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Governor

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Executive Director

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

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

March 20, 2006

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

VIA FACSIMILE

RE: Kent Narrows Properties, LLC – Major Site Plan MASP#05-05-05-0006©
Final Site Plan

Dear Ms. Spinelli:

It has come to our attention that final comments from our office were never sent on the above referenced project. The applicant proposes construction of 8 condominiums and associated parking on a 1.2 acre property designated IDA, Buffer Exempt. Critical Area requirements for the project included the 10% pollutant reduction requirement and mitigation for development activities within the Buffer.

Based on a review of the final plans in our file, it appears that all County Critical Area requirements have been met for the land-based aspect of the project. The 10% pollutant reduction rule is addressed, as is the requirement for mitigation for development activities within the Buffer.

In addition to the redevelopment of the site with the condominiums, a reconfiguration/expansion of the existing marina is also being proposed. It is our understanding that the water-based redevelopment was considered separate from the condominium redevelopment. However, please note that the County's Critical Area ordinance does include special site plan requirements for water-dependent facilities in §14:1-34. Our file does not include detailed information on the marina reconfiguration. The County should ensure that the water-dependent provisions of the ordinance applicable to the proposal are adequately addressed prior to issuance of any permits for piers.

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

Sincerely,

A handwritten signature in cursive script, reading "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC 351-05

Robert L. Ehrlich, Jr.
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March 17, 2006

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

VIA FACSIMILE

RE: Site Plan – 17th Street Condominiums, Revised Plans File #10076

Dear Mr. Smith:

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

1. The applicant now apparently wants to install a wooden boardwalk parallel to the shoreline for its entire length. This is not consistent with the Town's Critical Area ordinance. While a walkway from the building to the water would be permissible, this type of private walkway is not consistent with the requirement to minimize the extent of intrusion into the buffer as is required by the Town's Buffer Management Area regulations (See Section 30-554(d)(1) of the Town Code).
2. It is apparent that the applicant proposes the boardwalk in lieu of the parallel dock that was denied by MDE with the intent to use it just as a dock would be. This is not consistent with the Town's Critical Area Program and we cannot support approval of this revision to the project.
3. Substantially more Buffer mitigation should be provided on site. Fees-in-lieu should be available only if the property owner has exhausted all reasonable possibilities of mitigation on site. (See Section 30-554(d)(8)(a) of the Town Code.)
4. The site plan still does not properly show all proposed improvements on the parcel. Specifically, the water-dependent features (the approved pier) of the project are completely omitted from the plans. This should be corrected and the plans resubmitted for review.

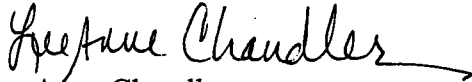
Mr. Blaine Smith

March 17, 2006

Page 2

Thank you for the opportunity to review this site plan. If you have any questions or comments regarding these comments, please contact Commission staff at (410) 260-3460.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right.

LeeAnne Chandler

Natural Resources Planner

cc: Mr. Joe Kincaid, MDE
OC58-05

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

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March 13, 2006

Ms. Vivian Swinson
Queen Anne's County
Dept. of Planning & Zoning
107 N. Liberty St.
Centreville, Maryland 21617

RE: Administrative Variance #06-04-01, Raymond Moldenhauer

Dear Ms. Swinson:

Thank you for providing the application materials for the above referenced administrative variance. The applicant is requesting a variance from the Buffer requirements in order to construct a swimming pool shoreward of an existing structure within the Buffer. The property is approximately 15,000 square feet in size and is currently developed with a single family dwelling.

If a variance is granted, no disturbance should occur closer than 50 feet to the shoreline, the minimum setback required by County Code. Also, mitigation should be provided in accordance with Section 14-168(c)(3) of the County's Zoning Ordinance. This section requires that the extent of the lot shoreward of the new development be established and maintained in natural vegetation and that natural vegetation of an area twice the extent of the impervious surface be created on the property. Given that this lot is maintained as manicured lawn down to the bulkhead, there is ample opportunity to plant native trees and shrubs on this site.

Thank you for the opportunity to comment. Please include this letter in the record for this variance request. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".
LeeAnne Chandler
Science Advisor

cc: QC68-06

Robert L. Ehrlich, Jr.
Governor



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March 10, 2006

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

VIA FACSIMILE

RE: Site Plan – Sante', 6103 Seabay Drive, File #05-14100007

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to redevelop a site with an 82-unit condominium and several commercial facilities. The property is 1.84 acres in size and is subject to a 25-foot Critical Area setback. Critical Area requirements for the site include the 10% pollutant reduction, Buffer mitigation and 15% afforestation. Commission staff has reviewed the information provided and we have the following comments:

1. There are several discrepancies between the project application and the 10% rule calculations in terms of project site size and existing/proposed impervious coverage. These statistics should be reviewed and corrected as necessary.
2. Notwithstanding the above, it appears that the proposed reduction in impervious cover will address the 10% pollutant reduction requirement.
3. It appears that there are several areas under roof that are proposed for planting. The applicant must demonstrate that at least 15% of the site is plantable/open to the sky. Also, areas of pervious pavers under roof should not be counted as pervious. This should be reviewed and corrected as necessary.
4. It appears that the property line extends into the water. Areas below mean high water are State property and cannot be included in any density calculations. This should be examined.

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

Sincerely,

LeeAnne Chandler
Science Advisor

cc: OC60-06

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

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

RE: 10th Street Condominiums, 107 10th Street – File #06-18100001

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down an existing motel and redevelop the site with a building containing 16 condominium units and 10 employee housing rooms. The property is not waterfront and is now shown as being 0.56 acres in size (as compared to approximately 0.422 acres in size shown on a previous plan). Commission staff has reviewed the information provided and we have the following comments:

1. Critical Area requirements for this project are the 10% pollutant reduction and the 15% afforestation requirements. It appears that the 10% requirement will be adequately addressed by the proposed infiltration trench beneath the pervious pavers.
2. In regard to the afforestation requirement, the plantings shown on the landscape schedule do not match those shown in the Critical Area application. These should be reviewed and corrected as necessary. Also, given the 84.54% imperviousness proposed, the town must ensure that at least 15% of the site is truly plantable. Areas such as the trash compactor must be excluded.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: OC137-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Executive Director

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March 10, 2006

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

RE: Administrative/Sliding Scale Subdivision, Herschell Claggett
File #03-05-10-0028-C – Revision #1

Dear Ms. Tompkins:

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

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

1. The plat still shows a non-tidal buffer from areas shown as tidal wetlands (e.g., E2EM5P), according to the wetland types that appear on the plans. (NWI or National Wetland Inventory Maps show both tidal and non-tidal wetlands.) All Tidal wetlands require a minimum 100-foot Buffer
2. We recognize that no additional development activity is proposed at this time. If any additional development activity is proposed, a topographical survey (in addition to a JD) should be provided to ensure all Buffers are appropriately delineated.
3. It appears that there are 7.616 acres of existing forest. This does not meet the 15% afforestation required in the Critical Area.

Ms. Holly Tompkins
March 10, 2006
Page 2 of 2

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

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

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: QC718-05

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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March 6, 2006

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

VIA FACSIMILE

RE: Site Plan – Eleven Eleven Edgewater – Permit Submission

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a condominium containing 18 units. According to the application, the parcel is 20,000 square feet in size and is currently developed with several buildings and a pool. It is waterfront with a 10-foot setback. Critical Area requirements for this project include mitigation for disturbance within the Buffer, the 15% afforestation requirement, and compliance with the 10% pollutant reduction requirement. Commission staff has reviewed the information provided and we have the following comments:

1. The site plan shows impervious surfaces within the 10' setback which is prohibited under the Town's Critical Area ordinance. These structures must be moved outside of the Buffer.
2. Mitigation for development activity within the Buffer is still calculated incorrectly. For example, according to the existing conditions plan, there is a 15-foot wide swath of landscaped area from the back edge of the existing boardwalk. The site plan shows impervious cover proposed within this area, yet the mitigation worksheet states that there are zero square feet going from pervious to impervious within the Buffer. This should be reviewed and corrected as it appears that additional Buffer mitigation is needed.
3. Please explain why there are two existing bulkheads along the entirety of the shoreline.
4. Provided that the drainage area is calculated correctly, it appears that the proposed stormwater facilities will address the 10% pollutant reduction requirement.

Mr. Blaine Smith

March 6, 2006

Page 2

5. It appears that at least 15% of the site is plantable with adequate plantings proposed.

Thank you for the opportunity to review this project. Permits should not be approved given the proposed impervious surfaces within the Critical Area setback. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler

Natural Resources Planner

cc: OC897-04

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

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

VIA FACSIMILE

RE: Site Plan – Phil Kemp, 116 Peach Tree Rd., Permit File #10904

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a sidewalk along an existing dwelling. The lot is 3,600 square feet in size with a 5-foot waterfront setback requirement.

Based on the information provided, it appears that the 10% pollutant reduction requirement is proposed to be addressed through supplemental plantings. Provided the plantings are installed as indicated on the site plan (for both stormwater and Buffer mitigation), it appears that the proposal is consistent with the Town's Critical Area Program.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC40-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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Martin G. Madden
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Executive Director

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February 28, 2006

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

**RE: Major Site Plan, Chesapeake Bay Beach Club
File #04-06-02-0010-C, Amendment #4,**

Dear Mr. Cohoon:

Thank you for providing information on the above referenced major site plan amendment. The applicant proposes the amendment for small increases in the floor area of the building to accommodate emergency generators, a covered porch, and to account for previous additions that were not previously approved. An accounting of Buffer impacts and mitigation was also submitted. The property involved is 4.785 acres in size, is designated IDA and Buffer Exempt.

While we have no substantive comments on the small additions to the site plan, we are extremely concerned about ensuring that the project is in full compliance with the County's Critical Area Program. This includes ensuring Buffer mitigation has been provided as required, as well as ensuring the site is meeting its overall 10% pollutant reduction requirement. It is our understanding that the original site plan for this property was reviewed and approved in 1996. Further, we now have an as-built of the facilities as they exist today. We recommend that an assessment be done to determine compliance with both the Buffer mitigation requirements, as well as the 10% rule. It is not appropriate to designate areas remaining pervious as Buffer mitigation areas simply due to the fact that they are not covered in a structure. Similarly, those areas planted to offset the 10% requirement (as was required for the recent parking lot expansion) should not also be counted as Buffer mitigation.

Commission staff is available to visit the site and discuss these matters further. Please contact me if you have any questions regarding these comments or to set up a site visit. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".
LeeAnne Chandler
Science Advisor

cc: QC755-04

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

Robert L. Ehrlich, Jr.
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February 27, 2006

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

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

Dear Mr. Cohoon:

This office has received the submitted information pertaining to reduction of the shore buffer from 300-feet to a varied width of between 100 and 178 feet. The reduction is being requested under Section 18:1-67.B(3) of Title 18.

Because the subject property is (and has always been) designated IDA, this office has no Critical Area comments regarding the proposed shore buffer reduction under Title 18. As you are aware, any reduction (without a variance) below 100-feet from the landward extent of tidal waters or wetlands would be inconsistent with the County's Critical Area Program.

Thank you for the opportunity to comment on this shore buffer reduction. If you have any questions regarding these comments, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: QC389-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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February 27, 2006

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

VIA FACSIMILE

RE: Site Plan – Nolen Graves, 120 Channel Buoy Rd.

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a new dwelling on what appears to be an existing vacant lot. The lot is 5,985 square feet in size with a 15-foot waterfront setback requirement.

Based on the information provided, it appears that the 10% pollutant reduction requirement is addressed through installation of two rain gardens and swales along the side lot lines. Similarly, it appears that the Buffer mitigation requirement will be addressed adequately on site with a variety of small trees and shrubs. Please note however, that there are some discrepancies between the planting schedule and the landscape drawing. For example, the drawing does not show any cherry trees but does show more than four crepe myrtles. These should be reconciled and corrected as necessary. Overall, the proposal does appear consistent with the Town's Critical Area Program.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC83-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

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Executive Director

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February 27, 2006

Ms. Helen Spinelli
Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Austin & Evelyn Cate
File #04-05-01-0001(c) – Revision #3

Dear Ms. Spinelli:

Thank you for providing Revision #3 of the above referenced major subdivision. The applicant proposes to administratively combine two existing parcels and resubdivide the property into 7 lots. The property is a total of 4.229 acres in size and is designated LDA. Based on the information provided and the site visit and discussions which took place in early December, we have the following comments:

1. Gravel or pervious pavers are now proposed to be used for the driveway areas. Gravel is compacted over time and becomes impervious. It should not be used for driveways or parking. Pavers have specific requirements and need a commitment by the County regarding installation, maintenance and monitoring. We note that the County has apparently allowed partially pervious pavers (of unknown manufacturer, installation, specifications, soil type, etc.) to count as 100% pervious in a new Critical Area subdivision that is subject to an overall 15% impervious surface limit. We were unaware of this occurrence. This is an issue that should be discussed prior to further project approvals involving the use of pavers.
2. Commission staff sent a letter to the County on the issue of pavers in August 2005. No response has been received from the County. Pavers should not be approved without establishing County policy and procedures for their use and consultation with the Commission.
3. We will contact the County Department of Planning and Zoning in the very near future to set up a meeting to discuss this issue.

Ms. Helen Spinelli
February 27, 2006
Page 2 of 2

4. We recommend that any subdivision approval be held pending a response from the Department of Natural Resources regarding protection of the Blue Heron Colony. While the required habitat protection measures for the Blue Heron colony are written out in the notes on Sheet 3, we strongly recommend that note #20 be revised to indicate that no construction activity will be permitted on Lots 1 through 4 any time between February 15th and July 31st of any year. Future home buyers should be aware of this restriction.
5. The applicant, as the property owner, will be held responsible for any intrusion into the Buffer. Establishing the LOD at the Buffer line is unrealistic and is setting the contractor up for failure to comply with the requirements.

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

Sincerely,



LeeAnne Chandler
Science Advisor

cc: QC1-05

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
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Ren Serey
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February 24, 2006

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

RE: Minor Site Plan, Angler's Restaurant
MISP #05-05-08-0019-C – Revision #1

Dear Ms. Spinelli:

Thank you for providing information on the above referenced minor site plan. The applicant proposes to tear down an existing fire-damaged restaurant and re-build it at a different location on the site. The property is approximately 1.305 acres in size, is designated IDA and Buffer Exempt. Commission staff has reviewed the information provided and we have the following comments:

1. Compliance with the 10% requirement depends upon the ability to remove impervious surface from an area not owned by the applicant. Some guarantees that it will remain pervious in perpetuity should be required in order to ensure compliance. Alternatively, the calculations could be based strictly on the property boundaries. It seems that any required pollutant removal could be addressed by using additional sand filters.
2. We continue to be concerned about the lack of any Buffers along the waterfront. The existing restaurant, as well as the minimum setback from Tidal Wetlands within the WVC, is 15 feet. While wooden walkways (with spaces between the boards) are considered pervious (provided proper removal of impervious beneath), there are no plans for plantings between development and the water. According to the County's Buffer Exemption provisions, the area of the setback should be established in vegetation. Redevelopment of the site should be accomplished with an overall environmental improvement.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

Robert L. Ehrlich, Jr.
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February 24, 2006

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

RE: Minor Subdivision, Summit Point Trading Company
File #05-05-02-0009-C - REVISION #2

Dear Mr. Cohoon:

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

All LDA development standards must be met if there is any development activity within the Critical Area portion of the property. The site statistics show that 20% of the existing woods in the Critical Area will be cleared and mitigated at a 1:1 ratio. However, a reforestation plan has not been provided. The reforestation plan should specify the species to be used and the number of each. As indicated previously, we recommend that the applicant minimize intrusion into the forest and preserve as many large trees on site as possible. Mitigation should be provided with species suitable for the Delmarva Fox Squirrel. Impervious surface limits for the Critical Area portion of the property should also be stated more clearly.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: QC698-05

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
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Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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February 23, 2006

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

VIA FACSIMILE

RE: Site Plan – 94th Street II Townhouses, 744 94th Street

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to tear down an existing dwelling, subdivide the lot and construct three townhomes. The property is 6,150 square feet in size and is subject to a 10-foot setback requirement.

Based on the information provided, it appears that the 10% pollutant reduction requirement is addressed through an overall reduction in impervious surface. Key components include the pervious parking lot and deck, as well as the proposed raingarden. In regard to Buffer mitigation, it appears that the requirement can be addressed on site. However, please note that at least 25% of the setback must be planted. We recommend that additional vegetation be moved to the waterfront. Long term survivability of the plantings should also be reviewed, as trees are being proposed in the narrow two-foot areas along the parking lot. The landscape plan should specify the number and proposed species to be used.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC82-06

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/

February 23, 2006

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

VIA FACSIMILE

RE: Site Plan – Gordon Allison, 10623 Point Lookout Road

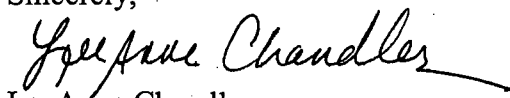
Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes an addition on an existing dwelling. The property is 5204 square feet in size and is subject to a fifteen-foot setback requirement.

Based on the information provided, it appears that the 10% pollutant reduction requirements will be addressed on site through the pervious deck construction, installation of grassed swales and substantial landscaping. However, please note that the information provided is not consistent between the site plan, the stormwater plan and the project application. (For example, the site plan shows a decrease in impervious while the application shows an increase. This should be reviewed and corrected as necessary.) The proposed landscaping plan seems to address the Buffer mitigation requirement adequately on-site. However, please note that at least 25% of the setback area must be plantable and be vegetated with the proposed plantings. Some revision may be needed.

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

Sincerely,


LeeAnne Chandler
Science Advisor

cc: OC81-06



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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MEMORANDUM

TO: Ray Dintaman, Environmental Review

FROM: LeeAnne Chandler *LAC*

DATE: February 17, 2006

RE: US Army Corps of Engineers – Bishopville Pond and Lizard Hill Restoration Project, St. Martins River, Worcester County, Coastal Bays watershed

Commission staff has reviewed the public notice for the project referenced above. We also contacted Steven Kopecky and inquired about the ownership of the land upon which the project is located. According to Mr. Kopecky, both sites (the pond and Lizard Hill) are owned by the State Highway Administration. The pond itself is located within the Coastal Bays Critical Area of Worcester County while the Lizard Hill site is beyond 1000 feet from tidal waters and is not subject to Critical Area regulations. The Bishopville Pond portion of the project will be reviewed under the requirements of COMAR 27.02.05.

Additional information is needed before Commission staff can be more specific on how the project will be reviewed and/or approved by the Commission. We have requested to be provided with NEPA documents as they become available to help ensure consistency with all Critical Area requirements as the project moves forward with the planning process. We will also coordinate with your staff as further planning moves forward.

Thank you for the opportunity to provide comments on this preliminary material. If anyone has any questions regarding Critical Area Program requirements, I can be contacted at (410) 260-3477 or lchandler@dnr.state.md.us.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

February 17, 2006

Mr. Steven Kopecky
US Army Corps of Engineers, Baltimore District
ATTN: CENAB-PL-P
PO Box 1715
Baltimore, MD 21203-1715

RE: Bishopsville Pond and Lizard Hill Restoration Project, Worcester County, MD

Dear Mr. Kopecky:

We have received a copy of the public notice regarding the project referenced above. It is our understanding that the project is a partnership between a number of local, State and Federal agencies. However, as it is our understanding that the work will take place on land owned by the Maryland State Highway Administration, the project will be reviewed under the requirements of the Code of Maryland Regulations Title 27, Subtitle 02, Chapter 05 (COMAR 27.02.05). A copy of this chapter of our regulations is enclosed with this letter.

Based on mapping of the Coastal Bays Critical Area (the first 1000 feet landward of tidal waters as they appear on the 1972 State Wetlands Maps), the pond itself is within the Critical Area. The Lizard Hill site appears to be several thousand feet outside of the Critical Area. The process for Commission review and approval of the project will depend upon the scope of the activities proposed in and around the pond and Bishopsville Prong.

At this point in the project review process, we request that copies of NEPA documents be forwarded to our office as they become available. Once additional information is provided, we will be better able to provide the Corps and/or the State Highway Administration with specific guidance or recommendations related to Critical Area requirements.

Thank you for the opportunity to provide comments on this proposal. If anyone has any questions regarding Critical Area requirements, I can be reached at (410) 260-3477 or lchandler@dnr.state.md.us.

Sincerely,

LeeAnne Chandler
Science Advisor

cc: Ray Dintaman, DNR, Environmental Review
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



Robert L. Ehrlich, Jr., Governor

Michael S. Steele, Lt. Governor

C. Ronald Franks, Secretary

January 24, 2006

Memorandum

To: LTC Daniel Hughes, NRP
~~Rogina Eschinger, CAC~~
Peter Dunbar, RAS
Tim Larney, WHS
Matthew Fleming, WS
Bob Beckett, PS
Nancy Butowski, FS
Arnold Norden, RP
RCD

From: Ray C. Dintaman, Jr., Director, Environmental Review Unit

Subject: U.S. Army Corps of Engineers – Bishopville Pond and Lizard Hill Restoration Project;
St. Martin's River, Worcester County, Coastal Area

Enclosed please find a request for information from the U.S. Army Corps of Engineers regarding the above referenced project. Please review the submitted materials and provide us with any comments you may have by February 17, 2006. If no comments are received by that date we will assume that you have none. If you have any questions, please contact Roland Limpert of my staff at X-8333.

Check one:

☒

Comments are attached.

☐

No Comments.

Signature - *Jeffrey Chandler*

Agency - *Critical Area Commission*

Date - *2/17/06*

RCD:R/L

Enclosures

RECEIVED
JAN 30 2006
CRITICAL AREA COMMISSION



US Army Corps
of Engineers
Baltimore District

Planning Division
Public Notice

JAN 20 2003

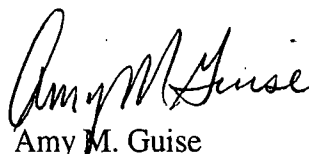
**Bishopsville Pond and Lizard Hill Restoration Project
(St. Martin River Watershed)
Worcester County, Maryland**

The U.S. Army Corps of Engineers, Baltimore District has been approved to construct a restoration project to restore and enhance the aquatic ecosystem of Buntings Branch, a tributary of the St. Martin River. The St. Martin River watershed is located in Worcester County in eastern Maryland (see map attached). The project is being undertaken in partnership with Worcester County, The Maryland Coastal Bays Program, Maryland Department of Natural Resources, and Maryland State Highway Administration. The purpose of this letter is to inform you of the project and our upcoming efforts.

The goal of this project is to improve instream habitat for aquatic and associated terrestrial species in the St. Martin River watershed. This main benefit from this project will be to remove a blockage to anadromous fish migration, opening 9 miles of stream habitat. Wetlands restoration and stream restoration are also benefits from this project. The focal areas for this project will be providing fish passage at Bishopsville Dam and wetland restoration at an abandoned sand and gravel mine on Lizard Hill. The project is being implemented under the authority of the Estuary Restoration Act of 2000, as amended. This authority provides for the Corps of Engineers to implement estuary restoration projects if it will improve the quality of the environment, is in the public interest and is cost effective. The project has been approved by the Assistant Secretary of the Army for Civil Works. The Baltimore District will be preparing a report and an environmental assessment as required by the National Environmental Policy Act.

