas within the Buffer are subject to strict mitigation requirements. Within the BEA, mitigation is required at a 2:1 ratio. In addition, while we note that the existing and proposed deck is stated as pervious, the 150 square feet of enclosed space will no longer provide pervious benefits. Therefore, at a minimum, 2:1 mitigation should be required for the area proposed to be converted to impervious cover. Mitigation should be implemented using native plantings. To the extent possible, these plantings should be located within the Buffer. Where this is not possible, another suitable location should be determined by the Town.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CB192-06

8

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

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April 4, 2006

Mr. John Swartz
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Denyer Habitat Protection Plan
TM16, P201, Lot 3R

Dear Mr. Swartz:

This letter is in response to the above referenced Habitat Protection Plan (HPP) submitted to this office for review and comment. The applicant's property has been identified as containing Puritan Tiger Beetle habitat, as well as Forest Interior Dwelling Bird (FIDs) habitat. At this time, this office has received comments from the Department of Natural Resources' Wildlife and Heritage Division regarding their review of the HPP. These comments have been taken into consideration and incorporated into the comments below. Please note that this review is intended for and is applicable to only Lot 3R.

Protections for Puritan Tiger Beetle habitat:

a) Shoreline and cliff stabilization- In order to protect the habitat of the Puritan tiger beetle, it is my understanding that the HPP will contain a note stating that future stabilization of the cliff area is prohibited in perpetuity. Provided this note is included, this issue has been addressed.

b) Cliff Setback-It is my understanding that the County has made a determination that the cliff on the applicant's property falls into a Category 3 per the requirements of the zoning ordinance. The DNR has recommended a 200-foot cliff setback in order to protect the habitat of the Puritan tiger beetle. Given the constraints of the steep slopes, as well as surrounding Buffer areas for non-tidal wetlands, the applicant's proposed 150-foot setback appears reasonable and adequate to ensure both protection for the species and to accommodate the applicant's request to construct a dwelling.

c) Minimization of Impervious Surface Areas: While the applicant remains within the 15% impervious surface area limit for the property, it does not appear that minimization of impact was fully considered. For impervious surface areas which can be considered accessory uses such as patios, porches, etc., the County should consider the requirement of pervious construction. It appears that there is ample opportunity to reduce the impervious footprint by at

least 747 square feet based on these features alone. Also, we note the addition of a future pool on the most recent site plan accompanying the HPP. We strongly recommend that the County include a prohibition on the drainage of water from this feature onto the property should it be permitted. The drainage of water in an area of cliffs, erodible soils, and/or tiger beetle habitat is not consistent with the criteria for protection outlined in the County's ordinance. If this condition cannot be added, then we recommend a prohibition on a future pool.

d) Stormwater Management: Provided that the applicant incorporates stone surge pads and directs downspouts to discharge away from the cliff face, it appears that adequate stormwater infiltration would be achieved without additional structural measures.

Protections for FIDs habitat-

a) Clearing: The applicant's HPP states that a majority of the proposed development will take place in an area previously cleared for construction, therefore impacting only edge habitat. In order to make a determination regarding the mitigation requirements, it is necessary for the County to make a determination that the previous clearing referred to in the HPP was legally permitted by the County. Assuming that the clearing was permitted, it appears that mitigation at a 1:1 ratio would be acceptable. If the County determines that the clearing was not permitted, the characterization of edge versus interior FIDs habitat would change, as well as the mitigation requirement. Please note that the applicant has stated an additional 14,844 square feet of forest clearing is necessary in order to construct the proposed dwelling. No information has been provided by the applicant addressing how the mitigation requirement will be met. This information should be included within the HPP. We note that mitigation for FIDs habitat requires the creation of alternative FIDs habitat, by planting onsite to the extent possible, and then by payment into the County's fee-in-lieu program.

b) Time of Year Restriction: We note that a time of year restriction will apply to the property during which no construction activity, clearing, or any other type of disturbance may take place. This time of year restriction is April through August.

Thank you for the opportunity to provide comments on this HPP. If you have any questions regarding the comments in this letter, please give me a call at 410-260-3482. Also, please provide the Commission of a copy of the final HPP once it is ready for recordation.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA249-05

CC: Katharine McCarthy, DNR

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 4, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3297 Solomons Homes & Marina

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot tributary stream Buffer requirements in order to demolish and replace an existing dwelling. The property is designated an Intensely Developed Area (IDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to demolish an existing 1,864 square foot dwelling and to replace it with a 2,928 square foot dwelling. The existing dwelling appears to be located approximately 20 feet from a tributary stream, and the applicant wishes to construct the new dwelling within the same general vicinity. We recognize that the existing dwelling and entire subdivision were platted and constructed during the interim period between adoption of the State Critical Area Law and adoption of the Calvert County Critical Area Program. As such, the applicant was originally permitted to construct a dwelling in close proximity to a tributary stream. While the applicant would retain the right to replace the existing dwelling, in kind, without a variance, grandfathering rights do not necessarily extend to a new dwelling, particularly where there is opportunity to comply with the current zoning regulations. In addition, the current application states that the subject property is greater than 20 acres in size. Based on this information, this office questions whether opportunity exists to locate the replacement dwelling outside of both the 100-foot stream and tidal water Buffers.

In evaluating the applicant's variance request, the Board must consider whether an unwarranted hardship has been demonstrated by the applicant. If opportunity exists to locate a replacement dwelling outside of the Buffer, then an unwarranted hardship would not exist. Based on recent aerials photos, it is not clear why the applicant would be precluded from building outside of the Buffer. In addition, the County's variance standards require the Board to determine that no adverse impact to water quality, plant and wildlife habitat will occur as a result of the variance request. The applicant proposes to place a significant amount of new impervious surface in close proximity to a tributary stream, requiring an 8,693 square foot limit of disturbance. In addition, it appears that additional grading of the Buffer is proposed in order to create a more level dwelling

area. This office has serious concerns about the potential for sediment runoff and the adverse effects to plant and wildlife habitat that would potentially occur. The County's ordinance includes specific goals for management of the Buffer which include minimizing the adverse effects of human activities on stream banks and shorelines, protection of riparian wildlife habitat, and maintaining a transitional habitat area between aquatic and upland environments. It is our view that the applicant's proposal potentially compromises of all of these goals. As such, we question whether this variance standard has been met.

The information provided raises significant concerns regarding the applicant's proposal and in regard to the ability of the applicant to meet each and every one of the County's variance standards. At this time, sufficient questions and uncertainties exist which preclude this office from being able to support this variance. We recommend that the Board consider whether each and every one of the County's variance standards has been met and whether opportunity exists for the applicant to avoid the need for a variance altogether by placement of the dwelling in an alternative location on the property.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 31, 2006

Mr. Robert Wink
Code Enforcement Officer
Town of Princess Anne
11780 Beckford Avenue
Princess Anne, Maryland 21853

Re: Mid Pine Estates-Revised Revised Review

Dear Mr. Wink:

Thank you for providing information on the above referenced revised preliminary site plan. Please note that this letter represents a coordinated review effort between Tracey Gordy, Circuit Rider for the Town of Princess Anne, and Critical Area Commission staff.

The following comments relate to the Critical Area 10% Rule Compliance Detail Sheet and 10% Rule Worksheet and calculations:

1) The entire rooftop areas of units 10-13 and 30-33 appear to be included within the 10% rule calculation worksheet as stormwater credits, but the 10% rule detail sheet contains a note stating that partial credit is being claimed for these units. Please clarify whether the detail sheet or the calculation worksheet is accurate and make appropriate changes to whichever sheet is not correct.

2) The 10% calculations are not accurate. Specifically, the Lpost in Step 3 should be 4.44, not 4.40 (4.44 was used later in Step 5). In Step 4, the RR should be 1.64 and not 1.60. Therefore, Step 5, total load removed should be 1.63. While this would create a deficiency in meeting the 10% pollutant reduction requirement, it appears that the both the BMP removal efficiency and the percent drainage area are also incorrect. Based on information received from Dale Pusey, stormwater reviewer for the Town of Princess Anne, the proposed pond is a wet pond, but not an extended detention pond. Therefore, the removal efficiency should be 50% and not 60%. In addition, it is my understanding that the percent of drainage area served (0.61 acres) may not be accurately calculated and may also affect the pollutant load removed. Please have the applicant re-evaluate the details of the 10% calculations and submit a revised worksheet.

3) As stated in #2, it is believed that the .61 acre drainage area served may not be accurate. Further evaluation and/or clarification of the accuracy of this percentage is needed. We recommend that the

applicant consult with the Town's stormwater reviewer, Dale Pusey, and provide written confirmation from Mr. Pusey stating that the drainage area served is accurate.

The following comments relate to the revised site plan:

1) There is still one area shown within the Maryland Department of the Environment's (MDE) Wetland of Special State Concern (WSSC) buffer where the JO soils require expansion of the 100-foot Critical Area Buffer. While the area is minor in nature, please provide a site plan showing this correction.

2) The site plan shows that there is grading proposed within the WSSC buffer for construction of the stormwater management pond in additional to a proposed outfall. Please provide a copy of any permits obtained from MDE for these impacts.

3) This office has not yet received a landscaping plan for the Mid Pine development. Please provide a landscape plan which complies with the vegetative cover requirements for development within the IDA. Specifically, the applicant must demonstrate that all pervious areas will be planted in native vegetation to the extent possible. A landscaping plan should include the name, quantity, size and location of all proposed plantings.

Thank you for the opportunity to provide comments for this revised preliminary site plan proposal. Due to the outstanding areas of concern, particularly in regard to the 10% rule compliance, we are not able to recommend approval of the preliminary plat at this time. Once revisions are complete, please have the applicant provide a revised site plan for Critical Area review, along with an explanation describing how each of the above comments has been addressed. If you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
PA411-05

CC: Tracey Gordy, MDP
Jay Parker, Town of Princess Anne

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 31, 2006

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

RE: Appeal #1400-Starr

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance application. The applicant is requesting an after-the-fact variance to permit construction of a fence within the 100-foot Buffer. The property is 2.4 acres and is designated a Limited Development Area (LDA).

We recognize that a fence is a man-made structure within the Buffer, an area meant to provide transitional habitat between the land and the water. Structures within the Buffer have a negative effect on the use of Buffer areas as riparian habitat. Structures that are perpendicular to the shoreline, such as fences, affect species that may travel parallel to the shoreline. That being said, there are also many types of fences. Simple split rail or picket fences can have little or no impact to the movement of wildlife along the shoreline and could have similar impacts as a simple swing set. In contrast, a solid wall that would require a foundation and likely involve the use of heavy equipment would have much greater impact. While the applicant has stated that the existing 6-foot fence was installed by hand and did not involve the use of heavy equipment, the type of fencing material in place is not clear. Therefore, we defer to the County on this request. However, if any variance is granted, we recommend that mitigation be required for any vegetation removed. Given the after-the-fact nature of the request, mitigation should be provided at a 3:1 ratio for all vegetation removed in the Buffer, and at a 1:1 for all vegetation removed outside of the Buffer.

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

Sincerely,

Kerrie Gallo
Natural Resources Planner
TC 159-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 30, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3293 Scientist Cliffs Association

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of multiple beach locker structures within the 100-foot Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to construct an undisclosed number, possibly up to 50, 30 square foot beach storage units along the entire linear extent of the shoreline. While it is my understanding that a number of similar structures currently exist and have been in place for a number of years, it is not clear whether these structures were ever legally permitted. In addition, any existing lockers would be considered non-conforming in regard to the County's current zoning and Buffer regulations. While we recognize that the Scientist Cliffs Association has included the right of one 16-foot wide beach locker site within the Home Owners Association documents, there is no inherent right to construct an accessory structure within the Buffer.

In evaluating the applicant's variance request, we note that beach lockers are not considered a water-dependent use within the Critical Area. Therefore, the Board must determine that each and every one of the County's variance standards has been met in order to grant a variance. As you are aware, both the County's zoning ordinance and State law contain strict standards and provisions for management of the Buffer. In consideration of these standards, as well as the sensitive nature of the Buffer, it is our view that the construction of lockers as proposed will create an adverse impact to the Buffer and is not in keeping with the general spirit and intent of the Critical Area Law. In addition, it is our view that the standard of unwarranted hardship has not been met. Therefore, this office strongly opposes the granting of a variance. I have outlined each of the County's variance standards below.

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.* As indicated, there is no inherent right to construct accessory structures within the 100-foot Buffer. Reasonable enjoyment of the community beach area could continue to be enjoyed, as it has for many years, without the construction of additional lockers within the Buffer. In addition, the lockers appear to serve mainly for

convenience. Convenience should not be a factor considered when evaluating unwarranted hardship. Therefore, this standard has not been met.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction.* This office would not support similar variance requests to construct accessory locker structures within the Buffer.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.* If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area.

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

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 a variance to construct storage lockers within the Buffer is not in harmony with the general spirit and intent of the law. The Buffer is expressly managed to provide water quality, plant and wildlife habitat benefits. These benefits would be adversely affected by the proliferation of 30 square foot structures as proposed along the entirety of the shoreline.

While the exact location of the proposed lockers it is not clear based on the information submitted, this office has additional concerns that some of the existing lockers, as well as those proposed, would be located below the mean high water (MHW) line on the beach. Any development activity taking place waterward of MHW requires a wetland permit from the Department of the Environment (MDE). In addition, it is not clear whether the County has the authority to issue permits for accessory structures below MHW. This information should be taken into consideration when evaluating the variance request.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the applicant's request for a variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 28, 2006

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

Re: A072 Shore

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to construct an addition to the primary dwelling. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the majority of the existing dwelling is located within the 100-foot Buffer. The applicant proposes to place approximately 104 square feet of new impervious surface area within the Buffer is order to construct a sun room addition. It is my understanding that the proposed addition will be located no closer towards mean high water than the existing dwelling. In addition, we note that the property currently exceeds the 15% impervious surface area limit. As a component of the variance request, the applicant has agreed to remove approximately 703 square feet of existing impervious surface area, as well as convert 150 square feet of an existing impervious wood deck to pervious construction. The conversion of these areas will ultimately being the lot into compliance with the permitted impervious surface area limit. In general, this office does not oppose the granting of a variance request. However, please ensure that mitigation is provided at a 2:1 ratio for the total area of disturbance to the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 169-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 28, 2006

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

Re: A070 Cecil

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to construct multiple additions to the existing non-conforming dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to convert an existing wood deck into an at-grade terrace and to remove an area of sidewalk, converting the area to an enclosed dwelling addition. In addition, it appears that the property will remain within the permitted impervious surface area limits and that the proposed additions will encroach no closer to mean high water than the existing dwelling and structures. As a result, this office does not generally oppose the granting of a variance. However, the application states that 407.9 square feet of new disturbance to the Buffer is proposed for the additions, yet it appears that the area of the proposed terrace (330 square feet) and the area of the new addition (240 square feet) total 570 square feet. While the area of sidewalk being removed can be subtracted, it appears that 468 square feet of new disturbance to the Buffer is proposed, and that this figure is different from that stated on the application. Prior to the award of a variance, please ensure that an accurate assessment of the total new Buffer disturbance is provided, and that mitigation is provided based on this number at a 2:1 ratio.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC98-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 28, 2006

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

Re: A071 Malchow & Jakubcak

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to the 100-foot Buffer requirements in order to construct a pergola over an existing impervious patio. The property is designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information provided, it appears that the proposed pergola will be located entirely over the footprint of the existing patio and that no new impervious surface area or additional disturbance will occur as a result of the construction. Therefore, this office has no opposition to the applicant's variance request.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 99-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 28, 2006

Mr. Robert Wink
Code Enforcement Officer
Town of Princess Anne
11780 Beckford Avenue
Princess Anne, Maryland 21853

Re: Beckford Manor

Dear Mr. Wink:

This letter is in response to the subdivision plat and preliminary 10% calculations received in regard to the Beckford Manor subdivision. The following comments represent a coordinated and joint review effort between Tracey Gordy, Circuit Rider for the Town of Princess Anne, and Commission staff.

1. The materials sent to this office are titled, MD Critical Area IDA Zone Compliance, and have been sent to this office from TLG Engineering. While it is believed that this submission was sent as a preliminary growth allocation request for the Beckford Manor subdivision, please have the Town of Princess Anne submit a written request for either preliminary or formal review of a growth allocation request. In addition, please ensure that the Town submits a copy of a growth allocation application along with future subdivision plat submissions.

2. The plat received by Commission staff is not consistent with the recorded subdivision plat for the Beckford Manor subdivision. In addition, there are no environmental notes, lot sizes, or property acreage provided on the plat. Please ensure that future submittals are consistent with the recorded subdivision plat and that each of the required elements for subdivision submittal is provided on the plat as outlined within the Town's Critical Area ordinance.

3. Based on information from the files of the Commission's 2002-2004 review of the Beckford Manor subdivision, the property acreage within the Critical Area is 21.04 acres. The 10% rule compliance worksheets provided state that the property is 11.07 acres. It appears that the existing mansion house (Lot 30) has not been included within the 10% calculations. As Lot 30 is a part of the approved and recorded subdivision, it must either be included within the

property totals for the purpose of growth allocation, or formally subdivided prior to the Commission's formal consideration of the growth allocation request.

4. The 10% rule calculations state that there are 2.55 acres of rooftop area proposed for the Beckford Manor subdivision. Given that several lots in the subdivision have already exceeded the allotted impervious surface area via the construction of dwellings larger in size than originally proposed, please provide a detailed summary of the existing impervious surface area on the lots where construction has begun or has been completed, as well as a summary of the impervious surface area allotted and proposed for the remainder of the undeveloped lots. We note that a preliminary summary was provided to Tracey Gordy by Chris Custis in August of 2005, however, the summary was not accurate as it did not provide a detailed breakdown of impervious surface coverage for lots which are partially within the Critical Area, decks were not included, and the mansion lot was not included. In addition, please ensure that impervious surfaces are field determined as many of the site plans submitted for building permits were expanded upon during construction, and therefore not an accurate assessment of what exists in the field.

5. As previously stated, the mansion house property (Lot 30) is currently developed with a dwelling, two accessory shed structures, and a large driveway, yet this acreage has not been included in 10% calculations. Please ensure that this existing impervious surface area is included within the 10% rule worksheet under existing site improvements.

6. There are no decks listed on the 10% worksheet, but previous site inspections by Tracey Gordy have indicated that several of the dwellings constructed since approval of the subdivision have impervious decks associated with them. Please include the footprint of any existing and proposed impervious decks on the 10% worksheet.