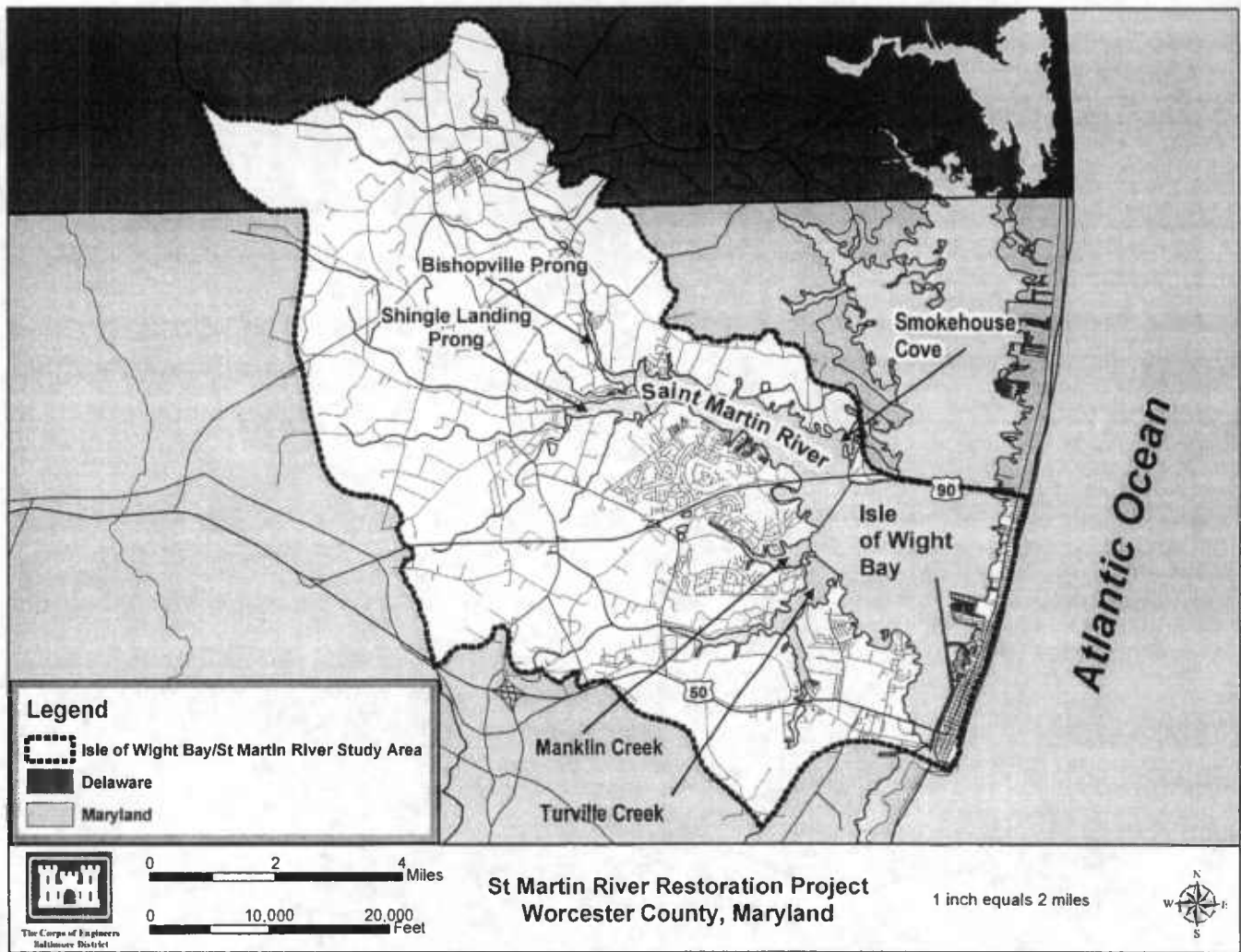
For Federal and state resource agencies receiving a copy of this letter, we request that you provide information concerning interests within your organization's area of responsibility or expertise within 30 days from the date of this notice to the address below. Some agencies will also receive specific requests for information from our office in the near future. If you have any questions regarding this project, please contact the District's project manager, Mr. Steven Kopecky at (410) 962-3413, by e-mail at steven.kopecky@usace.army.mil, or at:

U.S. Army Corps of Engineers, Baltimore District
ATTN: CENAB-PL-P (Kopecky)
P.O. Box 1715
Baltimore, Maryland 21203-1715

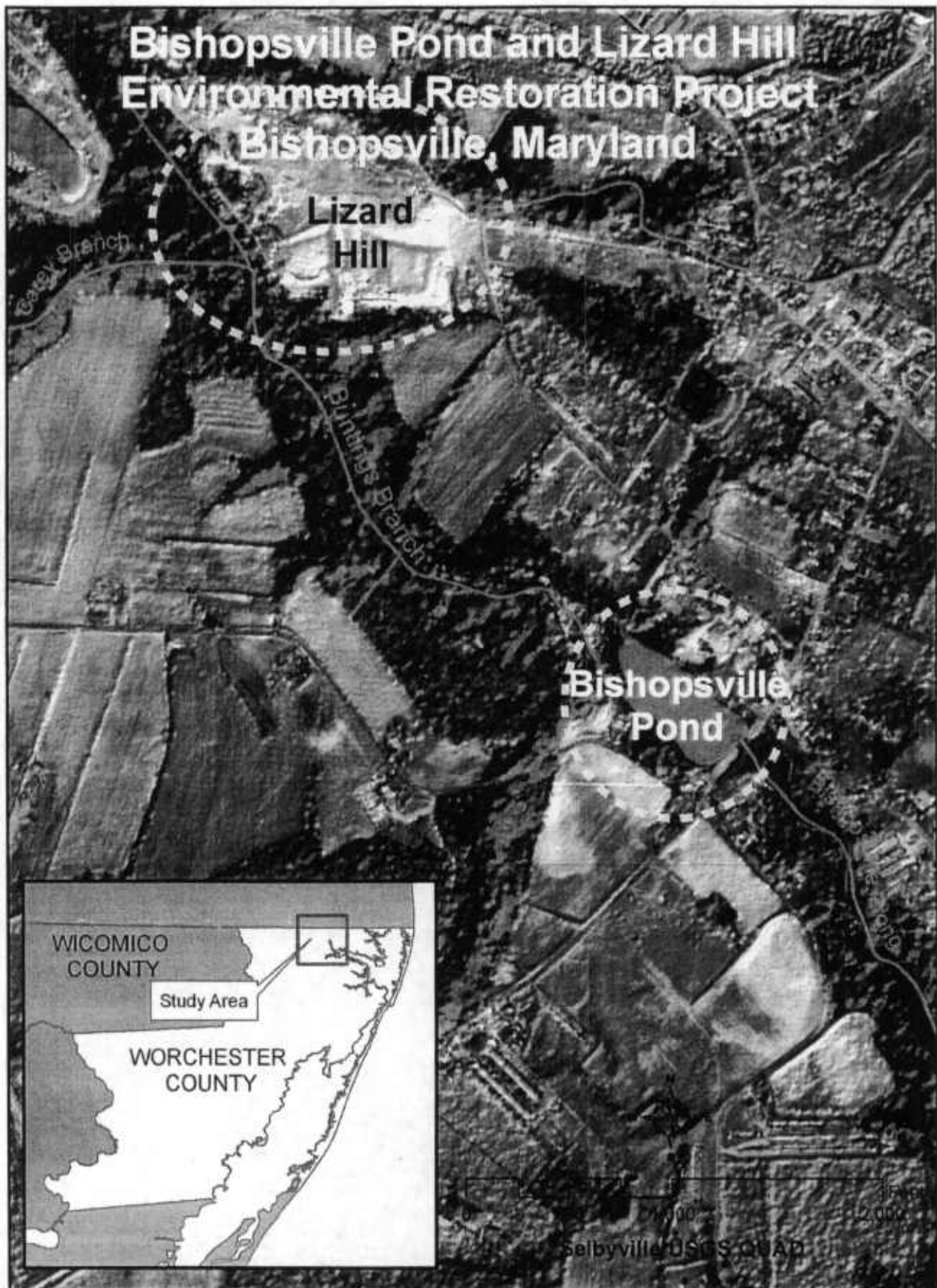

Amy M. Guise

Acting Chief, Civil Project Development Branch

Enclosures



Bishopville Pond and Lizard Hill Environmental Restoration Project Bishopville, Maryland



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/

February 16, 2006

Ms. Janet Davis
Worcester Co., Dept. of Dev. Review & Permitting
One West Market St., Room 1201
Snow Hill, Maryland 21863

RE: Lighthouse Sound, Lot 74, Variance Case #100321

Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the completion of construction of a dwelling on a previously vacant lot partially within the Critical Area Buffer. The property is designated LDA and is 15,154 square feet in size according to the site plan.

Provided the lot is properly grandfathered, this office does not oppose the siting of a dwelling on it provided impacts are minimized and the variance requested is the minimum to provide relief. It is our understanding that the dwelling under construction was approved by the County due to an inaccurately labeled site plan. Given the size of the lot and the requirements of the Buffer, it appears that a variance would be required to construct any dwelling on this lot. However, there is little evidence that attempts have been made to minimize intrusion into the Buffer either through placement of the house on the lot or through adjusting the design of the house. (For example, the deck could be made narrower.) Also, as we viewed in the field during our site visit, the limits of disturbance are extremely close to the edge of the tidal pond. We recommend that any approval include the condition of providing mitigation at a 3:1 ratio for all disturbance within the Buffer (not just the footprint of the dwelling). (See §NR 3-111 (e)(1) of the County Code.) Substantial mitigation should be provided on site.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the official record for this request. Also, please notify the Commission in writing of the decision made by the Board in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: WC112-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

February 16, 2006

Ms. Janet Davis
Worcester Co., Dept. of Dev. Review & Permitting
One West Market St., Room 1201
Snow Hill, Maryland 21863

RE: Lighthouse Sound, Lot 77, Variance Case #99774

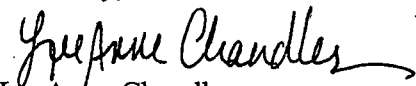
Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit construction of a new dwelling on a vacant lot partially within the Critical Area Buffer. The property is designated LDA and is 73,702 square feet in size according to the site plan.

Provided the lot is properly grandfathered, this office does not oppose the siting of a dwelling on it provided impacts are minimized and the variance requested is the minimum to provide relief. The site plan has been revised to more accurately reflect the existing conditions of the property. It is impossible to develop the site without impacting the Buffer. Structural intrusion into the Buffer is 65 feet along the northern corner of the proposed house. The site plan still does not reflect the proposed limits of clearing on this wooded property. The dwelling could be reduced in size to attempt to minimize impacts according to the constraints of the site. The large courtyard-style driveway and the semi-detached garage do not minimize impacts and are not in harmony with the intent of the Critical Area Program. If these features were removed, it seems that the dwelling could be shifted further from the edge of tidal wetlands to maximize protection of the Buffer. The style and size of the dwelling do not take the constraints of the site into consideration. We recommend that the limits of disturbance be kept as close as possible to the dwelling. We further recommend that any approval include the condition of providing mitigation at a 3:1 ratio for all disturbance/clearing within the Buffer. (See §NR 3-111 (e)(1) of the County Code.) Lastly, please note that the dwelling is shown at the edge of the nontidal wetland buffer. Intrusion into the buffer will require a permit or letter of authorization from the Maryland Department of the Environment.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the official record for this request. Also, please notify the Commission in writing of the decision made by the Board in this case.

Sincerely,


LeeAnne Chandler
Science Advisor

cc: WC31-06

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

February 16, 2006

Ms. Janet Davis
Worcester Co., Dept. of Dev. Review & Permitting
One West Market St., Room 1201
Snow Hill, Maryland 21863

RE: Lighthouse Sound, Lot 94, Variance Case #99777

Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit construction of a new dwelling on a vacant lot partially within the Critical Area Buffer. The property is designated LDA and is 53,057 square feet in size according to the site plan.

Provided the lot is properly grandfathered, this office does not oppose the siting of a dwelling on it provided impacts are minimized and the variance requested is the minimum to provide relief. The subject lot is impacted by the Buffer restrictions from almost every angle of the irregularly-shaped property. The site plan has been revised to more accurately reflect the existing conditions of the property. It is impossible to develop the site without impacting the Buffer. Structural intrusion into the Buffer is 60 feet along the northern edge of the proposed house and in several areas clearing is just 40 feet from the edge of the tidal wetlands. While we recognize the constraints placed on the development by the Buffer, the dwelling could be reduced in size to attempt to minimize impacts according to the constraints of the site. We recommend that the limits of disturbance be kept as close as possible to the dwelling. We further recommend that any approval include the condition of providing mitigation at a 3:1 ratio for all disturbance/clearing within the Buffer. (See §NR 3-111.(e)(1) of the County Code.)

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the official record for this request. Also, please notify the Commission in writing of the decision made by the Board in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: WC34-06

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/

February 16, 2006

Ms. Janet Davis
Worcester Co., Dept. of Dev. Review & Permitting
One West Market St., Room 1201
Snow Hill, Maryland 21863

RE: Lighthouse Sound, Lot 85, Variance Case #99776

Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit construction of a new dwelling on a vacant lot partially within the Critical Area Buffer. The property is designated LDA and is 30,448 square feet in size according to the site plan.

Provided the lot is properly grandfathered, this office does not oppose the siting of a dwelling on it provided impacts are minimized and the variance requested is the minimum to provide relief. The subject lot is impacted by the Buffer restrictions along two sides of the property. Commission staff visited the site with you and the applicant to discuss measures that could be taken to minimize impacts. The applicant has revised the site plan to incorporate several of the recommended measures, including changing the side-load garage to front load to minimize intrusion in the Buffer. From the revised site plan, it appears that the corner of the deck will be approximately 74 feet from the edge of the tidal pond. We do not oppose the variance as requested as it appears impacts have been minimized according to the constraints of the site. We recommend that the limits of disturbance be kept as close as possible to the dwelling. We further recommend that any approval include the condition of providing mitigation at a 3:1 ratio for all disturbance (rather than just the footprint of structures) within the Buffer. (See §NR 3-111 (e)(1) of the County Code.)

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the official record for this request. Also, please notify the Commission in writing of the decision made by the Board in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: WC33-06

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

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
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February 16, 2006

Ms. Janet Davis
Worcester Co., Dept. of Dev. Review & Permitting
One West Market St., Room 1201
Snow Hill, Maryland 21863

RE: Lighthouse Sound, Lot 84, Variance Case #99775

Dear Ms. Davis:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit construction of a new dwelling on a vacant lot partially within the Critical Area Buffer. The property is designated LDA and is 20,933 square feet in size according to the site plan.

Provided the lot is properly grandfathered, this office does not oppose the siting of a dwelling on it provided impacts are minimized and the variance requested is the minimum to provide relief. Commission staff visited the site with you and the applicant to discuss measures that could be taken to minimize impacts. The applicant has revised the site plan to incorporate several of the recommended measures, including changing the side-load garage to front load to minimize intrusion in the Buffer. From the revised site plan, it appears that the corner of the deck will be approximately 50 feet from the edge of the tidal pond. We do not oppose the variance as requested as it appears impacts have been minimized according to the constraints of the site. We recommend that the limits of disturbance be kept as close as possible to the dwelling. We further recommend that any approval include the condition of providing mitigation at a 3:1 ratio for all disturbance (rather than just the footprint of structures) within the Buffer. (See §NR 3-111 (e)(1) of the County Code.)

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the official record for this request. Also, please notify the Commission in writing of the decision made by the Board in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: WC32-06

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/

February 14, 2006

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

VIA FACSIMILE

RE: Site Plan – Edel Anders, 148A Captains Quarter Rd.

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes a new deck and pavers on an existing townhome. The property is waterfront with a ten-foot setback requirement.

Critical Area 10% requirements can be addressed on-site, provided both the deck and pavers are constructed to be pervious. (Careful attention should be paid to the deck especially as some alternative deck materials such as Trex sometimes call for individual pieces to be placed up against each other which makes the surface impervious. At least 1/8" must be provided between floor boards.) Buffer mitigation must equal 2% the cost of the proposed construction and at least 25% of the setback must be vegetated with shrubs or trees. Provided these issues are properly addressed, the proposed project is consistent with the Town's Critical Area Program.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC80-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

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

February 7, 2006

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

VIA FACSIMILE

RE: Site Plan – Bonfire, 7009 Coastal Highway, File #05-14100012

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes a planned overlay district to include 111 multi-family units and an existing restaurant on a 2.74-acre parcel. The property is waterfront with a twenty five foot setback requirement. Critical Area requirements for the project include Buffer mitigation, 10% pollutant reduction requirements and 15% afforestation. Staff has reviewed the information provided and we have the following comments:

1. The 25-foot setback and the 100-foot Buffer lines should appear on all plans.
2. The existing conditions and demo plan indicate "clearing and grubbing in areas between existing pavement and the 25-foot setback line." Any shrubs or trees removed within this area must be mitigated. This was not quantified in the project application.
3. The 25-foot setback (and 100-foot Buffer) must be measured from the most landward point of tidal waters or tidal wetlands as they currently exist on site. The setback line is shown from a wetland line, yet the mean high water line shown on several of the sheets is landward of the wetland line. This does not make any sense. The 25-foot setback needs correction and this will affect the design and location of the building.
4. Notwithstanding the above, we recommend that a supersilt fence be placed at the 25-foot setback line for the duration of construction to ensure protection.

Mr. Blaine Smith
February 7, 2006
Page 2 of 2

5. Only areas above mean high water are private property and can count toward plantable area. The property lines should be clearly shown at the mean high water line. Areas below mean high water belong to the State.
6. Plantable area should be recalculated based on comments 3 and 5 above. It is not clear that the 15% afforestation requirement is adequately addressed.
7. The plant list incorrectly calls arborvitae a small tree cedar and pear trees as large trees. An arborvitae should be considered a large shrub and a cedar and pear small trees. The planting credits should be re-calculated.
8. Use of pervious pavers with infiltration beneath must be supported by on-site soil information.

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

Sincerely,


LeeAnne Chandler
Science Advisor

cc: OC54-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

February 6, 2006

Ms. Tracey Gordy
Maryland Dept. of Planning
201 Baptist Street, Suite 24
Salisbury, MD 21801-4974

RE: Consistency Report – Byrd Park Boat Ramp Replacement

Dear Ms. Gordy:

Thank you for providing a consistency report for the proposed replacement of the existing bulkhead and boat ramp at the northern end of Byrd Park in the Town of Snow Hill. Commission staff concurs with the finding that the proposed project is consistent with the Town's Critical Area Program. Since the activities are water dependent, they may occur within the Buffer. No new impacts to the Buffer are anticipated. Also, since the park is designated RCA, there is no requirement for the 10% pollutant reduction.

Thank you for notifying us of this project. Please forward copies of any pertinent project documentation as it is received and also, please notify us if the project changes in scope. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: Karen Houtman, Town of Snow Hill

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Reader File copy

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/

February 6, 2006

Ms. Vivian Swinson
Queen Anne's County, Dept. of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Variance, #05-05-01, Simmons

Dear Ms. Swinson:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of an 820 square foot pool within the Buffer. The property is 4.34 acres in size, is partially vegetated, and is designated as a Limited Development Area (LDA). It is currently developed with a single-family dwelling, attached garage, porches, walkway, decks, septic system, and well. The property was the subject of an administrative variance request in late 2002 for a small addition and the deck. Please note that the application does not include details such as the material proposed for the pool surround.

In 2002 and 2004, the Maryland General Assembly strengthened the Critical Area Law and reiterated its commitment to protection of the Critical Area's water quality and wildlife habitat values. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area Law. The State law provides that variances to a local jurisdiction's Critical Area Program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the County's variance standards, including that of "unwarranted hardship". The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot". Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law.

The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. In this case, the applicant is proposing to construct an 820 square foot pool, patio, and fence within the Buffer. The applicant must present competent and material evidence to satisfy the burden of proof on each of the variance standards described below. Under law established by the General Assembly, even if there is nowhere else on the lot

to site the proposed pool, the variance cannot be granted unless the applicant proves and the County finds that, without the variance, the applicant would suffer an unwarranted hardship, that is, "denial of reasonable and significant use of the entire parcel or lot". We do not believe that this standard is met in this case and accordingly, the variance should be denied. I have discussed each one of the standards below as it pertains to this site:

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area Program that would result in an unwarranted hardship to the applicant.* As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, the applicant would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information in our file, we do not believe that the County has evidence on which to base a favorable finding in this factor.
2. *That a literal interpretation of this subtitle or the Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.* The applicant has reasonable use of this property for residential purposes and therefore, she would not be denied a right commonly enjoyed by neighbors. In addition, accessory structures, such as swimming pools, are not permitted in the Buffer. Even if other properties have swimming pools, certain structures that existed prior to December 1, 1985 or the effective date of the Queen Anne's County Critical Area regulations are considered grandfathered and do not convey a right for similar structures to be built in the future. The General Assembly made this clear in the 2002 amendments to the Critical Area Law, as discussed above. We do not believe that the applicant has met this standard.
3. *The granting of a variance will not confer upon the applicant any special privilege that would be denied by this subtitle or the local Critical Area Program to other lands or structures within the jurisdiction's Critical Area.* If a variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to place development within the Buffer would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe that the applicant has overcome this burden.
4. *The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.* According to the application

Ms. Vivian Swinson
February 6, 2006
Page 3 of 3

submitted by the applicant, it is our understanding that this variance is not based upon conditions or circumstances that are a result of actions by the applicant, or arise from any neighboring conforming condition.

5. *If granting of a variance will not adversely affect water quality or adversely affect fish, wildlife, or plant habitat within the jurisdiction's Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law and the regulations.* In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area Law and regulations. It appears that at least 820 square feet of new development and consequential disturbance to the land will occur, which results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities.

In conclusion, it is our position, that unless the County finds, by competent and substantial evidence, that the applicant has met the burden to prove to overcome the presumption of nonconformance and the burden to prove that the applicant has met each one of the County's variance standards, the County must deny this application.

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

Sincerely,



LeeAnne Chandler
Science Advisor

cc: QC828-05

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

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February 6, 2006

Ms. Helen Spinelli
Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Horace Bowman & Donald Bowman
File #05-01-06-0015-C

Dear Ms. Spinelli:

Thank you for providing information on the referenced administrative subdivision. The applicant proposes to relocate a lot line between two existing parcels and transfer 4.244 acres between them. Both parcels are located within the Critical Area with an RCA Critical Area designation. No net change in acreage is proposed.

Information was not provided as to whether either of the parcels is already developed. The County should ensure that no non-conformities are created by the proposed subdivision. In addition, the property boundaries along the shoreline should be consistent with the mean high water line rather than an old plat. Also, please note that while the 100-foot Buffer is shown from the edge of tidal wetlands, the Buffer must be expanded to the boundary of the contiguous non-tidal wetlands. No disturbance to these areas is permitted. All RCA development requirements must be met upon any development on either of these parcels.

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

Sincerely,


LeeAnne Chandler
Science Advisor

cc: QC61-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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February 3, 2006

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

VIA FACSIMILE

RE: Site Plan – Duane Brand, 137 Pine Tree Road

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to redevelop a 3,572 square foot parcel with a new dwelling. The property is waterfront with a five-foot setback requirement.

1. It appears that the 10% pollutant reduction requirement is adequately addressed through installation of a raingarden and the use of swales along the property line. Due to exceeding the maximum impervious on a lot of this size, the fee-in-lieu should also be collected prior to issuance of permits.
2. Please note that no impervious cover is permitted within the setback and the site plan shows a porch within the five-foot setback. This should be clearly corrected on the site plan prior to issuance of any permits.
3. The application form indicates that three small trees and 28 large shrubs will be planted. While we encourage on-site compliance with the Buffer mitigation requirements, due to space constraints, it seems unlikely that 28 large shrubs can be accommodated on site. A fee-in-lieu may be necessary.

Provided the above issues are addressed prior to permit issuance, it appears this proposal is consistent with the Town's Critical Area Program. Please contact me if you have any questions. Thank you.

Sincerely,

LeeAnne Chandler
Science Advisor

cc: OC2-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 3, 2006

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

VIA FACSIMILE

RE: Site Plan – Kathryn Crosswell, 321 White Heron Court, File #10892

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a swimming pool within the Buffer of a 9,215 square foot property. The property is waterfront with a fifteen-foot setback requirement.

1. It appears that the 10% pollutant reduction requirement is adequately addressed through installation of additional plantings to offset the 254 square feet of additional impervious surface.
2. Based on the landscaping plan, it appears that the Buffer mitigation requirement is also being addressed on site. Please note that the any impervious associated with the pool must be outside of the required 15-foot setback.

The proposal appears consistent with the Town's Critical Area Program. Please contact me if you have any questions. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC26-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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February 3, 2006

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

VIA FACSIMILE

RE: Site Plan – William Rothstein, 171 South Ocean Drive, File #10915

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a sidewalk and replace a deck within the Buffer of a 4,000 square foot property. The property is waterfront with a five-foot setback requirement.

1. It appears that the 10% pollutant reduction requirement is adequately addressed through installation of additional plantings to offset the additional impervious surface. A small fee-in-lieu is also needed due to exceeding the maximum 60% impervious cover.
2. The landscaping plan shows five large shrubs and eight small shrubs to be planted around the proposed deck. This should be at least 2% the cost of the proposed improvements. Please note that the deck must be built to be pervious.

The proposal appears consistent with the Town's Critical Area Program. Please contact me if you have any questions. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC39-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 3, 2006

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

VIA FACSIMILE

RE: Site Plan – John Coble, 108 Seabreeze Drive

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to redevelop a 3,745 square foot parcel with a new dwelling. The property is waterfront with a five-foot setback requirement.

1. It appears that the 10% pollutant reduction requirement is adequately addressed through installation of a raingarden and the use of swales along the property line. Due to exceeding the maximum impervious on a lot of this size, the fee-in-lieu should also be collected prior to issuance of permits.
2. Please note that no impervious cover is permitted within the setback and the site plan shows the concrete sidewalk in the five-foot setback. This should be clearly corrected on the site plan prior to issuance of any permits. Also, the deck must be built to be pervious.
3. The application form indicates that two small trees and 36 large shrubs will be planted. While we encourage on-site compliance with the Buffer mitigation requirements, due to space constraints, it seems unlikely that 36 large shrubs can be accommodated on site. A fee-in-lieu may be necessary.

Provided the above issues are addressed prior to permit issuance, it appears this proposal is consistent with the Town's Critical Area Program. Please contact me if you have any questions. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC1-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 3, 2006

Ms. Holly Tompkins
Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Board of Education – Kent Island Elementary School
File #04-06-01-0010-C

Dear Ms. Tompkins:

Thank you for providing Revision #1 of the above referenced administrative subdivision. The applicant proposes to relocate a lot line between two existing parcels and transfer 3.885 acres from one parcel to another. One of the two parcels is located partially within the Critical Area with a split LDA/IDA Critical Area designation.