7. Given that the Town must use growth allocation in order to bring the subdivision into compliance, please provide information as to whether the 2000 MDE stormwater management requirements have been addressed. While it is my understanding that the originally approved subdivision did not have to comply with these requirements, a new subdivision plat will need to be recorded and will as such, be required to comply with all current regulations.

8. The 10% rule worksheet proposes two best management practices (BMPs), a wet ED pond, and a dry swale. Please refer to either the Commission's 10% Rule Guidance Manual or the 2000 MDE Stormwater Manual and provide clarification as to which type of BMP is proposed. For example, the P-3 wet ED pond in both manuals has a removal efficiency of 60%, but the wet pond proposed by the applicants, and shown on the worksheet is stated at 50%.

Thank you for the opportunity to provide comments on this subdivision plat and preliminary growth allocation request. Please note that many of the comments above are repetitive of the information provided to the Town within the September 29, 2005 letter from Tracey Gordy. By addressing these concerns early in the growth allocation process, the Town can assure that the project is able to move

forward in a timely manner. Should you have any questions regarding what is needed in relation to the Beckford Manor subdivision, or in regard to the procedural requirements for growth allocation and subdivision plat review by Commission staff, please contact me at 410-260-3482, or Tracey Gordy at 410-713-3460.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP
Jay Parker, Town of Princess Anne
Town of Princess Anne Commissioners

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 24, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3292 Koza

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the expanded 100-foot Buffer and steep slope requirements in order to construct a primary dwelling and septic system. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the property is entirely constrained by the presence of steep slopes, and that it would not be possible to develop the property without some degree of variance. Therefore, this office does not generally oppose some form of variance to the steep slope requirements. However, the dwelling and garage proposed have a footprint of 1,726 square feet. Given the sensitive nature of steep slopes and highly erodible soils, we question whether further minimization of the dwelling footprint is possible. A smaller dwelling footprint would allow the applicant to decrease the amount of clearing proposed as well as possibly move the primary septic drain field outside of the Buffer. While it appears that the proposed dwelling is one story in design, could the applicant utilize vertical construction? If there is an opportunity to avoid impacts to the Buffer by further minimization of the dwelling footprint, this should be required as a first priority. We recommend that the Board consult with the applicant prior to the award of a variance to determine whether opportunity exists to further minimize impacts to the step slopes and to move the primary septic area outside of the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 24, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3290 Zaremba

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting an after-the-fact variance to the 100-foot Buffer in order to permit the continuation of a brick patio constructed without the proper permits. The property lies within a designated Limited Development Area (LDA) and is currently developed.

It appears that the applicant is requesting an after-the-fact variance to permit a 543 square foot brick patio to remain 57 feet from tidal waters. We note that this property and applicant were awarded a variance from Board in February of 2006 in which the applicant was permitted to construct approximately 942 square feet of decking and an approximately 110 square foot addition to the dwelling. This decking was permitted in addition to the existing second story deck and first story concrete/paver patio. Without inclusion of the brick patio located within the Buffer, it appears that the applicant enjoys approximately 1,467 square feet of decking on the property.

In evaluating the applicant's variance request, it is our view that the applicant currently enjoys reasonable and significant use of the entire lot or parcel as demonstrated by the 1,467 square feet of permitted decking. Therefore, it does not appear possible that the applicant can meet the standard of unwarranted hardship. In addition, while this request is after-the-fact in nature, this office would not support a similar variance on any other property in the County, especially where it is possible to locate a patio outside of the Buffer. We note that room appears to exist outside of the Buffer, particularly prior to the award of the February variance, to accommodate an expanded outdoor patio area. It is our view that to grant a variance for 543 square feet of additional disturbance within the Buffer would be granting a special privilege to the applicant, and not in keeping with the general spirit and intent of the Critical Area law. Because we believe that the applicant has failed to meet each and every one of the County's variance standards, this office opposes the granting of this variance. I have outlined each of the County's variance standards as it pertains to this case below.

That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant. As indicated, the applicant currently enjoys significant and reasonable use the outdoor areas on the property as

evident in the existing deck structures. Therefore, the denial of a variance would not result in an unwarranted hardship.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction.* This office would not support similar variance requests to construct a patio within the Buffer.

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. We note that the property is currently developed with a decking footprint larger than that of some homes within this area of the County.

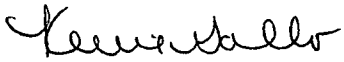
4. *The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.* As the variance request is after-the-fact, the request does result directly from the actions of the applicant. In addition, the need for a variance could have been altogether avoided by constructing the patio outside of the Buffer.

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 a variance to construct a patio within the Buffer, particularly where it is possible to avoid such an impact, is not in harmony with the general spirit and intent of the law. In addition, the placement of a patio within the Buffer adversely affects the ability of the Buffer to provide the full extent of water quality, plant and wildlife habitat benefits that would have otherwise been possible.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the applicant's request for a variance.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case. In addition, we request that a copy of the written decision be mailed to Marianne Mason, Assistant Attorney General and legal counsel to the Commission.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
CA838-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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March 23, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3289 McNeil

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to permit the construction of a garden shed structure within an area of steep slopes. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant's property is largely constrained by the presence of steep slopes, and the location of the 100-foot Buffer. Measuring the topography provided on the site plan, it appears that the entire property may be considered steep. The applicant is requesting a variance in order to permit a 48 square foot shed to remain in place, stating that no vegetation was removed for its construction. In addition, it appears that the property is currently developed with a modestly size dwelling and that significant mature vegetative cover exists. In evaluating the variance request, the Board's decision must be based on whether denial of the request would result in an unwarranted hardship to the applicant. In addition, in 2004, the General Assembly amended the Critical Area Act to authorize a local Board of Appeals to consider the fact that an applicant undertook construction without securing permits. While it appears that the construction of any accessory structure on the property would have required a variance, this office questions whether the applicant can meet all of County's variance standards at this time, particularly given the after-the-fact nature of the request.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA160-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 23, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3291 Randall

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the re-decking of an existing deck and steps, located within the 100-foot Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to replace the existing 184 square foot deck and steps in-kind, and to install new rails. The applicant has stated that no new disturbance is proposed and that that proposed deck will remain entirely within the footprint of the existing deck and steps. In general, this office does not oppose the granting of the variance. However, the applicant has also stated that the existing deck and landing will be enclosed with screens. It is not clear whether this enclosure will result in a transition from a pervious deck to an impervious surface. Should the enclosure result in an impervious surface area, please ensure that the applicant provides mitigation to compensate for the loss of Buffer and infiltration area.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA161-106

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 21, 2006

Olivia Vidotto
Calvert County Planning and Zoning
150 Main Street
Prince Frederick, MD 20678

Re: SD-02-08A-The Harbours at Solomons
TM 44, Parcel 294

Dear Ms. Vidotto:

Thank you for providing information on the above referenced subdivision. The applicant is requesting to subdivide a 97.743- acre parcel to create 252 lots, of which 65 acres and all 252 lots would be within the Critical Area. The property is designated an Intensely Developed Area (IDA) and portions of the western and southern parcel boundary are Buffer Exempt Areas (BEAs). Portions of the property are currently developed with a commercial marina and facilities.

The following comments represent a review of the materials submitted at this time. Based on the site plan requirements outlined within the County's ordinance and the general lack of environmental information supplied on the site plan, we are unable to provide a complete evaluation of the subdivision proposal at this time. Please have the applicants address the comments provided and submit a revised plat for review.

1) The property appears to contain tidal and nontidal wetlands within the parcel boundaries. Please have the applicant indicate whether professional wetland delineation has been conducted, the date of this delineation, and the name of the delineator. Please note that there appears to be a discrepancy between the limits of the wetlands shown on the plat and those shown within the State of Maryland's online mapping system, MERLIN. Field verification and/or further delineation by a qualified wetland delineator may be necessary in order to resolve this discrepancy.

2) We note that the County is in the process of completing a comprehensive update of their Critical Area Program and zoning ordinance. The County's existing ordinance does not contain provisions which permit subdivision within a BEA in the IDA. The proposed changes to the County's ordinance would permit subdivision within the BEA in an IDA, provided that the applicants could meet the remainder of the applicable provisions for such a subdivision. Given the timing of the applicants' submission, as well as the timing of the County's proposed ordinance changes, further discussion of this issue is necessary at an early stage in the review process.

3) Currently, there is no BEA setback shown and labeled on the plat. While it appears that the roads and structures have generally been kept outside of a 30-foot setback area, it is not clear whether a 30-foot BEA setback is appropriate or permitted given the language within the County's existing zoning ordinance. Further discussion is warranted.

4) Based on the topography provided, it appears that there may be multiple areas of steep slopes contiguous with the Buffer. Where steep slopes lie contiguous with the Buffer, the Buffer must be expanded 4 feet for every 1% of slope, or to the top of slope, whichever is greater. Please ensure that the Buffer is appropriately expanded where applicable.

5) Development and redevelopment with the IDA requires compliance with the 10% pollutant reduction requirement. At this time, 10% calculations have not been provided. These calculations must be provided at the time of subdivision. Please note that new stormwater best management practices and structures are not permitted within the Buffer or waterfront setbacks in the BEA. Please have the applicant provide the 10% calculations, as well as indicate the location of any proposed stormwater facilities on the plat.

6) While it is unclear at this time whether the County's existing subdivision provisions or those proposed within the comprehensive update will prevail, there has been no information provided which addresses the requirements for establishment of native vegetation within the 100-foot Buffer or within the BEA setback. Please note that County's proposed language requires the submission of a landscape planting plan showing existing and proposed vegetation within the Buffer at the time of subdivision review.

7) There is a significant marina shown on the plat. While it is not clear which features are existing and which are proposed, the number of slips shown appear to indicate that the marina will be considered a commercial facility. Please have the applicant clarify the nature of the proposed marina. In addition, all development proposed in conjunction with the marina will be required to comply with the provisions for water-dependent facilities found within the County's ordinance, as well as within COMAR.

8) The plat shows a proposed pathway within the BEA setback and within the 100-foot Buffer. While the pathway is currently labeled as pervious, further discussion of this feature is required. A pathway in the Buffer or in a BEA should not be constructed as a linear feature close to the shoreline. Instead, a pathway should enter the Buffer or BEA at strategic points to provide public access to the water. A design that meanders in and out of the Buffer provides the opportunity to restore some habitat qualities to the area.

9) Please clarify whether the large feature shown on the northern portion of the area labeled "Parcel G", is an existing stormwater management pond or some other type of feature. This feature shows up within MERLIN as a nontidal wetland.

Please have the applicant submit a revised subdivision plan which addresses the information requested above. We will provide additional comments after evaluation of this information. In addition, we

request the opportunity to conduct a site visit to the property. Commission staff will contact the County to schedule this visit.

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 subdivision.

Sincerely,

Kerrie Gallo
Natural Resource Planner
CA 589-02
CA 134-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 20, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-05-15-Bannisters Rest
(Tax Map 44, Parcel 269)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to create a five-lot subdivision on a 12.089-acre property. A portion of the property lies within a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the information provided, it is my understanding that there are no development activities planned within the Critical Area portion of the site. Therefore, we generally have no comments regarding the applicant's subdivision proposal. Please note that the Department of Natural Resources (DNR) has identified the site as containing Forest Interior Dwelling Bird (FIDs) habitat. Should any clearing occur within the Critical Area portion of the site, the applicant would be required to submit a habitat protection plan addressing guidelines for protection of the species and detailing the appropriate mitigation requirements.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA133-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 17, 2006

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

Re: River Place Site Plan-Revised

Dear Mr. McKenzie:

Thank you for providing information on the above referenced revised site plan and development proposal. The applicant is proposing to redevelop an existing parcel into 42 residential condominium units. The property is located within a designated Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA).

Based on the information provided, it appears that the majority of our previous concerns have been addressed. The applicant has demonstrated compliance with the 10% pollutant reduction requirement, as well as provided a landscaping plan which appears to be consistent with the planting requirements for pervious areas within an IDA. In addition, we note that a 20-foot BEA setback has been uniformly provided throughout the site. While we generally have no further comments to offer regarding the proposed development, please be aware the following comment remains outstanding from our previous review of the site, and will remain so until the comprehensive redevelopment plan for the proposed Riverwalk is finalized by the City, reviewed by Commission staff, and ultimately adopted by the City.

- While it is my understanding that the City is currently in the process of developing a comprehensive proposal for expansion of the riverwalk, this information has not been received at this time. As the proposed riverwalk expansion involves multiple parcels within the City limits, it is essential that a consistent approach be utilized on each parcel. As such, Commission staff is unable to provide comments on the proposed riverwalk component of the site plan at this time. Once the City's comprehensive proposal has been received and reviewed, the applicant's site plan will require additional review to ensure that consistency with the comprehensive riverwalk proposal is achieved.

Frank McKenzie
River Place
March 17, 2006

As development of this comprehensive Riverwalk plan proceeds, it may be necessary for the applicants of the River Place development to submit a revised site plan for Commission review. As such, we recommend that the City withhold final approval of the site plan until the Riverwalk plan is completed.

Thank you for the opportunity to provide comments for this revised site plan and development proposal. If you have questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SA802-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 20, 2006

Mr. David Brownlee
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Calvert County Zoning Ordinance Changes-Article 8, 9, and 11

Dear Mr. Brownlee:

We have received your letter dated February 16, 2006, and we thank you for your prompt attention in responding to our comments. At this time, it appears that County and Commission staff have reached a satisfactory resolution on a majority of the issues previously identified. However, the Commission's legal counsel, Marianne Mason, has advised that the few remaining unresolved comments would render the County's proposed Critical Area amendments non-approvable by the full Commission. While we recognize that it may be necessary to meet in person to effectively resolve the remaining issues, we provide the following comments as a basis for discussion. Please refer to Commission staff's February 8, 2006 letter in regard to the following:

2. Section 8-1.04.G.1- [Page 27], and Section 8-1.08.C.1- [Page 50]: This issue was to be revisited by the County attorney. Please provide the County attorney's opinion, as well as the context for the opinion. There is concern that the proposed terms imply a legal and/or contractual relationship which is not all-inclusive.

6. Section 8-1.08.D.2.b- [Page 53]: We acknowledge that the language found in COMAR regarding highly erodible soils has been reinstated. However, the new language proposed for Section 8-1.08.D.2.c requires more specific criteria for expansion of the Buffer and is not sufficient as proposed. Commission staff can provide some examples of language that the County may choose to incorporate or use as a template.

9. Section 8 – 1.08.D.4.e.v.3 - [Page 64]: The County's proposed provisions within this section are not sufficient to address the unique situation of maintaining BEA status on newly created lots. In addition to addressing water quality improvements, the provisions of this section must also address how the subdivision will result in improved habitat benefits and improved functioning of the Buffer. The provisions must also ensure that a subdivision will not create greater impact to the Buffer over those impacts that may have resulted if the property were not subdivided. The Commission has favorably reviewed other Critical Area Programs that allowed subdivision in BEAs which included requiring additional restrictions such as a 50-foot setback and requiring additional plantings. Commission staff can provide language that the County may choose to adopt or use as a template.

11. Section 8 – 1.09.E.1 – [Page 70]: While we are sensitive to the County's concerns as stated, we respectfully disagree that the County's planting credits are adequate. Most of the County's mitigation requirements are

satisfied through the planting of individual trees in a developed woodland setting. Using this method, the "forest" benefits are significantly reduced. This should be reflected in the mitigation credit system. The County may adopt a planting credit system different than that specified in the chart. However, this system may not result in plantings of a lesser degree than those specified in the chart. Currently, the County's ordinance utilizes a credit system of a lesser degree.

12. Section 8-2.05.C.2- [Page 83]: The County's amendments are non-approvable without this change.

Comments on Article 9-Marine Facilities Regulations

6. Section 9-7.01.A- [Page 16]: The General Assembly expressly changed this language in an effort to clarify the law. It must therefore appear verbatim.

Comments on Article 12-Definitions

5. *Commercial Timber Harvesting* - In general, we do not oppose the utilization of the County's definition over the definition found in COMAR. However, please clarify how the County would handle a situation where the root mass was not left in place.

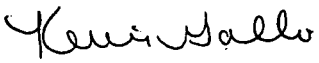
6. *Density* – The General Assembly expressly provided a definition of dwelling units and accessory structures. Therefore, accessory apartments cannot be excluded from the definition of density within the Critical Area. The County may choose to utilize different definitions of density within and outside of the Critical Area.

8. *Dwelling Unit* – Again, the General Assembly expressly provided a definition of dwelling unit in order to clarify the law. The County may choose to utilize different definitions of dwelling unit within and outside of the Critical Area.

14. *Natural Vegetation* – While we recognize the County's concerns regarding this definition, the language used in COMAR must be utilized. The intent is not to evaluate which vegetative communities have developed in the absence of human activities, but rather those that could develop if human activity were not present.

As in the past, thank you for the opportunity to provide comments on this draft component of the ordinance revisions. These comments represent Commission staff review of the most recent changes to the County's ordinance. There may be additional comments by Commission staff, the Commission's legal counsel and by the Commission during the formal review process. If you have any questions about these comments, please feel free to contact me at (410) 260-3482.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner

CC: Marianne Mason

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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March 16, 2006

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

Re: Critical Area Zoning Amendment-Bill No. 997

Dear Ms. Verdery:

This letter is in response to the above referenced County request to consider text amendments to Talbot County's Critical Area Program and zoning ordinance. The amendments in Bill No. 997 propose changes to the definition of waterfowl staging and concentration areas found within the County's zoning ordinance.

At this time, I wish to notify you that the County's request for consideration of the proposed text amendments has been accepted for processing. I have forwarded your request to Chairman Madden. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter. Commission staff will notify you of his determination and the procedures for review by the Commission.

Thank you for your coordination on these text amendments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 15, 2006

Ms. Elsa Ault
Charles County Planning and Growth Management
PO Box 2150
La Plata, Maryland 20646

Re: James Change in Circumstance Request

Dear Ms. Ault:

This letter is in response to your recent request for comments regarding the Commission's position on the James intra-family transfer, change in circumstance request.

January 25, 2006, the Commission received a copy of the County's response to Mr. James' change in circumstance request. The letter was dated June 28, 2005, and indicates the County's position that although the James' intrafamily transfer request had been approved by the County, a legal transfer of deed had never actually occurred. As a result, the County Planning Commission was unable to hear the request for a change in circumstance to release the intrafamily restrictions on the property. At this time, it is my understanding that deed transfers of the intrafamily lot have occurred from Richard James to Donald James, and then again from Donald James to Richard James. Based on the occurrence of these transfers, the James' are once again requesting Planning Commission consideration of a change in circumstance request.

Upon receipt of the County's request for comments, Marianne Mason, Assistant Attorney General and Counsel to the Critical Area Commission, contacted Ms. Sue Greer, Counsel to the Charles County Planning Commission to discuss the recent deed transactions in light of the James' renewed request for release of the intrafamily restrictions. As you know, the Planning Commission may not release the intrafamily restrictions unless the applicant shows a bonafide change in circumstance as set forth in the State law and the County's zoning ordinance.

As our counsel concluded, and based on the information that the County provided to us, we do not believe that there is credible evidence that a change in circumstance has occurred warranting a release in the intrafamily restrictions on Lot 6. In fact, the recent deed transactions lend strong support to the conclusion that the new Lot was created by the recent deed for the purpose of obtaining a new lot for ultimate sale to a third party, and not as a bonafide intrafamily transfer. It would be difficult to imagine a change in circumstance that occurred subsequent to the very recent legal creation of that lot. Moreover, since the newly-created lot was transferred back to the original owner, we are puzzled as to how that owner can now claim change of circumstance on a lot so recently deeded to his son, and then back to the original owner.

It is the Commission staff's and counsel's view that the facts set forth above do not provide a legal basis for the Planning Commission to grant this request, and that, accordingly, the change in circumstance request should be denied. Thank you for the opportunity to provide comments on this change in circumstance request. Please notify me in writing of the Planning Commission's decision on this request. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

CC: Marianne Mason, OAG
Sue Greer, Charles County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 15, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 03-21A-44
(Tax Map 44, Parcel 236)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced minor subdivision. The applicant is proposing to create a two-lot subdivision on a 5.46-acre property. The property lies within a designated Limited Development Area (LDA). Proposed Lots 1 and 2 are currently developed with single family dwelling on each lot. In addition, the subdivision creates a non-buildable outlot which is currently developed with a garage and an accessory shed. It appears that the purpose of the proposed subdivision is to draw lot lines around two existing grandfathered dwellings and that no new development activities are proposed at this time.

Based on the information provided, we have the following comments:

1. The tidal wetland limits shown on the site plan do not appear to have been drawn on the outlot parcel. Please have the applicant add the limits of tidal wetlands to this lot.

2. Based on the tidal wetland limits indicated on the plat, it appears that the Buffer is not accurately drawn. Please advise the applicant that the 100-foot Buffer is drawn from the landward edge of tidal wetlands and not the shoreline as shown. A revised site plat is needed showing the correct limits of the Buffer. In addition, please ensure that the Buffer has been delineated in the field.

3. While we acknowledge that the subdivision does not propose any new development activities at this time, the total existing impervious surface area on each proposed lot should be noted on the plat prior to recordation of the subdivision. In addition, we note that the tidal wetlands shown within the property boundaries have not been delineated as private or State-owned. Should future development of the property be proposed, any State-owned wetlands cannot be included within the property acreage for the purpose of determining impervious surface area limits.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA732-05

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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March 13, 2006

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

Re: A Village Down River-Growth Allocation

Dear Mr. McKenzie:

The purpose of this letter is to provide a summary of the issues and concerns raised by the Critical Area Commission's Program Subcommittee at the March 1, 2006 Commission meeting. As you are aware, the project, A Village Down River, was presented to the program subcommittee for informational purposes only. The presentation gave the subcommittee members a chance to raise concerns and ask questions about the project prior to their formal consideration of the growth allocation request. The following summarizes the issues raised by the subcommittee members.

Hydric Soils

The existing published soils maps indicate multiple areas of hydric soils lying contiguous with the 100-foot Buffer. Where this occurs, expansion of the Buffer may be warranted. Given that portions of the site were utilized as dredge spoil placement areas, the applicants have stated that the soils maps are not an accurate representative of the soil conditions in the field today. In support of this statement, the applicants hired a professional wetland delineator to conduct soil borings and make a determination as to the presence of hydric soils on the property. The applicant's delineator has determined that there are no hydric soils contiguous to the Buffer.

In evaluating this issue, the subcommittee members were concerned about the large discrepancy between what is shown in the published soils maps and what the applicant's delineator is claiming to be present in the field today. The commissioners suggested that a professional soil scientist be retained to conduct soil borings at regular intervals on the property, ultimately producing a new soils map for the property. Once a new map is created, the Commissioners would like confirmation from the Natural Resources Conservation Service (NRCS) that the independent soil mapping effort is consistent with NRSC standards and sufficient in scope to override the existing published soils maps.

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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March 13, 2006

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

Re: A Village Down River-Growth Allocation

Dear Mr. McKenzie:

The purpose of this letter is to provide a summary of the issues and concerns raised by the Critical Area Commission's Program Subcommittee at the March 1, 2006 Commission meeting. As you are aware, the project, A Village Down River, was presented to the program subcommittee for informational purposes only. The presentation gave the subcommittee members a chance to raise concerns and ask questions about the project prior to their formal consideration of the growth allocation request. The following summarizes the issues raised by the subcommittee members.

Hydric Soils

The existing published soils maps indicate multiple areas of hydric soils lying contiguous with the 100-foot Buffer. Where this occurs, expansion of the Buffer may be warranted. Given that portions of the site were utilized as dredge spoil placement areas, the applicants have stated that the soils maps are not an accurate representative of the soil conditions in the field today. In support of this statement, the applicants hired a professional wetland delineator to conduct soil borings and make a determination as to the presence of hydric soils on the property. The applicant's delineator has determined that there are no hydric soils contiguous to the Buffer.

In evaluating this issue, the subcommittee members were concerned about the large discrepancy between what is shown in the published soils maps and what the applicant's delineator is claiming to be present in the field today. The commissioners suggested that a professional soil scientist be retained to conduct soil borings at regular intervals on the property, ultimately producing a new soils map for the property. Once a new map is created, the Commissioners would like confirmation from the Natural Resources Conservation Service (NRCS) that the independent soil mapping effort is consistent with NRSC standards and sufficient in scope to override the existing published soils maps.

Frank McKenzie
The Village Down River
March 13, 2006

Water Dependent Facilities

The site plan presented to the project subcommittee included a proposal for a new marina in the Intensely Developed Area (IDA) portion of the property. While this marina is not located in an area being considered for growth allocation, the Commission members expressed the view that the marina is inherently tied to the growth allocation request, as it will serve development in the Limited Development Area (LDA) portion of the property. At the time of the subcommittee meeting, the applicants were unable to provide a clear answer as to whether the proposed marina will be developed as a community or commercial marina. In addition, portions of an existing concrete pier, as well as what appeared to be a newly configured pier, were shown on the site plan in conjunction with the marina. It was not clear whether the existing concrete piers will remain, be expanded, or be reduced in scope.

Prior to the Commission formal consideration of the growth allocation request, the project subcommittee requested that the applicants make a determination as to whether the proposed marina will be commercial or community in design. If the marina is to be a community marina, the applicants would need to demonstrate compliance with the slip limits in COMAR. The Commissioners also requested that the applicants make a determination as to the configuration and scope of the proposed concrete piers in the marina area. Clarification as to what currently exists, and what is proposed is needed.

300-foot Setback

The site plan presented to the subcommittee members did not include the provision of a 300-foot setback. Historically, when reviewing growth allocation requests within the Resource Conservation Area (RCA), the Commission has assured that all development activities are located outside of the 300-foot setback. During a brief discussion of this issue, it was noted that some inconsistencies exist between the 300-foot setback language in the County's zoning ordinance and that which is found with COMAR. While the applicants did touch on the mitigating aspects of the project in lieu of providing a 300-foot setback, the subcommittee members expressed a desire to have the applicants formally address the reasons that a 300-foot setback is not being provided. Specifically, the subcommittee members expressed an interest in hearing detailed information about the ecological benefits being provided in lieu of the 300-foot setback.

I hope that this letter provides you with an idea of the types of issues that the Commission members found to be of outstanding concern. Prior to the formal submission of a growth allocation, the outlined issues should be addressed and any uncertainties in design ironed out. If you have any questions or would like to discuss this summary, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 10, 2006

Mr. David Brownlee
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Solomons Roundabout-Streetscape Improvements

Dear Mr. Brownlee:

Thank you for providing information on the above referenced roundabout and streetscape improvement project. It appears that the County Department of Public Works is proposing to construct a 70-foot inscribed diameter roundabout, resurface portions of the existing Charles and Farren Avenues, install curb and gutter and sidewalks, as well as restore multiple areas of impervious surface to pervious cover. The project lies entirely within the Intensely Developed Area (IDA) and an approved Buffer Exemption Area (BEA)

It is my understanding that the proposed improvements propose no additional impervious surface area within the Buffer and propose no impacts to tidal waters. It does not appear that any tree clearing is necessary for the project. Because the project proposes to remove 4,387 square feet of impervious surface area, the resulting improvements achieve a 10% reduction in pollutant loadings, and therefore require no further structural Best Management Practices (BMPs). Based on the site plan submitted, I concur that that the project appears to be consistent with the provisions of COMAR 27.02.02 and requires no further Commission review or action.

We appreciate the opportunity to provide comments on this development proposal. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 150-06

CC: Carol L. Thomas, Calvert County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 10, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Morgantown Generating Station
Plant Area Improvements

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a building permit to construct multiple improvements to the existing Morgantown Generating Station plant. The property lies within a designated Intensely Developed Area (IDA) and is currently developed.

Based on the site plan provided, my understanding is that the current project proposes to place approximately 19,720 square feet of new impervious surface area within the Critical Area. In addition, there will be approximately 35,968 square feet of impervious surface area placed within an area currently impervious in nature. As the proposed disturbance occurs within the IDA, the applicant is required to provide compliance with the 10% pollutant reduction requirements. In order to meet this requirement, the applicant is proposing to construct a grassed swale and an extended detention facility. Based on an analysis of the calculations provided, we concur that the 10% pollutant reduction requirement has been met. Therefore, we do not oppose the granting of a building permit for the proposed improvements.

Thank you for the opportunity to provide comments on this site plan. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 10, 2006

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

Re: John C. North
Appeal # 1414

Dear Ms. Verdery:

Thank you for providing information on the above-referenced allegation of error. The applicant has filed a request, alleging that the Talbot County Planning Officer erred by allowing the continuation of parking and/or storage of vehicles and boats in an open field area within the Miles River Yacht Club property. The applicant further alleges that the Planning Officer has incorrectly interpreted the zoning ordinance's use category entitled "Vehicle and Boat Parking and Storage" to include the long-term storage of boats at the Miles River Yacht Club property.

It appears that the applicant's claim mainly seeks an interpretation as to whether a type of use identified within the County's zoning ordinance expressly includes the parking and storage of boats, and whether this use can be applied to the Miles River Yacht Club, allowing for the continuation of boat storage on the property. Provided that the Board determines that the parking and storage of boats and vehicles is a use which existed on the property prior to 1954, and that this non-conforming use is permissible within the Limited Development Area (LDA), this office has no further comments regarding the Board's interpretation of the use language.

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

Sincerely,

Kerrie Gallo
Natural Resources Planner
TC 100-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 10, 2006

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

Re: Bill No. 997

Dear Ms. Verdery:

We recently received a copy of County Bill No. 997 proposing a change to the County's zoning ordinance in the definition of "Historic Waterfowl Concentration and Staging Areas" as well as, an addition of language concerning waivers of restrictions on marine construction within waterfowl staging and concentration areas. It is not clear from the information received if the County is requesting that the Critical Area Commission review the Bill as a change to the Talbot County Critical Area Program.

In order to initiate the processing of the zoning amendments proposed within County Bill No. 997, please provide a written request to Commission staff to process the Bill as a change to the County's Critical Area Program. Once this request is received, Commission staff will forward it to Chairman Madden for a determination as to whether the changes can be handled as an amendment or a refinement to the County's program. Commission staff will notify you of his decision and the schedule for consideration by the Commission.

Thank you in advance for coordinating with Commission staff regarding the County's text amendments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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March 8, 2006

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

Re: Miles River Yacht Club Site Plan-Revised

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to construct multiple improvements to the existing clubhouse building. The property is designated a Limited Development Area (LDA) and a Buffer Management Area (BMA), and is currently developed.

Based on the revised information provided, we have the following comments.

1. The site plan is showing multiple areas of impervious gravel which are to be replaced with pervious pavers. It appears that this conversion is in fulfillment of the Board of Appeals September 2005 variance decision which required the property owner to remove existing impervious surface area in an amount equivalent to the area of new impervious surfaces installed to construct the sidewalks. While it appears that approximately 1,943 square feet of existing impervious surface area is being removed and/or converted, the amount of impervious surface area installed for construction of the sidewalks was previously stated as 2,680 square feet. Please have the applicant clarify why there is a discrepancy in the amounts.

2. While the overall impervious surface area on the property appears to decrease as a result of the removal of a gravel parking area and multiple structures, the applicant is proposing to construct new impervious surfaces in areas currently considered pervious. Impervious surface area limits within both State and County law restrict the applicant's property to 15% impervious surface area coverage. While we recognize that compliance with this limit is not possible on this property, any new area of impervious surface area will require a variance.

3. The site plan proposes to plant twenty Burning Bush shrubs waterward of the proposed dining area. Burning Bush shrubs are not native to Maryland and are listed as invasive

species within the state. As the shrubs are located within the Critical Area Buffer, and in close proximity to tidal waters, we recommend that the County require the applicant to replace the invasive species proposed with species native to Maryland. Some native alternatives with similar aesthetic characteristics include Virginia Sweetspire, Red Chokeberry and Highbush Blueberry.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 541-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

To: James W. Price, Program Open Space

From: Kerrie Gallo

Date: March 6, 2006

RE: POS Project #4793-4-55 North Beach Waterfront Park Streetscape Project, Calvert County

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to add flower boxes, lights, trash receptacles, signs and benches to enhance the waterfront park. While specific plans may not yet be available, the following factors should be considered.

The property lies partially within the Critical Area in an area designated as an Intensely Developed Area (IDA). Any type of development within this portion of the property must be consistent with the Town of North Beach's Critical Area Program. If the proposed project is occurring within an area of land owned by the Town, the project may qualify under COMAR 27.02.02 as a local agency action resulting in development of local significance on lands owned by local jurisdictions. As such, the Town would be required to submit a consistency report to the Critical Area Commission for review and concurrence.

We recommend that the Town of North Beach work closely with Critical Area Commission staff as early as possible in the planning process. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3482.

Cc: Honorable Mark Frazer, North Beach
John Hofman,

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/

March 7, 2006

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

Re: L1019 Creswell

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is requesting to revise a property boundary between two existing lots. Both properties lie within a designated Limited Development Area (LDA). Lot 2 is currently developed, while Lot 1 is undeveloped.

Based on the information provided, this office does not oppose the abandonment and revision of lot lines on this parcel. However, please note that the revised lot areas stated on the plat and within the impervious surface area calculations area are not consistent with one another. Prior to recordation of the plat, this information should be corrected and the associated impervious surface area limits adjusted.

Thank you for the opportunity to provide comments regarding this lot line abandonment and revision. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC 97-06

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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March 7, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: SFD 50780 Molvin

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a building permit to construct a single family dwelling and garage. The property lies within a designated Resource Conservation Area (RCA) and is currently undeveloped.

Based on the revised information provided, it appears that the outstanding issues of concern have been resolved. Specifically, the applicant has revised the site plan to include the field delineated limits of tidal and non-tidal wetlands, added the 100-foot Buffer to the site plan, and provided the County with a mitigation planting plan which is consistent with the County's ordinance and mitigation planting requirements. Therefore, we have no further comments.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 831-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 6, 2006

Mr. Robert Street
Somerset County Sanitary District, Inc.
11916 Somerset Avenue, Room 212
P.O. Box 236
Princess Anne, Maryland 21853

Re: North Princess Anne Utility Upgrades

Dear Mr. Street:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On March 1, 2006, the Critical Area Commission unanimously approved the Town's proposal and site plan to upgrade the existing sewer and water main, as well as existing pumping stations within the Town's limits. This approval included the following conditions:

1. The Somerset County Sanitary District Commission shall provide mitigation for 1,700 square feet of disturbance within the Town of Princess Anne's Critical Area BEA and 100-foot Buffer and shall report back to the Critical Area Commission's Project Subcommittee no later than May 3, 2006 regarding progress made on locating a planting site and implementing the mitigation plan.

2. The Somerset County Sanitary District Commission shall install a turbidity curtain at the terminal end of the replacement sewer line, along the banks of the unnamed tributary at Front Street. This curtain shall be placed parallel to the shoreline during the entire project in order to avoid excessive siltation to the Sensitive Joint Vetch downstream.

In fulfillment of the above conditions, please provide Commission staff with a mitigation planting plan once completed. Once this information is received and reviewed by Commission staff, the planting plan will be placed on the following month's Commission agenda for evaluation and approval by the project subcommittee. Please note that should any changes to the site plan be proposed for the construction of the project, additional review and approval by the

full Commission would be required. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP
Scott Smith, DNR
Jay Parker, Town of Princess Anne
Josh Taylor, DBF

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3279 Hubbard

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to the expanded 100-foot Buffer in order to permit the continuation of a deck constructed without the proper permits. The property lies within a designated Limited Development Area (LDA), and is currently developed.

Based on the information provided, it appears that the applicant currently enjoys reasonable and significant use of the outdoor areas on the property via the deck attached to the dwelling, and the existing walkway and pier. As such, it does not appear that the denial of this variance request would result in an unwarranted hardship to the applicant. In addition, an accessory deck, located on steep slopes within the expanded Buffer would not be a right commonly enjoyed by others within the County, particularly where accessory porches and/or decks exist adjacent to the primary dwelling. We recommend that the Board consider whether the applicant has overcome the burden to meet each and all of the County's variance standards, particularly the standard of unwarranted hardship. Based on our view that the standards have not been met, this office cannot offer support for the granting of this variance. We recommend that the Board require the applicant to remove the deck from the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
CA 77-06

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/

March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3278 Hubbard

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to the 100-foot Buffer in order to permit the continuation of a deck constructed without the proper permits. The property lies within a designated Limited Development Area (LDA), and is currently developed.