Because the entire area affected by this proposal is located outside of the Critical Area, we have no comment on this subdivision. Unless there are changes to the proposal that affect the Critical Area portion of the property, further review by this office is not necessary.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: QC56-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 2, 2006

Mr. John Purgason
DNR Engineering & Construction
580 Taylor Ave., D-3
Annapolis, MD 21401

RE: Wye Island NRMA – Bridge Drainage Repair

Dear Mr. Purgason:

At its meeting of February 1, 2006, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed repair work on the bridge to Wye Island NRMA. The project submitted showed proposed limits of disturbance less than 200 square feet in size and involved placement of filter cloth and rip-rap in the gully which has formed due to drainage problems.

No further review by the Commission or Commission staff is necessary provided the project remains unchanged as it moves forward. If the project does change, please contact me to discuss the need for any further review. Thank you for your assistance in obtaining Commission approval for this project. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Science Advisor

cc: Dave Davis, Wye Island NRMA
Raj Williams, Resource Planning

MEMORANDUM

To: Stan Causey, MDE, Tidal Wetlands Division

From: LeeAnne Chandler, Critical Area Commission

Date: January 31, 2006

RE: MDE Permit Application #06-WL-0612 (200566361), Wharf Landing LLC

This office has received a copy of the permit application for the project referenced above. Specifically, the applicant is requesting a permit to replace an existing bulkhead, fill tidal wetlands, to construct a walkway partially over tidal waters, and impact non-tidal wetlands and their buffer. The application also includes construction of finger piers for creation of 18 boat slips. With the understanding that you have been working on this project with Mr. Roby Hurley, the Critical Area Circuit Rider for the town, we would like to submit the following comments on this proposal:

1. The number of proposed slips is inconsistent with the community pier slip limits contained in the Town's Critical Area Program. (The Town's Program and the Critical Area law limit the number of slips to 13.) However, two of the extra five slips are meant to provide riparian access for two residential lots across the street. Based on the Town's Program, it seems that if the two lots were deed restricted and somehow legally "connected" to the subject property, these two additional slips could be included. It is my understanding that the final three slips are meant for public use associated with the adjacent public park property. The Town's Program does not address a public/private pier scenario. Ideally, the portion of the waterfront containing the three public slips would be added to the adjacent park via an administrative subdivision or lot line adjustment. If possible, we recommend that if a permit is approved, it include conditions that require restrictions on the slips as well as a prohibition on individual piers on the single-family lots across Watson Road.
2. Alternatively, it seems that the proposal could be reviewed as a commercial marina provided they meet all of the Department of the Environment's requirements for such facilities. Also, it is unclear if this is consistent with the applicant's proposed plan for future operation and maintenance of the pier facilities.
3. The plan for the proposed stone revetment along the eastern boundary of the property raises some concern in regard to preserving the tidal wetlands that exist there already. It is not clear that erosion in that part of the site warrants structural control measures, given the marsh vegetation that appears to be viable there. We recommend that non-structural measures such as marsh creation (with bio-logs as a base if need be) be used instead of a typical revetment. The public boardwalk could be shifted to meander along the shoreline instead of being constructed over the revetment itself.

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

cc: Judge Porter, Town of Centreville
Roby Hurley, Circuit Rider

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. Helen Spinelli
Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Major Subdivision, Austin & Evelyn Cate
File #04-05-01-0001(c)

Dear Ms. Spinelli:

Thank you for providing Revision #2 of the above referenced major subdivision. The applicant proposes to administratively combine two existing parcels and resubdivide the property into 7 lots. The property is a total of 4.229 acres in size and is designated LDA. Based on the information provided and the site visit and discussions which took place in early December, we have the following comments:

1. Commission staff does not support the use of pervious pavers on a new subdivision. As indicated in correspondence to Mr. Steve Cohoon dated August 26, 2005 (attached), pervious pavers may be appropriate in grandfathered situations, but should not be utilized in a new subdivision to avoid the impervious surface limits. Growth allocation to change the Critical Area designation to IDA where there are no impervious limits is more appropriate. Pervious pavers require County supervision of soil testing, design, installation and maintenance.
2. Notwithstanding comment #1 above, there is not an assumption of 100% perviousness for any brand of pervious paver. No specifications have been provided for consideration by Commission staff. Notes indicating approval of pervious pavers by the Critical Area Commission must be removed from the plat and any other exhibit.
3. The impervious calculations provide for only the footprint of the dwelling without any accessory structures, sidewalks, patios, etc. This is unrealistic.
4. The tree clearing information remains unclear. While the Sheet 4 indicates that 52% of the site is "developed woodland," it does not provide a percentage of clearing of that developed woodland. What percentage of this developed woodland is proposed

TTY for the Deaf

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Ms. Helen Spinelli
January 30, 2006
Page 2 of 2

to be cleared? When developed woodland is estimated based on canopy coverage (from aerial photos), counting trunks rather than looking at the aerial extent of clearing may not correspond accurately. When stating that 92 trees represents 20% of the existing trees, is this based on a tree count on the entire property? Also, when we met in the field, the size and type of trees to be cleared was discussed. It is my recollection that some information on larger specimens was going to be provided to ensure disturbance of desirable and large canopy trees be minimized. It seems there are substantial opportunities to further minimize clearing. This issue needs further discussion.

5. While the required habitat protection measures for the Blue Heron colony are written out in the notes on Sheet 3, we strongly recommend that note #20 be revised to indicate that no construction activity will be permitted on Lots 1 through 4 any time between February 15th and July 31st of any year. Future home buyers should be aware of this restriction.
6. Any intrusion into the Buffer is prohibited. The LOD for Lots 1 and 2 shown on the LOD exhibit is extremely close to the Buffer and does not provide any space to maneuver around the house. It does not appear to be realistic.
7. Please provide a breakdown as to which proposed trees are being considered shade trees, understory trees and shrubs. While reforestation within the Buffer is proposed, clustering all the plantings along lot lines does not improve the function of the Buffer in terms of water quality and habitat. The reforestation areas should be used to avoid establishment of manicured lawns at the water's edge.
8. The protection and maintenance notes seem to indicate that after two years, protection of these plantings is no longer required. Disturbance of vegetation within the Buffer without permits constitutes a violation of the Buffer provisions. This should be clear on all project plans.

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

Sincerely,



LeeAnne Chandler
Science Advisor

cc: QC1-05

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



Martin G. Madden
Chairman
Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 26, 2005

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

RE: Use of Pervious Pavers

Dear Mr. Cohoon:

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

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

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

Mr. Steve Cohoon
August 26, 2005
Page 2 of 2

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

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

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

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

Sincerely,



LeeAnne Chandler
Science Advisor

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 27, 2006

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

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

Dear Mr. Cohoon:

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

1. It appears that a small portion of the area identified for non-rooftop disconnect credit will actually drain to the pond. Specifically, the area west of I-2 will drain into the inlet and not be "disconnected." Similarly, with top of grate at 7.8 ft. and some of the disconnected area at 8 feet, additional areas will drain to I-2 as well. The area of disconnection should be reviewed and corrected as necessary.
2. What type of curb modifications are proposed in the area to be disconnected? This is not clear.
3. There is a proposed sewer main for a future PAD site on Parcel 334. However, this is the area proposed to be used for dispersal and infiltration of the disconnected area. How will this be addressed? This will necessitate revisiting and possibly redesigning stormwater management for all of the parcels. The applicant should plan ahead rather than addressing these issues in a piecemeal fashion.
4. Plantings are acceptable as an offset in meeting the 10% requirement. However, the plantings proposed are not consistent with the Commission's 10% Guidance document regarding plantings in terms of number of proposed plants. This should be resolved.

Mr. Steve Cohoon
January 27, 2006
Page 2 of 2

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

Sincerely,

A handwritten signature in cursive script, reading "LeeAnne Chandler", with a long horizontal flourish extending to the right.

LeeAnne Chandler
Natural Resources Planner

cc: QC 389-05

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
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January 27, 2006

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

VIA FACSIMILE

RE: Site Plan – 45th Street Village – Hotel & Condominiums (North Parcel)

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to redevelop a 1.5-acre parcel with a hotel and condominiums. Commission staff has reviewed the most recent information and we have the following comments:

1. The proposed driveway within the Buffer to parking spaces behind the building is inconsistent with the Town's Critical Area Program. When this project was first proposed, use of the setback as a fire-lane only was discussed. However, a driveway to these parking spaces is beyond the scope of what was previously discussed. Grass paving systems are not meant to be used on a regular basis. Grass cover and perviousness are compromised when they are used more regularly and this is clearly contrary to the Town's Critical Area Program.
2. The proposed amount of plantable area and plantings proposed is inconsistent with the Town's Critical Area Program. The Town's Program does not provide for off-site mitigation for the 15% afforestation requirement.
3. After review of the most recent landscaping plan, please take note that additional plantings can and should be accommodated on site. The graphical symbols representing shrubs and trees are extremely exaggerated. For example, *Clethra alnifolia* are shown as being 12-feet wide.

Mr. Blaine Smith
January 27, 2006
Page 2 of 2

4. What is proposed to occur in the western portion of this parcel? Redevelopment of existing structures must be consistent with the Town's Critical Area Program.

This site plan is not consistent with the Town's Critical Area Program and should not move forward as proposed. Please contact me to discuss these matters further. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right.

LeeAnne Chandler
Science Advisor

cc: OC385-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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January 27, 2006

Ms. Holly Tompkins
Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, Daniel Callahan
File #04-05-09-0015-C, Revision #1

Dear Ms. Tompkins:

Thank you for providing Revision #1 of the above referenced administrative subdivision. The applicant proposes to relocate a lot line between two existing lots. Provided that all LDA requirements are addressed upon any further development on Lot 83-A and upon development of Lot 82-A, this office has no further comments on this subdivision.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: QC652-05

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

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

RE: Major Subdivision, Home Farm Limited Partnership
File #02-04-11-0010(c), Revision #6

Dear Mr. Cohoon:

Thank you for providing Revision #6 of the above referenced major subdivision. The applicant proposes to subdivide a 275-acre parcel into 50 lots. The large majority of the property is located outside of the Critical Area but the 6.85-acres within the Critical Area is designated RCA.

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

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: QC861-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 27, 2006

Ms. Helen Spinelli
Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Minor Subdivision, Christine Frego
File #05-05-02-0010-C

Dear Ms. Spinelli:

Thank you for providing Revision #1 of the above referenced minor subdivision. The applicant proposes to subdivide a .627-acre parcel into two lots. The property is located within the Critical Area with an LDA designation. One of the proposed lots contains an existing dwelling.

Future development on Lot 2 and any further development on Lot 1 must be fully consistent with all LDA development requirements. Please note that no information was provided in regard to an existing driveway for Lot 1. This should be shown. Any trees planted as mitigation must be guaranteed for survivability by the new lot owner.

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

Sincerely,


LeeAnne Chandler
Science Advisor

cc: QC114-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Chairman

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Executive Director

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January 27, 2006

Ms. Helen Spinelli
Dept. of Planning & Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Subdivision, James & Hazel Mears
File #03-06-01-0009-C

Dear Ms. Spinelli:

Thank you for providing information on the referenced administrative subdivision. The applicant proposes to relocate a lot line between two existing lots to convey 0.588 acres from one parcel to another. Provided that no nonconformities are created by the proposal and that all RCA development requirements are addressed with any proposed development activity on either lot, this office has no comment on the proposed subdivision.

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

Sincerely,


LeeAnne Chandler
Science Advisor

cc: QC45-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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January 24, 2006

VIA FACSIMILE

Mr. Judge Porter
Town of Centreville
PO Box 100
Centreville, MD 21617

RE: Centreville Wharf

Dear Mr. Porter:

Thank you for providing the site plan for proposed Centreville Wharf project to our office for review. The proposed project includes construction of 13 office/residential condominium units and associated parking on a 2.46 acre parcel. The site is designated IDA and is Buffer Exempt under the Town's Critical Area Program. Commission staff has reviewed the information provided and we have the following comments:

STORMWATER

1. There are several discrepancies between the 10% calculations and the site statistics provided on the site plan including total proposed impervious surface. This must be resolved.
2. The drainage areas served by the various best management practices as shown on the title sheet do not match the percentage drainage area served as indicated in the 10% calculations. The calculations show that approximately 40% of the site drain to the sand filter while the acreages shown on the plan add up to only 29% of the site. This causes the deficit in meeting the 10% requirement to increase. Specifics in how any deficit will be addressed should be resolved prior to final approval.
3. Ponds 1A and 1B function as a multiple pond for only drainage area 1A. Drainage Area 1B is treated by only one wet pond. These should be separated out and drainage areas served adjusted.
4. It is not clear that adequate pre-treatment is being provided for the drainage entering the ponds. Similarly, the purpose and effect of the deck over pond 1B should be further discussed. Some of a pond's efficiency for pollutant removal depends on

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Governor

Michael S. Steele
Lt. Governor



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Chairman

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Executive Director

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January 24, 2006

VIA FACSIMILE

Mr. Judge Porter
Town of Centreville
PO Box 100
Centreville, MD 21617

RE: Centreville Wharf

Dear Mr. Porter:

Thank you for providing the site plan for proposed Centreville Wharf project to our office for review. The proposed project includes construction of 13 office/residential condominium units and associated parking on a 2.46 acre parcel. The site is designated IDA and is Buffer Exempt under the Town's Critical Area Program. Commission staff has reviewed the information provided and we have the following comments:

STORMWATER

1. There are several discrepancies between the 10% calculations and the site statistics provided on the site plan including total proposed impervious surface. This must be resolved.
2. The drainage areas served by the various best management practices as shown on the title sheet do not match the percentage drainage area served as indicated in the 10% calculations. The calculations show that approximately 40% of the site drain to the sand filter while the acreages shown on the plan add up to only 29% of the site. This causes the deficit in meeting the 10% requirement to increase. Specifics in how any deficit will be addressed should be resolved prior to final approval.
3. Ponds 1A and 1B function as a multiple pond for only drainage area 1A. Drainage Area 1B is treated by only one wet pond. These should be separated out and drainage areas served adjusted.
4. It is not clear that adequate pre-treatment is being provided for the drainage entering the ponds. Similarly, the purpose and effect of the deck over pond 1B should be further discussed. Some of a pond's efficiency for pollutant removal depends on

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Mr. Judge Porter
January 24, 2006
Page 2 of 2

vegetative uptake and evaporation, which obviously cannot occur with a deck covering.

5. Specifications for the "tideflex" outfall device, including provisions for monitoring and maintenance, should be provided on the plans. The Town should ensure monitoring and maintenance of all the best management practices as well.

PIER/SLIPS

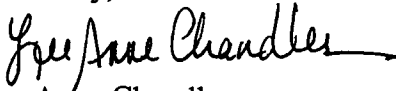
6. If the slips are meant to constitute a community facility, the number of slips exceeds the number permitted under the Town's Critical Area Program. If it is a commercial facility, it must be reviewed under the regulations applicable to those facilities. Please clarify.

BUFFER

7. What surface materials are proposed between and around the shrubs and trees to be planted within the 25-foot Buffer/filterstrip? This should be specified.
8. Details of off-site Buffer mitigation must be provided and resolved prior to any final approval.

Thank you for the opportunity to provide comments on this site plan. If you have any questions or concerns, or if you would like to discuss any of the issues raised in more detail, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Science Advisor

cc: Roby Hurley, MDP Circuit Rider
Dave Powers, McCrone, Inc.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 16, 2006

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

RE: Major Subdivision, Ellendale – Preliminary Plat – **REVISION #2**
File #04-05-05-0008(c), Charles & Janet Breeding

Dear Mr. Cohoon:

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

GENERAL

1. Commission staff consulted with the chief of the Tidal Wetlands Division of MDE and the State Wetlands Administrator at the Board of Public Works regarding the use of the NOAA Tide Station data from Love Point to delineate Mean High Water on this property. Both noted the substantial differences between the Love Point Pier and the subject site. They further indicated that without any on-site tide data or information from on-site environmental indicators of mean high water, it is not possible to determine with any degree of certainty if it is appropriate to use the Love Point information. The applicant needs to field delineate the mean high water line, as well as the landward edge of tidal wetlands and have this delineation field reviewed by MDE. Please note that the Army Corps of Engineers, in the course of a jurisdictional determination, does not distinguish between tidal and nontidal wetlands as both are "jurisdictional."

PRELIMINARY PLAT

2. Lot 20 should be moved outside of the 300-foot shore buffer.
3. Can stormwater facilities count as community open space?

STORMWATER

4. Additional information is needed on how impervious cover for the IDA portion of the site is being estimated. It seems that the percentage impervious for the entire site is being used to estimate the percentage impervious for the IDA portion. This is not acceptable since the percentage impervious for the entire site includes the RCA portion where no impervious is proposed. Based on the intensity of development outside of the RCA, this just does not seem realistic. It seems that a better estimate would come from splitting the proposed impervious into three categories—taking the linear footage of roads, estimates of coverage for single-family lots, and for the groups of townhomes. Please provide the detail needed.
5. Using plantings within the three-hundred foot setback/shore buffer or adjacent to the three-hundred foot area is acceptable as an offset for the deficit in meeting the 10% requirement. This is due to the fact that the Commission did not make reforestation of the entire 300-foot area a condition of growth allocation. However, the area planted as an offset should be specified and permanently protected.
6. Please explain how stormwater from the Thompson Creek Road Connector will be managed and who will be responsible for building and maintaining it.

SITE DEVELOPMENT PLANS

7. We recommend that alternative native species be used for *Euonymus alatus* on all portions of the site. It has been noted as an invasive exotic species in the mid-Atlantic region by the US Fish and Wildlife Service, the Department of Natural Resources and others. Potential native alternatives include Spicebush (*Lindera benzoin*), strawberry bush (*Euonymus americanus*), Maple-leaf viburnum (*Viburnum acerifolium*), arrowwoods (*Viburnum dentatum*, *V. recognitum*, *V. nudum*) and highbush blueberry (*Vaccinium corymbosum*).
8. Similarly, at least within the Critical Area portion of the site, we recommend that native species be utilized in place of the non-native ornamental cherry, crabapple and pear. Native alternatives include redbud, Serviceberry (*Amelanchier spp.*), fringetree

Mr. Steve Cohoon
January 16, 2006
Page 3 of 3

(*Chionanthus virginicus*), black haw (*Viburnum prunifolium*), and red chokeberry (*Aronia arbutifolia*).

BUFFER MANAGEMENT PLAN

9. Please provide a copy of the legal document which will protect the 300-foot shore buffer for our review. Please ensure that it include provisions for inspection by both County and Commission staff. It should also specify responsible parties (i.e., developer or HOA) if replanting is needed or if violations occur.
10. There is a typo on page 3 of the plan under the section on mulch.
11. The written report of findings and action taken at the end of year 1 should be provided to Commission staff as well as the County. Follow-up reports should also be provided to both offices on an agreed upon timeline. Depending upon the phasing of the project, a report could be submitted when each phase is submitted for final subdivision/site plan approval. This will ensure consistent monitoring of the Buffer by the responsible party until project build-out.
12. Please provide information as to when the activities outlined in the Buffer management plan will commence.

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

Sincerely,



LeeAnne Chandler
Natural Resources Planner

cc: Doldon Moore, Wetlands Administrator, Board of Public Works
Rick Ayella, Chief, Tidal Wetlands Division, MDE
QC 160-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Executive Director

**STATE OF MARYLAND
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January 9, 2006

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

RE: Site Plan – MD General Land Co., LLC, File #04-05-07-0014-C

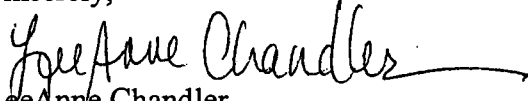
Dear Ms. Spinelli:

Thank you for providing the most recent information on the above referenced site plan. The applicants propose to commercial buildings on an existing lot within a commercial subdivision. A portion of the site is within the Critical Area. Commission staff has reviewed the information provided. We have the following comments:

1. It appears that the proposed amount of impervious surface in the LDA portion of Lot 2 is below the 15% impervious limit. However, if additional pieces of Lot 2 are subdivided off, this will affect the permitted amount of impervious on Lot 2 if it is to remain partially LDA.
2. It appears that the newly proposed stormwater pond in the northeastern corner of the site will involve additional impacts to the non-tidal wetlands buffer. The previously granted authorization from MDE will require amendment or modification to allow this disturbance. Alternatively, a new permit may be necessary (if previously approved work has been completed).
3. On Sheet C-3, there is a label that indicates tidal wetlands. Please confirm that this should indicate non-tidal wetlands.

As indicated in comments on the recently proposed "Club One" concept plan, we recommend that an overall site plan be submitted for all the remaining development on this site. Thank you for the opportunity to review this proposal. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Science Advisor

cc: QC523-04

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Robert L. Ehrlich, Jr.
Governor

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Lt. Governor



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Executive Director

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January 9, 2006

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

RE: Concept Plan – Karl E. Naecker
File CP #05-06-01-0002-C

Dear Mr. Cohoon:

Thank you for providing information on the above referenced concept plan. The applicant proposes to convert an existing residential dwelling to a commercial use. The property is designated IDA, is not waterfront and is 0.18 acres in size.

We have no comment on the conversion of use issue. However, please note that all IDA requirements must be addressed upon any development activity on the parcel. The primary requirement for this project will be the 10% pollutant reduction requirement. No information on how stormwater management will be addressed was provided with the concept plan. We recommend that the applicant provide at least preliminary stormwater calculations for review in order to show that compliance with all applicable regulations can be achieved.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: QC3-06

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

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Executive Director

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January 9, 2006

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

VIA FACSIMILE

RE: Site Plan – 257 South Ocean Drive, Robert Bremerman, File #10792

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to replace an existing mobile home with a modular home. The property is 4115 square feet in size and is subject to a 5-foot waterfront setback. Critical Area issues include stormwater management, Buffer mitigation and afforestation.

Commission staff has reviewed the information provided. It appears that the 10% requirement is adequately addressed by the proposed limit on impervious cover, the swales along the property lines and the rain gardens. Landscaping is minimal, apparently without any trees or shrubs proposed within the setback as required. This must be corrected. We recommend that additional landscaping be provided on site, including the required vegetation in the setback. Otherwise, the proposal appears consistent with the Town's Critical Area Program.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC846-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 6, 2006

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

RE: Variance – Raymond Pearson
Case #V-010001

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to reduce the side yard setback on an existing property in order to construct an addition on an existing building. While the existing building is partially within the Critical Area, the entirety of the addition is beyond the 1000-foot Critical Area boundary.

Because it appears that no disturbance is proposed within the Critical Area portion of the site, this office has no comment on this variance request. We defer to the County on this side yard setback issue.

Thank you for the opportunity to provide comments on this case. Please include this letter in the official record for this request. Also, please notify the Commission in writing of the decision made by the Board of Appeals. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: QC849-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Chairman

Ren Serey
Executive Director

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January 6, 2006

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

RE: Minor Site Plan – Raymond Pearson
File MISP #05-05-12-0020C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced minor site plan. The applicants propose to construct an addition on an existing commercial building. While the existing building is partially within the Critical Area, the entirety of the addition is beyond the 1000-foot Critical Area boundary.

Because it appears that no disturbance is proposed within the Critical Area portion of the site, this office has no comment on this site plan. If the proposal changes such that there are development activities within the Critical Area, please contact us for further review.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: QC849-05

Robert L. Ehrlich, Jr.
Governor

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Chairman

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January 6, 2006

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

RE: Administrative Subdivision – Bruce Chapman/Robert Bezelik
File #04-05-12-0019C

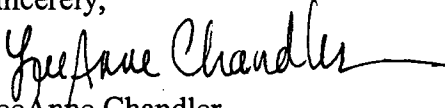
Dear Ms. Tompkins:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to remove two lot lines to create two lots out of three existing lots. The two resulting lots appear to be developed with existing single-family dwellings.

Provided that all LDA development standards are addressed upon any further development or redevelopment on the resulting lots, this office has no Critical Area concerns regarding the proposed subdivision.

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

Sincerely,


LeeAnne Chandler
Science Advisor

cc: QC848-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 4, 2006

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

VIA FACSIMILE

RE: Site Plan – Dumser's Restaurant Addition, 4901 Coastal Highway

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct an addition on an existing restaurant. The site is not waterfront. Critical Area issues include stormwater management and afforestation.

Commission staff has reviewed the information provided. It appears that the 10% requirement is adequately addressed by the proposed plantings. However, for afforestation purposes, the planting requirement should be two times the area of disturbance, or 1240 square feet. Additional trees or shrubs should be added unless what already exists provides 15% coverage over the entire property.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Science Advisor

cc: OC827-05

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 4, 2006

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

VIA FACSIMILE

RE: Site Plan – Ocean Isle Condominium, 110 67th Street, File #05-18100031

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct 172 condominium units on a number of parcels between 66th and 67th Streets. Two of the parcels are waterfront. Critical Area concerns include stormwater management, afforestation and Buffer mitigation. Commission staff has reviewed the information provided and we have the following comments:

1. As indicated in comments made on previous projects proposed for these properties, it is not evident that the shoreline along parcels 6664 through 6668 has been properly delineated. We recommend that a site visit with staff of the Town, Critical Area Commission, MDE and the Corps of Engineers be conducted to ensure that the delineation is accurate and that the proper setbacks are established. Please contact me to set up a site visit at your earliest convenience.
2. It is extremely difficult to assess the site statistics as provided. We recommend that a summary table be provided that demonstrates compliance with Critical Area requirements. For example, group all parcels that generate density together and then show how the requirements are met.
3. As proposed, Area 1-A does not have 15% plantable area. This is not consistent with the Town's Program.
4. Critical Area worksheets for Areas 1-A and 1-B do not add up to the square footage being used to generate density on these parcels. Please explain the 6,971 square foot discrepancy.