Based on the information provided, it appears that the applicant currently enjoys reasonable and significant use of the outdoor areas on the property via the deck attached to the dwelling, and the existing walkway and pier. As you are aware, the goals of the Buffer regulations within the County's Critical Area Program and Zoning Ordinance include minimizing the effect of human activities on wetlands, shorelines, and tidal waters, maintaining an area of transitional habitat between aquatic and upland communities, and protection of riparian wildlife habitat. The 120 square foot deck within the Buffer appears to be in direct contrast with these goals, as the deck occupies a significant portion of the transitional area between the aquatic and upland environment on the property, and essentially prohibits the Buffer from providing any functional habitat opportunities at the water's edge.

We note the applicant's assertion that the deck reinforces the bulk head, and therefore should not be removed. It is our view that sufficient processes exist through the Maryland Department of the Environment to allow the applicant a legitimate and structurally sound replacement alternative for the bulkhead, should it be failing. In addition, we note that the adjoining property owner was the subject of a similar variance request in July of 2005, whereby the Board made a determination that a 320 square foot deck adjacent to the bulkhead did not meet the standards for a variance in the Critical Area, requiring the deck to be removed.

In evaluating the applicant's request, the Board must determine whether the applicant has overcome the burden to prove that each of the County's variance standards has been met. As stated above, it appears that the applicant would continue to enjoy reasonable and significant use of the property without the deck in question. Therefore, we do not believe that the standard of unwarranted hardship has been met. In addition, this office does not believe that the applicant

can meet any of the County's remaining variance standards in regard to the deck. Based on this information, this office strongly opposes the granting of this variance, and recommends that the Board require the applicant to remove the deck from the Buffer. If removed, the Buffer area should be restored with plantings native to Calvert County.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resources Planner
CA 409-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3277 King

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct a porch addition to the primary dwelling. The property is a designated a Resource Conservation Area (RCA) and is currently developed.

Based on the information and site plan provided, the purpose and intent of the applicant's variance request is not entirely clear. Specifically, it appears that the applicant is requesting to construct a 7-foot wide porch or ramp structure in what appears to be shown as the expanded Buffer. It is not clear which feature is being requested. Both County and State regulations include provisions for reasonable accommodations for persons with disabilities. As such, this office would not generally oppose a variance to accommodate wheelchair access. However, when evaluating a Critical Area Buffer variance, the Board must consider whether the applicant has made a reasonable attempt to avoid and minimize impacts to the Buffer. As currently proposed, the applicant's dwelling is 2,300 square feet in footprint. The large size of the footprint appears to be creating a self-imposed hardship on the applicant to place the dwelling directly adjacent to the Buffer, then requiring a variance for the proposed porch or ramp. It appears that a smaller footprint would allow the dwelling to be moved farther from the Buffer, easily accommodating a ramp or porch that is adequately sized for wheelchair access. We recommend that the Board consider whether minimization is possible as a first priority.

As the property is located within the RCA, an area intentionally designated and characterized as being dominated by nature, this office has particular concerns about the impact of a large dwelling and the large scale of disturbance proposed (16,500 square feet). The Board must also consider whether the applicant can meet each of the County's variance standards, including the standard of unwarranted hardship. Where a variance of a lesser degree is feasible, or where it would be possible to eliminate the need for a variance altogether, the standard of unwarranted would be difficult to meet. Finally, we reference the Americans with Disabilities Act's design

standards that a wheelchair ramp be a minimum of three feet in width. We recommend that the Board evaluate whether the proposed addition is consistent with or in excess of those standards.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA804-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3276 Harty

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct an addition to the primary dwelling. The property is a designated a Resource Conservation Area (RCA) and is currently developed.

Based on the site plan provided, it appears that the applicant is requesting to construct a 240 square foot addition to the primary dwelling. Only a portion of the proposed addition appears to lie within the Buffer. In addition, it appears that the proposed addition encroaches no further towards mean high water than the existing dwelling. Provided that proper erosion control measures are utilized, and that the applicant implements the required mitigation for disturbance to the Buffer, we do not generally oppose the granting of the variance request. However, it is not clear from the site plan whether any stormwater management features currently exist on the site. Given the location of the proposed addition within the Buffer, we recommend that the Board consider whether additional stormwater management measures, structural or non-structural, would serve to enhance the site conditions and provide greater infiltration opportunities for runoff.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA-340-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3275 Szymanski

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer requirements in order to permit the construction of an addition to an existing accessory structure within the Buffer, as well as replace a second existing shed with a different configuration within the Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing a net reduction in impervious surface area within the Buffer, as well as within the site as a whole. In addition, it appears that the proposed activities do not place additional accessory structures any closer to mean high water than the existing accessory structures. In regard to the placement of a reconfigured shed on the eastern side of the property within the general footprint of the existing shed, we do not oppose the applicant's variance request. In regard to the construction of the additions to the existing frame shed on the northern portion of the property, we do not oppose the request. However, please ensure that the applicant provides adequate sediment erosion control measures, as well as the required mitigation for new disturbance within the Buffer associated with the additions.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 75-06

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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March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3273 White/Green

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the expanded 100-foot Buffer and steep slope requirements in order to permit the construction of a primary dwelling and septic area. The applicant is also requesting a variance to clear grater than 30%. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the lot is largely constrained by its narrow shape and the presence of steep slopes and expanded Buffer. As a result, we acknowledge that some degree of variance appears necessary in order to develop the property. However, it does appear that there are several areas on the site plan where the limits of clearing and overall disturbance could be lessened. We recommend that the Board require the applicant to minimize the clearing and limits of disturbed to the absolute minimum necessary for the development prior to the award of any variance.

In addition, we note that the State of Maryland's online mapping system, MERLIN, indicates that the applicant's property lies within a sensitive species review area. Based on regulations set forth in the Calvert County Critical Area Program and Zoning Ordinance, the applicant is required to coordinate with County staff and the appropriate resource agencies, in this case, DNR, to identify the potential species of concern and to address any recommendation for the protection of these species. As protection efforts for particular species may require alterations to the site plan or additional restrictions, we recommend that variance approval be delayed until an evaluation of the property by DNR can be obtained.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 73-06

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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March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3259 Shoemaker-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct an addition to the primary dwelling. The property is a designated a Limited Development Area (LDA) and is currently developed.

Based on the site plan provided, it appears that the applicant has reduced the size of the footprint, as well as provided two rain garden features designed to capture rooftop runoff from the addition and existing dwelling. In addition, we note that the applicant intends to upgrade the existing septic system via the installation of a pre-treatment unit. As a result of the revisions made to the site plan and provided that the applicant implements the required mitigation for disturbance to the Buffer, we do not oppose the granting of this variance request.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA804-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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March 2, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 06-3274 Barnes

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from to the steep slope requirements in order to permit the construction of a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, it appears that the construction of a single family dwelling would not be feasible without some disturbance to steep slopes. In addition, it appears that the applicant has made efforts to manage rooftop runoff and sediment erosion control. Provided that the applicant provides the required mitigation for the proposed clearing, we do not oppose the granting of the variance.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA 73-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 16, 2006

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

Re: A068 McLane

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a variance to enclose an existing patio, lying entirely within the Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it is my understanding that construction of the patio was approved in 2003 and that the current proposal does not include the placement of any new impervious surface within the Buffer. As a result, we do not oppose the granting of the variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC43-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 16, 2006

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

Re: L1017 Scan, LLC

Dear Ms. Verdery:

Thank you for providing information on the above referenced line revision request. The applicant proposes to revise the lot lines on three existing parcels. The property is designated a Limited Development Area (LDA). The revised Lots 1 and 2 are currently developed while revised Lot 3 is undeveloped.

Based on the information provided, we have the following comments.

1) Revised Lot 1 is greater than one acre in size and is therefore subject to a 15% impervious surface area limit, not 25%. It appears that the amount of existing impervious surface area (10,091 square feet) exceeds the 15% limit (9,408 square feet). Based on this information, the revision of former Tax Parcel 19, Property 2 creates a non-conforming lot and is not permitted under local zoning and the Critical Area Law.

2) The lot line revision utilizes the acreage of the entire Parcel 19 in calculating the 25% per lot (for Lots 2 and 3) and 15% impervious surface area limits for the subdivision. We note that there are eight additional lots proposed for future development on the remaining lands. While we acknowledge that no subdivision of these lots is proposed at this time, please include a plat note referencing that the remaining lands are necessarily associated with revised Lots 1, 2 and 3. Since the three lots are not being formerly subdivided off of Parcel 19, they must be shown on and included within any future subdivision plats for Lots 4-11.

3. The impervious surface area calculations for the remaining lands states that there is a 25% limit. The remaining lands are greater than one acre in size and are therefore limited to a 15%

limit. Should future subdivision of the remaining lands occur, and the individually lots be less than one acre in size, a 25% impervious surface area limit per lot would be permitted. However, the subdivision as a whole would still be limited to 15%. Please ensure that this calculation is corrected on the current plat.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC96-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Kerrie Gallo

Date: February 16, 2006

RE: POS Project #4766-22-166 Heritage Center at Pemberton Historical Park
Wicomico County

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is renovate the existing Heritage Center structure, creating an area for historical and environmental displays. Based on the information provided, we have the following comments.

Tax Parcel 473 lies within the Critical Area in an area designated as a Resource Conservation Area (RCA). Within the RCA, any development activity which proposes physical disturbance to the land requires review by the Wicomico County Department of Planning, Zoning, and Community Development. In addition, those activities proposing greater than 5,000 square feet of disturbance within the RCA require additional review by the Critical Area Commission staff. Based on the limited information provided, it is difficult to assess the amount of disturbance proposed in conjunction with the renovation project. Further information regarding the project's scope will be necessary.

We recommend that the applicants or representatives for the proposed project work closely with the Wicomico County Planning staff as early as possible in the planning process in order to determine any Critical Area review requirements. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Frank McKenzie, Wicomico County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 15, 2006

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

Re: Proposed Riverwalk Expansion

Dear Mr. McKenzie:

Thank you for providing information on the above referenced Riverwalk expansion project. It is my understanding that the City is trying to establish a comprehensive approach to expanding the Riverwalk across multiple parcels along the Wicomico River. In addition, the City is attempting to establish a uniform building and Buffer Exemption Area (BEA) setback that could be applied to the redevelopment of the City's waterfront.

Based on the information provided, the City is currently proposing to construct a 10-foot wide concrete walkway, directly adjacent to the bulkhead on multiple parcels within the Intensely Developed Area (IDA). Behind the walkway, the City will require an additional 10-foot setback, to be planted in native vegetation. While public access to the waterfront is encouraged, and Commission staff is optimistic about the benefits of developing a comprehensive approach to the Riverwalk expansion and BEA setbacks, more detail is needed regarding certain aspects of the City's approach, as well as regarding the consistency of the City's proposal with the State and local Critical Area Law and Regulations.

In 1997, the Commission published a guidance document entitled Public Walkways. The purpose of this document is to provide local jurisdictions with a set of recommendations that should be addressed in order to assure that the walkway, and consequent impact to the Buffer, is designed in a manner which minimizes impacts to the Buffer and to aquatic resources. When following the recommendations outlined in the document, a local jurisdiction is able to ensure that consistency with the provisions of COMAR 27.01.09.01 is achieved. In addition, the document helps assure that all walkways proposed within individual jurisdictions are consistent within the jurisdiction, as well as among each of jurisdictions within the State's entire Critical Area. At this time, there are multiple components of the City's walkway proposal which are inconsistent with this guidance document, and therefore warrant

further discussion. We recommend that the City refer to the Public Walkways guidance document in addressing the following outstanding concerns.

1. The current Riverwalk proposal places a large amount of impervious surface area directly adjacent to existing or proposed bulkheads, with no area for infiltration proposed between the walkway and water. In order to assure that no adverse impacts are created by placement of the walkway in close proximity to the water, we recommend that the walkway be reduced from 10 feet in width to 8 feet, with a two-foot filter strip included between the walkway and water. This filter strip should be planted in native vegetation to help absorb runoff.

2. The Commission's guidance document refers to pervious or semi-pervious construction materials wherever possible to promote infiltration and absorption of runoff within the Critical Area. While the existing Riverwalk sections are constructed of concrete, would it be possible to construct the expanded Riverwalk in wood or pervious pavers instead of concrete? Pervious and semi-pervious construction would help the City achieve consistency with the impact minimization criteria within COMAR.

3. It is not clear whether the 20-foot Riverwalk setback would be individually owned within each parcel, or whether the City intends to maintain an easement across this area for maintenance and safety assurances. Please clarify. In addition, please clarify the following:
    - Would each individually parcel owner/developer be responsible for establishment and maintenance of the 20-foot setback and Buffer?
    - The area of the Riverwalk would need to be factored into 10% calculations on each parcel. Will each of the individual parcel owners/developers be responsible for this at the time of redevelopment?
    - Will the Riverwalk be constructed in sections by individual developers as each waterfront parcel is redeveloped, or does the City envision development of the Riverwalk as a comprehensive development project, independent of each parcel's redevelopment?
    - The area disturbed within the Buffer for placement of the Riverwalk would be subject to mitigation. Will this mitigation be the responsibility of the individual parcel owners/developers, or will be City provide this mitigation comprehensively?

Thank you for the opportunity to provide comments for this comprehensive development proposal. We recognize that the City is currently experiencing an increased interest in redevelopment of the waterfront area. The City's commitment to providing a consistent and cohesive approach to this redevelopment is indicative of positive stewardship efforts. As previously stated, Commission staff would be happy to meet with the City to further discuss specific aspects of the City's Riverwalk expansion and redevelopment proposal. If you have questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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February 15, 2006

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

Re: A069 Magee

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance. The applicant is requesting a Buffer variance to construct a 180 square foot addition to the primary dwelling. The dwelling is currently a legal, non-conforming structure located partially within the 100-foot Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

Provided that the impervious surface area limits for the property are not exceeded and that mitigation is provided for the area of disturbance within the Buffer, we do not oppose the granting of a variance.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC44-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 14, 2006

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

Re: BRM, LLC Site Plan

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to convert and existing property into a landscaping business. The property is designated a Limited Development Area (LDA) and is currently developed with multiple structures and parking areas.

Based on the information provided, it is my understanding that the applicant proposes to convert a former boat storage yard located on an existing non-conforming parcel of record to a landscaping business. While the parcel currently exceeds the permitted impervious surface area limits within State and local Critical Area Law, the applicant is not proposing the addition of any new impervious surface area, or the renovation of any existing structures. As a result, we do not generally oppose the conversion of the use on the property. However, please note that should any new impervious surface areas be proposed in the future, a variance would be required. In addition, prior to final site plan approval, please have the applicant revises the site plan to include the location of the Critical Area boundary, as well as a detailed breakdown of the existing impervious surface areas on site.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

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 13, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: SDP 050072-Morgantown Generating Station
Transmission Tower Platforms

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a building permit to place six transmission poles on circular concrete cassions within the Critical Area. The property lies within a designated Intensely Developed Area (IDA) and is currently developed.

Based on the site plan provided, my understanding is that the current project proposes to place approximately 570 square feet of new impervious surface area within the Critical Area. As the proposed disturbance occurs within the IDA, the applicant is required to provide compliance with the 10% pollutant reduction requirements. In order to meet this requirement, the applicant is proposing to utilize a disconnection credit. Based on an analysis of the drainage areas used, and the minimal amount of new impervious surface area and overall disturbance proposed, we concur that the disconnection credit can be utilized as shown. Therefore, we do not oppose the granting of a building permit for the transmission pole installation.

Please note that this review takes into consideration only the six transmission pole cassions proposed at this time. Future development on the site will require review under separate application, and will be subject to compliance with the 10% pollutant reduction requirements. This compliance will be evaluated on a case-by-case basis for each development activity proposed.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 177-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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February 10, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD 04-33-34 Maguire
(Tax Map 34, Parcel 236)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised major subdivision. The applicant is proposing to create a two-lot, intra-family transfer subdivision. The property lies within a designated Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1. Note # 4 refers to two, three-acre entitlements being utilized on the property. Please provide some documentation which supports this claim.

2. The applicant wishes to proceed with the proposed subdivision as an intra-family transfer. In order to qualify for an intra-family transfer request, State and County Critical Area Laws require that the parent parcel be on record as of March 1, 1986. Records from the State Archives indicate that the parent parcel was created in 1993 as "Tract Two" via some form of subdivision from the larger Parcel 236, located across Broomes Island Road. The area currently being shown for subdivision appears as a part of Parcel 237 on County tax maps. Based on this information, it is not clear that the applicant's property qualifies for intra-family transfer. Further information is needed prior to preliminary plat approval. Please see the accompanying 1993 plat information.

3. The 1993 plat which created the applicant's property shows an existing dwelling, yet no existing dwelling is shown on the current subdivision plat. Please clarify whether a dwelling currently exists on the property.

4. Please note that this office has not yet received notice of an evaluation of the property by the Department of Natural Resources (DNR) for the presence of any rare, threatened, or endangered species. As always, the applicant must obtain this evaluation and will be required to address any recommendations made by DNR for the protection of any species identified.

Thank you for the opportunity to provide comments for this major subdivision request. Please provide a copy of a revised plat, along with the requested supplemental information. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA50-06

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 10, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: SD-03-24A Hance Subdivision Revised-Lots 1-5
(Tax Map 19, Parcel 48)

Dear Ms. Vidotto:

This letter is in response to our continuing review of the Hance subdivision. The applicant is proposing to subdivide a 14-acre property to create five new residential lots within the Critical Area. The property is designated a Resource Conservation Area (RCA) and is currently developed with 39 mobile homes.

Based on our review of the current revised site plan, the following issues remain outstanding.

1) The impervious surface area information on the plat is incorrect. Each of the proposed lots is greater than one acre in size. Therefore, each lot is limited to a 15% impervious surface area limit, not 25%. Critical Area notes 2, 4, and 5 are incorrect and must be changed. Broken down on a lot-by-lot basis, the 15% impervious surface area limits are as follows based on the lot sizes stated:

   Lot 1: 1.290 acres *15%= 8,428 square feet
   Lot 2: 1.270 acres *15%= 8,298 square feet
   Lot 3: 1.184 acres *15%= 7,736 square feet
   Lot 4: 1.311 acres *15%= 8,566 square feet
   Lot 5: 1.387 acres *15%= 9,062 square feet

2) It is not clear how the expanded Buffer on Lot 3 was derived. The County's ordinance requires that the Buffer be expanded 4 feet for every 1% of slope, or to the top of slope, whichever is greater. Please have the applicant provide written clarification as to how the expanded Buffer limits were determined. In addition, the plat shows an area of 15% slopes contiguous to the Buffer on Lot 2. As such, the Buffer must be expanded on Lot 2.

3) While the applicant's demarcation of 25% slopes on the property is not entirely clear, it appears that there may be multiple areas of 25% slopes impacted for the proposed development. Any impacts to slopes 15% or greater requires a variance. Consistent with the County's previous

comments, it appears that the southern portion of Sea Fossil Drive will also need a variance. All variances should be obtained prior to the recordation of the final subdivision plat.

4) Within Open Space B, there appears to be a stream, delineated as waters of the U.S. All streams within the Critical Area require a 100-foot Buffer. Please add this feature to the plat.

5) Currently, the plat shows the 100-foot Buffer measured from the property line. It is unclear whether this line also indicates the location of Mean High Water (MHW). As the Buffer is measured from MHW, or the landward edge of tidal wetlands or tributary streams, please have the applicant clarify and label MHW on the plat.

6) We continue to assert that a Buffer Management Plan should be provided which includes the following:

    a) Existing large trees that are close to the cliff edge should be cut, but their root systems should remain in place to help retain the soil;
    b) At a minimum, the 100-foot cliff setback should be densely planted and allowed to regenerate with natural vegetation. Application of this requirement within the 200-foot cliff setback would serve to further ensure cliff stabilization and minimize erosion;
    c) Mowing or removal of leaf litter, understory, or other vegetation should be prohibited within the 100-foot setback at a minimum. Application of this requirement within the 200-foot cliff setback would serve to further ensure cliff stabilization and minimize erosion.

Thank you for the opportunity to provide comments for this revised subdivision request. As always, please provide Commission staff with a copy of the revised subdivision plat, along with any written correspondence provided by the applicant. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA610-03

Cc: Robin Munnikhuysen, Calvert County
Katharine McCarthy, DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 8, 2006

Mr. David Brownlee
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Calvert County Zoning Ordinance Changes-Article 8

Dear Mr. Brownlee:

Thank you for providing additional changes to the Calvert County Zoning Ordinance. I have completed my review of the proposed changes and provide the following comments and questions for your consideration. Many of the items found in this letter were discussed in the January 6, 2006 meeting between County and Commission staff members. Consistent with our past review letter, items for addition are shown in bold and underlined. Please note that all remaining items identified within this letter are considered changes necessary for the County's ordinance to remain consistent with State Critical Area Law and Regulations.

1. Section 8-1.02.A.a- [Page 2]: Amend as follows: ...unless the wetlands are mitigated on a one-to-one basis, **and the appropriate permits are obtained from the Maryland Department of the Environment.**

2. Section 8-1.04.G.1- [Page 27], and Section 8-1.08.C.1- [Page 50]: Upon discussion with the Commission's legal counsel, the County's original proposal to change the term, developer, to "a person" should be reinstated. Counsel has verified that "a person" is the most inclusive and appropriate term to use in this context. Therefore, replace "owner or the owner's agent" with "a person" wherever the use of the term is exercised throughout the ordinance.

3. Section 8-1.04.G.3.e- [Page 31]: Amend as follows: Clearing or alteration of vegetation inconsistent with this Section or unauthorized clearing or alteration of vegetation occurring **prior to having obtained the required permit** ~~that requires permits~~ shall be subject to....

4. Section 8-1.05.G.1.d- [Page 40]: Amend as follows: Expansion or intensification of such uses may be permitted only ~~if the criteria for development in the Resource Conservation Areas have been met~~ **in accordance with the grandfathering or nonconforming use provisions** (reference appropriate section). This change is necessary to ensure that this provision is consistent with

COMAR 27.01.02.07 A. which states, " ... local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has been abandoned for more than 1 year or is otherwise restricted by existing local ordinances. If any existing use does not conform to the provisions of a local program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in COMAR 27.01.11.

5. Section 8-1.07.B- [Page 48]: Please note that any grandfathering provisions permanently removed from the ordinance will no longer be permissible under the law within Calvert County. Based on conversations with County staff, we acknowledge that the County is aware of the implications of deleting this section and has chosen to proceed with the majority of the deletion. However, during our January 20, 2006 meeting, it was agreed that Section 8-1.07.B.c.i should remain in order to allow the County to continue to permit the reconfiguration of certain existing non-conforming lots (on a case-by-case basis), where a reconfiguration would ultimately result in an overall improvement to the environmental quality of the site or lessen the degree of nonconformity on the site.

6. Section 8-1.08.D.2.b- [Page 53]: The proposed changes to this section are inconsistent with the State criteria and must be amended. Specifically, the language regarding the expansion of the Buffer for contiguous sensitive areas must include highly erodible soils. This is language found within COMAR 27.01.09.02.7, and approved by the General Assembly. As communicated during our January meeting, the County may develop a process or criteria to determine that on a case-by-case basis, for a specific development activity on a specific site, erodible soils may not impact streams, wetlands, or other aquatic environments, and therefore issue a formal waiver to the expansion criteria. However, the language cannot be altogether deleted as proposed. Commission staff recognizes the extent of erodible soils found within Calvert County, and would be happy to work with the County to develop criteria that meet the intent of the law, and provide the flexibility that the County desires in interpreting and implementing this requirement.

7. Section 8-1.08.D.2.b- [Page 53]: Consistent with comment # 5 above, the slope expansion language proposed by the County is inconsistent with the State Law and Criteria. Again, the slope expansion language is found within COMAR 27.01.09.02.7, approved by the General Assembly, and cannot be altered. Amend as follows: In the case of contiguous slopes of 15 percent or greater, the Buffer shall be expanded ~~**to the top of the 15% slope plus 25 feet**~~ **four feet for every one percent of slope, or to the top of the slope, whichever is greater.** The County may develop a more specific set of criteria in accordance with the expansion criteria in COMAR to help provide consistency and clarity to the manner in which the criteria are interpreted and applied on a case-by-case basis. Commission staff would be happy to work with the County in developing these criteria.

8. Section 8 – 1.08.D.4.e.i - [Page 62]: As currently stated, mitigation is only required when impervious surfaces are created greater in extent than pre-existing impervious surfaces. This method of calculating mitigation is not consistent with the Commission's policy for Special Buffer Management Areas (Buffer Exemption Areas) or the Critical Area Criteria. Mitigation is necessary for all redevelopment activities based on the entire area disturbed within the 100-foot Buffer, not

just the area which exceeds the pre-existing conditions. In April 2000, the Commission significantly revised its policy for Buffer Exemption Areas to require different levels of mitigation for different types of development activity and to ensure that the mitigation was appropriate for the type of development activity. Attachment A provides sample ordinance language based on the Commission's policy that has been used in most jurisdictions.

9. Section 8 – 1.08.D.4.e.v.3 - [Page 64]: This section includes provisions for subdivision within IDA Special Buffer Management Areas. Provisions for subdivision within Special Buffer Management Areas (Buffer Exemption Areas) are not addressed in the Critical Area Criteria, which refers to only the "*existing pattern* of residential, industrial, commercial, or recreational development." The Commission has allowed jurisdictions to include provisions allowing subdivision within these areas only in cases where it can be demonstrated that allowing subdivision of the properties will generally result in enhanced water quality and habitat benefits and will result in improved functioning of the Buffer on the project site over what would have resulted had subdivision not been permitted. Jurisdictions have met these standards by requiring additional restrictions, conservation measures, and mitigation for projects involving subdivision. The proposed change that the County has included since our January meeting is not adequate. Commission staff would be happy to work with County staff to develop criteria which satisify this comment.

10. Section 8-1.08.G.3.i- [Page 68]: This section includes the Buffer within a list of items requiring habitat protection plans prior to any development plan approval. During our January meeting, there was in-depth discussion regarding the intent and implications of including the Buffer into this category. Specifically, it was discussed that every development activity proposed within the Buffer, including each case before the Board of Appeals involving development within the Buffer, would require submission of a habitat protection plan prior to consideration and award of a building permit or variance approval. This procedure marks a significant change in the current process. It was agreed that clarification of the County's intent would be provided to Commission staff after further discussions.

11. Section 8 – 1.09.E.1 – [Page 70]: This comment has not been addressed to date. The planting plan credits in this section are inconsistent with the Commission's current forest mitigation guidance. Although local governments can develop their own mitigation credit systems, the proposed planting credit of 400 square feet for a single canopy tree and 200 square feet of credit for understory trees and shrubs are not adequate to mitigate for replacement of equivalent areas of forest or vegetation removal. The following table is from the Commission's guidance, and has generally proven to result in sufficient plant coverage and/or effective establishment of replacement forest vegetation.

Recommended Credit (Local jurisdictions can determine planting credits)	Plant Size	Plant Spacing
100 sq. ft.	1 tree (2-inch caliper)	10-foot center
400 sq. ft.	1 tree (minimum: 2-inch caliper and either balled and burlapped or container grown) and understory vegetation (minimum: 2 small trees or 3 shrubs)	tree: 20-foot center understory: 10-foot center
50 sq. ft.	1 tree (seedlings)	7-foot center
50 sq. ft.	1 shrub	3 to 7-foot center

12. Section 8-2.05.C.2- [Page 83]: Amend as follows:...upon a recommendation by the Environmental Planner that the ~~development will not impact the wetlands or Buffers and the project will not affect~~ **area or acreage of wetlands will not affect** the lot density, **impervious surface area calculations, or any other performance standards for development within the RCA, LDA, or IDA.**

13. Section 8-2.05.C.6- [Page 83]: While changes have been made to this section in response to our original comment, additional clarification is needed to ensure adequate protection for wetlands within the Critical Area. The following language must be added, "**All activities shall be conducted in accordance with Section 8-1.04.G.**"

14. We note that the provisions which permit one additional dwelling unit to be considered a part of the primary dwelling within the Resource Conservation Area (RCA) appear within Article 3 of the County's zoning ordinance. While we have not been able to review Article 3 at this time, please ensure that the language provided within is identical to that provided in attached Appendix B as it relates to the Critical Area. In 2004, the Maryland General Assembly provided this language to clarify the Law, and therefore it must appear verbatim in the County's ordinance.

15. During our January meeting, Counsel for the Commission advised that certain specific goals set forth in the Critical Area Criteria need to be included in the County's ordinance in order to provide the County with a sound and defensible basis for decision-making. The three general goals for the Critical Area Program set forth in § 8-1808(b) of the Natural Resources Article of the Annotated Code of Maryland and the policies for IDA, LDA, and RCA set forth in COMAR 27.01.02.03.C., COMAR 27.01.02.04.B., and COMAR 27.01.02.05.B. must be included in the provisions regulating development activity in these areas.

Comments on Article 9-Marine Facilities Regulations

1. Section 9-4.02- [Page 4]: This section relating to permitted boathouses must include language stating that a permit from the Maryland Department of the Environment is also required.

2. Section 9-6.02.G- [Page 13]: The first sentence of this section proposes to eliminate the word, "marinas," and replace it with the word, "piers." As these provisions within COMAR 23.01.03.07 utilize the word, "marinas," in this context, and were intended to apply to "community marinas," as well as "piers," the term, "marinas," must remain.

3. Section 9-6.02.G.2- [Page 13]: The County is proposing to delete the criteria stating, "The facilities are community owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision." As this is legislature-approved criteria required in order to qualify for a new or community marina or pier, and is found within COMAR, it must remain in the ordinance.

4. Section 9-6.02.G.5- [Page 14]: The County is proposing to delete language stating, "If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed." Consistent with number 3 above, this is language found within the criteria in COMAR, is approved by the legislature, and must remain in the County's ordinance.

5. Section 9-7.01- [Page15 and 16]: Former section 9-7.01.A-C is proposed for deletion. It is not clear whether this section has been moved elsewhere. If not, the language must remain, as it is found within COMAR 27.03.01. Please clarify.

6. Section 9-7.01.A- [Page 16]: While no change is proposed to numbers 1-4 of this section, it appears that number 5, as found within COMAR is missing. Please add the following: **(5) That the facilities are consistent with an approved local plan as set forth below.**

7. Section 9-7.02- [Page 16]: In order to maintain consistency and clarity throughout the County's ordinance, amend as follows: New, expanded…in those portions of Intensely Developed Area ~~exempted from Critical Area Buffer designation~~ **designated as Special Buffer Management Areas by the County and approved by the Critical Area Commission**.

8. Section 9-7.03.B 1-4- [Page 18]: It appears that this section is missing a standard required by COMAR 27.01.02.08. Specifically, please add the following: **(5) Disturbance to natural vegetation is minimized.**

9. Within Article 9, include the provisions for structures on piers found within §8-1808.4 of the Annotated Code of Maryland. Recommended language is included within Attachment C.

Comments on Article 12-Definitions

1. *Anadromous Fish Propagation Waters* - Change the designating agency from the Tidewater Administration to the Department of Natural Resources.

2. *Bio-Retention Areas* - It is strongly recommended that this definition be made consistent with the definition used by the Maryland Department of the Environment in the *2000 Maryland Stormwater Design Manual.* The definition is "A water quality practice that utilizes landscaping and soils to treat urban stormwater runoff by collecting it in shallow depressions before filtering through a fabricated planting soil media."

3. *Buffer* - In accordance with State law, the definition for the 100-foot Buffer within the Critical Area is, "An existing naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances."

4. *Clearcutting* - In accordance with COMAR 27.01.01.01, the definition of clearcutting within the Critical Area is, "The removal of the entire stand of trees in one cutting with tree reproduction obtained by natural seeding from adjacent stands or from trees that were cut from advanced regeneration or stump sprouts or from planting of seeds or seedlings by man."

5. *Commercial Timber Harvesting* - In accordance with COMAR 27.01.01.01, the definition for commercial timber harvesting within the Critical Area is, "A commercial operation that would alter the existing composition or profile, or both, of a forest, including all commercial cutting operations done by companies and private individuals for economic gain."

6. *Density* - Within the Critical Area, accessory apartments meeting the definition of a dwelling unit cannot be excluded from the definition of density.

7. *Documented Breeding Bird Areas* - The following definition for this term must be included in this section, "Forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques."

8. *Dwelling Unit* - In accordance with State law, the definition for dwelling unit within the Critical Area is, "A single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, 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."

9. *Excess Stormwater Run-off* - The following definition for this term must be included in this section, "All increases in stormwater resulting from:

(a) An increase in the imperviousness of the site, including all additions to buildings, roads, and parking lots;
(b) Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
(c) Alteration of drainageways, or regrading of slopes;
(d) Destruction of forest; or

(e) Installation of collection systems to intercept street flows or to replace swales or other drainageways.

10. *Fisheries Activities* - In accordance with COMAR 27.01.01.01, the definition for "fisheries activities" is, "Commercial water dependent fisheries facilities including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and also including related activities such as wholesale and retail sales product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquacultural operations."

11. *Forest Practice* - The following definition for this term must be included in this section, "The alteration of the forest either through tree removal or replacement in order to improve the timber, wildlife, recreational, or water quality values."

12. *Habitat Protection Areas* -The definition for "Habitat Protection Areas" must include the Buffer and anadromous fish propagation waters.

13. *Marina* - In accordance with COMAR 27.01.01.01, the definition for "marina" is, "Any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities."

14. *Natural Vegetation* - In accordance with COMAR 27.01.01.01, the definition for "natural vegetation" is, "Those plant communities that develop in the absence of human activities."

15. *Non-Point Source Pollution* - The following definition for this term must be included in this section, "Pollution generated by diffuse land use activities rater than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by "end-of-pipe" treatment, but rather by changes in land management practices."

16. *Open Space* - This definition is not consistent with the definition in COMAR 27.01.01.01 for use in the Critical Area because it includes an exception to allow recreational facilities.

17. *Private Harvesting* - The following definition for this term must be included in this section, "The cutting and removal of trees for personal use."

18. *Project Approvals* - The following definition for this term must be included in this section, "The approval of development, other than development by the State or local government, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits."

19. *Significantly Eroding Areas* - The following definition for this term must be included in this section, "Areas that erode two feet or more per year."

20. *Steep Slopes* - This definition must include slopes of 15 percent or greater, not just those slopes over 15 percent.

21. *Stream Buffer* - This definition conflicts with the requirement for a minimum 100-foot Buffer on tributary streams in the Critical Area. The definition needs to be revised so that it is only applicable outside the Critical Area.

Thank you for the opportunity to provide comments on this draft component of the ordinance revisions. These comments represent Commission staff review of the ordinance within the specified public comment period. There may be additional comments by Commission staff, the Commission's legal counsel and by the Commission during the formal review process. If you have any questions about these comments, please feel free to contact me at (410) 260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

CC: Marianne Mason, DNR

Attachment A

Mitigation for Single Family Residential Development in Special Buffer Management Areas

Mitigation for development or redevelopment in the Modified Buffer Areas approved under this subsection shall be implemented as follows:

A. Natural vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or other location as may be determined by the Planning Commission. If it is not possible to carry out offsets or other mitigation within the Critical Area, any plantings or other habitat/water quality improvements should occur within the affected watershed.

B. Applicants who cannot comply with the planting requirements may use offsets to meet the mitigation requirements. Offsets may include the removal of an equivalent area of existing impervious surface within the Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.

C. Applicants who cannot comply with either the planting or offset requirements in A. and B. above shall pay into a fee-in-lieu program as specified by the County:

D. Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes, or other instrument and recorded among the land records of Cecil County.

Mitigation for Commercial, Industrial, Institutional, and Multi-Family Residential Development and Redevelopment in Special Buffer Management Areas

(**) Mitigation for development or redevelopment in the in the Modified Buffer Area approved under the provisions of this subsection shall be implemented as follows:

A. A forested or landscaped buffer yard, 25 feet wide, shall be established on the project site between the development and the distance to the water. This buffer yard shall be densely planted with trees and shrubs in accordance with Table 1.

B. Redevelopment sites, where existing structures or those rebuilt on an existing footprint limit the area available for planting, appropriate modifications to the width of the planted buffer yard may be made on a case by case basis.

Table 1
Required Bufferyard Planting

Area	Quantity and Stocking	Suggested Species
For every 100 linear feet of buffer yard	5 Trees and	White or Red Oak, Pin Oak, Willow Oak, Red Maple, American Holly, Eastern Red Cedar
	10 Understory Trees/Large Shrubs, and	Dogwood, Mountain Laurel, Bayberry, Shadbush, Winterberry
	30 Small Shrubs and	Pepperbush, Chokeberry, Strawberry Bush, Sweetspire
	40 Herbaceous Plants, Grasses, Etc.	Wild Columbine, Butterflyweed, Common Milkweed, Asters

(**) In addition to establishing a 25-foot bufferyard on site as described above, one of the following mitigation measures shall be implemented based on the following order of preference:

A. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location approved by the Planning Commission.