Mr. Blaine Smith
January 4, 2006
Page 2 of 2

5. The stormwater calculations for Area 3-B claim a drainage area of 201%. Maximum drainage area is 100% (even when a BMP is oversized to treat a greater volume). This must be corrected and a fee-in-lieu may be necessary.
6. For Area 1-B, it does not appear that Buffer mitigation has been calculated correctly. Based on the existing conditions plan (Sheet C 1.1), it appears that there are existing pervious areas on parcels 6664 through 6668 that are proposed to be converted to impervious surface. This should be reviewed and corrected.
7. Please explain how the alleys are accounted for in terms of stormwater management.
8. Commission staff is concerned about the size of the proposed planting materials. A 50 square foot credit for a one gallon shrub is overly generous. Similarly, a 75 square foot credit for a two gallon shrub is overly generous. Also, a wider variety of species should be planted on a site of this size.

Thank you for the opportunity to comment. Please contact me when a site visit can be arranged or, in the mean time, if you have any questions or concerns.

Sincerely,



LeeAnne Chandler
Science Advisor

cc: OC814-05

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 3, 2006

Mr. Ryan Doran
SHA, Highway Hydraulics Division
707 North Calvert Street
Baltimore, MD 21202

RE: Church Hill, MD 19 Main Street Rehabilitation Project
SHA Contract No. QA7145184

Dear Mr. Doran:

Thank you providing plans and supporting documentation for the project referenced above. Commission staff has reviewed the information provided along with the Memorandum of Understanding that outlines the conditions for projects qualifying for General Approval.

While Commission staff agrees that the project can be considered a "Minor Project" that would qualify for general approval, there are two issues of concern. First, while the project may result in an overall reduction in impervious surfaces, this does not automatically meet the 10% pollutant reduction requirement. Calculations for the 10% requirement should be provided which demonstrate compliance as this is a condition of approval for minor projects under the MOU. Second, there does appear (based on the tree line shown) to be some tree clearing proposed, specifically in the area of the storm drain construction between stations 21+50 and 22+00. Any trees removed within the Critical Area must be replaced on a 1:1 ratio.

Please provide the 10% calculations and information on proposed tree clearing and replacement. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Science Advisor

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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June 30, 2006

Ms. Helen Spinelli, Land Use Planner IV
Queen Anne's County Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

VIA EMAIL, US MAIL AND FACSIMILE

RE: Gibson's Grant Major Subdivision File #04-05-11-0009 Revision #3

Dear Ms. Spinelli:

Thank you for providing the updated site plans and related materials for the proposed Gibson's Grant project.

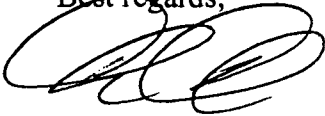
The following comments are presented for your review:

1. Staff understands that the applicant agreed to lower all berm heights in the conservation area by three (3) feet during the meeting with Planning and Zoning on June 9th. Is this still proposed and will these adjustments be made during the next 25 day review period?
2. Observation platforms are still 40 feet in diameter. Is it possible to reduce the size of these as previously discussed and reflect that in the next submittal?
3. The updated Buffer Management Plan and Implementation Procedures were submitted to the Commission for review. No substantive comments were received from staff concerning the June 9th meeting with the applicant and Planning and Zoning. We commend the applicant in the diligence applied to the development of, and responses to, comments from the Commission in the preparation of this plan.
4. Please provide a copy of the conservation easement for review before the next comment period. This will take some time for DNR legal staff to review and return comments.

5. All errors related to the calculation of the 10 percent pollution reduction compliance appear to have been corrected in this submittal. Commission staff will meet with the design engineer before the next submittal to ensure all drainage areas are included in the calculations.

Thank you for the opportunity to comment on this submittal. We look forward to the updated materials. If you have any questions or concerns, please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written over the text "Best regards,".

Chris Clark
Natural Resources Planner

cc: QC595-00

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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June 29, 2006

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

VIA EMAIL AND US MAIL

RE: Chester River Beach Site Sketch Plan for Lacrosse Homes

Dear Ms. Spinelli:

In my review and subsequent conversations with Chris Pajak, MDE and yourself about the above referenced project, I just wanted to touch base with you regarding some of the potential concerns related to this proposal. I know this has not come into your office as an official proposal but I wanted to relate the Commission's concerns as you evaluate the potential limitations of the parcel(s) with the applicant.

1. The easternmost lot on the site plan indicates that there are nontidal wetlands contiguous with the 50-foot Shore Buffer. Chapter 14:1-52A.-C. provides for the expansion of the Buffer to include sensitive areas of a site where development activities may adversely affect wetlands.
2. It is not clear what the features are on the center lot adjacent to Winchester Creek. If this is open water subject to tidal influence, the Buffer must extend 50 feet beyond the limits of these features.
3. It is not clear how the lots are currently configured or if they have been subdivided. It is important to note that depending on how they are subdivided in the future, they could lose their Buffer Exempt status.

Ms. Helen Spinelli
Chester River Beach Road

June 29, 2006
Page2

If you have any questions related to this property or if you think an additional site visit is necessary, please let me know. You can contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: QC403-06

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

VIA EMAIL AND US MAIL

RE: File#03-05-10-0028-C Revision #2 Project: Claggett, Hershell

Dear Ms. Tompkins:

Thank you for the recent submittal of the information related to the sliding scale subdivision for the above referenced applicant. Previous comments and concerns with this proposal related to the establishment of the 100-foot Buffer around the new 2.2 acre lot being created as part of this subdivision.

As previously stated, the Buffer must be established when the use of a parcel changes from agricultural to residential. It is understood that the applicant intends to provide the required 15% afforestation on Tract 5A prior to subdivision approval. Tract 5A will remain as "agriculture" as interpreted by the Tax Assessments office.

It is understood that this property is for sale. The Commission would like to the applicant to prepare a Buffer Management Plan for the perspective purchaser of the property. The Commission would like a plat note below page 3/6 stating to the effect that "Upon redesignation of this parcel of land from agricultural to residential as defined by the Maryland Department of Taxation, the required 100-foot Buffer on Parcel 5A must be established in woody vegetation as outlined in the attached approved buffer Management Plan."

Provided these conditions are met, this office has no further comments on this project.

Ms Tompkins
Project: Claggett, Hershell

June 29, 2006
Page2

Thank you for your comments regarding this project. If you have questions or comments regarding this correspondence please contact me directly at 410-260-3476.

Best regards,

Chris Clark
Natural Resources Planner

cc: QC718-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 29, 2006

Ms. Holly Tompkins, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

VIA EMIAL AND US MAIL

RE: File #MISP #05-06-06-0010 Project: William and Jacquelyn Saunders

Dear Ms. Tompkins:

Thank you for providing the information related to the above referenced Minor Site Plan. The applicant proposes to construct a 4,100 square foot storage warehouse and supporting office on a 0.458 lot wholly within the Critical Area and designated IDA. The site is limited to an 80% impervious limit (or 0.366 acres); the applicant proposes to construct a total of 0.22 acres of impervious surface. Commission staff has reviewed the proposal and has the following comments:

1. The incorrect 10% calculation worksheet was used in preparing the pollution reduction requirement. Please refer to the "Critical Area 10% Guidance Manual – Fall 2003" for an updated worksheet. An updated copy of the worksheet can be found on the Critical Area Website:
http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html
Staff calculations using the information supplied by the applicant indicate the applicant is just short of the 10% requirement (.03 lbs/yr). Please provide an updated worksheet to the Commission for review.
2. A DNR Heritage letter has been supplied to the Commission. There were no comments from DNR regarding any endangered or threatened species on the project site.

3. All landscaping requirements for the project will be met by the submitted site plan.
4. The information regarding the hydric soils on-site provide by the engineer conflicts with the information supplied in the Chesapeake Bay Critical Area Environmental Assessment from Environmental Regulations Consultant, Inc. Please clarify.
5. It is noted that a reduction to the 300-foot Shore Buffer was previously approved to reduce the Buffer to 128-feet. No portion of the site falls with the reduced Shore Buffer.

If you have any questions related to this project please feel free to call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: QC 708-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 29, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE AND US MAIL

RE: Variance Request – Variance Request, Lots 31A and 33A Coastline Estates

Dear Ms. Davis:

Thank you for providing information on the above referenced variance application. The applicant is proposing to construct a shared pier between Lots 31 and 33A in the Coastline Estates Subdivision. Both parcels are designated IDA and are in Buffer Management Area B with a reduced Buffer of 50-feet.

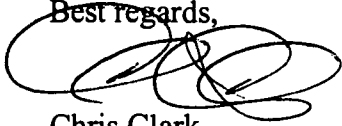
The applicant is requesting to construct this shared pier in excess of the permitted 100 foot length across tidal wetlands. The total length of the pier will extend approximately 213 feet. Previous approvals were given to the applicant to construct the pier under the premise that it would extend no further than 100 feet across the tidal wetlands. Subsequent surveys indicated the need for a further extension. In order to better evaluate the need for such an extension, the Critical Area Commission is requiring additional information to be provided for review. It is noted that pier will cross Sinepuxent Bay at approximately 105-feet before reentering the marsh area. The Commission would like the applicant to provide water depth measurements in this area and an explanation as to why a viable pier could not be located at or near the 105-foot mark labeled Point B on the Plat from Frank G. Lynch & Associates. In addition, further consultation will be sought between the Critical Area Commission and with MDE tidal permits division.

Ms. Janet Davis
Coastline Estates Variance Request

June 29, 2006
Page 2

Please provide the requested information as soon as possible so we may be able to provide additional comments and facilitate your request. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written over the text "Best regards,".

Chris Clark
Natural Resources Planner

cc: WC400-06
Joe Kincaid, MDE Tidal Division

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

VIA US MAIL

RE: Finneson Variance Case # 06-77

Dear Ms. Moredock:

Pursuant to your request, I have reviewed the submitted site plan and application requesting a variance within the Critical Area Buffer on the property owned by Mr. and Mrs. Bernard Finneson. The total reported property size of this parcel is 4.67 acres and borders Still Pond to the west. It appears from the material provided that the site consists of main house, garage, and guest house. The applicant is requesting to replace a failing septic system and add a swimming pool in the 100-foot Buffer. If the septic system is in immediate need of replacement then the Commission would rely on the Kent County Health Department to make that determination and to provide for an adequate new disposal site. The determination of the new disposal site should be as, in so far as possible, outside of the 100-foot Buffer. The disposal site location determination should be made independent of the applicant's desired pool location. If the failing system is not an imminent threat to public health, the Commission would ask that the below comments be addressed further. The information provide to the Commission by the applicant is inadequate to conduct a competent review. Please resubmit the application including:

1. An at-scale drawing of the property depicting at a minimum:
 - The location of all structures and driveways on the property.
 - The property lines.
 - All zoning setbacks.
 - Location of existing wells and their setbacks from structures and SRA's
 - The location of the 100-foot Buffer.
 - The location and dimensions of the requested pool including the pool surround.
 - The location of the total extent of each septic system on the site and please indicate which one is failing.
 - The location of any tidal or non-tidal wetlands and the method of their delineation.
 - The location of any steep slopes.
 - The extent of any forested areas.

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

- Total limits of impervious surface.
- 2. A letter from DNR's Wildlife and Heritage Review Division evaluating the potential for any sensitive, threatened, or endangered species present on or around the project site (this would only be necessary if the variance for the pool is pursued).

Thank you for the opportunity to comment on this variance application.

Best regards,



Chris Clark
Natural Resource Planner

cc: KC105-06

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. Phyllis H. Wimbrow, Deputy Director
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA US MAIL

RE: Rezoning Case #383

Dear Ms. Wimbrow:

Thank you for providing information on the above referenced rezoning case. The applicant has requested the rezoning of one parcel referenced on Worcester County Tax Map 27 as P. 11, Parcel H. The total area requested for rezoning is approximately 6.66± acres. The applicant states in the documents provided that the current zoning of the parcel is R-2 residential. The intention is for the County to rezone the parcel to B-2, General Business District. The applicant contends that the County made a good faith mistake in the March 10, 1992 rezoning and the resulting character of the neighborhood does not make it conducive to residential housing.

Parcel H is almost entirely out of the Critical Area. A small portion of Parcel H may connect to Golf Course Road. This area appears to be an existing easement or right-of-way, if it is indeed part of Parcel H. Approximately 330 feet of this "easement" is located within the Intensely Developed Area (IDA). In any case, no buildable portion of Parcel H is located within the Critical Area. The Critical Area Commission would not oppose the rezoning of this parcel to the requested B-2, general business district designation.

Ms. Phyllis Wimbrow
Rezoning Case #383

Page 2
June 29, 2006

Thank you for the opportunity to review this case. If you have any questions or concerns, please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: WC404-06
Janet Davis, Worcester County Critical Area Planner

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. Janet Davis, Critical Area Planner
Department of Development Review and Permitting **VIA FACSIMILE AND US MAIL**
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Site Plan – M50, P36, L14 Genezer Estates, Knoll Hill Drive, Berlin

Dear Ms. Davis:

Thank you for providing information on the above referenced site plan. The applicant is proposing to construct a single family home at the above referenced location. The total land area of the site is reported to be approximately 30,922± square feet. The site is designated as LDA and rests within Buffer Management Area B providing a reduced setback of 50 feet. The lot is reported to be fully forested. The applicant is requesting a variance to exceed the forest clearing limitation of 30% and to install a new potable well within the reduced 50 foot setback. The applicant is subject to the variance standards, conditions, and mitigation as outlined in the Worcester County Code § NR3-211.(b) and § NR3-211.(e).

In consideration of the applicant's request, the Commission does not feel that the size of the home is excessive, the applicant is constrained on the property from County building and environmental setbacks and the applicant has revised the site plan to reduce the requested clearing by approximately 8% from the previous submission. The applicant will require a variance to clear approximately 37% of the property for the home, driveway, SRA, and sidewalk.

Given the unique conditions present on the property, Commission staff would not oppose the applicant's request for the variance. However, if the County finds that the applicant is entitled to relief from the Code then recommendations include the following:

1. Provide for Super Silt Fence on the perimeter of the disturbed area (including the well site) on the southern side of the property.
2. Provide mitigation of any disturbed area at a 3:1 ratio.

3. Relocate the proposed well out of the setback. If site constraints prevent this then, relocate the well as far from the water as possible while remaining in compliance with the County environmental code. All drill cuttings should be contained and immediately removed after drilling. Any purge water from the installation, development or testing of the well should be redirected outside the Buffer.
4. Provide for some type of residential stormwater control on the southern portion of the property. A rain garden would be an ideal solution to provide some rooftop disconnect before stormwater enters the setback.
5. The proposed driveway should remain in gravel.

I appreciate the opportunity to comment on this request. Please forward the record of the Board of Zoning Appeals decision to this office for our records. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC234-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 26, 2006

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

VIA FACSIMILE

RE: Site Plan – Ocean Plaza Redevelopment

Dear Mr. Smith:

I wanted to follow-up regarding the plans for the Ocean Plaza Redevelopment Project we briefly discussed during our last meeting. I understand you have completed your first technical review meeting with the applicant - Becker Morgan Group.

The Commission would ask the applicant to provide updated and detailed information for review. The information supplied is not sufficient to conduct our required review of a project with such a significant scope. The Commission would like to review a Critical Area Site Plan for each phase and a comprehensive plan as well as a Critical Area Report for the project. There is conflicting information related to the project's proximity to the 100-foot Buffer and the 10 percent calculations provided.

Once this information is provided, the Commission can continue its review.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,

Chris Clark
Natural Resources Planner

cc: OC 249-06

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 26, 2006

Ms. Janet Davis, Critical Area Planner
Development Review and Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

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

Dear Ms. Davis:

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

1. The pollutant removal requirement will not be met by the proposed BMP. The worksheet indicates the applicant will be required to provide mitigation for an additional 2.54 pounds of phosphorus per year. Of the additional 2.54 pounds of phosphorous requiring treatment, 0.91 pounds are treated on the site through additional plantings. The applicant is proposing to offset the additional deficit of 1.63 pounds by creating a riparian Buffer restoration project offsite consisting of 0.81 acres of plantings. This is considered a large amount of pollution offset and is rarely allowed in other jurisdictions. The preferred alternative would provide for a site redesign in order to capture the entire pollutant load on-site. The Commission would not oppose the offset approach for meeting the 10% rule compliance provided:
 - A bond or letter of credit equal to or greater than the cost of the plantings is supplied to the County before construction.

- The restoration area is planted at a density of 400 stems per acre in native trees of a size not less than one gallon container or balled and burlap grown. The County and the Commission should be supplied with a detailed landscape schedule.
 - The offset area is put into a permanent conservation easement.
 - The planted area is inspected by a qualified expert and a report supplied to the County at least twice yearly for the length of the surety guarantee specified by the County.
2. It is understood that 11,630 square feet of mitigation is required to meet the 15% requirement as stated on the site plan. The proposed landscaping must meet the mitigation requirements alone. It can not also be counted toward the required landscaping an applicant may be required to plant per any County ordinance.
3. During subsequent reviews of this project, Critical Area Commission staff has noted that the forested area of "forested nontidal wetlands" has become increasingly smaller. The required notation delineating the wetland extents and the 25-foot buffer are missing.

Thank you for the opportunity to comment on this project. Please notify this office of any changes to the proposed plan. If you have any questions or comments you may contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC349-05

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 26, 2006

Mrs. Carol Johnson
616 Chester River Beach Road
Grasonville, MD 21638

Re: Home Port on Winchester Creek

Dear Ms. Johnson:

I wanted to drop you a note to express my thanks in alerting the Commission to the potential violations within the 100 and 300-foot Buffer and protected Delmarva Fox Squirrel habitat located at the above referenced property. I appreciate your concern and your assistance with the evaluation of these properties from the water.

As promised, I am providing you with an update related to the potential violations. I have had several conversations with Commission staff as well as staff from the US Fish and Wildlife Service (USFWS). I have forwarded Ms. Cherry Keller from USFWS pictures gathered during my site visit as well as a narrative including the historical information provided by yourself and your husband.

Currently, I am organizing a meeting between the Critical Area Commission, USFWS, and Queen Anne's County to discuss how better to manage and enforce the requirements under the State Law, County Ordinance and Federal Habitat Protection Criteria. This may include a follow-up meeting with the homeowners association for Home Port since they are also responsible for the enforcement of the covenants and restrictions on the property.

In any event, I wanted to let you know that your concerns are being investigated and I hope to have some news for you following the above mentioned meetings. Thank you again for your help and please contact me with any questions you may have.

Best regards,

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

Chris Clark
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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Executive Director

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June 22, 2006

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

VIA FACSIMILE

RE: Site Plan – Hampton Inn and Suites File # 06-18100006

Dear Mr. Smith:

Thank you for the submission of the documents related to the above referenced site plan. It is understood that the applicant proposes to construct a new hotel consisting of 82 units. The lot is designated IDA, is outside the 100-foot Buffer and is not waterfront. The total lot size is reported to be approximately 43,300 square feet. Critical Area issues include stormwater, a 10 percent pollutant reduction, habitat protection, and the 15 percent afforestation requirement.

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

1. A pollutant removal worksheet was provided for review. It appears that the Town has adjusted the percent of the area of the IDA served from 39 percent to 25 percent. The BMP was not listed on the worksheet but appears to be an infiltration trench under the parking lot. The applicant will fall short of meeting the pollutant removal requirement and the Town has charged the applicant a fee-in-lieu.
2. The applicant is responsible for providing 6,495 square feet of landscaping. The landscaping proposed exceeds this requirement by providing 13,975 square feet.
3. Section 30-555.(c)(1)-(3) of the Town of Ocean City's Critical Area Program states that an applicant proposing a land activity on a lot 40,000 square feet or larger must submit a habitat protection area statement.

Mr. Smith
Hampton Hotel and Suites

June 22, 2006
Page 2

Provided the applicant submits a copy of the habitat protection letter to this office for our files, Commission staff has no further comments on this development project.

I appreciate the opportunity to comment on the proposed plan. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: OC201-05

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/

June 22, 2006

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

VIA FACSIMILE

RE: Site Plan – Hampton Inn and Suites File # 06-18100006

Dear Mr. Smith:

Thank you for the submission of the documents related to the above referenced site plan. It is understood that the applicant proposes to construct a new hotel consisting of 82 units. The lot is designated IDA, is outside the 100-foot Buffer and is not waterfront. The total lot size is reported to be approximately 43,300 square feet. Critical Area issues include stormwater, a 10 percent pollutant reduction, habitat protection, and the 15 percent afforestation requirement.

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

1. A pollutant removal worksheet was provided for review. It appears that the Town has adjusted the percent of the area of the IDA served from 39 percent to 25 percent. The BMP was not listed on the worksheet but appears to be an infiltration trench under the parking lot. The applicant will fall short of meeting the pollutant removal requirement and the Town has charged the applicant a fee-in-lieu.
2. The applicant is responsible for providing 6,495 square feet of landscaping. The landscaping proposed exceeds this requirement by providing 13,975 square feet.
3. Section 30-555.(c)(1)-(3) of the Town of Ocean City's Critical Area Program states that an applicant proposing a land activity on a lot 40,000 square feet or larger must submit a habitat protection area statement.

Mr. Smith
Hampton Hotel and Suites

June 22, 2006
Page 2

Provided the applicant submits a copy of the habitat protection letter to this office for our files, Commission staff has no further comments on this development project.

I appreciate the opportunity to comment on the proposed plan. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: OC201-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 20, 2006

Ms. Helen Spinelli
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

Re: MASP #05-05-05-0006 Project: Kent Narrows Properties, LLC

Dear Ms. Spinelli:

Thank you for the recently submitted amended site plan to the above referenced project. Since the last review, the applicant is proposing to alter the site plan in order to relocate the access point off of Route 18, provide a different circulation pattern and additional landscaping in the parking lot, stagger the footprint of the buildings, and change some of the architectural details of the buildings.

The proposed changes do not affect the Critical Area site calculations for the site. Commission staff has no further comments on this project.

If there are any further modifications to this site plan please submit them for our review. If you have any questions, please contact me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resource Planner

cc: QC 351-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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June 20, 2006

Ms. Helen Spinelli
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

Re: MSIP #04-05-07-0015-C Project: Magothy Auto – Apartment Addition

Dear Ms. Spinelli:

Thank you for providing the latest revision to the above referenced minor site plan. In addition to the automobile repair shop and associated storage, the applicant is proposing adding a commercial apartment over a portion of the garage. The parcel is partially within the Critical Area and is designated IDA.

Commission staff has reviewed the information provided. The addition of the commercial apartment over the proposed garage will not add any additional impervious surface to the site. Provided that there are no additional changes to the site plan, staff has no further comments on this proposal.

If there are any further modifications to this site plan please submit them for our review. If you have any questions, please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resource Planner

cc: QC 516-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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June 20, 2006

Ms. Helen Spinelli
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

Re: #05-06-01-0015-C Project: Bowman, Horace & Yasuko – Reconfiguration of lot line

Dear Ms. Spinelli:

Thank you for the recently submitted revised site plan for the above referenced project. The applicant is proposing to pursue an administrative subdivision in order to move an existing lot line in order to create two newly reconfigured lots. The entire site is located within the Resource Conservation Area (RCA). The two tracts are undeveloped; waterfront and private tidal and non-tidal wetlands are present on the site. The two new tracts will consist of two lots with overall gross areas of 19.439± acres and 17.860± acres respectfully.

General Comments:

1. Mean high water has been identified since the last review and the resulting Buffer line has been adjusted on the site plan.
2. The Buffer has been expanded to include the area of non-tidal wetlands.
3. A JD of the wetlands is provided with this submittal.
4. All RCA requirements must be met upon the development of either parcel.

If there are any further modifications to this site plan please submit them for our review. If you have any questions, please contact me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resource Planner

cc: QC 062-06

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 20, 2006

Mr. Steve Cohoon
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

Re: Chesapeake Bay Environmental Center Expansion

Dear Mr. Cohoon:

Thank you for providing the information related to the applicant's request to construct a 4,718 square foot educational building at the Chesapeake Bay Environmental Center (CBEC). The property consists of approximately 307± acres resting entirely within the Resource Conservation Area (RCA). The applicant seeks a determination from the County as to the designation of the facility and whether it may be considered a water-dependent research facility operated by a nonprofit organization.

Section 14:1-39B.3.(e)[9] of the County's Critical Area Ordinance allows for placement of the described structure within the RCA provided that non-water-dependent facilities or structure are, to the extent possible, located outside the Buffer. The applicant is proposing to remove the existing restroom facilities now located in the pavilion and use the present SDA to serve the new restroom and kitchen facility being proposed in the new building.

The new facility is outside the 100-foot Buffer but abuts non-tidal wetlands. Since there appears to be room, the Commission would prefer to see the new building to be located farther from the existing non-tidal wetlands without the deck cantilevering over the water. This can be addressed at the Conditional Use and Site Plan phase of the project.

For the purposes of the requested determination, the Commission does not oppose the limited expansion of this facility within the RCA as depicted on the site plan provided the County has no objection related to their Critical Area program or any other building or zoning ordinance.

Mr. Cohoon
CBEC

June 20, 2006
Page 2

If there are any further modifications to this site plan please submit them for our review.
If you have any questions, please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resource Planner

cc: QC 334-06

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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June 20, 2006

Mr. Steve Cohoon
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

Re: File: 04-06-06-0004-C Project: King's Ransom

Dear Mr. Cohoon:

Thank you for providing the information related to the applicant's request for the review of a minor subdivision located on the east side of Route 522 and identified on Queen Anne's County tax map 57, grid 15, and parcel 67. The property consists of approximately 16.184± acres and rests entirely within the Limited Development Area of the Critical Area. The applicant seeks minor subdivision approval for four cluster lots and one open space lot with reserved development rights.

General Comments:

1. The Critical Area Site Assessment report provided indicates the area is "comprised entirely of tidal and non-tidal wetlands." Impacts to non-tidal wetlands are proposed on lots 3, 4, and 5. The site assessment also indicates that a stream bisects the property. Please clarify:
 - Has a JD has been performed?
 - Who delineated the wetlands and wetland buffers?
 - Where the stream is on the property identified in the environmental report?
2. The soils listed in the site plan and within the environmental report indicate they are primarily hydric. The applicant should be aware that an expanded Buffer may be required pursuant to Queen Anne's County § 14:1-52.A. This is also true for the areas already delineated as non-tidal wetland. Since the non-tidal wetland is contiguous with 100-foot Buffer, this habitat protection area must be expanded. Filling or disturbance of these areas should not be permitted without the

determination by the Planning Commission as required by § 14:1-52.B. The applicant or the agent for the applicant should not apply for a wetland modification permit prior to the site development review process since this may put the applicant in a position of restoring wetlands after-the-fact. The environmental assessment also points out that these hydric soils provide severe limitations for homesites and vehicle roadways.

3. The environmental site assessment lists this property as IDA. It should be changed to LDA.
4. The environmental site assessment states the bald eagle nest is 0.7 miles from the property. The letter dated April 3, 2006 from Lori Byrne, DNR Environmental Review Coordinator indicates the presence of a bald eagle nest within ¼ mile of the site. Plat notes and protection zones should be labeled on the site plan.
5. Sheet 4 of 6 indicates the areas of forest clearing proposed. Is it possible to leave the forested areas between the BRL lines undisturbed?
6. It is understood that off-site planting will be used to mitigate for the clearing on lots 3-5. This mitigation is proposed for the lands of The Preserve at Southeast Creek. This project is under review and has not been approved. When approved, it may be appropriate to suggest mitigation at this location. The Commission would like to see exactly where mitigation is proposed at The Preserve at Southeast Creek. All required afforestation for the Preserve at Southeast Creek must be fully addressed before mitigation from another site can be addressed there.

Thank you for the opportunity to review this project. If there are any further modifications to this site plan please submit them for our review. If you have any questions, please contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resource Planner

cc: QC 724-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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June 15, 2006

Ms. Cathy Maxwell, Clerk to the Board of Appeals
Queen Anne's County Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

Re: Board of Appeals Case No. A-050005

Dear Ms. Maxwell:

Thank you for the updated information regarding the Southeast Creek Subdivision. It is understood the applicant needs to present the project to the Board of Appeals due to an amendment to Chapter 18 of the Queen Anne's County Ordinance.

It appears that one of the required lot adjustments moved lot 31 into a portion of the Critical Area. A plat note has been provided by the applicant noting that no development activity can occur within the Critical Area portion of this proposed lot. Other lot adjustments and road\lot line buffers do not impact the Critical Area portion of the project.

Unless there are further revisions to the subdivision, Commission staff has no further comment for the Board of Appeals.

Thank you for the opportunity to review this latest redesign. If you have any questions or concerns please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written over the typed name.

Chris Clark
Natural Resources Planner

cc: 329-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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June 15, 2006

Mr. Eli Dabich
2815 Cox Neck Road
Chester, MD 21619

Re: Covenant Proposal for a "Green Zone"

Dear Mr. Dabich:

It has been brought to our attention that the community of Southwind has proposed to establish a "Waterfront Green Zone" within your community and enact this proposal as part of your community covenants.

The Critical Area Commission is extremely concerned about such proposals as they are contradictory with intent of the State program. As a keystone of the multifaceted Chesapeake Bay Program, the Chesapeake Bay Critical Area Act was enacted by the Maryland General Assembly to help reverse the deterioration of the Bay's environment. The Law created the Critical Area Commission charged with creating a land and resource management program designed to mitigate the damaging impact of non-point source pollution and loss of natural habitat. The Law recognized that the land immediately surrounding the Bay and its tributaries has the greatest potential to affect its water quality and wildlife habitat and thus designated all lands within 1000 feet of the tidal waters' edge as a "Critical Area."

In terms of numbers, residential property owners are, by far the most numerous in the Critical Area. Homeowners who live on or near the Chesapeake and its tidal tributaries enjoy its ever changing and magnificent natural beauty and the myriad of recreational opportunities it affords. As you, the Critical Area homeowner, have, quite literally, the most invested in the Bay you have a special and unique responsibility for its future.

To protect your investment and that of others, Critical Area homeowners are encouraged to be sensitive stewards of their property by voluntarily adopting the habitat protection criteria, most importantly the 100 foot naturally vegetated Buffer. A crucial part of habitat protection is the establishment of a naturally vegetated, forested Buffer between human disturbances and sensitive land and water resources. A forested Buffer acts as a filter for the removal of sediments, nutrients, and toxic substances which enter adjacent waterways. Even though your land use may be grandfathered by the Critical Area Law,

Mr. Babich
Southwind

June 15, 2006
Page 2

you can make a significant contribution to the future of the Bay by permitting naturally vegetated buffers between areas of human activity and sensitive land and water resources.

The proposal to limit your community's plantings within the 100-foot Buffer is particularly troubling to the State. We would, as a State agency, like to help your community to develop a policy that would encourage landscape development plans that would address any concerns you or other residents may have regarding view corridors, non-native plant species, excessive overgrowth, etc. We believe that the goals you have in mind for your community can be met within a win-win scenario and it could potentially become a model for others within Queen Anne's County and remainder of the Critical Area.

I would like to propose a meeting between your homeowners association and any interested residents and a member of our Commission staff. We would be happy to conduct a presentation that would emphasize the importance of the homeowner's role and the health of the Bay in addition to solving some of the concerns you may have as mentioned above. Please let me know if that is something you would be interested in and we can set up a meeting. We would appreciate it if, as part of your information provided to your residents, that you include a copy of this correspondence from the Commission.

I appreciate your time and attention to this matter as it is an important goal of all of those within the State to promote the recovery of the Chesapeake Bay and encourage the good stewardship of those who surround it.

If you have any questions or concerns, please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read 'Chris Clark', with a stylized, cursive flourish at the end.

Chris Clark
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 14, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File GA#04-06-05-0013-C – Project: MD General Land
Growth Allocation Petition

Dear Ms. Spinelli:

I have reviewed the documents related to the proposal to designate 2.904 acres of Queen Anne's County Tax Map 57, Grid 10, Parcels 155, Lot 2 and Parcels 469, and 485 from Limited Development Area (LDA) to Intensely Developed Area (IDA).

The site plan for this project has been reviewed and comments submitted to the Queen Anne's County Planning office regarding the project scope and intent of the applicant. A portion of the project site lies within the Critical Area and is designated LDA. In order for the applicant to proceed with the site as designed, an award of growth allocation must be made from the County to designate a portion of this property to IDA.

If an award for growth allocation is granted by the County for this project, the Critical Area Commission will require the applicant to comply with all applicable regulations related to the use and development regulations in intensely developed areas as outlined in the Queen Anne's County Land Use Code under 14-1-37, 18-1-143(c)(6) and COMAR 27.01.02.03 as well as provide all required application package requirements. Any existing protected afforestation areas on the site may not be altered or eliminated.

Thank you for the opportunity to comment on this growth allocation request. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,

Chris Clark
Natural Resources Planner

cc: QC498-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 14, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File GA 04-06-05-0051-C – Project: Wilson, Kay
Growth Allocation Petition

Dear Ms. Spinelli:

I have reviewed the documents related to the proposal to designate .056 acres of Queen Anne's County Tax Map 57, Parcel 155, Lot 6 from Limited Development Area (LDA) to Intensely Developed Area (IDA).

The site plan for this project has been reviewed and comments submitted to the Queen Anne's County Planning office regarding the project scope and intent of the applicant. A portion of the project site lies within the Critical Area and is designated LDA. In order for the applicant to proceed with the site as designed, an award of growth allocation must be made from the County to designate a portion of this property to IDA.

The project will require the use of growth allocation to change its designation to IDA. All IDA requirements must be addressed at the time of development. These include the requirements in the Queen Anne's County Land Use Code under 14:1-37, 18-1-143(c)(6) and COMAR 27.01.02.03 as well as provide all required application package requirements.

Thank you for the opportunity to comment on this growth allocation request. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,

A handwritten signature in dark ink, appearing to read "Chris Clark", written over a horizontal line.

Chris Clark
Natural Resources Planner

cc: QC 107-06

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

June 14, 2006

Mr. Spencer Rowe
Spencer Rowe, Inc.
12430 Fleetway Drive
Ocean City, MD 21842

Re: Bay Point Buffer Management Plan

Dear Mr. Rowe:

Thank you for your recent submittal of the Buffer Management Plan for Bay Point Plantation. As you may be aware, this project was quite unique with respect to the use of growth allocation for a subdivision that did not provide a 100-foot Buffer on all of the lots because certain parts of the property were designated as Buffer Management Areas. The lots designated as Buffer Management Areas were required to have planted setbacks of varying widths depending on the prior development in the area. One of the primary reasons that this unique proposal was supported by the Commission was because of the County's and the developer's commitment to providing a fully functioning Buffer on the Lots 1, 18, 19, 20, 21, 23, 24, and 25; therefore the Buffer Management Plan for these lots is quite significant for this project. I have reviewed the information submitted and I have the following comments:

1. While the information in the plan is appreciated, it is not in a format that can be readily implemented or enforced over time. We clearly understand that this is only a simple example provided for our understanding of the existing conditions but more detail will be required.
2. For your reference, we are supplying you with a copy of two completed Buffer Management Plans for your review that may have some guidance as to what the Commission is looking for in a comprehensive Buffer Management Plan. It may prove useful to you in the development of a plan for Bay Point. We understand that there may be issues unique to Bay Point that are not included in this plan and

we encourage you to address these concerns with your distinctive scientific expertise of the area.

3. On Page 2/3, in Paragraph 6, please clarify the provisions regarding the eradication of phragmites. Is it not recommended because it will be difficult or is it because phragmites provides optimal water quality and habitat benefits on this site.
4. We are happy to discuss unique, alternative, and innovative methods of Buffer descriptive and management methods but the document produced must be able to stand on its own. The plan should also have provisions which allow for the modification of the plan as the forest matures and human activity becomes more prevalent.
5. The subdivision plans do not indicate that nontidal wetlands adjacent to the 100-foot Buffer are part of the expanded Buffer. This area must be labeled to indicate that these areas are considered part of the Buffer. This affects Lots 1, 18, 19, and 20.
6. The subdivision plans identify portions of other lots as "25-foot Critical Area Buffer" and "50-foot Critical Area Buffer." These terms are misleading and not accurate. These areas should be identified as the "25-foot Buffer Modification Area Setback" and the "50-foot Buffer Modification Area Setback."
7. The Buffer Management Plan for each lot should be able to function as a stand alone document, so that each lot purchaser will be able to easily understand the planting and maintenance requirements that affect the Buffer on his particular lot.
8. The Buffer Management Plan should include an actual "plan" for each lot showing existing vegetation (or individual trees) and showing the location, number, and species of all supplemental planting. See attached "Critical Area Buffer Establishment and Management Plan" for Ratcliffe Farm Lot 13.
9. The written component of the Buffer Management Plan should include a purpose of the plan, a description of existing conditions (similar to what you have provided), proposed actions, (supplemental planting, phragmites eradication, invasive species removal), and provisions for long-term maintenance, including identification of the responsible party (i.e. developer, homeowner, homeowner's association). Warranty and surety requirements should also be addressed.

I would like to come down to visit with you along with LeeAnne Chandler to discuss the Buffer Management Plan and to review the site in general. I understand that time is of the essence. LeeAnne will be back in the office on June 16th. I will contact her and see if we can set a day to go over Bay Point. Please let me know what time frame is acceptable.

Mr. Rowe
Bay Point

Page 3
June 14, 2006

The Commission appreciates your time and effort you have dedicated to this project as well as many others. Your contribution to the protection and advocacy of the natural resources within the Coastal Bays area has not gone unnoticed.

Please call me with any questions. In the meantime, I will try to set up a meeting with Ms. Chandler.

Best regards,



Chris Clark
Natural Resources Planner

enclosures: Buffer Management Plan Examples

cc: WC766-03
Mr. Bob Hand, R.D. Hand & Associates, Inc. w/o attachments
Ms. Janet Davis, Planner, Worcester County w/o attachments
Ms. LeeAnne Chandler, CAC w/o attachments

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 14, 2006

Ms. Kelly Brewington, Town Manager
Town of Snow Hill
P.O. Box 348
Snow Hill, MD 21863

Re: Structures Within the 100-foot Buffer

Dear Ms. Brewington:

It has been brought to our attention that there have been instances in the past where portable bathrooms have been temporarily placed within the Buffer at Sturgis Memorial Park. This practice cannot be permitted to continue. It is understood that the neighboring property owner owns and operates a bed and breakfast and holds events on his property that attract large crowds and require the use of some form of temporary sanitation during each event. During such events the portable sanitation units (sometimes trailer mounted) are placed directly adjacent to the outfall drain and within 25 feet of the Pocomoke River. This situation creates the potential for extremely adverse ecological impacts and is a violation of the Town's Critical Area Ordinance and State Law.

Considerable time and expense has been invested in the planning, development, and conservation of this park. The use described above is not only in direct violation of the State and local regulations, but also affects the function and use of the park. As you are well aware, Sturgis Memorial Park was retrofitted with a bioretention area as a Best Management Practice (BMP) to help retain and infiltrate stormwater from the site. Placing structures on the bioretention area greatly reduces the efficiency of the BMP and could render it completely ineffective over time. The park also functions to provide public access to the water. Placement of these facilities in the Buffer is generally in conflict with this use. For this reason as well as several others, the park is used as a model for other towns to replicate.

It is our understanding that this practice has occurred for some time and that a footpath has developed toward the area of the sanitation units. In reviewing my files, it appears that there have been several attempts by the Circuit Rider to address this practice with the Town. Currently, the Town is responsible for a significant amount of mitigation. We

TTY for the Deaf

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

Ms. Brewington
Sturgis Park

June 14, 2006
Page 2

would suggest the Town take this opportunity to discourage use of this area by first replacing the one large tree which has died as a result of this activity and provide additional plantings in order to discourage any further detrimental impacts in this area.

Please be advised that the placement of the portable bathrooms in the grassed areas of the park must cease immediately. As you know, the Maryland Attorney General has the authority to seek immediate cessation of illegal activity in the Critical Area that threatens to degrade the quality of tidal water, fish, wildlife, or plant habitat and to compel restoration of any land or water areas affected by illegal activities.

Based on our recent conversation, it is my understanding that the Town would not oppose the portable bathrooms being placed on the paved parking lot. This appears to be a reasonable approach, and we would not oppose the temporary location of these structures there.

I am forwarding a copy of this letter to the office of the Attorney General so they will be aware of the Commission's concern and the proposed resolution. We would ask that within 30 days of receipt of this letter the Town provide the Commission with a written response stating how they plan to rectify this situation. If you have any questions or concerns please contact me directly at 410-260-3467.

Sincerely,



Chris Clark
Natural Resources Planner

cc: Marianne Mason, Assistant Attorney General, DNR
Ren Serey, Executive Director, CAC
Mary Owens, Program Chief, 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
www.dnr.state.md.us/criticalarea/

June 8, 2006

Ms. Raj Williams, AICP
Eastern Region Planning Chief
Public Lands Policy and Planning
Tawes Office Building E-4
580 Taylor Avenue
Annapolis, MD 21401

Re: Project review ID #2006-DNR-156

Dear Ms. Williams:

The Commission is in receipt of the information related to the Assateague State Park Eelgrass Seed Dispersal Study you have supplied. After a review of the information, the project does not appear to conflict with the policies or goals of the Critical Area Commission.

Commission Staff has no further comment on this project.

If you have any questions or comments please contact me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: DNR General File

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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June 8, 2006

Karen Houtman, Planner
Town of Snow Hill
P O Box 348
103 Bank Street
Snow Hill, MD 21863

Re: Cluster and PDD Ordinance

Dear Ms. Houtman:

Thank you for your recent submission of the proposed Town of Snow Hill's Ordinances related to cluster subdivisions and planned development districts. I have reviewed the draft copies supplied and do not see any conflict with the intent of the State or Town Critical Area Programs as they relate to the supplied documents.

We appreciate you keeping the Commission informed as such changes take place. If you have any questions or need any information from me, please contact me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 5, 2006

Ms. Vivian Swinson
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Administrative Variance Application File #06-04-02 – Darnell\Falck

Dear Ms. Swinson:

Thank you for the information concerning the intent of the above property owner to seek an administrative variance for a swimming pool. It is understood that the property is approximately one-half acre in size, is waterfront, designated LDA, and is within a Buffer Exemption Area (BEA). The BEA reduces the homeowners Critical Area Buffer to a 50-foot setback.

This office would not oppose the installation of the pool described in the application provided. As a condition of construction the applicant must plant the required landscaping listed in the Required Buffer Area Offsetting portion of the application. In addition, no other portion of the pool, decking, associated structures, pumps, etc. may intrude into the 50-foot setback. Additional native landscaping is encouraged within the Buffer and the 50-foot setback.

Thank you for the opportunity to review this project. If you have any further questions or comments please call me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: QC351-06

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 5, 2006

Ms. Janet Davis, Critical Area Planner
Development Review and Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Preliminary Plat - Bay Point Plantation

Dear Ms. Davis:

The Commission last commented on this project in a letter to your office dated May 1, 2006. We have received an updated package containing preliminary construction and stormwater management drawings. There are also several outstanding issues related to the previous submission. Commission staff has the following comments:

1. Wetland and Buffer impact permits have been supplied to the Commission for review. The Commission staff is not clear from the response from Mr. Hand regarding the Buffer Management Plan and a "two phase approach" on the below referenced lots. It is clear from the condition in the growth allocation conditions that "Prior to final subdivision approval, the applicant shall provide a conceptual Buffer management Plan for Lots 1, 18, 19, 20, 21, 23, 24, and 25 showing all existing trees and proposed planting materials. The plan shall show the number, type, and location of plantings sufficient to establish a Buffer capable of performing the water quality and habitat functions specified in the County Critical Area Program. The Plan shall be reviewed and approved by Commission staff. This Plan shall be referenced on and recorded with the subdivision plat. The County shall ensure the Plan shall be bonded or implemented prior to the issuance of certificates of occupancy for each dwelling." To date the Commission has not received a conceptual plan.

The "two phase approach" relates the conditions placed on the applicant as a part of the approval of Buffer Management Area Group E. This is outlined in the Declaration of Riparian Covenants and refers to lots 4, 5, 6, 7, 10, 11, 12, 13, and 14 as well as other setback and planting requirements as referenced in the document.

2. The conservation easement has been supplied to this office for review by the Commission staff and the Assistant Attorney General. The review was completed and there are substantial modifications to be made. The Commission's comments will be forthcoming.
3. The Draft copy of the Homeowners Association is currently under review to determine if it meets with the intent of the conditions set forth by the Growth Allocation conditions.
4. The stormwater plans provided only show the general placement and type. Please provide the stormwater calculations for water volume and quality. The Commission is also awaiting updated copies of 10% compliance calculations in addition to impervious surface cover for the site.
5. Building footprints and driveways need to be supplied in order to calculate the impervious surface cover. It would also be helpful to see the proposed limits of disturbance.
6. Please update Note #4 on the Critical Area Site Plan to reflect a more appropriate statement such as "Impervious area was delineated...in accordance with the Guidance Paper titled "Impervious Surface" written by Mary Owens, Program Chief, State of Maryland Critical Area Commission and survey located by...
7. Please update the Commission with a new Critical Area Site Plan. Please make all Buffers as legible as possible. It appears on some plans that Buffer lines suddenly stop. It would help to simplify the plat by dropping the topographic contours that would be acceptable on this plan.
8. Please denote all areas of temporary or permanent wetland or wetland Buffer impacts. Please provide some type of cross hatching in these areas and provide a table with the associated acreage of impacts.

Thank you for the opportunity to comment on this project. Please notify this office of any changes to the proposed plan. The Commission will hold any further response until the applicant provides for further clarification during any future submittal to the County. If you have any questions or comments you may contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC766-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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June 1, 2006

Ms. Helen Spinelli, Land Use Planner IV
Queen Anne's County Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: Gibson's Grant Major Subdivision File #04-05-11-0009 Revision #3

Dear Ms. Spinelli:

Thank you for providing the updated site plans and related materials for the proposed Gibson's Grant project. Commission staff has reviewed the information supplied and has also cross-referenced the proposal in its current form to that which was approved during the growth allocation request.

The following comments are presented for your review:

1. The berms shown on the grading plan are extremely high. Some are listed as high as 23 feet. This certainly is not indicative of an Eastern Shore landscape. The Commission would like to see a revision that incorporates lower berms and less steep slopes. Conversations are continuing with DNR's Watershed Restoration Division regarding the Buffer Management Plan. The Commission will work diligently in the coming weeks to finalize this with the applicant and resolve this issue as quickly as possible.
2. Grading plans indicate that the base of the water features within the conservation easement is at an elevation of 0. Soil boring logs reviewed indicate the depth to water on the site to range from 4.5-6.5 feet below ground surface. It is understood that the intent of the project is to keep these areas deep enough to provide for the over-wintering of fish. How will this affect the grading plan and more specifically affect the slopes of the banks? The Commission would require the slopes to be suitable for transitional habitat as discussed during the site visit.

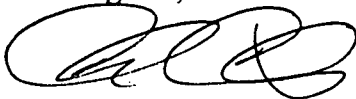
3. It is assumed during the final revision of the Buffer Management Plan the two areas discussed during the field visit will be converted to "planned planted areas." Specifically, these are the open field area recently cultivated on the northwest portion of the site and the 100-foot Buffer along the Chester River. Plant density in these areas is not conducive to natural regeneration.
4. Any temporary soil stockpiles near the Buffers areas on the site should be contained with "super silt fence."
5. It is understood that the boathouse will not be moved. It should be removed from the plans.
6. Boardwalks and other structures are not permitted within the 100 or 300-foot Buffer without a variance from Queen Anne's County.
7. The current culverts emptying into the Chester River located along the shoreline on the northern portion of the site need to be disconnected and abandoned during construction.
8. Please provide a copy of the conservation easement for review.
9. The stormwater analysis provided indicates on page 2 that "The four ponds collectively remove 23.07 lbs of the 22.11 lbs needed." Page 3 states that "Collectively, the extended detention wet ponds treat and remove 22.45 lbs of the 20.88 lbs of the total site pollutant load requirement." The Water Quality Spreadsheet indicates a Pollutant Removal Requirement of 40.40 lbs/year and a Load Removed of 41.32 lbs/year. Please clarify and correct as necessary.
10. Page 20 of the stormwater analysis lists a .52-acre drainage area but does not indicate what this area is in reference to on Post Watershed Map Pond #1. A 0.52-acre drainage could not be located on this sheet. Please clarify and correct as necessary.
11. Page 22 of the stormwater analysis indicates a .88-acre drainage area but does not list what this area is in reference to on Post Watershed Map Pond #1. A 0.88-acre drainage area could not be located on this sheet other than Area 11A that is accounted for in the analysis. Please clarify and correct as necessary.
12. Page 33 of the stormwater analysis indicates a .81-acre drainage area but does not list what this area is in reference to on Post Watershed Map Pond #1. A 0.81-acre drainage area could not be located on this sheet other than Area 9A that is accounted for in the analysis. Please clarify and correct as necessary.
13. Page 39 of the stormwater analysis indicates a 1.62-acre drainage area but does not list what this area is in reference to on Post Watershed Map Pond #1. A 1.62-

acre drainage area could not be located on this sheet. Please clarify and correct as necessary.

14. Page 40 of the stormwater analysis indicates the drainage area of I-12A is 1.99-acres. The sheet referenced as Post Watershed Map Pond #1 indicates that Area I-12A is 21.99-acres. Please clarify and correct as necessary.
15. Page 105 of the stormwater analysis indicates in Step 3 an Lpost of 14.27 lbs/year. This should be 14.41 lbs/year. This will affect the Pollutant Removal Requirement on page 106 for Pond #2. Please revise.
16. Pages 108-110 of the stormwater analysis label the drainage areas totaling 4.16-acres as "gone." This is half the drainage area listed in the 10% worksheet. Please clarify and correct as necessary. Make sure any adjustments to the 10% worksheets are completed and concur with the drainage areas listed on the previous pages. Please recheck all pond drainage areas to ensure compliance.
17. The sheet labeled Post Watershed Map Pond #4A & #4B has a drainage area labeled Area 48A Area = .087 acres and Area 47B Area = 0.6? (unidentifiable because the text is under a drainage boundary line). Neither drainage area is listed in the stormwater analysis.
18. Page 175 of the stormwater analysis indicates a .95-acre drainage area identified as Drainage Area I-32A. It is not labeled on Post Watershed Map Pond #4 & 4A. Please clarify and correct as necessary.
19. Page 188 of the stormwater analysis indicates a .59-acre drainage area identified as Drainage Area I-48B. It is not labeled on Post Watershed Map Pond #4 & 4A. Please clarify and correct as necessary.