B. Applicants who cannot fully comply with the planting requirement in A. above may use offsets to meet the mitigation requirement. Offsets include the removal of an equivalent area of existing impervious surfaces in the Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.

C. Applicants who cannot comply with either the planting or offset requirements in A. or B. above shall pay into a fee-in-lieu program as follows:

(i) Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the equivalent of twice the extent of the development within the 100-foot Buffer. The estimate shall include the cost of stock, planting, staking, mulching and a one year guarantee.

(ii) The Planning Commission shall determine the amount of the fee-in-lieu based on the average of the two estimates.

D. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area for the benefit of wildlife habitat and water quality improvement. The status of these funds must be reported in the jurisdiction's quarterly reports.

E. Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the Cecil County.

Attachment B

HOUSE BILL 1345 / Senate Bill 795: Chapter 546 of the 2004 Laws of Maryland: "Chesapeake and Atlantic Coastal Bays Protection Program – Dwelling Units"

Definition of Dwelling Unit

The General Assembly enacted Chapter 546 in order to address an inconsistency in the implementation of local Critical Area programs. Under the Critical Area Act and Criteria, residential development in the Resource Conservation Area (RCA) cannot exceed a density of one dwelling unit per 20 acres. As you know, the RCA was established to protect the water quality and habitat value of the farms, forests and open spaces of the Critical Area. Although all Critical Area jurisdictions previously defined "dwelling unit" in similar terms, some allowed certain types of dwelling units such as guest houses, caretaker houses and domestic quarters without regard to the one-per-20-density limitation.

By defining "dwelling unit," the General Assembly clarified that any structure or use in the RCA that meets the definition must be counted toward the residential density limit. This definition eliminates the potential for overdevelopment in the RCA and assures consistent application of the law. If not already in your local program, you will need to add language as stated in Chapter 546 that requires the counting of each dwelling unit in the RCA for density purposes.

Chapter 546 also contains optional provisions that allow local governments some flexibility to permit one additional dwelling unit to be considered part of the primary dwelling unit for density calculations in the RCA. If the County does not want to allow a new accessory dwelling unit on a lot in the RCA, or if local zoning prohibits it, the optional provisions are not needed.

The following definition from Chapter 546 is to be incorporated into your local Critical Area program:

> DWELLING UNIT MEANS A SINGLE UNIT PROVIDING COMPLETE, INDEPENDENT LIVING FACILITIES FOR AT LEAST ONE PERSON, INCLUDING PERMANENT PROVISIONS FOR SANITATION, COOKING, EATING, 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.

The optional provisions allow limited flexibility to the limit of one dwelling unit per 20 acres within the Resource Conservation Area. If a local jurisdiction intends to permit one additional dwelling unit, Chapter 546 requires two actions: 1) the jurisdiction must maintain records of all building permits issued for dwelling units considered part of a primary dwelling, and must provide this information to the Commission on a quarterly basis; and 2) the jurisdiction must incorporate the following language into the local program:

I WITHIN A RESOURCE CONSERVATION AREA, THE COUNTY MAY CONSIDER ONE ADDITIONAL DWELLING UNIT PER LOT OR PARCEL AS PART OF THE PRIMARY DWELLING UNIT FOR THE PURPOSE OF THE DENSITY CALCULATION UNDER THIS SUBSECTION IF THE ADDITIONAL DWELLING UNIT MEETS EITHER OF THE FOLLOWING SETS OF CONDITIONS:

A. 1. IS LOCATED WITHIN THE PRIMARY DWELLING UNIT OR ITS ENTIRE PERIMETER IS WITHIN 100 FEET OF THE PRIMARY DWELLING UNIT;

2. DOES NOT EXCEED 900 SQUARE FEET IN TOTAL ENCLOSED AREA; AND

3. IS SERVED BY THE SAME SEWAGE DISPOSAL SYSTEM AS THE PRIMARY DWELLING UNIT; OR

B. 1. IS LOCATED WITHIN THE PRIMARY DWELLING UNIT;

2. BY ITS CONSTRUCTION, DOES NOT INCREASE THE AMOUNT OF IMPERVIOUS SURFACE ALREADY ATTRIBUTED TO THE PRIMARY DWELLING UNIT; AND

3. IS SERVED BY THE SAME SEWAGE DISPOSAL SYSTEM AS THE PRIMARY DWELLING UNIT.

II AN ADDITIONAL DWELLING UNIT MEETING ALL THE CRITERIA OF THIS SECTION THAT IS SEPARATE FROM THE PRIMARY DWELLING UNIT MAY NOT BE SUBDIVIDED OR CONVEYED SEPARATELY FROM THE PRIMARY DWELLING UNIT.

III THE PROVISIONS OF THIS SECTION APPLY TO DENSITY CALCULATIONS ONLY AND MAY NOT BE CONSTRUED TO AUTHORIZE THE COUNTY TO GRANT A VARIANCE, UNLESS THE VARIANCE IS GRANTED IN ACCORDANCE WITH THE REQUIREMENTS AND STANDARDS IN THIS ORDINANCE FOR VARIANCES IN THE CRITICAL AREA.

IV THE COUNTY SHALL MAINTAIN RECORDS OF ALL BUILDING PERMITS ISSUED UNDER THIS SECTION FOR ADDITIONAL DWELLING UNITS CONSIDERED PART OF A PRIMARY DWELLING UNIT, AND SHALL PROVIDE THIS INFORMATION ON A QUARTERLY BASIS TO THE CRITICAL AREA COMMISSION.

Attachment C

Section 1-115. Structures on Piers.

(a) **Definition.** Pier means any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

(b) **Standards.** Except as provided in paragraphs (1), (2), and (3) below, the Town may not issue a building permit for any project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private tidal wetlands within the Critical Area.

(1) The Town may issue a building permit for a project involving the construction of a dwelling unit or other non-water-dependent- structure on a pier located on State or private wetlands within the Critical Area that was issued a permit by the Department of Natural Resources on or before January 1, 1989.

(2) The Town may issue a building permit for a project involving the construction of a dwelling unit or other non-water-dependent- structure on a pier located on State or private wetlands within the Critical Area if the following conditions exist:

A. The project is constructed on a pier that existed as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

B. The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface of a pier to be removed is not intact, but pilings identify its previous size, then that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed;

C. The project is approved by the Town Office of Planning, Permits, and Inspections;

D. The project is located in an Intensely Developed Area (IDA) as designated in programs approved by the Critical Area Commission.

(3) The Town may issue a building permit for the repair of an existing dwelling unit or other non-water-dependent- structure on a pier located on State or private wetlands within the Critical Area.

(4) If a structure that is not water-dependent is to be permitted by the Town under the exceptions included in this Section, an applicant is required to demonstrate that the project will meet the following environmental objectives using the standards established under the Town's Critical Area Program:

A. The construction and operation of the project will not have a long term adverse effect on the water quality of the adjacent body of water;

B. The quality of stormwater runoff from the project will be improved; and

C. Sewer lines or other utility lines extended for the pier will not affect the water quality of adjoining waters.

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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February 7, 2006

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

Re: M1073 Sullivan Sub

Dear Ms. Verdery:

Thank you for providing information on the above referenced revised subdivision. The applicant is proposing to create a three-lot subdivision. The property is designated a Limited Development Area (LDA). Proposed Lot 1 is currently developed with a primary dwelling. Proposed Lots 2 and 3 are undeveloped.

Based on the information provided, we provide the following comments:

1) The plat indicates an area of nontidal wetlands lies directly adjacent to a tidal ditch. However, both the State wetland maps and the NWI wetland maps indicate that all wetlands onsite are tidal in nature. Based on these maps and the location of the proposed subdivision, Commission staff requests the opportunity to conduct a site visit and verify the nature of the wetlands onsite.

2) The development rights summary indicates that the 0.11 acres of State-owned wetlands have been included within calculations for determining density. While it does not appear that the overall density will be affected, please revise the plat to exclude the area of State-owned wetlands from density calculations.

3) The applicant must obtain an evaluation of the property by the Department of Natural Resources (DNR) for the presence of rare, threatened, and endangered species. If present, the applicant must address the recommendations by DNR for the protection of these species. This office has not received an evaluation from DNR for the Sullivan property at this time.

Thank you for the opportunity to provide comments for this subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC 49-06

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 3, 2006

Mr. William Mister
City Inspector
City of Crisfield
P.O. Box 270
Crisfield, Maryland 21817

Re: Pipeline Project Mitigation Planting Plan Approval

Dear Mr. Mister:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On February 1, 2006, the Critical Area Commission unanimously approved the City's mitigation planting plan associated with the replacement water line project. This approval was granted in fulfillment of a condition imposed by the Commission during their November 2, 2005 approval of the waterline project.

The approved mitigation planting plan proposes the planting of 416, two to three gallon Bayberry shrubs, to be located along both sides of Norris Harbour Drive. To finalize the mitigation planting approval, please fill out the enclosed planting agreement and return it to Commission staff at your earliest convenience. Please note that should any changes to the planting plan be proposed, additional review and approval by the Commission will be required. In addition, any future disturbances to the planted area will require review by the Commission and replacement of disturbed plantings. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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February 3, 2006

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

Re: A Village Down River-Growth Allocation

Dear Mr. McKenzie:

We have received your request for preliminary comments on the above referenced growth allocation proposal. The applicant is requesting the use of growth allocation to change the zoning of 61.37 acres from a Resource Conservation Area (RCA) to a Limited Development Area (LDA). The proposed growth allocation is located on Tax Map 47, Parcels 665 and 214. We understand that the requested growth allocation is for the purposes of constructing a 48-unit condominium-style subdivision.

Based on our initial review of the preliminary site plan and growth allocation plan, we provide the following comments.

1. The tidal wetlands shown on the site plan are based on a delineation conducted in 1989. As previously communicated, prior to the Commission's consideration of a growth allocation proposal, the applicants will be required to provide an updated delineation of the tidal wetland limits, specifically as it relates to the boundary between tidal and nontidal wetlands shown on the plan. In addition, should the applicant intend to utilize the acreage of any private tidal wetlands for the purpose of calculating impervious surface area limits, this intention must be clarified and the acreage of the private tidal wetlands included within the growth allocation request.

2. The County staff report provided indicates that an area of steep slopes exists contiguous to the Buffer on a portion of the site, therefore requiring an expanded Buffer. Please have the applicant provide a site plan showing field run topography. In addition, the accompanying environmental assessment states that the Buffer was expanded in areas of steep slopes to 10 feet beyond the top of slope. It does not appear that this expansion is consistent with the expansion requirements outlined within the County's zoning ordinance.

3. The County staff report indicates that the applicants have requested a waiver for expansion of the Buffer for contiguous hydric soils, based on the outdated status of the 1970 soil maps. The Critical Area Criteria require the Buffer to be expanded for contiguous hydric soils whose development or disturbance may impact streams, wetlands, or other aquatic environments. Should the Planning Commission grant a waiver to this expansion, it should be based on an evaluation of the development as it relates to the potential for adverse impact to streams, wetlands, or other aquatic environments. It would not be appropriate to base a waiver on the perception of outdated soils maps. Until updated soils maps are published by the Natural Resources Conservation Service (NRCS), the original maps or a field-conducted soils analysis prevail. The results of any independent soil studies for the purpose of overriding the published maps would require coordination with and validation by the NRCS.

4. The Critical Area Criteria (27.01.02.06) state that new IDAs and LDAs in the RCA should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters. As the current growth allocation request does not incorporate this provision, further discussion may be warranted. This discussion should include expansion of the Buffer for contiguous hydric soils.

5. As stated within the County staff report, the Buffer must be expanded to include contiguous nontidal wetlands. There are several areas of the site plan where the Buffer is not accurately shown and must be expanded.

6. It appears that a portion of the proposed stormwater pond near the proposed wastewater treatment plan encroaches into the Buffer. Please have the applicant remove this encroachment.

7. As stated within the County's staff report, only a portion of the existing IDA is considered a Special Buffer Area (SBA). Where no SBA status exists, the Buffer must be revised to reflect a 100-foot Buffer. In addition, the standards outlined within the County's zoning ordinance state that the criteria for SBAs apply only to lots of record at the time of the original program approval. It is unclear whether the lot lines shown within the IDA portion of the site are legally grandfathered lots, or whether they indicate new proposed lots. As the SBA provisions would not apply to any new lots created on this parcel, please clarify.

8. The site plan and aerial photos show a stream or wetland feature on the southwestern portion of the site which appears to end at Riverside Drive. This feature is identified within the environmental assessment as a ditched, unnamed tributary. Currently, there is no Buffer shown around this feature. All tributary streams within the Critical Area require a 100-foot Buffer. Please add the appropriate Buffer to this waterway. In addition, please note that any new impacts to the waterway or its Buffer would require a variance.

9. While we recognize that many of the site plan features are preliminary in nature, please advise the applicant that the subdivision will be required to remain within the 15% impervious surface limit, and each lot will be required to remain within a 25% limit. All roads, driveways, and existing structures must be included within this calculation. The environmental assessment indicates that the proposed package treatment plant alone will contain 479,220 square feet of new impervious surface area. Please clarify how the development will be able to remain within the 15% impervious surface area limit (400,991 square feet) based on this conflicting information.

10. The areas shown for reforestation on the existing forestry plan appear to be located within areas shaded as existing forest. Please have the applicant clarify. In addition, the environmental assessment indicates that 7.6 acres of forest will be disturbed within the RCA (proposed LDA) and that 7.6 acres will be replanted. Please advise the applicant that mitigation may be required at a higher ratio, depending on the location of the proposed clearing. Further clarification will be required at the time of site plan review.

11. Prior to the Commission's consideration of the growth allocation request, please provide confirmation that the proposed stormwater management facility is approvable and consistent with State and local standards.

12. The Wicomico County Zoning Ordinance includes specific design standards which apply to all major subdivisions and other development projects approved for growth allocation (Section 125-32). Prior to the Commission's formal consideration of the growth allocation request, please have the applicant address each of the standards.

13. The environmental assessment report indicates that only wetlands which have developed within the old spoil disposal area will be impacted for the proposed development. It is not clear whether these wetlands are considered regulated under State or Federal jurisdiction. Clarification regarding jurisdiction is necessary prior to the Commission's consideration of the growth allocation request. Please note that permits may be required to disturb jurisdictional wetlands.

14. The environmental assessment indicates that the existing commercial pier will be converted to a community marina via repair to the existing structure and the addition of finger piers. The proposed community marina will be required to comply with the slip limits and regulations for water-dependent facilities outlined within the County's ordinance and within COMAR. More detailed information regarding this configuration and proposal will be required at the time of site plan review.

15. The applicant has provided a letter from the Maryland Department of the Environment (MDE) stating that the proposed project is grandfathered and will not require permits for impacts to non-tidal wetlands. This exemption is based on an approval received for the project in 1989 and 1990. Based on the information provided to Commission staff, it is not

possible to assess whether the current project being evaluated for growth allocation matches the project reviewed and approved by MDE and the USACE in 1989. Pursuant to information provided by staff of MDE, we request that the applicant submit a copy of the permit application materials and site plan approved by MDE and the USACE in 1989 in order to verify that MDE still considers the project to have grandfathered status.

The preceding comments represent the review and evaluation of the preliminary materials that the applicant has submitted by Commission staff. Additional review and comments may be provided as appropriate. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal prior to the County's award of growth allocation. If you have any questions or would like to meet to discuss these comments, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

CC: Doug Bolner, GMB

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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January 31, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: SFD 50811-Mil-Mar

Dear Ms. Dailey:

Thank you for providing revised information regarding the above referenced site plan. The applicant is requesting a building permit to construct a primary dwelling and garage. The property is located within a designated Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, we do not generally oppose the granting of a building permit. However, we note that approximately 72.4% of the existing forest cover will be removed. Based on this amount of clearing, please ensure that the applicant provides a mitigation planting plan detailing the required 3:1 mitigation (1.49 acres or 65,099 square feet). This mitigation should be accomplished utilizing species native to Charles County.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS851-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 30, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
PO Box 2150
La Plata, Maryland 20646

Re: Docket #1158-Burgess Family Trust

Dear Ms. Dailey:

Thank you for providing information on the above referenced after-the-fact variance. The applicant is requesting a variance from the100-foot Buffer and mitigation requirements in order to permit the continuation of shore erosion control measures, as well as legalize the grading of the Buffer. The property lies within a Limited Development Area (LDA) and a Resource Conservation Area (RCA) and is currently developed.

As the requested variance is after-the-fact, it appears that the applicant has previously graded approximately 42,000 square feet of the Buffer in order to accommodate the installation of shore erosion control measures and maintain a continuous slope throughout the Buffer, averaging 20% or less. While we note that shore erosion control is generally permitted, as well as encouraged within the Critical Area, the applicant bears the responsibility to ensure that the proposal is the minimum necessary required to stabilize the shoreline and prevent future erosion as a result of wave action. The proposed measures must also be consistent with the shore erosion control provisions and standards detailed within the County's zoning ordinance and Critical Area Program. Based on our evaluation of the information provided, it is our position that the amount of Buffer grading conducted by the applicant is excessive, beyond the scope necessary for effective erosion control, and generally not permitted.

Given the after-the-fact nature of the request, we are not requesting that the shore erosion control measures be removed, nor that the original grade be restored to the Buffer. However, we note that the applicant took actions without the proper County permits. These actions are largely outside of the scope of acceptable shore erosion control measures. As a result of the scale of the violation, and the injurious nature of the grading to the Buffer, we are strongly opposed to the applicant's request for relief from the mitigation requirements. The County's Zoning Ordinance clearly outlines the penalties for violations within the Critical Area (297-135). These requirements specifically state that the area disturbed shall be restored and additional required remediation shall include the planting of natural forest vegetation in the amount of three times the area disturbed. To provide a variance to this requirement would result in an outcome in direct conflict with the

general intent spirit of the Critical Area Law, as well as compromise the intent of the County's Zoning ordinance.