Thank you for the opportunity to comment on this submittal. We look forward to the updated materials. If you have any questions or concerns, please contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: QC595-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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June 1, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Arcadia Center (formerly Rainy Day) M21 P107 MD Route 589, Berlin

Dear Ms. Davis:

Thank you for submitting the revised site plans for the above referenced project. I have reviewed the information submitted and have provided comments below. The 1.53 acre site is within the Critical Area and is designated as IDA. The site currently consists of two single story commercial buildings with several sheds and outbuildings. It is reported that approximately 1.38 acres of the site is currently impervious. After redevelopment the site will consist of 0.97 acres of impervious cover.

The Commission appreciates the applicant's endeavor in addressing the concerns from the previous submittal. The Critical Area Site Plan and Atlantic Coastal Bays Report is an essential tool in the evaluation and planning process. The applicant has forwarded all requested documentation in an appropriate format that is comprehensive and accurate.

All previous concerns have been addressed and the project, as proposed, is in compliance with Worcester County's Coastal Bays Program. Commission staff has no further comment on this project.

I appreciate the opportunity to comment and look forward to receiving any additional submittals as you feel are appropriate. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: WC 182-06

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 1, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Tax Map 27, Parcel 223 & 224 a.k.a. proposed Surfer Boys Restaurant

Dear Ms. Davis:

Thank you for submitting the site plans for the above referenced project. I have reviewed the information submitted and have provided comments below. The 0.41 acre site is within the Critical Area and is designated as IDA. The site currently consists of a single story commercial building and associated gravel parking area. It is reported that approximately 0.11 acres of the site is currently impervious. After redevelopment the site will consist of 0.32 acres of impervious cover. The applicant has submitted a Critical Area Site Plan and Coastal Bays Report as required under § NR 3-109.1. The following are our comments on the proposed plan:

1. The applicant did not address any specifics related to the compliance with the 10% rule. Commission staff would like to review a copy of the grading and stormwater plan as well as the 10% worksheet for the site.
2. It is understood that a request was made to the Heritage Division of DNR for a sensitive species determination. Please provide a copy of the response from DNR with the next submission.
3. The landscaping as proposed meets the 15% requirement for afforestation within the IDA portion of the Critical Area but leaves very little room for what appears will be a significant need to address the stormwater component. The correct square footage planting requirement is 2658 square feet. The Critical Area Site Plan lists a variety of numbers for both the proposed and/or required afforestation requirements. Please have the applicant clarify.

4. The two existing 10" Cedar trees removed during the construction phase will require mitigation apart from the 15% afforestation at a ratio of 2:1.
5. The project is in the Critical Area but not within the Buffer. Please do not include a Buffer reference unless a project is within the 300, 100 or reduced Buffer setback as there are different requirements for activity located within the Buffer.

I appreciate the opportunity to comment and look forward to receiving the additional information required for site plan review. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC 750-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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May 31, 2006

Mr. Keith Lackie, Regional Planner
Maryland Department of Planning
201 Baptist Street, Suite 24
Salisbury, MD 21801-4974

Re: Consistency Report – Pedestrian Bridge at Byrd Park

Dear Mr. Lackie:

Thank you for the information concerning the construction of the pedestrian bridge in Byrd Park in Snow Hill spanning a small tidal gut. It is understood that approximately 10 square feet of disturbance is anticipated from the installation of the foundation required to support the structure. Your report references the bridge as a water dependent facility. The Commission would refer you to the section under COMAR 27.01.02.04C.(b) which outlines the provisions required to be in the local Program for roads, bridges, and utilities in habitat protection areas. This would be the preferred characterization of the project under Title 27.

Nevertheless, the project appears consistent with the local program and this office has no further comment considering this project. Thank you for your thorough review and detailed information provided for our consideration.

If you have any further questions regarding this project please contact me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: SN 333-06

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. Helen Spinelli
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: File MASP #05-06-05-0012-C Project: Prime Outlets Overflow Parking

Dear Ms. Spinelli:

Thank you for the information concerning the intent of the applicant to construct a new parking lot to serve the above property. The property consists of approximately 9.156 acres, is located on the east side of U.S. Route 30, and north of U.S. Route 50 along Route 18 in Queenstown. The site is currently undeveloped, is almost entirely within the Critical Area and is designated LDA. I have reviewed the information provided and have the following comments:

1. Under "Site Statistics" on the Grading Plan Cover Sheet it lists "Impervious Area Allowed 45%" it should say "Impervious Area Permitted 15%"
2. The total permitted imperviousness on the site is 1.37 acres. Please clarify and correct as necessary on the Cover Sheet all discrepancies related to the areas disturbed, impervious calculations, and proposed driveway and parking area. The applicant seems to be very close to the permitted impervious limits on this site.
3. The required landscape buffers from Route 301 and Route 18 are met through the retention of existing forest and the addition of the plantings outlined on the Landscape Plan provided.

TTY for the Deaf

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

Ms. Spinelli
Prime Outlet Parking Lot

May 31, 2006
Page 2

Thank you for the opportunity to review this project. If you have any further questions or comments please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read 'Chris Clark', written over the typed name.

Chris Clark
Natural Resources Planner

cc: QC326-06

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

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

VIA FACSIMILE

Re: 45th Street Village – Hotel and Condominiums – Non-Compliance Issues

Dear Mr. Smith:

Thank you for the recent submission of documents to the Commission for review of the above referenced project. Unfortunately, the items provided do not address the comments previously submitted to your office.

The following is a list of inconsistencies, violations, and omissions related to the 45th Street Village project which continue to be outstanding:

The following is a list of inconsistencies, violations, and omissions related to the 45th Street Village project:

1. We are once more asking that the Town provide as required in COMAR 27.03.01.03 the submittal of additional information related to development projects under review by a local government. Please submit the documents required by the Town of Ocean City Ordinance Section 30-559(1) and 30-559(2) which include a Critical Area Site Plan and Atlantic Coastal Bays Critical Area Report. Please ensure that the documents address the entire site.
2. The afforestation mitigation requirement is not met on-site. The developer is proposing to pay a fee-in-lieu of approximately \$66,000 to address this. Section 30-554(d)8a. States that "the option of paying a fee-in-lieu of mitigation or landscaping is only available if, in the determination of the Department, the property owner has exhausted all reasonable possibilities of mitigation or

landscaping on-site." Previous renditions of the project indicated that the afforestation would occur on the peninsula. Subsequent revisions of the project have removed the available mitigation area and replaced it with a new parking area and pool. It appears the developer has not met the standard of "exhausting all reasonable possibilities of mitigation or landscaping on-site."

3. Section 30-554.(d)(3)c. states "No impervious surfaces are permitted ion the setback area." The plan indicates the presence of approximately 200 square feet of impervious surface in the setback on the north side of the peninsula. The surface is only identified as impervious and its function is unknown. In addition, the parking lot also encroaches into the setback in this area. Both of these areas must be modified to be in compliance with the Town's Critical Area Program.
4. The site plan provided indicates the presence of pervious pavers surrounding the pool. The pavers encroach into the setback by at least five feet. It was clear from conversations between the Commission staff and Town staff that pervious pavers are considered a development activity and the Town's Ordinance does not allow the use of the pavers within the setback. I have attached a copy of this correspondence as reference.
5. There is no detail provided on the site plan in relation to the pool decking. It is only referred to as "pervious." If this area is designed to occupy a wooden deck extending to the bulkhead, it would be in violation of the Town Ordinance Section 30-554(d)(3)b. and 30-554(d)(4)a. which state "Decks constructed as described in subsection (d)(4) shall not be constructed closer than ten feet from the water or wetlands" and "Pervious wooden decks and walkways containing spaces of a minimum of one-eighth inch width between boards to allow for the passage of water are permitted within the non-vegetated area of the setback provided that: a. The deck is attached to the primary building." If the applicant is proposing to construct a deck in this area it would not be in compliance.
6. There are inconsistencies between the Critical Area "Takeoff" Sheet and the Landscape Plan. There is a "wooden boardwalk" and "sand area" on the northern portion of the Takeoff Sheet and it is landscaped on the Landscape Plan.
7. The actual "plantable area" is referenced as 13,081.88 square feet (not including grass pavers). The calculation does include the grass pavers. Approximately 1,000 square feet would not count as plantable.
8. The road consisting of pervious pavers around the south side of the building was agreed to by Commission staff as a concession related to fire safety for the future structure. At no time was the road to be used as access behind the building for parking or pool maintenance. Please indicate how the fire road will be restricted to fire safety use only.

Mr. Smith
45th Street Compliance

May 25, 2006
Page 3

Please provide the requested material as soon as possible. If you have any questions related to this project please contact me directly at 410-260-3476.

Sincerely,



Chris Clark
Natural Resources Planner

cc: OC385-04
Senator Martin Madden, CAC
Ren Serey, CAC
Regina Esslinger, CAC
Mary Owens, CAC
Marianne Mason, AG office for DNR
Mayor Jim Mathias, Town of Ocean City
David Blazer, CAC Commission Member

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
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Executive Director

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May 25, 2006

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

VIA FACSIMILE

RE: Site Plan – 120 Winter Harbor Dr., File #11146

Dear Mr. Smith:

Thank you for the submission of required documents related to the above referenced site plan. It is understood that the applicant proposes to construct a new deck connected to a single family home. The lot is designated IDA, is within the 100-foot Buffer and is subject to a 15 foot Critical Area setback. The applicant intends to construct a 338 square foot pervious deck. Critical Area issues include a 15-foot setback requirement, 10% pollutant reduction, and landscaping for mitigation.

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

1. The value of construction on this parcel is reported to be \$12,000. Using the Town of Ocean City's 2% (cost of construction) requirement and mitigation worksheet, the applicant is required to install \$480 in landscaping. However, the proposed structure is within the 100-foot Buffer and the 15-foot setback. The applicant is required to mitigate at a ratio of 2:1 according to The Town of Ocean City Ordinance Section 30-554.(d)(7)g. which states "Any construction in a setback, including pervious decks and walkways, shall be mitigated at a two to one (2:1) ratio." The applicant is proposing to construct a 13 x 26 square foot deck of which all but 26 square feet is resting entirely in the setback. The applicant would be subject to the requirement for the mitigation of 624 square feet of disturbance.

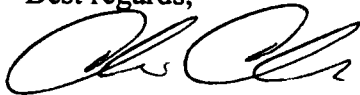
The applicant has incorrectly transposed the "means" book value to the square footage requirements for afforestation requirements outside the 100-foot Buffer. In addition, the required plant schedule is not included. All landscaping is listed

as "small tree" or "shrub" on the site plan and the applicant is then taking the square footage allotted for each and uses them interchangeably with the dollar figure. This needs to be clarified and corrected. Commission staff once again would request that we receive the landscaping cost schedule supplied to applicants for our reference when reviewing projects.

2. The stormwater management appears to be adequately addressed through the use of the pervious deck detail.

I appreciate the opportunity to comment on the proposed plan. If you have any questions please feel free to contact me directly.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark", with a stylized, flowing script.

Chris Clark
Natural Resources Planner

cc: OC325-06

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/

May 22, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: Misty Harbor Condominium

Dear Mr. Smith:

Thank you for the most recent submission of site plans related to the above referenced project. The applicant intends to construct a 79 unit condominium complex on a 2.49 acre parcel. The project is within the 100-foot Buffer, is IDA, and waterfront. Issues of concern include the 25-foot setback, afforestation, and pollutant removal requirements. Commission staff offers the following comments:

1. The applicant is proposing to address the 10% rule with a series of infiltration trenches. A stormwater and grading plan was not supplied for review. Please have the applicant supply the Commission with the plans. The efficiency of the trench was also the topic of some discussion during the Ocean City staff review. Please provide depth to water measurements for our records.
2. The site plan indicates the presence of a wooden boardwalk adjacent to the building and the bulkhead. It is not clear if the boardwalk next to the bulkhead currently exists or is planned. If it currently exists, please note that on the site plan. Any encroachment into the 25-foot setback will require mitigation at a ratio of 2:1. It appears that the applicant has included this in the calculations.
3. The afforestation requirement is not met on-site. The Commission would recommend that the Town require the applicant to provide additional landscaping within the Buffer. As presented, the applicant is proposing to pay a fee-in-lieu of \$95,232 to mitigate the afforestation requirement.

Mr. Blaine Smith
Misty Harbor

Page 2
May 22, 2006

4. It is understood that the applicant has submitted a request to the Department of Natural Resources (DNR) for a Heritage review. Please forward any response from DNR as it becomes available.

Please respond to the above comments and provide for resubmittal to the Commission staff for review.

We look forward to the updated documentation. If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: OC778-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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May 22, 2006

Mr. Stephan Luckman
Maryland Department of the Environment
Water Management Administration
1800 Washington Blvd.
Baltimore, MD 21230-1708

VIA FACSIMILE

RE: Application for State Discharge Permit 05-DP-3523, NPDES Permit MD0069540

Dear Mr. Luckman:

I am writing to submit Critical Area Commission staff comments for the record regarding the above referenced permit application.

It is understood that the applicant, Mrs. Elizabeth B. Wilson, has applied to obtain a permit to discharge an average of 450 gallons per day of treated domestic wastewater from a future residential wastewater treatment plant. The proposed site is located on Whale Point Lane in Rock Hall, Kent County, Maryland. The proposed discharge point is the surface waters of Bungay Creek which is designated as Use II waters protected for shellfish harvesting.

The property is designated as Resource Conservation District and is subject to the limitations and restrictions set forth by the Kent County Land Use Ordinance, the Critical Area law and COMAR Title 27, the criteria promulgated by the Critical Area Commission for the Atlantic and Coastal Bays.

We have the following comments:

1. The application for the above permit is in a Resource Conservation Area (RCA). The RCA is an area characterized by nature dominated environments (that is, wetlands, forests, abandoned fields) and resource utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). As outlined in COMAR 27.01.05, when developing local Critical Area Programs, a County or Municipality shall follow the following policies (among others), when addressing the RCA:

- Conserve, protect, and *enhance* the overall ecological values of the Critical Area, its biological productivity, and its diversity;
- Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats in order to sustain a populations of those species;
- Conserve the land and water resource base that is necessary to maintain and support land uses such as agriculture, forestry, fisheries activities, and aquaculture.

Kent County has adopted the above policies and has incorporated them into the Kent County Land Use Ordinance under Article V Section 2 2.1 Statement of Intent – Resource Conservation District. Kent County has spent considerable time and resources in an effort to develop and implement their Comprehensive Plan. Further, the County's Comprehensive Plan states that alternate sewage treatment technologies will "only serve the towns, villages, and their designated growth areas with public health emergencies." Allowing this type of treatment facility within this Critical Area designation would be inconsistent and would not meet the spirit and intent of the County's Comprehensive Plan or its Critical Area program.

In accordance with COMAR 27.01.02.05 and the Kent County Land Use Ordinance, land within the RCA may be developed for residential uses at a density not to exceed one (1) dwelling unit per twenty (20) acres. The definition of dwelling unit includes "permanent provisions for sanitation" which has been consistently interpreted as a connection to a regional sewage treatment plant, an underground septic system, or a bermed infiltration pond. We believe that what is proposed will lead to intensification in the RCA not contemplated by the Critical Area law and criteria which may impact the RCA by degrading water quality. Intensification resulting from single family development on lots determined to be unbuildable due to environmental constraints should not be permitted by allowing an individual landowner to adversely impact resources shared by all of the citizens of Maryland. The discharge of pollutants directly to State owned and regulated surface water could individually or cumulatively cause a negative impact the water and wetland resources of the State.

2. It is understood that MDE recognizes in the permit application that the property is within the Critical Area and as such, MDE would require the applicant to maintain strict effluent limitations. MDE also recognizes this property is adjacent to, and the applicant proposes discharge to, waters regulated by the State of Maryland for protected shellfish harvesting. By providing these strict effluent standards due to the fact that the property is within the RCA of the Critical Area, MDE has recognized that effluent concentrations greater than those listed on the permit could cause a negative impact within the RCA. Any allowable frequencies for exceeding the limits are not specified as an option in the permit application. Recognizing that it is statistically impossible to ensure a criterion will never be exceeded, it appears that in this sensitive habitat area, water quality disturbance

may cause stress to those species present. By permitting the wastewater discharge, it would be detrimental to the surrounding organisms by not meeting one of the most basic aspects of the Critical Area Law within the RCA which again states that land designated as RCA should conserve, protect, and *enhance* the overall ecological values of the Critical Area, its biological productivity, and its diversity.

This chemical specific approach to wastewater monitoring also does not consider any additive, antagonistic, or synergistic effects of multiple chemicals which would be outside the scope of the proposed effluent monitoring. We and the County are concerned about relying on a homeowner to adequately provide oversight, testing and maintenance on a private wastewater treatment plant. If single homeowner discharges are permitted, the State or County will not have the resources available to enforce the effluent limitations with anything more than the required submitted paperwork. Any of these factors alone or in conjunction with one another could cause an acute or chronic effect on the organisms within and adjacent to the Critical Area of the Chesapeake Bay.

Critical Area staff appreciates the opportunity to comment on this very sensitive issue. We believe that the permit application conflicts with the objectives of the County's Comprehensive Plan and Critical Area Program. If you have any questions or comments, please contact me directly at 410-260-3476.

Sincerely,



Chris Clark
Natural Resources Planner

cc: Ren Serey, Executive Director, Critical Area Commission
Mary Owens, Program Chief, Critical Area Commission
Regina Esslinger, Project Chief, Critical Area Commission
Gail Webb Owings, Director, Kent County Planning and Zoning

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 18, 2006

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

RE: Site Plan – 110-80th Street, Rivendell Mixed Use Development File #10833

Dear Mr. Smith:

Pursuant to your request, I have reviewed the supplied information regarding the above referenced site plan. It appears that this project was last reviewed by this office in November 2004. At that time the applicant was proposing to construct an 88-unit condominium complex with associated restaurant, pool, and parking. It is not clear if the project scope has changed since this submittal was substantially less informative.

While we appreciate the attempt to provide the Commission with the appropriate documentation, it appears that there are several items required to be addressed in order for staff to complete a competent review of the project.

1. Although the 10% rule calculations were provided, a stormwater management plan was not. Please provide the drainage areas for each of the infiltration trenches proposed. Commission staff would like to review the plan as well as any depth to water measurements obtained during the evaluation. This should be included in the required Atlantic Coastal Bays Critical Area Report.
2. Please have the engineer submit the required Critical Area Site Plan with all of the required statistics.
3. It appears on Sheet C 300 that there are two areas of wooded upland on the site. Please have the engineer provide a discussion of these areas in the Coastal Bays Report.
4. A letter regarding wetland permit No. 20046225/04-NT-2042 (Heiderman) was signed by the applicant, Mr. Spencer Rowe – Wetlands Consultant, and Mr. Steve Dawson – Chief, Nontidal Wetlands (Eastern Shore) MDE indicating that a grading and planting plan for the wetland restoration would be supplied to MDE

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Mr. Blaine Smith
File 10833
May 18, 2006

for approval before any work commences. The site plan sheet L-100 indicates the wetland impact area would be landscaped according to the permit. The permit only requires stabilization with grass seed. This is contrary to the above agreed upon letter. Please address this concern in the Coastal Bays Report.

5. The portion of the site proposed for development must be afforested at least 15% with wooded vegetation. If there are any areas under roof they will not be counted toward the total. The applicant is proposing a fee-in-lieu as an offset from the required landscaping in the amount of \$15,370.85. It appears there are other areas on the property that could be used to make up at least a portion of the deficit. The area adjacent to the pool would be ideal since this is also adjacent to the wetland buffer.

Thank you for the opportunity to comment. Please provide the updated information to this office before the issuance of permits. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,



Chris Clark
Natural Resources Planner

cc: OC 298-04

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 17, 2006

Ms. Janet Davis, Critical Area Planner
Development Review and Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

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

Dear Ms. Davis:

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

1. The pollutant removal requirement will not be met by the proposed BMP. The worksheet indicates the applicant will be required to provide mitigation for an additional 1.37 pounds of phosphorus per year.
2. It is understood that 11,630 square feet of mitigation is required to meet the 15% requirement as stated on the site plan. The applicant appears to be in compliance but it also appears that there are shrubs surrounding the stairs in two locations. It is also noted that additional landscaping on the site is intended to mitigate the 1.37 lb/year pollutant deficit. The proposed landscaping must meet the mitigation requirements alone. It can not also be counted toward the required landscaping an applicant may be required to plant per any County ordinance.
3. During the last review the Commission commented that, in previous revisions, applicant was proposing to include an existing 18,000 square foot credit for the

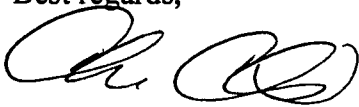
Ms. Davis
Shore Point Professional Center

Page 2
May 17, 2006

area of forested nontidal wetlands on the western end of the site. Commission staff informed the applicant that the existing forest could not be included in the stormwater credit. It now appears that the area of existing forested nontidal wetlands is substantially reduced on the submitted site plan. The previously required 25-foot buffer around the wetlands is now also missing. Please provide an explanation.

Thank you for the opportunity to comment on this project. Please notify this office of any changes to the proposed plan. If you have any questions or comments you may contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: WC349-05

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
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Executive Director

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May 15, 2006

Ms. Holly Tompkins
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: File #CP -5-06-05-0002-C Project: Annie's Paramount Steakhouse

Dear Ms. Tompkins:

Thank you for the information concerning the intent of the above property owner to seek Concept Plan approval for the above referenced site. Critical Area staff previously commented on this concept plan in July and August 2005. The site consists of a Buffer Exempt 3.988-acre parcel designated IDA. The applicant proposes to construct a restaurant and associated parking on the property. Since the site plan has not changed from the last review, I will reiterate the comments previously provided:

1. All IDA development requirements must be addressed. Due to the proposed anticipated level of impervious cover, the 10 percent requirement may be difficult to meet on-site.
2. A 50-foot shore buffer will be required. No disturbance of any kind will be permissible within 50 feet of the tidal wetlands. Significant on-site mitigation will also be required.

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

Thank you for the opportunity to comment. Please contact me directly at 410-260-3476 with any questions or comments.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC440-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Ren Serey
Executive Director

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May 15, 2006

Ms. Rad Sakahamuri
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: File #03-06-05-0008-C Project: Solloway Administrative Subdivision

Dear Ms. Sakahamuri:

Thank you for the information concerning the intent of the above property owner to seek an administrative subdivision through the adjustment of common lot lines. It is understood that property is located on Queen Anne's County Tax Map 10, Parcel 46 and is described as Lots 930, 931, 932, and 933. The property is within the Critical Area and is designated LDA. All of the lots are at least partially within the 100-foot Buffer. The property owner is currently seeking to combine the parcels by removing the common lot boundaries between the lots.

Since there is no construction pending on the property as part of this administrative subdivision, the Commission has no further comment. Thank you for the opportunity to review this project. If you have any further questions or comments please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC299-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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May 15, 2006

Ms. Gail Blazer
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: 6-60th Street, Meridian Condominiums – File # 10530/#10680

Dear Ms. Blazer:

Thank you for your recent updated submittal of the Stormwater Plan and 10 percent calculations for the above referenced site.

As presented, the applicant has met the intent of the Town of Ocean City's Critical Area requirements on the site. This office would like to see any revisions, alterations, or substitutions as related to the landscape, stormwater or site plans.

If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: OC195-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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May 12, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: 621 Bayside Keys – 94th Street; File 10936

Dear Mr. Smith:

Thank you for your recent updated submittal for the above applicants request to construct a 1,700 square foot three story townhome complex at the above referenced location. The 6,126 square foot lot is designated IDA and is in a Buffer Management Area.

Critical Area issues include stormwater management, afforestation, and pollutant removal. At this time it appears that the obligations of the applicant are met through the use of the proposed structural and non-structural BMP's and plantings.

This office has no further comment on this project.

Thank you for sending the updated documentation. If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: OC194-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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May 12, 2006

Ms. Holly Tompkins, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File #03-04-01-0008-C Revision #2 – Eaton Property

Dear Ms. Tompkins:

Pursuant to your request I have reviewed the site plan revisions for the proposed sliding scale subdivision referenced above. It appears since the last review, the site plan has remained relatively consistent with the proposal of splitting one 53-acre parcel into two lots. The entire parcel is in the Resource Conservation Area (RCA) with the current land use listed as agricultural. The site plan proposes to divide the property into one lot of 46.5± acres partially in the Critical Area which would remain in agriculture and one residential building lot of 7.0± acres that rests entirely within the Critical Area.

The applicant has addressed all concerns related to the Commission's previous comments including the submission of a Buffer Management Plan to the County. This office has no further comments concerning this subdivision.