As you aware, in 2002 and 2004, the Maryland General Assembly strengthened the Critical Area Law, and reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values. In particular, the General Assembly reaffirmed the importance of the 100-foot Buffer, recognizing it as a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. The applicant's grading proposal lies in direct contrast to the goals of the General Assembly and the goals of the Buffer. In opposing the mitigation variance, I have addressed each of the standards as it pertains to this case:

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.* As indicated, we are not opposing the applicant's variance to maintain the shore erosion control measures already in place or to maintain the existing grade within the Buffer. However, as the County's zoning ordinance clearly outlines the requirements for rectifying Critical Area violations, as well as clearly outlines the requirements and prohibitions associated with the 100-foot Buffer, the applicant would not be subject to an unwarranted hardship simply by virtue of enforcement of the ordinance.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of the local jurisdiction.* This office would not support similar variance requests to grade 42,000 square feet of Buffer. In addition, this office would not support similar variance requests to waive the mitigation requirements for a violation, particularly where the action is excessively beyond the scope of what may have been permitted.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.* If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area.

4. *The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.* In contrast, the need for a variance to the mitigation requirements is directly related to the applicant's actions without the proper County permits. We note that the applicant has obtained the required permits from the Maryland Department of the Environment (MDE) and the Army Corps of Engineers (ACOE). However, this does not negate the need for compliance with the County permitting process and State Critical Area Law.

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. This office would have strongly opposed the grading of the Buffer as proposed, and significant potential exists that adverse impacts have occurred to fish, wildlife, and plant habitat as a result of the grading. However, in light of the after-the-fact nature, the appropriate remedy for a Critical Area violation is clearly outlined within the County's ordinance and should be complied with. Restoration of vegetative cover within the Buffer is of utmost important in this case and should be considered a priority when planting.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the applicant's request for a variance to the mitigation requirement. We recommend that the applicant be required to submit a detailed planting plan demonstrating mitigation for the 42,000 square feet of disturbance at a 3:1 ratio (126,000 square feet or 2.89 acres). This mitigation should be located within the Buffer as a first priority and should be composed of species native to Charles County. In addition, this requirement should be included as a condition of the variance request.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 30-06

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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January 30, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3225 Walker/Slezak-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the 100-foot Buffer to permit the construction of a single-family dwelling and multiple garage structures. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the revised site plan provided, this office remains opposed to the applicant's request for a variance. Previously, this office requested that the applicant be required to provide a site plan which contains accurate information regarding the existing environmental features, and the proposed development activities. At this time, it appears that the site plan is still inaccurate. Specifically, the site plan states that 3,342 square feet of impervious surface area is proposed. Based on the scale provided, the proposed dwelling, garage, and second garage total 3,568 square feet. In addition, it is not clear whether the proposed driveway is intended to remain pervious or be paved. This information affects the overall impervious surface area proposed.

In addition, our previous concerns regarding the amount of impervious surface area proposed and the excessive nature of the second garage, all within the 100-foot Buffer, remain unaddressed. Based on the information provided, it remains our position that the location of the proposed dwelling, in combination with the amount of impervious surface area proposed is problematic. Specifically, the proposed dwelling is located within the first 100-feet of the Buffer, at the landward edge of steep slopes, leading directly to tidal wetlands. We recommend that the applicant be required to move the dwelling outside of the original 100-foot Buffer, keeping as far from the tidal wetlands as possible. It appears that ample room exists to accommodate such a request, ensuring that the potential for adverse impacts to tidal wetlands is minimized. In addition, we remain particularly concerned about the proposal of a second garage structure within the Buffer. The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. It is our position that the construction of a second garage within the Buffer places an undue strain on the environmental resources of the site and is

generally in contrast to the spirit and intent of the County Critical Area Law and variance standards. Because we do not believe that the applicant has met the specific criteria of the County's variance standards, we continue to oppose this variance request.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 550-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3249 Koza-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the steep slope requirements and stream Buffer requirements in order to construct a primary dwelling and accessory garage structure. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, this office does not generally oppose the granting of a variance. However, we note that the proposed driveway is currently shown as gravel and considered by the County to be pervious in nature. The previous site plan this office reviewed indicated a paved driveway, which resulted in an impervious surface area exceeding the 25% limit. In an effort to prevent future non-compliance with impervious surface area limits, we recommend that the Board include a condition of approval prohibiting any future paving of the driveway. In addition, we recommend that some form of structural stormwater management be required which provides additional infiltration opportunities for rooftop runoff.

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

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CA751-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3235 Kla-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. This office has provided two previous comment letters on the applicant's proposal. This letter is in response to further revisions made by the applicant.

Based on our review of the revised site plan provided, we note that the applicant has made significant changes which result in an overall decrease in disturbed area, and a significant reduction in the amount of clearing proposed. The proposed revisions eliminate the need for a clearing variance altogether, and preserve the ecologically significant, mature oak tree found on the property. While the revisions represent a substantial improvement in ensuring that the environmental resources of the site are not compromised, our previously communicated position that the proposed workshop does not meet the County's variance standards, nor the spirit and intent of the Critical Area Law, remains unchanged. Specifically, we note that a significant portion of the proposed development occurs within the 100-foot Buffer, with a setback of 65 feet to tidal waters. As you are aware, the Buffer is a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. We believe that the proposal of an accessory structure in addition to a dwelling, garage, and driveway within the Buffer exceeds that which would be necessary to provide relief for an unwarranted hardship, and is in excess of the minimum variance necessary. In addition, excessive areas of impervious surface area seriously compromise the ability of the Buffer to perform the goals and functions set out in State and County Law. As such, it is our position that the County's variance standards have not been met.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA726-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
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January 27, 2006

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3245 M&D Partners/Hallowing Point-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit an existing non-conforming use and density to be changed to another non-conforming use while maintaining the same non-conforming density. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it is my understanding the current variance request is solely for the purposes of evaluating whether a nonconforming use and density can be maintained as the property is redeveloped. While we generally have no comments regarding the Board's evaluation of the local zoning use and density provisions, we note that a variance to exceed the permitted impervious surface area limits within the LDA would be required in conjunction with the proposed development. In addition, the applicants would be required to comply with all other criteria for development within the LDA, including afforestation and Buffer establishment provisions. Finally, we note that the site is not currently designated as a Buffer Exemption Area (BEA). While there are existing structures located within the Buffer, the redevelopment proposal will be required to either obtain BEA status, or keep all structures outside of the 100-foot Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA 747-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 27, 2006

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

Re: Appeal #1413 Clippinger

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to the 100-foot Buffer in order to construct 892 square feet of deck and covered walkways. It appears that 592 square feet of new disturbance is proposed within the Buffer. The property is located within a designated Limited Development Area (LDA) and is currently developed.

Based on the site plan provided, it appears that the applicant currently enjoys significant and reasonable use of the outdoor space on the property via the extensive existing decks. The applicants are requesting to construct additional decking within the Buffer for the stated purpose of providing covered ramp access from the proposed garage and workshop to the primary dwelling. While this office would not generally oppose a request to accommodate this connection, it appears that the amount of decking proposed within the Buffer exceeds the minimum necessary to provide for a covered access ramp or sidewalk. In evaluating the variance request, the Board must consider where all of the County's variance standards have been met, including the standards of unwarranted hardship and the standard that the variance must be the minimum necessary.

As you are aware, in 2004, the Maryland General Assembly reaffirmed the importance of the 100-foot Buffer, recognizing it as a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. As further minimization appears possible, and as significant and reasonable use of the property currently exists, it would seem that the applicant is not able to meet the variance standards. Therefore, we recommend that the Board require further minimization prior to the consideration of any variance. Should this minimization be provided, the Board should also consider whether the standard of unwarranted

hardship, as well as the spirit and intent of the Critical Area Law can be met where significant and reasonable use of a property already exists.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC27-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 20, 2006

Mr. Tom Lawton
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Variance 05-820 Mays

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer in order to construct a garage structure. The property is located within a designated Limited Development (LDA) and is currently developed.

Based on the information provided, we recognize that the property appears to be constrained by the location of the existing sewage disposal area, the septic tank, the underground piping, and the existing dwelling and driveway. Given these constraints, we do not generally oppose the applicant's request for a variance. However, when applying a variance within the Buffer, the applicant bears the responsibility to demonstrate that each of the County's variance standards has been met, and that the proposed development is the minimum necessary to provide relief. The applicant has proposed a 768 square foot garage. This office question whether a smaller footprint could be constructed which still provides covered space for parking. Given the proximity of the proposed construction to tidal waters (20 feet), we recommend that the Board consider whether a smaller garage is feasible, and whether a variance of a lesser degree could be granted. In addition, please ensure that the applicant provides mitigation as required within the County's ordinance for the entire area of Buffer disturbed by the development. This mitigation should be implemented using native plantings, at an alternative location within the Buffer.

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

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SO 0029-06

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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January 19, 2006

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

Re: Timber Bridge Replacement over Kings Creek/Kingston Road

Dear Ms. Verdery:

Thank you for providing information on the above referenced bridge replacement project. It appears that the County Department of Public Works is proposing to replace an existing timber bridge with a new timber bridge, entirely within the footprint of the existing structure. The project lies entirely within the Resource Conservation Area (RCA).

It is my understanding that the replacement structure proposes no additional impervious surface area over tidal waters. In addition, no tree clearing is proposed in conjunction with the project. Based on the site plan submitted, I concur that that the project appears to be consistent with the provisions of COMAR 27.02.02 and the criteria outlined within COMAR 27.01.02.04. However, please note that the Department of Natural Resources (DNR) has indicated that the Delmarva Fox Squirrel (DFS) is known to occur on the site or within the general vicinity of the project. As there is no clearing proposed, there should be no impact to DFS. Should any clearing be required as the project progresses, it will be necessary to consult further with DNR and the U.S. Fish and Wildlife Service as indicated in the enclosed memo.

We appreciate the opportunity to provide comments on this development proposal. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Enclosure

Memorandum

Date : December 12, 2005

To: Roland Limpert, ERU

From: Lori Byrne, WHS

RE: MDE #200660149, Talbot County DPW/Bridge No. T-0002/Kingston Road, Kings Creek, Talbot County

The Delmarva fox squirrel, a state and federally listed endangered species, is known to occur on or in the immediate vicinity of the project site. State law requires that appropriate protection measures be incorporated into actions by state agencies. Delmarva fox squirrel habitat is generally characterized as forests with relatively mature trees, either hardwoods or loblolly pine, with a relatively sparse understory.

If the proposed activities do not occur within the forested areas on the property, then Delmarva fox squirrel habitat will not be impacted. However, if development in the forested areas or timber harvesting is being planned, the following should be considered:

1. As much contiguous forested acreage as possible should be retained.

2. If clearing is necessary, at least 25% of the suitable forested area should remain unaltered or a minimum of 10 acres whichever is greater.

3. This unaltered Delmarva fox squirrel habitat should be retained as a contiguous forested tract, not as small disjunct parcels.

4. Required forested buffers, such as buffers along streams or nontidal wetlands, should be expanded to at least 100 feet and preferably 300 feet in width.

5. Retention of mast producing trees such as oaks, hickories and beech is encouraged.

The Delmarva fox squirrel is listed by the federal government as endangered and as such protection for this species comes under federal jurisdiction as well. Federal requirements may differ from ours. To avoid any violations of the federal Endangered Species Act during your project implementation we suggest you consult with Mary Ratnaswamy, U.S. Fish & Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, MD 21401.

Thank you for the opportunity to review this project. If you should have any further questions regarding this information, please contact me at x8573.

ER #2005.2316.TA
M. Ratnaswamy, USFWS
R. Esslinger, CAC

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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January 19, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
PO Box 2150
La Plata, Maryland 20646

Re: VR 05-0099 Garner-Revised

Dear Ms. Dailey:

This letter is in response to revised information received regarding the above referenced shore erosion control project and grading permit application.

The applicant states that .5862 acres of grading is proposed within the Buffer for the purpose of implementing shore erosion control measures. Based on concerns that the amount of grading proposed appears excessive for that which is required for installation and effective implementation of shore erosion control measures, Commission staff sought further guidance from the Maryland Department of the Environment (MDE). Upon consultation with Bob Tabisz of MDE, it is my understanding that the applicant is proposing to construct the revetment 10 feet channelward of the mean high water line. In addition, Mr. Tabisz has indicated that the proposed design and location of the revetment does not require the existing bank to be graded, as indicated by the applicant. Rather, there appears to be enough room to construct the revetment without grading the bank and creating further Buffer disturbance. Furthermore, it appears that adequate access to the shoreline can be gained from the northern portion of the property and that the revetment could be installed from the water.

Based on this information, it is our position that the proposed grading exceeds that which is necessary to allow for effective shore erosion control. While the existing bank may be experiencing undercutting as a result of current wave action, the proposed revetment is the solution intended to eliminate this problem. Should the applicant desire to conduct additional grading of the bank within the Buffer, a variance would be required. Therefore, we recommend that the applicant submit either a revised application for the shore erosion control, limited to the amount of disturbance necessarily associated with the installation of the revetment, or submit an

additional variance request which addresses the proposed grading within the buffer not directly associated with the shore erosion control structure.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 811-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 17, 2006

Ms. Olivia Vidotto
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: MSD-05-13-33
(Tax Map 33, Parcel 8)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced revised minor subdivision. The applicant is proposing to create a two-lot subdivision on an 8.949-acre property. The property is located within a Resource Conservation Area (RCA). Lot 1 and is currently developed with a primary dwelling, while proposed Lot 2 is undeveloped.

Based on the information provided, it my understanding that the applicant is proposing to create an otherwise non-conforming subdivision within the RCA by virtue of a previously recorded deed dated March 11, 1997. Specifically, the aforementioned deed created an 8.949-acre parcel from an 88.049-acre parent parcel, delegating two of the four development rights permitted within the Critical Area to the 8.949-acre parcel. It is not clear where the remainder of the two development rights were assigned and/or utilized. In addition, it is my understanding that the 79.1-acre residue parcel will be placed within an agricultural preservation district and restricted from future development. In order to confirm that the applicant's proposal is valid and legal, please provide confirmation and/or clarification of the following to Commission staff:

1. Please confirm that the original 88.049-acre parent parcel was located entirely within the Critical Area and within the RCA.

2. Please confirm the status, in regard to location and use, of the remaining two development rights associated with the original parent parcel.

3. Please provide an explanation as to how the County, through the use of the agricultural preservation designation, will ensure that the residue parcel remains undeveloped in perpetuity, assuring that the development rights generated from the parent parcel and assigned to the 8.949-acre parcel are not available for future use on any other parcel within the Critical Area.

Thank you for the opportunity to provide comments for this minor subdivision request. Please provide Commission staff with information clarifying the concerns listed above prior to recordation of the subdivision plat. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CA845-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 17, 2006

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

Re: River Place Site Plan

Dear Mr. McKenzie:

Thank you for providing information on the above referenced site plan and development proposal. The applicant is proposing to redevelop an existing parcel into 42 residential condominium units. The property is located within a designated Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA).

Based on the information provided, we have the following comments:

1. While it is my understanding that the City is currently in the process of developing a comprehensive proposal for expansion of the riverwalk, this information has not been received at this time. As the proposed riverwalk expansion involves multiple parcels within the City limits, it is essential that a consistent approach be utilized on each parcel. As such, Commission staff is unable to provide comments on the proposed riverwalk component of the site plan at this time. Once the City's comprehensive proposal has been received and reviewed, the applicant's site plan will require additional review to ensure that consistency with the comprehensive riverwalk proposal is achieved.

2. As submitted, the 10% pollutant reduction worksheet appears incorrect. The site plan and application sheet indicate that the applicant's parcel is 1.19 acres, yet the 10% worksheet utilizes 0.347 acres to calculate the pollutant removal requirement. While the revised calculations still result in a credit, accurate 10% worksheets should be submitted for inclusion within the public record.

3. The applicant will be required to obtain an evaluation of the property by the Department of Natural Resources' (DNR) Wildlife and Heritage Division for the presence of rare, threatened, or

endangered species. If present, the applicant will be required to address any recommendations made by DNR for the protection of the species. At this time, this office has not received notification of such an evaluation. Please provide a copy of the DNR letter to Commission staff once received.

4. Further consultation with the Department of the Environment (MDE) is warranted in order to determine that the existing marina and slips are legally grandfathered. We recommend that the applicant obtain written verification of this status in order to facilitate and expedite the review process.

5. Please have the applicant label the limits of the proposed Buffer setback on the site. As currently shown, the Buffer is labeled as the entire area of the riverwalk easement. It is not clear whether the intended easement area within the Buffer will be owned by the City or privately owned. Please clarify.

Thank you for the opportunity to provide comments for this site plan and development proposal. Please provide additional information which addresses the above comments. If you have questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
SA802-05

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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January 17, 2006

Mr. William Mister
City of Crisfield
P.O. Box 270
Crisfield, Maryland 21817

Re: Connelly Property Variance
Tax Map 104, Parcel 1770, Lot 7

Dear Mr. Mister:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance from the 100-foot Buffer requirements in order to permit the continuation of a dwelling constructed partially within the Buffer. The property is designated as an Intensely Developed Area (IDA), and is currently developed with a single-family dwelling.

Based on the information provided, it appears as though approximately 865 square feet of the dwelling's footprint is located within the Buffer. As you are aware, the Commission, in conjunction with Tracey Gordy, Circuit Rider for the City of Crisfield, has been working with the City since December of 2004 to review various stages of the applicant's development proposal. This review began prior to the construction of the dwelling; with written correspondence repeatedly provided to the City indicating the specific site plan requirements needed for Critical Area review, including compliance with the 100-foot Buffer and 10% pollutant reduction requirements. During a site visit and meeting with City officials on April 12th, 2005, Commission staff discovered that the proposed dwelling on the applicant's property had been constructed, was located partially within the Buffer, and was constructed without the proper variance approvals and building permits. At the time, Commission staff requested that the City immediately take action to bring the property into compliance.

Due to the City's failure to adequately enforce the provisions of its Critical Area Program, as well as the failure to submit the required variance application in a timely manner, we are not opposing the variance request. However, contrary to the applicants' statement that they depended entirely upon their builder, believing that the dwelling was being constructed in compliance with Critical Area laws, we note that the applicant bears the ultimate responsibility for the illegal activity on the property. The requirements for development within the 100-foot Buffer are clearly stated within the City's zoning ordinance and Critical Area Program.