Thank you for the opportunity to comment on this subdivision plan. If you have any questions or comments please feel free to call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC 30-04

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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May 11, 2006

Ms. Cathy Maxwell
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Shoemaker Variance Request, Local Case #V-050007

Dear Ms. Maxwell:

Thank you for providing the information related to the above applicant's request to construct an addition and porch to an existing home. The applicant will require the variance due to the impact to the Critical Area and reduced front and rear setbacks.

The site is designated as a Limited Development Area (LDA) and is subject to the impervious limits as stated under Chapter 14:1-38D (8)(d) Queen Anne's County Critical Area Code. As described in the Code, the impervious limits on this grandfathered lot may not exceed 5,445 square feet. It appears the applicant is below this threshold.

If the County finds the applicant is entitled to relief from the setback requirements, the Commission would ask that any vegetation removed during construction be replaced at a ration of 1:1.

Thank you for the opportunity to comment on this case. If you have further questions regarding this project please contact me at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark". The signature is stylized with a large, sweeping "C" and a series of loops.

Chris Clark
Natural Resources Planner

cc: QC290-06

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
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Martin G. Madden
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Ren Serey
Executive Director

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May 11, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File SSP #05-05-05-0007 – Project: Walters Properties

Dear Ms. Spinelli:

Pursuant to your request, I have reviewed the documents related to the proposal to construct a single family cluster subdivision consisting of 41 townhomes and 127 single family lots plus a "donation parcel" and five open space lots.

According to the plat submitted and the narratives from the offices of Ronald W. Johnson Associates, Inc. and Pace Design, LLC the project is now entirely outside of the Critical Area.

Understanding that this is a sketch plan approval and the fact that some lots are barely outside the mapped Critical Area line, this office would like to see any future renditions of the project. It may be appropriate to provide signage and/or notice to future property owners on the parcels bordering the Critical Area and any forest conservation easements in order to prevent any future violations.

Thank you for the opportunity to comment on this concept plan. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC350-05

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 11, 2006

Ms. Cathy Maxwell
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Stonesifer, Conditional Use Local Case #CU-050001

Dear Ms. Maxwell:

Pursuant to your request, I have reviewed the documents related to the proposal to construct a 140-foot addition with six mooring piles to an existing 150-foot pier (290 feet total).

The site consists of a single family home and is designated as a Resource Conservation Area (RCA) under the Queen Anne's County Critical Area Program. In order to construct the pier addition it is understood that the County will require the applicant to seek a conditional use.

All of the appropriate permits from the State were obtained from the MDE Tidal Wetlands and an approval under the Maryland State Programmatic General Permit (MDSPGP) was granted. If the Board finds that the applicant is entitled to relief from the County Code the Commission would require any disturbance to the Buffer be mitigated at a ratio of 2:1.

Thank you for the opportunity to comment on this concept plan. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC278-06

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

Sgt. Dave Davis, Manager
Wye Island NRMA
632 Wye Island Road
Queenstown, MD 21658

RE: ADA Waterfowl Viewing Blind, Project ID #2006-DNR-042

Dear Ranger Davis:

This letter is to inform you that on May 3, 2006 the Critical Area Commission met at their regular monthly meeting to discuss and vote on the above referenced project. I am pleased to inform you that the Commission voted to approve the ADA accessible waterfowl viewing blind as proposed without conditions.

If you need any further information regarding this project please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: 19-06 DNR

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 1, 2006

Ms. Gail Blazer, Stormwater Engineer
Town of Ocean City
P.O. Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: New Structures Within the Setback

Dear Ms. Blazer:

Pursuant to your request, Commission staff has reviewed the issue of allowing structures constructed of pervious pavers to be located in the setback area. As you are well aware, most of the lands within Ocean City meet the criteria for designation as Buffer Management Areas (BMA). This designation allows development within the 100-foot Buffer without a variance, and in accordance with the Critical Area Criteria, requires other measures for achieving the water quality and habitat protection objectives of the Buffer. Within Ocean City, one of the measures used to meet these objectives is the creation and maintenance of a vegetated setback area that varies in width from 5 to 25 feet. The purpose of this vegetated area is to provide some area of infiltration for stormwater run-off, to maintain a small area of transitional habitat between aquatic and upland communities, and to provide for a "natural edge" adjacent to tidal waters and wetlands.

Sections 30-554(d)(2)a. and 30-554(d)(3)a. of Article VII of the Town of Ocean City Zoning Code clearly state that all structures shall be located no closer to tidal waters or wetlands than the setback required by the underlying zoning. The Commission considers any type of deck, patio, or walkway to be a structure, which is clearly prohibited in the setback. At the time the Town's Critical Area provisions were being developed and reviewed by the Critical Area Commission, there was extensive discussion about the importance of the setback as a measure to maintain at least a nominal natural area adjacent to tidal waters and wetlands on all development sites.

After extensive discussion and negotiations between the City staff and the Commission, a provision was added to permit wooden decks and walkways constructed in accordance with strict performance standards to encroach into the setback area. Section 30-554.(d)(4) of the Town's Code discusses these standards. It was the Commission's understanding

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that these provisions were added primarily to allow minor encroachments into the setback area associated with balconies and walkways to the shoreline.

With regard to structures constructed of pervious pavers, the City Code does not permit these structures to be located in the setback area. The only provision for any type of structure located in the setback area is specific to wooden decks and walkways. Regardless of whether a proposed structure is considered all or partially pervious for the purposes of addressing stormwater management, there are no provisions to allow other structures in the setback.

We hope this provides some clarity related to this issue. Thank you for the opportunity to comment. If you have any further questions or concerns, please call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: OC General File
Mary Owens, Program Chief, CAC
Mr. Blaine Smith, Town of Ocean City

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

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

May 1, 2006

Ms. Gail Blazer, Stormwater Engineer
Town of Ocean City
P.O. Box 158
Ocean City, MD 21843

VIA FACSIMILE

RE: New Structures Within the Setback

Dear Ms. Blazer:

Pursuant to your request, Commission staff has reviewed the issue of allowing structures constructed of pervious pavers to be located in the setback area. As you are well aware, most of the lands within Ocean City meet the criteria for designation as Buffer Management Areas (BMA). This designation allows development within the 100-foot Buffer without a variance, and in accordance with the Critical Area Criteria, requires other measures for achieving the water quality and habitat protection objectives of the Buffer. Within Ocean City, one of the measures used to meet these objectives is the creation and maintenance of a vegetated setback area that varies in width from 5 to 25 feet. The purpose of this vegetated area is to provide some area of infiltration for stormwater run-off, to maintain a small area of transitional habitat between aquatic and upland communities, and to provide for a "natural edge" adjacent to tidal waters and wetlands.

Sections 30-554(d)(2)a. and 30-554(d)(3)a. of Article VII of the Town of Ocean City Zoning Code clearly state that all structures shall be located no closer to tidal waters or wetlands than the setback required by the underlying zoning. The Commission considers any type of deck, patio, or walkway to be a structure, which is clearly prohibited in the setback. At the time the Town's Critical Area provisions were being developed and reviewed by the Critical Area Commission, there was extensive discussion about the importance of the setback as a measure to maintain at least a nominal natural area adjacent to tidal waters and wetlands on all development sites.

After extensive discussion and negotiations between the City staff and the Commission, a provision was added to permit wooden decks and walkways constructed in accordance with strict performance standards to encroach into the setback area. Section 30-554.(d)(4) of the Town's Code discusses these standards. It was the Commission's understanding that these provisions were added primarily to allow minor encroachments into the setback area associated with balconies and walkways to the shoreline.

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

With regard to structures constructed of pervious pavers, the City Code does not permit these structures to be located in the setback area. The only provision for any type of structure located in the setback area is specific to wooden decks and walkways. Regardless of whether a proposed structure is considered all or partially pervious for the purposes of addressing stormwater management, there are no provisions to allow other structures in the setback.

We hope this provides some clarity related to this issue. Thank you for the opportunity to comment. If you have any further questions or concerns, please call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: OC General File
Mary Owens, Program Chief, CAC
Mr. Blaine Smith, Town of Ocean City

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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May 1, 2006

Ms. Janet Davis, Critical Area Planner
Development Review and Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Preliminary Plat - Bay Point Plantation

Dear Ms. Davis:

The Commission last commented on this project in a letter to your office dated March 29, 2006. Since that time, the representative for the applicant, Mr. Bob Hand, has provided the Commission with additional materials for consideration. We would like the applicant to officially address the issues in the previous letter after the County's next Technical Review Committee meeting. In addition to the comments previously provided to the County, the Commission has the following updated remarks for consideration and clarity:

1. Per our conversation with Mr. Ed Tudor, it appears the septic reserve areas (SRA) will no longer be required since the project has received discharge approval through the Ocean Pines WWTP. Please remove all reference to the SRA from all plats and in the Critical Area Report.
2. Wetland and Buffer impact permits have been supplied to the Commission for review. The Commission staff is not clear from the response from Mr. Hand regarding the Buffer Management Plan and a "two phase approach" on the below referenced lots. It is clear from the condition in the growth allocation conditions that "Prior to final subdivision approval, the applicant shall provide a conceptual Buffer management Plan for Lots 1, 18, 19, 20, 21, 23, 24, and 25 showing all existing trees and proposed planting materials. The plan shall show the number, type, and location of plantings sufficient to establish a Buffer capable of performing the water quality and habitat functions specified in the County Critical Area Program. The Plan shall be reviewed and approved by Commission staff. This Plan shall be referenced on and recorded with the subdivision plat. The County shall ensure the Plan shall be bonded or implemented prior to the issuance of certificates of occupancy for each dwelling." To date the Commission has not received a conceptual plan.

TTY for the Deaf

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The "two phase approach" relates the conditions placed on the applicant as a part of the approval of Buffer Management Area Group E. This is outlined in the Declaration of Riparian Covenants and refers to lots 4, 5, 6, 7, 10, 11, 12, 13, and 14 as well as other setback and planting requirements as referenced in the document.

3. The conservation easement has been supplied to this office for review by the Commission staff and the Assistant Attorney General. We will let you know once we have completed our review.
4. The Draft copy of the Homeowners Association document was recently supplied to our office. It is currently under review to determine if it meets with the intent of the conditions set forth by the Growth Allocation conditions.
5. The copy of the wetland permits is under review from the Commission office.
6. The Commission is awaiting updated copies of 10% compliance calculations as well as impervious surface cover.
7. Updated plans regarding the placement of the community pier and parking lot have been supplied to the Commission office in conjunction with the necessary permits.
8. Building footprints and driveways need to be supplied in order to calculate the impervious surface cover.
9. Please update Note #4 on the Critical Area Site Plan to reflect a more appropriate statement such as "Impervious area was delineated...in accordance with the Guidance Paper titled "Impervious Surface" written by Mary Owens, Program Chief, State of Maryland Critical Area Commission and survey located by...
10. It is understood from our site visit that the FIDS conservation areas the applicant would like to claim as natural regeneration will require the applicant to officially address the existing conditions (including plant density, heights, species, invasive species present, projected succession, surrounding areas of mature forests, the viability of the growth, etc.) as they relate to the potential for the area to naturally regenerate appropriate vegetation to support FIDS.

Ms. Davis
Bay Point Plantation

Page 2
May 1, 2006

Thank you for the opportunity to comment on this project. Please notify this office of any changes to the proposed plan. The Commission will hold any further response until the applicant provides for further clarification during any future submittal to the County. If you have any questions or comments you may contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC766-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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Executive Director

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April 27, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File CP #04-06-03-0003-C – Project: Wilson, Kay

Dear Ms. Spinelli:

Pursuant to your request, I have reviewed the documents related to the proposal to construct two commercial buildings referenced on Queen Anne's County Tax Map 57, Block 10, Lot 6, Parcel 155. The subject property is reported to be 1.0± acres in size. Approximately 0.556± acres rest within the Critical Area with a Limited Development Area (LDA) designation. Proposed impervious surface depicted on the concept plan provided would require the applicant to pursue growth allocation in order to reclassify the portion of the property within the Critical Area to an Intense Development Area (IDA). Commission staff has reviewed the information provided and we have the following comments:

1. The project will require the use of growth allocation to change its designation to IDA. All IDA requirements must be addressed at the time of development. These include the requirements in the Queen Anne's County Land Use Code under 14:1-37, 18-1-143(c)(6) and COMAR 27.01.02.03 as well as provide all required application package requirements.
2. In order to request and receive growth allocation, the applicant will be bound by the requirements set forth by the Queen Anne's County Critical Area growth allocation procedures and requirements as outlined in § 14:1-76 and § 14:1-77.

3. The applicant should be made aware of the potential difficulty meeting the 10% pollutant reduction requirement on site when impervious coverage is intended to be 70% (i.e., treatment of off-site runoff may be needed). It appears the site will share an existing stormwater pond serving Lot 6 that is also intended to serve Lot 2 which is subject to a separate growth allocation request. Future site revisions should include the engineered capacity of the basin and the calculated pollutant removal load capability in order to meet the 10% requirement. Conceptual design should also take into account the conceptual impacts to stormwater and its affect on the pollutant removal requirement. The Commission is concerned as the project 'builds out' of the potential for the applicant's need to redesign or modify the stormwater loading capability of the pollutant removal requirement after the fact. The Commission would like to review the stormwater plan with the applicant and the County stormwater engineer.
4. Impacts to non-tidal wetlands and their buffers should be avoided.
5. The applicant proposes the removal of an afforestation area as outlined on the plat and recorded in the public record with Queen Anne's County. Even if the area designation is changed from LDA to IDA, the afforestation requirement must be met since the afforestation was a requirement for Lot 2. In addition, the planting plan recorded in 2000 stated the area would be planted within a timely manner. The applicant can not be permitted to ignore the signed agreement and six years later (after never fulfilling the planting requirement) propose a change in designation which would negate the responsibility of the developer.

Thank you for the opportunity to comment on this concept plan. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: QC 107-06

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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April 27, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File CP #04-06-03-0002-C Project Name: Maryland General Land Company, LLC

Dear Ms. Spinelli:

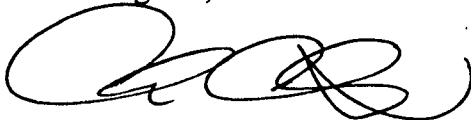
Pursuant to your request, I have reviewed the documents related to the proposal to construct six commercial buildings referenced on Queen Anne's County Tax Map 57, Block 10, Lot 7, Parcels 155, 469, and 485. The subject property is reported to be 8.87± acres in size. Approximately 3.94± acres rest within the Critical Area. Of this 1.036 acres is designated IDA Intensely Developed Area (IDA) and 2.904 acres Limited Developed Area (LDA). Growth allocation was previously allotted on this site to provide for a stormwater management easement. Proposed impervious surface depicted on the concept plan provided would require the applicant to pursue growth allocation in order to reclassify the remainder of the LDA portion of the property within the Critical Area to an Intensely Developed Area (IDA). Commission staff has reviewed the information provided and we have the following comments:

1. The project will require the use of growth allocation to change its designation to IDA. All IDA requirements must be addressed at the time of development. These include the requirements in the Queen Anne's County Land Use Code under 14:1-37, 18-1-143(c)(6) and COMAR 27.01.02.03 as well as provide all required application package requirements.
2. In order to request and receive growth allocation, the applicant will be bound by the requirements set forth by the Queen Anne's County Critical Area growth allocation procedures and requirements as outlined in § 14:1-76 and § 14:1-77.

3. The applicant should be made aware of the potential difficulty meeting the 10% pollutant reduction requirement on site when impervious coverage is intended to be 70% (i.e., treatment of off-site runoff may be needed). It appears the site will share an existing stormwater pond serving Lot 6 that is also intended to serve Lot 2 which is subject to a separate growth allocation request. Future site revisions should include the engineered capacity of the basin and the calculated pollutant removal load capability in order to meet the 10% requirement. Conceptual design should also take into account the conceptual impacts to stormwater and its affect on the pollutant removal requirement. The Commission is concerned as the project 'builds out' of the potential for the applicant's need to redesign or modify the stormwater loading capability of the pollutant removal requirement after the fact. The Commission would like to review the stormwater plan with the applicant and the County stormwater engineer.
4. Impacts to non-tidal wetlands and their buffers should be outlined and avoided. Please show the required 25-foot buffer adjacent to the nontidal wetlands. Parking east of Building C appears to encroach on the buffer.
5. There appears to be room on the site to minimize the impacts to the Critical Area. Specifically, the area west of Building E could be used to expand the proposed protected afforestation.
6. A letter from DNR's Heritage Program should accompany any future submittals.
7. The issue of hydric soils on the site requires the applicant to obtain a JD for the property.

Thank you for the opportunity to comment on this concept plan. If you have any questions or concerns, please contact me at (410) 260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: QC 165-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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April 26, 2006

Mr. Tom Davis
Davis, Moore, Shearon, & Associates, LLC
P.O. Box 80
Centreville, MD 21617

RE: Plan Submittal Comments

Dear Mr. Davis:

It has come to my attention recently that DMS & Associates has responded to the Queen Anne's County Department of Planning and Zoning regarding several projects submitted to the Critical Area Commission (among others) for technical review. In response to the Commission comments regarding the projects, DMS & Associates addresses the technical issues to the County but also adds a comment below the responses stating "It is our understanding that the Critical Area Commission supports our request for Concept Plan approval and award of growth allocation." The responsibility of the Critical Area staff is to provide technical assistance to local governments and landowners in matters of proposed development. If the development would require use of the County's growth allocation, Commission staff does not offer official support concerning the County's ultimate decision. Our role is to provide necessary technical assistance and guidance in regard to growth allocation issues. Therefore, the above statement is misleading.

We would respectfully ask that you limit your responses in future correspondence to the comments addressed in the State's submittal without proffering an opinion related to the Commission's stance on a particular project. Thank you for your understanding regarding this issue.

If you have any questions or comments, please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: Ms. Faith Elliot-Rossing, Queen Anne's County Planning and Zoning

Robert L. Ehrlich, Jr.
Governor

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INTEROFFICE MEMORANDUM

TO: MARIANNE MASON
FROM: CHRIS CLARK *CC*
SUBJECT: CONSERVATION EASEMENT - BAY POINT PLANTATION, WORCESTER COUNTY COASTAL
DATE: 4/25/2006
CC:

Marianne:

I have received the Deed of Conservation Easement for the Bay Point Plantation project in Worcester County. One condition of Growth Allocation for this site was for the applicant to prepare this document. I have read it over and it appears to generally meet the need. Can you please provide your opinion?

From the GA approval:

"A conservation easement shall be placed over all lands not included within the developed area of the subdivision and shall include the FIDS habitat areas. The conservation easement for this area shall include provisions that ensure its viability as FIDS habitat and shall be submitted to Commission staff for review and approval."

Thanks. Chris

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") is made this ____ day of March, 2006, by and between **BAY POINT PLANTATION, INC.**, a Maryland Corporation, 9428 Stephen Decatur Highway, Berlin, Maryland 21811, ("Grantor"), **WORCESTER COUNTY COMMISSIONERS**, c/o Gerald T. Mason, Chief Administrative Officer, One West Market Street, Snow Hill, Maryland 21863, and the **MARYLAND ENVIRONMENTAL TRUST**, 100 Community Place, Crownsville, Maryland 21032-2023, (collectively "Grantees").

WITNESSETH:

WHEREAS, Grantor is the owner of a certain lot and parcel of land located near the easterly terminus of Gum Point Road, in the Third Tax District of Worcester County, Maryland, being 142.88 acres, more or less, as described more particularly on the survey and Plat entitled "Conservation Easement Plat, Bay Point Plantation, Inc., Third Tax District, Worcester County, Maryland," by Frank G. Lynch, Jr. & Associates, Inc., Registered Land Surveyor, dated February 4, 2006, revised March 8, 2006, and recorded among the Land Records of Worcester County, Maryland, in Plat Book Number ____, Page ____; **BEING A PORTION** of the property which was conveyed to Grantor by deed dated January 14, 2004, and recorded among the Land Records of Worcester County, Maryland, in Liber SVH No.4000, Folios 250, et. seq., (hereinafter referred to as the "property");

WHEREAS, Grantor is the owner of the adjoining property upon which Grantor has proposed a single family residential subdivision, consisting of 33 lots, together with a community pier, marina, and other amenities, known as "Bay Point Plantation;"

WHEREAS, Grantor is willing to grant a perpetual Conservation Easement over the property, thereby restricting and limiting the use of the property as hereinafter provided in this Conservation Easement for the purposes hereinafter set forth, and Grantees are willing to accept such Conservation Easement;

WHEREAS, it is the intention of Grantor that the granting of this Deed of Conservation Easement not interfere with either the development, construction, or sale of Bay Point Plantation; and,

WHEREAS, the parties wish to memorialize their agreements and understandings with respect to this Deed of Conservation Easement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor unconditionally and irrevocably grants and conveys unto Grantees, their successors and assigns, forever, and in perpetuity, a Conservation Easement of the nature and character and to the extent hereinafter set forth, with respect to the property;

The Purpose of this Conservation Easement is to conserve and to preserve the natural, environmental, scenic, cultural, rural, historical, archeological, woodland and wetland characteristics of the Property; maintain viable resource-based land use and proper management of wooded areas of the Property; and, to the extent hereinafter provided, prevent the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its open-space condition;

To achieve these objectives, the following Terms are set forth:

ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross and as such is inheritable and assignable in accordance with Article V and runs with the land as an incorporeal interest in the Property, enforceable with respect to the Property by Grantees against Grantor.

ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

A. Industrial or Commercial Activities on the Property

All industrial, commercial, agricultural, and residential activities are prohibited on the property.

"Agriculture" (or "Agricultural" as the context requires) means all methods of production and management of livestock, crops, trees and other vegetation, as well as aquiculture. This includes the related activities of tillage, fertilization, pest control and harvesting as well as the feeding, housing, training and maintaining of animals such as cows, sheep, goats, hogs, horses and poultry.

B. Construction and Improvements

Buildings and other structures are prohibited on the Property.

C. Divisions or Subdivisions of the Property

The Property may not be divided or subdivided. The Property may not be consolidated into a larger parcel, and the boundary lines of the Property may not be adjusted.

D. Dumping, Placement or Storage of Materials

No materials may be dumped, placed or stored on the Property, including, but not limited to, ashes, sawdust, bark, trash, garbage, rubbish, dredge spoil, chemicals, pesticides, fertilizers, abandoned vehicles, appliances, or machinery.

E. Excavation of Materials

No excavation of materials is permitted, including, but not limited to, dredging, mining and removal of loam, gravel, soil, rock, sand, coal and petroleum.

F. Wetlands

Neither the Grantor, nor any successor or assign of the Property or any portion thereof, shall undertake or cause to be undertaken within or upon the wetland areas located within the Property, any of the following:

1. Removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind;
2. Changing existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
3. Disturbance of the water level or water table by drainage, impoundment, or other means;
4. Dumping, discharging of material, or filling with material, including the driving of piles and placing of obstructions;
5. Grading or removal of material that would alter existing topography; or,
6. Destruction or removal of plant life that would alter the character of a nontidal wetland, or introduction of exotic species.

"Wetland" or "Wetlands" means portions of the Property defined by State or Federal laws as a wetland or wetlands at the time of the proposed activity.

G. Signs and Billboards

No signs, billboards, or outdoor advertising displays may be erected, displayed, placed or maintained on the Property except signs not exceeding four (4) feet x four (4) feet for each of the following purposes: (1) to state the name of the Property; (2) to advertise the Agricultural and naturalistic uses of the Property; (3) to prevent trespassing; and (4) to recognize its protection by Grantees under this Conservation Easement.

H. Easements and Rights of Way

Grantor, its successors and assigns, expressly reserves any and all necessary easements or rights of way for utilities including, but not limited to, electric, gas, water, sewer, and other infrastructure necessary to service the adjacent Bay Point Plantation development. In addition, the parties expressly recognize the existence of a power line at the northeast portion of the property, and the parties expressly agree that this Deed of Conservation Easement shall be subordinate to that power line right of way.

I. Recreation by Grantor

Grantor, its successors and assigns, shall have the right to utilize the property for recreational activities such as paths, trails, and environmental educational activities. All paths shall be a maximum of six feet in width, and shall not utilize any impervious surfaces. All paths shall be used by pedestrian or foot traffic only; no motorized vehicles, four wheelers, golf carts, or any other motorized conveyance shall be permitted. Bicycles shall not be permitted. Paths shall not be in wetlands.

J. Rights of Third Parties to Use the Property

Grantor may not authorize or allow a third party to use the Property in a manner inconsistent with the Terms of this Conservation Easement. Therefore, no right to use the Property, whether in the form of a right-of-way, easement, oil, gas or mineral lease, may be conveyed or permitted to be established in, on or through the Property, unless the right or interest is consistent with the Terms of this Conservation Easement. (These prohibitions do not apply to a right to use the Property that was in existence prior to this Conservation Easement unless said right was subordinated to this Conservation Easement.)

K. Public Access

This Conservation Easement does not grant the public any right to access or any right of use of the Property.