At this time, the applicants are requesting a variance to legalize the location of the dwelling within the Buffer and to bring the property into compliance with Critical Area requirements. While we are not opposing the legalization of the construction, the applicants must demonstrate that compliance with the 10% pollutant reduction rule is possible. In addition, there is a need for significant mitigation to rectify the outstanding violation. To rectify the violation, we recommend that mitigation be required at a 3:1 ratio, measured by the areal extent of disturbance in the Buffer (2,595 square feet of mitigation). This mitigation should be implemented utilizing native plant species and should be located within the Buffer to the extent possible. As conditions of approval, we recommend that the Board require the applicant to submit a detailed planting plan indicating the species type, quantity, and proposed location, as well as a detailed stormwater management plan which addresses 10% rule compliance. These items should be submitted to the Circuit Rider to review in order to ensure that consistency with Critical Area regulations is achieved.

Thank you for the opportunity to provide comments on this variance request. Should you have any questions, please contact me at (410) 260-3462.

Sincerely,

Kerrie Gallo

Kerrie Gallo
Natural Resource Planner

Cc: Tracey Gordy, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 13, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: RAD 50315 Allen

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a building permit in order to construct a 2,477 square foot addition to the primary dwelling. The property lies within a designated Resource Conservation Area (RCA) and is currently developed.

Based on the revised site plan provided, it appears that the applicant is proposing to construct a residential addition in order to accommodate a legal, home-based occupation. The proposed development activity does not require the removal of any trees, and the addition will be located outside of the 100-foot Buffer. Based on this information, we do not oppose the granting of the building permit.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CS 780-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 12, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: VR 05-0099 Garner

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a grading permit in order to install shore erosion control measures. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the revised site plan provided, it appears that approximately .5862 acres of the property will be disturbed in order to accommodate the proposed revetment and associated grading. We note that Bob Tabisz of the Maryland Department of the Environment was consulted in order to determine whether the applicant's proposal is the minimum necessary to ensure adequate stabilization of the property. Mr. Tabisz has indicated that amount of disturbance proposed is consistent with that which is considered normal and typical. Provided that the applicant implements the required mitigation for disturbance to the Buffer, we do not oppose the granting of the grading permit.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 811-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 11, 2006

Ms. Elsa Ault
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Candland Subdivision Habitat Protection Plan

Dear Ms. Ault:

This letter is provided in response to the Habitat Protection Plan received in conjunction with the above referenced subdivision. Based on the info provided, we have the following comments.

In regard to potential Forest Interior Dwelling Bird habitat on the property (FIDs), the applicant's plan states that potential habitat is fairly minimal based on the area of open marsh which dominates most of the lowlands and the area of existing fragmented forest. Contrary to this conclusion, the Commission contends that the property does contain suitable riparian FIDS habitat as documented by the approximately 58 acres of forested nontidal and upland areas on the property. Furthermore, these 58 acres lie contiguous to an expansive area of mature forest outside of the property boundaries that would appear to comprise at least 100 contiguous acres. Based on this information, it is our position that the applicant's plan lacks the provision of any management strategies to reduce impacts to FIDs habitat which will occur as a result of the proposed subdivision and development.

Using the guidelines found within the Commission's guidance paper, A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area, the applicant's proposed development encroaches into interior FIDs habitat, and proposes direct impacts to the habitat. Based on the existing site conditions, the existing driveway creates a canopy opening, thus creating a habitat edge. As such, the area of the property lying within 300 feet of the driveway, as well as within 300 feet of the existing developed areas, can be categorized as edge FIDs habitat. The remainder of the property, however, is considered interior. The subdivision plat indicates that the majority of proposed Lot 1 lies within 300-feet of the driveway and/or within 300 feet of the existing developed area. Hence, it appears that mitigation for direct impacts to FIDs habitat can be assessed at a 1:1 ratio. In regard to proposed Lot 2, since no building envelope is provided, it is difficult to determine the exact location of the proposed dwelling. However, based on the location of the perc tests, it appears that the proposed dwelling may be sited outside of the existing edge habitat, and may therefore be located within interior FIDs habitat. If direct impacts to this interior habitat are proposed on Lot 2, it will be necessary to

provide mitigation for both the direct impacts to FIDS habitat and the impacts to interior habitat, as prescribed in the Commission's guidance paper. As you are aware, all mitigation within FIDS habitat requires the creation of suitable FIDs habitat at an alternative location.

In order to assure that the project is consistent with the habitat protection regulations outlined within the County's zoning ordinance and Critical Area program, we recommend that the HPP be altered to include specific information regarding the applicant's intended management strategy. The HPP should directly address the issues outlined in the comments provided above and should indicate how protection of FIDs habitat will be accomplished. Should the applicant choose to address FIDs management at the time of building permit application, this should be stated within the HPP and noted on the plat so that prospective buyers are sufficiently aware of this requirement. A note should also be added to the subdivision plat which indicates the presence of FIDs habitat.

In regard to the information provided about the presence of the State-listed rare species, Primrose Willow, no information was provided as to the time of year in which the survey was performed, so it is not possible to deduct whether the survey provides an accurate assessment of the potential for Primrose Willow's presence. However, given that there are no historical records of the species occurring directly on the applicant's property, we recommend that the County determine whether the information within the HPP satisfies the intent of the County's habitat protection guidelines, or whether further evaluation of the survey results is warranted by DNR.

Finally, the HPP states that some temporary impacts to nontidal wetlands may be necessary for the installation of the sewage system. It is not clear whether appropriate permits have been secured for this action at this time. We recommend that the applicant include a statement within the HPP that appropriate permits will be obtained from the Maryland Department of Environment at the time of development.

Thank you for the opportunity to provide comments regarding this HPP. Please provide the Commission with a revised version of the plan which addresses the management strategies proposed by the applicant for FIDs habitat. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
CS 324-03

Cc: Katharine McCarthy, DNR

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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January 10, 2006

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

Re: L1009 Sutphin

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line abandonment and line revision request. The applicant is proposing to reduce the number of lots on the property from 3 to 2. The revised Tax Parcel 145 will be .69 acres and the revised Lot A-2 will be 1.76 acres. Lot A-1 is to be abandoned and incorporated into revised Lot A-2. The property is designated a Limited Development Area (LDA). Tax Parcel 145 is currently developed while revised Lot A-2 is currently undeveloped.

Based on the information provided, we do not generally oppose the lot line revision and abandonment request. However, please note that the grandfathering provisions found within COMAR 27.01.02.07.B.2.a require that the local jurisdiction develops procedures to bring legally grandfathered parcels of record into conformance with the local Critical Area program insofar as possible. Based on this provision, we recommend that the applicant be required to comply with the 15% afforestation requirement for development within the LDA. In evaluating the site plan, it appears that ample opportunity exists to comply with this provision on the currently undeveloped, revised Lot A-2. In addition, we recommend that any afforestation plantings required be located within the 100-foot Buffer.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC835-05
TC687-05

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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January 9, 2006

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

Re: Schultz Subdivision
(Tax Map 31, Parcel 71)

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant is requesting to subdivide a 56.398-acre parcel to create two lots within the Critical Area. The property lies within a designated Resource Conservation Area (RCA). Proposed lot 1 is currently developed with a single-family dwelling, while proposed Lot 2 is currently undeveloped.

Based on the information provided, it appears that the Buffer areas on proposed Lot 2 will require establishment at the time of development. Provided that this information is added to the plat, we have no further comments regarding this minor subdivision request.

Thank you for the opportunity to provide comments for subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC579-01

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 9, 2006

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

Re: M1071 Marth Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision. The applicant proposes to create a 2-lot subdivision. The property lies partially within the Critical Area, within a designated Resource Conservation Area (RCA). Within the Critical Area portion of the site, 1 lot is proposed.

Based on the information provided, we have the following comments regarding this subdivision proposal.

1) It appears that the amount of afforestation required may be incorrectly stated on the plat. Based on the 22.10 acres within the Critical Area, approximately 3.33 acres are required to be in forested cover. The plat states that 2.22 acres is required. Please have the applicant revise this number as well as the area of afforestation shown on the plat.

2) The plat contains a note stating that there are no known rare, threatened, or endangered species location on the property per the Department of Natural Resources (DNR). This office has not received notice of an evaluation of the property by DNR. Please provide a copy of this letter for the Commission's files.

3) There appears to be an area of nontidal wetlands directly adjacent to the applicant's property at the northwestern property line (on Lot 17). Based on the proximity, it appears that the 25-foot buffer may fall onto the applicant's property. In addition, there appears to be a large nontidal wetland on the northeastern portion of the property. While it is unclear whether this second nontidal wetlands lies within the Critical Area, it should be noted on the plat if

present. Please verify the location of these features in the field and add to the plat if necessary.

Thank you for the opportunity to provide comments for this minor subdivision request. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner
TC834-05

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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January 9, 2006

Mr. Steven Sager
Town Manager
Town of Indian Head
4195 Indian Head Highway
Indian Head, Maryland 20640

Re: Slavins/Mattingly Park Improvements

Dear Mr. Sager:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On January 6, 2006, the Critical Area Commission unanimously approved the Town's proposal and site plan to construct multiple improvements at the existing Town park referenced above. This approval included the following condition: the Town shall obtain the necessary tidal and nontidal permits from the Maryland Department of the Environment prior to the commencement of construction activities.

In fulfillment of the above condition, please provide Commission staff with a copy of the permits once they have been obtained. Please note that should any changes to the site plan be proposed for the completion of the project, additional review and approval by the full Commission would be required. Should you have any questions, please feel free to contact me at 410-260-3482.

Sincerely,

Kerrie L. Gallo
Natural Resource Planner

Cc: Richard Parks, Arro

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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January 9, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: SFD 50734 Forrest Builders (Clifton on the Potomac)-Revised

Dear Ms. Dailey:

Thank you for providing revised information regarding the above referenced site plan. This letter is in response to the information received from the Department of Natural Resources regarding their evaluation of the sensitive species present on the property.

As you are aware, the property has been identified as lying within the ¼ mile protection zone for an active Bald Eagle nest. It is my understanding that the applicant has been informed of this information at this time and has agreed to adhere to the time of year restrictions required by State and County laws. Therefore, we have no further comment on the site plan and building permit application.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS 785-05

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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January 9, 2006

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

Re: L1015 Roche

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line abandonment. The applicant is proposing to abandon the lot lines on existing Parcel 2 and the existing road parcel to create one 5.317-acre lot. The property lies within a designated Limited Development Area (LDA) and is currently developed.

Based on the information provided, we do not oppose the lot line abandonment request. Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC833-05

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/

January 9, 2006

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

Re: L1014 Otwell

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision and abandonment request. The applicant is proposing to reconfigure the lot lines on two existing parcels of record and abandoning an existing access easement. The property is designated a Limited Development Area (LDA). Parcel 30 is currently undeveloped, while Parcel 82 is developed with a single-family dwelling.

Based on the information provided, we do not generally oppose the lot line revision and abandonment request. However, we provide the following comments regarding the site plan submitted.

1. Please have the applicant consistently label and show the limits of the 100-foot Buffer on both parcels. In addition, it is not clear whether Parcel 30 is included within a Buffer Exemption Area (BEA), as a 60-foot Buffer is currently shown. Please clarify.

2. Please have the applicant add the shoreline to Parcel 30. From the site plan, it is not clear whether a bulkhead currently exists on Parcel 30 or whether the parcel boundaries shown are intended to represent the shoreline.

3. It appears that allowable impervious surface area calculations on the revised lots are inaccurate. Please have the applicant make the appropriate changes to the site plan.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
TC41-04

Robert L. Ehrlich, Jr.
Governor

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January 9, 2006

Ms. Joan Kean
Director
Department of Technical and Community Services
11916 Somerset Ave, Room 102
Princess Anne, MD 21853

Re: Rehobeth Village Growth Allocation
Somerset County, Maryland

Dear Ms. Kean:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On January 4, 2006, the Critical Area Commission approved the Rehobeth Village growth allocation request to change approximately 45.50 acres of a Resource Conservation Area to a Limited Development Area. This approval included the following conditions:

1) The applicant shall obtain all necessary wetland permits from the Maryland Department of the Environment prior to recordation of the final subdivision plat. A copy of these permits shall be provided to Commission staff upon receipt.

2) Prior to recordation of the final subdivision plat, the applicant shall obtain the necessary sediment and erosion control permits.

3) Prior to recordation of the plat, the applicant shall obtain written verification from the appropriate County or State resource agency that no adverse impacts to anadromous fish spawning waters will occur as a result of the proposed stormwater management pond and outfall. The applicant shall provide Commission staff with a copy of this written verification.

Please incorporate this refinement into the Town's Critical Area program within 120 days from the date of this letter, and provide this office with an updated map reflecting the growth allocation. Please note that as of the date of this letter, this office has received a copy of the required sediment and erosion control permit, as well as, written verification from the Department of Natural Resources that no adverse impacts to anadromous fish spawning waters will occur as a result of the proposed stormwater management pond and outfall. Therefore, conditions #1 and #2 have been fulfilled. In fulfillment of the remaining condition, please forward Commission staff a copy of the appropriate wetlands permit once it has been obtained from the Maryland Department of the Environment.

Thank you for your assistance in presenting this project to the Commission. Please contact me at 410-260-3482 if you have any questions.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner

Robert L. Ehrlich, Jr.
Governor

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January 6, 2006

Ms. Karen Wiggen
Charles County Planning and Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Variance #1156 Joliffe

Dear Ms. Wiggen:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling on slopes 15% or greater, and within the expanded Buffer. The property is designated a Resource Conservation Area (RCA), a Natural Heritage Area (NHA), and is currently undeveloped.

Based on the information provided, as well as observations made during a site visit to the property, it is the position of this office that the materials provided are incomplete and inaccurate. As a result, we oppose the granting of any variance at this time. Rather, we recommend that the applicant be required to submit a revised site plan, depicting clarified and accurate site conditions. In addition, we recommend that the applicant be required to provide a habitat protection plan prior to the consideration of a variance, as the site may require design alterations or additional protective measures based on the recommendations of the Department of Natural Resources (DNR), as well as the requirements of the Charles County Zoning Ordinance.

Specifically, we request that the applicant address the following:

1. The property is designated as a Natural Heritage Area by DNR. As a result of this designation, the Charles County Critical Area Program requires that a habitat protection plan be developed in conjunction with the protection guidelines provided by DNR. The habitat protection plan is required to identify a protection zone and management practices which ensure protection and proper management of the resources identified by DNR. At this time, no habitat protection plan has been received. However, this office has received comments from DNR regarding the ecological importance of this site, along with specific guidelines from DNR deemed necessary to ensure that adverse impacts are minimized.

2. The site plan does not include the entire area of Lot 1. As it is unclear whether the potential exists to construct a dwelling on areas outside of the Buffer and off of steep slopes, please provide a site plan which shows the limits and environmental features of the entire lot.

3. It does not appear that the limits of the 100-foot Buffer have been accurately delineated. Specifically, it is unclear where the edge of tidal wetlands lies and/or where the demarcation between tidal and non-tidal wetlands is on the property. In addition, where nontidal wetlands are directly contiguous with the 100-foot Buffer, the Buffer must be expanded to include the nontidal wetland. Please provide a site plan which shows an accurate Buffer.

4. Based on the uncertainty surrounding the limits of tidal and nontidal wetlands shown on the site plan, it is not clear whether the entire site lies within the expanded Buffer for contiguous steep slopes. If the entire lot lies within the expanded Buffer, this should be noted on the plat. The Charles County ordinance, as well as State regulations, requires that the Buffer be expanded for contiguous steep slopes, regardless of whether the soils are hydric or highly erodible. Should the site be determined to lie within the expanded Buffer, the proposed reduced Buffer line should be removed from the site plan.

5. Please have the applicant add notes to the plat regarding the amount of impervious surface proposed, as well as the amount of existing forest cover and the amount of forested cover proposed to be cleared.

6. As the requested variance is in conjunction solely with that required for the development of a primary dwelling, note #7 should be removed. As previously communicated, the applicant's future intent to develop Lot 2 with a sewage reserve area for a commercial business will require further discussion, and may require growth allocation. It does not appear to be applicable to the current variance request.

7. The meaning of the applicant's response that an extensive Buffer area is provided between the area of disturbance and the expanded 100-foot Buffer in order to offset adverse impacts to water quality is unclear. Please clarify.

8. The applicant's response to variance standard (E)(3) is inaccurate. There is no connection between the Buffer reduction associated with hydric and highly erodible soils and a lack of a mitigation requirement. As with all development within the Critical Area, the applicant will be required to provide mitigation at the time of development for all clearing on the property. In addition, should the areas disturbed lie within the expanded Buffer, mitigation will be required at a 3:1 ratio. Please advise the applicant of the appropriate mitigation requirements found within the Charles County Zoning Ordinance.

9. As with all variance requests, the applicant bears the responsibility to meet each of County's variance standards, including the standard of unwarranted hardship, and the standard that the variance is the minimum necessary. Giving particular consideration to the location of the property within a NHA, as well as the sensitive nature of development on steep slopes, we recommend that the applicant make further attempts to demonstrate minimization, incorporating the recommendations made by DNR, and evaluating whether the dwelling

footprint can be reduced. The site plan indicates that an approximately 3,091 square foot footprint is proposed for the dwelling, in addition to a large driveway. A footprint of this size within an area of ecological importance seems excessive. We recommend that the applicant consider the use of vertical construction to utilize an equivalent area of habitable living space on a smaller footprint.

10. The applicant has stated that drywells and additional plantings are being provided to aid in the infiltration of stormwater runoff, yet these features do not appear on the site plan. Please have the applicant specify the location of these features, as well as indicate whether the plantings will be designed as engineered raingardens, or simply as landscaping. We recommend that aggressive stormwater management be pursued as a condition of any future variance approval.

11. At a very minimum, we recommend that any future variance approval include the requirement that a denitrification system be required in conjunction with the septic system. This progressive technology will help to ensure that pretreatment of effluent is provided and that adverse effects to the NHA are minimized.

12. It appears that a portion of the proposed driveway lies within the 100-foot buffer for the Wetland of Special State Concern (WSSC). As this wetland and buffer are regulated by the Maryland Department of the Environment (MDE), a permit may be required.

Thank you for the opportunity to provide comments. As previously stated, the nature and quantity of outstanding concerns result in the inability of the Commission to support a variance on the property at this time. We recommend that the applicant be required to address the above comments and submit a revised site plan prior to the Board's consideration of the variance. In addition, we note that a meeting with the applicant and appropriate resource agencies may be the quickest and most effective manner to resolve some of the outstanding issues. Commission staff would be glad to participate in such a meeting. If you have any questions, please call me at 410-260-3482.

Sincerely,

Kerrie Gallo

Kerrie L. Gallo
Natural Resource Planner
CS-815-05