L. Reserved Rights

The granting of this Conservation Easement was an express condition of Worcester County Rezoning Case Number 372, and certain approvals by the State of Maryland, Critical Area Commission, awarding Growth Allocation to adjacent properties and designating adjacent properties as Buffer Management Area Group E. Extensive areas of the property are non-tidal wetlands identified as Forest Interior Dwelling Species ("FIDS") habitat and are located on the site. It is the intent of this Conservation Easement to protect that habitat. There are requirements of the State of Maryland, Critical Area Commission that state, among other things, that Grantor shall prepare a Planting Plan, for review and approval by the Critical Area Commission

Staff, to mitigate impacts to FIDS habitat. The Plan shall specify the planting of two open fields, totaling approximately nine acres, with primarily hardwood species or natural regeneration. The Planting Plan may include transplanted stock from other areas of the property. Supplemental plantings or the removal of invasive species may be required by the Critical Area Commission. Nothing in this Conservation Easement shall prevent the Grantor from complying with these restrictions. Additionally, the Grantor has applied to the U.S. Army Corps of Engineers, the Maryland Department of the Environment, and other regulatory agencies for wetland permits, approvals, and authorization on the remainder of the adjacent properties. Nothing in this Conservation Easement shall be construed as to prevent the Grantor from performing any act or requirement by virtue of those permits.

Except to the extent that prior written approval of Grantees is required by any paragraph of this Article, all rights reserved by Grantor or not prohibited by this Conservation Easement are considered to be consistent with the Terms of this Conservation Easement and require no prior notification or approval. If Grantor has any doubt with respect to whether or not any particular use of the Property is prohibited by the Terms of this Conservation Easement, Grantor may submit a written request to Grantees for consideration and approval of such use.

ARTICLE III. ENFORCEMENT AND REMEDIES

A. Remedies

Upon any breach of the Terms of this Conservation Easement by Grantor, Grantees may, after reasonable notice to Grantor, exercise any or all of the following remedies:

1. institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction either prohibitive or mandatory; and
2. require that the Property be restored promptly to the condition required by this Conservation Easement.

Grantees' remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantees at law or equity.

B. Effect of Failure to Enforce

No failure on the part of Grantees to enforce any Term hereof shall discharge or invalidate such Term or any other Term hereof or affect the right of Grantees to enforce the same in the event of a subsequent breach or default.

C. Right of Inspection

Grantees and their respective employees and agents have the right, with reasonable notice to Grantor, to enter the Property at reasonable times for the purpose

of inspecting the Property to determine whether Grantor is complying with the Terms of this Conservation Easement. Grantees will notify Grantor before entering the Property for inspection of the Property.

D. Effect of Multiple Grantees

Each Grantee has independent authority to enforce the provisions of this Conservation Easement. In the event that Grantees do not agree as to whether Grantor is complying with the Terms, each Grantee may proceed with enforcement actions without the consent of the other Grantee(s).

E. Compliance Inspections

The Corps, MDE, and its/their authorized agents shall have the right to enter and go upon the Property to inspect the Property and take actions necessary to verify compliance with Article II, Sections F, I, J, and L of this Conservation Easement.

F. Enforcement

The Grantor, their successors and assigns, grant to the Corps, the U.S. Department of Justice, and/or MDE, a discretionary right to enforce Article II, Sections F, I, J, and L of this Conservation Easement in a judicial action against any person or other entity violating or attempting to violate these restrictions; provided, however, that no violation of this Conservation Easement shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing agency shall be entitled to a complete restoration for any violation, as well as any other judicial remedy such as civil penalties. Nothing herein shall limit the right of the Corps to modify, suspend, or revoke the Permit affecting the Property.

ARTICLE IV. MISCELLANEOUS

A. Notification by Grantor of a Grant, Conveyance or Other Transfer

Grantor shall notify Grantees in writing of the names and addresses of any party to whom the Property, or any part thereof, is to be granted, conveyed or otherwise transferred at or prior to the time said transfer is consummated. Grantor further agrees to make specific reference to this Conservation Easement in a separate paragraph of any subsequent deed or other legal instrument by which any interest in the Property is granted, conveyed or otherwise transferred. Grantor shall provide a copy of this Conservation Easement to all subsequent grantees of the fee simple interest of any part or all of this Property.

B. Effect of Laws Imposing Affirmative Obligations on the Grantor

In the event that any applicable State or federal law imposes affirmative obligations on owners of land which if complied with by Grantor would be a violation of a Term of this Conservation Easement, Grantor shall: (1) if said law requires a

specific act without any discretion on the part of Grantor, comply with said law and give Grantee written notice of Grantor's compliance as soon as reasonably possible, but in no event more than thirty (30) days from the time Grantor begins to comply; or (2) if said law leaves to Grantor's discretion over how to comply with said law, use the method most protective of conservation values.

C. Notices to Grantees and Grantor

Any notices required to be given by a party hereto pursuant to any Term hereof shall be sent by registered or certified mail, return receipt requested to the addresses set forth below or to such other address as a party may establish in writing on notification to all other parties hereto.

If to Grantor: Bay Point Plantation, Inc.
9428 Stephen Decatur Highway
Berlin, Maryland 21811

With a Copy to: Hugh Cropper, IV
Post Office Box 535
Ocean City, Maryland 21843

And
If to Grantees: Worcester County Commissioners
c/o Gerald T. Mason, CAO
One West Market Street
Snow Hill, Maryland 21863

Maryland Environmental Trust
John C. Bernstein, Director
100 Community Place
Crownsville, Maryland 21032-2023

D. Approval of Grantees

In any case where the Terms of this Conservation Easement require the approval of Grantees, such approval shall be requested by written notice to each of Grantees. Such approval shall be deemed given unless within sixty (60) days after receipt of notice either of Grantees mail notice to Grantor of disapproval and the reason(s) therefore. Unless Grantees' approval is deemed given in accordance with the prior sentence, any approval shall be written. Grantees will take into account the Terms and purposes of this Conservation Easement in determining whether to give such approval. Grantees will coordinate their review; however, the approval of one Grantee shall in no way be deemed to be the approval of all Grantees, it being the intention that each Grantee has independent authority to disapprove and enforce this Conservation Easement.

E. Grantees Hold for Conservation Purposes

Grantees agree to hold this Conservation Easement exclusively for conservation

purposes, as defined in Section 170(h)(4)(A) of the Internal Revenue Code.

F. Mortgages and Deeds of Trust

Grantor and Grantees agree that all mortgages and Deeds of Trust affecting the property are subordinate to the rights of Grantees under this Conservation Easement. Grantor has provided a copy of this Conservation Easement to all mortgagees, and trustees and beneficiaries of Deeds of Trust affecting the property as of the date of this Conservation Easement, and each such mortgagee, trustee and beneficiary has subordinated the mortgage or Deed of Trust to this Conservation Easement, by signing a subordination agreement which shall be recorded among the Land Records of Worcester County, Maryland at the time of recording of this Conservation Easement.

G. Construction

This Conservation Easement shall be construed pursuant to the purpose of this Conservation Easement and the laws of the state of Maryland, including the purposes of the statutes creating and governing the purposes of Section 2-118 of the Real Property Article of the Annotated Code of Maryland, and the conservation purposes of this Conservation Easement.

H. Effect of Laws and Other Restrictions on the Property

The Terms of this Conservation Easement shall be in addition to any local, State or federal laws imposing restrictions to the Property and any real estate interests imposing restrictions to the Property.

I. Entire Agreement and Severability of the Terms

This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any Term is found to be invalid, the remainder of the Terms of this Conservation Easement, and the application of such Term to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

J. Successors

The terms "Grantor" and "Grantees" wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its personal representatives, heirs, successors, and assigns and the above-named Grantees and their successors and assigns.

K. Recordation

Grantees shall record this instrument for Grantees, Grantor and the State of Maryland in a timely fashion among the Land Records of Worcester County, Maryland, and

Grantees may re-record it at any time as may be required to preserve their rights under this Conservation Easement.

L. Captions

The captions in this Conservation Easement have been inserted solely for convenience of reference and are not a part of this instrument. Accordingly, the captions shall have no effect upon the construction or interpretation of the Terms of this Conservation Easement.

TO HAVE AND TO HOLD unto Grantees, their successors and assigns, forever, subject to the reservations set forth in Article II, paragraphs H and L hereof. The covenants agreed to and the terms, conditions and restrictions imposed as aforesaid shall be binding upon Grantor, their survivors, agents, personal representatives, heirs, assigns and all other successors to them in interest, and shall continue as a servitude running in perpetuity with the Property.

AND said Grantor hereby covenant that they have not done or suffered to be done any act, matter of thing whatsoever, to encumber the property hereby conveyed, that they will warrant specially the Property granted and that they will execute such further assurances of the same as may be requisite.

IN WITNESS WHEREOF, Grantor and Grantees have hereunto set their hands and seals the day and year above written.

GRANTOR:

BAY POINT PLANTATION, INC.

By: _____ (SEAL)

JOHN H. BURBAGE, JR., PRESIDENT

STATE OF MARYLAND, COUNTY of _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 20____, before me the subscriber, a Notary Public of the State aforesaid, personally appeared JOHN H. BURBAGE, JR., PRESIDENT OF BAY POINT PLANTATION, INC., known to me (or satisfactorily proven) to be a Grantor of the foregoing Deed of Conservation Easement and acknowledged that he/she executed the same for the purposes therein contained and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

GRANTEE:
WORCESTER COUNTY COMMISSIONERS

BY: _____ (SEAL)
JAMES L. PURNELL, JR., PRESIDENT
STATE OF MARYLAND, COUNTY of _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 20____, before me the subscriber, a Notary Public of the State aforesaid, personally appeared JAMES L. PURNELL, JR., PRESIDENT OF THE WORCESTER COUNTY COMMISSIONERS, known to me (or satisfactorily proven) to be a Grantee of the foregoing Deed of Conservation Easement and acknowledged that he/she executed the same for the purposes therein contained and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.

Notary Public
My Commission Expires: _____

GRANTEE:
MARYLAND ENVIRONMENTAL TRUST

BY: _____ (SEAL)
JOHN C. BERNSTEIN, DIRECTOR

STATE OF MARYLAND, COUNTY of _____, TO WIT:

I HEREBY CERTIFY, that on this ____ day of _____, 20____, before me the subscriber, a Notary Public of the State aforesaid, personally appeared JOHN C. BERNSTEIN, DIRECTOR OF THE MARYLAND ENVIRONMENTAL TRUST, known to me (or satisfactorily proven) to be a Grantee of the foregoing Deed of Conservation Easement and acknowledged that he/she executed the same for the purposes therein contained and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.

Notary Public
My Commission Expires: _____

I hereby certify that this Deed of Conservation Easement has been prepared by me or under my supervision, and that I am admitted to practice law in the state of Maryland.

Hugh Cropper, IV

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

April 24, 2006

Ms. Janet Davis, Critical Area Planner
Development Review and Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

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

Dear Ms. Davis:

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

1. The 10% pollution reduction calculations need to be clarified on the worksheet provided to the Commission. The proposed impervious surface area breakdown on the site does not appear to be correct. The applicant indicates on the site plan the presence of a 16,000 square foot building but the worksheet only shows .05 acres (2,178 square feet) of rooftop imperviousness. Additionally, the worksheet indicates the presence of 0.45 acres of decks. The site plan does not indicate the presence of any decks. Please provide some clarification.
2. The pollutant removal requirement will not be met by the proposed BMP. The worksheet indicates the applicant will be required to provide mitigation for an additional 1.37 pounds of phosphorus per year. The site plan indicates the site will have a 1.32 lbs\yr deficit. The site plan and worksheet should be consistent.
3. It is understood that 11,630 square feet of mitigation is required to meet the 15% requirement as stated on the site plan. Please provide the afforestation mitigation area proposed by the landscape plan within the Critical Area in addition to the entire site.
4. During the last review the applicant was proposing to include an existing 18,000 square foot credit for the area of forested nontidal wetlands on the western end of the site. Commission staff informed the applicant that the existing forest could not

be included in the stormwater credit. It now appears that the area of existing forested nontidal wetlands is substantially reduced on the submitted site plan. The previously included 25-foot buffer around the wetlands is now also missing. This area is now used for future planting mitigation credit. Please provide an explanation.

5. Please remove the discussion of forest retention as a mitigation measure from the Critical Area Report. The discussion of the project scope also needs to be updated.
6. Please provide a detailed discussion of the proposed offset planting discussed as a pollutant mitigation measure including a proposed location and planting plan. Please relate the off-site mitigation to the requirements in 10% Guidance Manual.
7. Please provide the impervious area in the Critical Area on the Critical Area Site Plan.

Thank you for the opportunity to comment on this project. Please notify this office of any changes to the proposed plan. If you have any questions or comments you may contact me directly at 410-260-3476.

Best regards,

Chris Clark
Natural Resources Planner

cc: WC349-05

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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April 24, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: Site Plan – Bayside Keys – 748 94th Street

VIA FACSIMILE

Dear Mr. Smith:

Thank you for the recent submittal of the above applicant's site plan depicting the location of the additional infiltration trenches. The applicant proposes to demolish an existing structure and redevelop the property with three townhomes. The parcel is designated IDA\waterfront and is within the 100-foot Buffer with a 10-foot setback. Commission staff has reviewed the updated information provide and have the following comments:

1. The 10% pollutant reduction requirement will be met through the BMP's proposed. The small deficit will be addressed through a fee-in-lieu.
2. The proposed landscaping, together with the fee-in lieu will address the Buffer mitigation and afforestation requirements.

Thank you for the opportunity to comment on the proposed project. The site plan, together with the fee's-in-lieu is consistent with the Town's Critical Area Program. If you have any further questions regarding this site, please call me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: OC576-05

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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April 24, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: 117 Winter Harbor Drive – File #11255

VIA FACSIMILE

Dear Mr. Smith:

Thank you for the recent submittal of the above applicant's request to construct a 570 square foot addition to an existing home. The applicant is also proposing to replace the existing driveway with semi-pervious pavers. The 7,500 square foot lot is designated IDA and is in a Buffer Management Area. The existing impervious surface on the site is reported to be 2,187 square feet. Proposed impervious surface after construction will be reduced to 1,840 square feet. Critical Area concerns include afforestation, stormwater, and pollutant removal requirements.

The afforestation requirements have been met by the proposed installation of landscaping which meet or exceed the 2% mitigation worksheet total. The applicant has also provided the associated plant schedule for the site. The stormwater and 10% rule compliance will be achieved through the reduction of pervious surface (with semi-pervious pavers) and additional landscaping and stormwater provisions. As proposed, all Critical Area issues have been addressed.

Thank you for the opportunity to comment on the proposed project. If you have any further questions regarding this site, please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: OC294-06

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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April 19, 2006

Ms. Cathy Maxwell
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: Local Case # CU-040007 Kenneth Malm Conditional Use Request

Dear Ms. Maxwell:

Thank you for the information concerning the intent of the above property owner's conditional use application. It is understood that the applicant currently has an existing 164-foot pier on the property. The information supplied in the application by your office indicates that the pier, in its current configuration, is not in conformance with the Queen Anne's County Development Code. Specifically, the pier exceeds the permitted length of 150 feet. The applicant seeks the Board's approval to preserve the existing length and improve the pier with additional pilings and three boat lifts.

The applicant has received approval from MDE to perform the proposed work in tidal wetlands. The Critical Area Commission concerns include impacts to the 100-foot Buffer during and after the proposed construction.

If the Board finds that the applicant is entitled to relief then the Commission has the following recommendations:

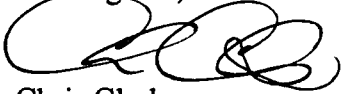
1. There will be no cutting of trees or removal of any vegetation within 100 feet of mean high water without an approved Buffer Management Plan submitted to and approved by the County.
2. No construction activities will take place in the Buffer.
3. Access to the pier should consist of a pervious foot path through the Buffer no more than six (6) feet wide.

Ms. Maxwell
Case #CU-040007
April 19, 2006

Page 2

Thank you for the opportunity to review this project. Please notify this office in writing of the Boards decision in this case. If you have any further questions or comments please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read 'Chris Clark', with a stylized, cursive flourish.

Chris Clark
Natural Resources Planner

cc: QC232-06

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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April 18, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

Re: 45th Street Village – Hotel and Condominiums – Non-Compliance Issues

Dear Mr. Smith:

I appreciate you meeting with me on April 6th to discuss the 45th Street Village project. As we discussed, the Commission continues to be seriously concerned about the current status of this project. Numerous issues of concern have not been addressed from the Town or from the architecture/engineering firm overseeing the construction of this project. In a letter dated March 10, 2006, LeeAnne Chandler from this office forwarded the Town comments outlining the inconsistencies with this site and the Town's Critical Area Program. I am attaching a copy of that letter for reference. To date, the Commission has not received a written response to the comments.

From our conversation, it appears that the applicant continues to approach this project without regard to the Critical Area Law and the Town of Ocean City's Critical Area Ordinance. In addition, the project continues under development review by the Town without any substantive conditions to bring the developer into compliance.

The "piecemeal" project approach Ms. Chandler was concerned with is particularly troubling. The plan for the peninsula extending outside the "proposed limits of construction" has now been supplied to the Town. From our conversation, I believe it was clear that the concept drawing in possession of the Town at the time of our discussion would not comply with either the intent or the requirements under the Law or the Town's Ordinance. The issue of the Town requirements for 15% afforestation within any development or redevelopment site was clearly not addressed in the proposed plan. In fact, the applicant is now proposing additional parking on the peninsula. In previous plans this was discussed as a potential afforestation mitigation planting site. The additional proposed parking on the peninsula is shown to be in compliance with the 25-foot Buffer requirement on the concept drawing we reviewed in your office but it was clear from our conversation that the Town's position is that it will not consider any of this

Mr. Blaine Smith
April 18, 2006
Page 2 of 2

area as pervious. This only compounds the issues of the impervious cover mitigation requirements. In addition, the applicant has removed the previously discussed mitigation at the end of the peninsula and has replaced it with a swimming pool and associated deck that not only extends into the Buffer but is shown to the limits of the bulkhead.

COMAR 27.03.01.03 of the Commission's regulations authorizes the Commission to require submittal of additional information related to development projects under review by a local government. Please have the engineer submit, by May 1, 2006, the documents required in the Town of Ocean City Ordinance Section 30-559(1) and Section 30-559(2) which includes a Critical Area Site Plan and Atlantic Coastal Bays Critical Area Report. These documents must cover the entire proposed project rather than portions of it.

We must stress that the Town and the applicant have had sufficient time to address all concerns outlined above and in previous documentation. In order to ensure compliance with applicable laws and regulations and effective implementation of the Town's Ordinances, we again recommend suspension of active permits pending resolution of the above issues. We have asked the Assistant Attorney General for guidance in this matter. If you have any further questions regarding this project or your program requirements in general, please contact Ren Serey at 410-260-3460.

Sincerely,



Chris Clark
Natural Resources Planner

cc: OC385-04

Marianne Mason, Asst. Attorney General
Ren Serey, Executive Director
Regina Esslinger, Project Evaluation Chief
Mary Owens, Program Evaluation Chief
LeeAnne Chandler, Science Advisor
Jesse Houston, Ocean City Director of Planning

enclosure: letter from CAC dated 3/10/06

rt L. Ehrlich, Jr.
Governor

Michael S. Steele
Lieutenant Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

March 10, 2006

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

RE: Site Plan – 45th Street Village – Hotel & Condominiums (North Parcel) - Buffer/Setback Issues

Dear Mr. Smith:

As you are aware, our most recent comments on the above referenced project stated our serious concerns regarding activities within the required setback. The project is under construction and it is unknown how or why permits were issued, given these inconsistencies with the Town's Critical Area Program. A copy of my comments went to the project consultant/engineer (Mr. Keith Iott) and earlier this week, we received an e-mail and a drawing showing the area of concern with some explanation (Copy enclosed).

When our office originally reviewed this project, the only activity that was going to be permitted within the property's setback was a "grass-pave" fire lane for emergency use only. (Please note that this allowance was deemed an exception from the accepted practice.) No other projects have been permitted to have this type of surface within the Buffer for fire or any other access as the setback was to be completely pervious and planted with the required amount of Buffer plantings.

The plans received from Iott Architecture/Engineering show a number of features which are inconsistent with the Town's Critical Area Program. These include:

1. Parking within the setback. From the beginning of the implementation stage of the Town's Critical Area Program, no parking has been permitted within the required setback regardless of the parking surface used.
2. With any redevelopment, the Town's ordinance calls for the required setback to be completely pervious, regardless of its existing condition. Existing impervious is supposed to be removed and the setback fully established. The current proposal calls for converting existing impervious into parking and then adding additional parking encroachment into the setback. This is not consistent with the Town's Critical Area Ordinance.

Mr. Blaine Smith
March 10, 2006
Page 2 of 2

3. The note explaining the grass paver fire lane within the required setback states that access will be limited to "periodic service" to pool and for emergency purposes by the fire department. As indicated above, the fire lane was to be just a fire lane for emergencies only. Servicing a pool (that is not shown on any of the plans) is not consistent with our previous understanding of the proposal. Similarly, there is no apparent curb or other structure that would prevent cars from utilizing the fire lane at any time.
4. The "limits of construction" shown on the plans appear to be an attempt to piecemeal the project. It is our understanding that the entire property is being redeveloped and as such, the redevelopment of the remainder of the peninsula should be discussed and resolved at this point. This is of particular concern due to the existing building's impacts into the required 25-foot setback.
5. Related to the above, and raised in our previous comments, is the requirement for 15% afforestation of any development or redevelopment site. Currently, the area shown within the "limits of construction" does not have a plantable area of at least 15%. "Offsite" mitigation is being offered at the end of the peninsula, however the Town's Ordinance does not provide for offsite mitigation for the 15% afforestation requirement. This should be resolved prior to any further development of the site.

As indicated above, it is unclear how construction on this project was permitted to commence, given the inconsistencies with the Town's Critical Area Ordinance. We strongly recommend that the Town suspend any active permits pending resolution of the issues raised above. Please contact Ren Serey or Regina Esslinger at (410) 260-3460 to discuss these matters further. Thank you.

Sincerely,


LeeAnne Chandler
Science Advisor

Enclosure

cc: Marianne D. Mason, Asst. Attorney General
Ren Serey, Executive Director
Regina Esslinger, Project Evaluation Chief
Chris Clark, Natural Resources Planner
OC385-04

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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(410) 260-3460 Fax: (410) 974-5338
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April 14, 2006

Mr. and Mrs. John Nizer
119 Bayview at Kent Narrows
Grasonville, MD 21638

Re: Request for Information – Map 58 and 58A Parcels 2 and 678

Dear Mr. and Mrs. Nizer:

Pursuant to your request, I am enclosing the information in our files related to the above referenced site. Please let me know if we can be of any further assistance.

Best regards,

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

Chris Clark
Natural Resources Planner

enclosure(s)

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 12, 2006

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

VIA FACSIMILE

RE: Site Plan – 142 Seabreeze Drive – File #10959

Dear Mr. Smith:

Pursuant to your request, I have reviewed the supplied information regarding the above referenced site plan. The applicant proposes to construct a 288 square foot sunroom, a 168 square foot deck and a 40 square foot shed on an existing home. The parcel is in a Buffer Management Area and is subject to a 5-foot setback. Critical Area issues include stormwater management, Buffer mitigation and afforestation.

The Commission has the following comments based upon the information provided:

1. The maximum imperviousness of the site was exceeded by 68 square feet. It is understood that fees in lieu have been collected as an offset. Stormwater on the site will be directed through wall berms on each side of the site.
2. The 2% landscaping mitigation is being met by the installation of eight large shrubs. It is unknown what types of shrubs are proposed.
3. The Town of Ocean City Section 30-554.(5) states "The setback shall be vegetated at least 25 percent with native plant material, and the Buffer area shall be vegetated at least 15 percent with native material." The 25 percent afforestation requirement in the setback is not detailed on the site or landscaping plan. This should be a requirement.

Mr. Blaine Smith
File 10959
April 12, 2006

4. The deck detail on the Site Plan shows plantings for "vegetative stabilization" but there is no reference to this on the landscaping plant schedule or plan. If there is no stabilization proposed then please change your standard deck detail.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,



Chris Clark
Natural Resources Planner

cc: OC214-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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April 12, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Lighthouse Sound, Lot 77, Variance Case #99774

Dear Ms. Davis:

Thank you for submitting the site plans for the above referenced project. The applicant is proposing to construct a single family dwelling on a vacant lot partially within the Critical Area Buffer. In order to construct the dwelling, the applicant must request and receive an approved variance from the Worcester County Board of Appeals. The property is designated LDA and is 73, 702 square feet.

The constraints of this parcel and the size of the dwelling are of primary concern since the dwelling intrudes into the Buffer approximately 65 feet. Previous comments from this office focused on suggestions for the applicant to reduce the size of the driveway and/or eliminate the garage from the site plan to minimize the impact to the Buffer.

The applicant has submitted a revised site plan that essentially keeps the dwelling and its configuration on the site as previously submitted. However, the applicant has removed the 20 x 30 foot deck on the eastern end of the property and reduced the driveway area. This resulted in approximately 900 square feet of increased pervious surface on the site.

If the County finds the applicant is entitled to relief the Commission has the following recommendations:

1. Pursuant to §NR 3-111(e)(1), any approval should include the condition of providing mitigation at a 3:1 ratio for all disturbance or clearing within the Buffer.
2. The dwelling is shown on the edge of a nontidal wetland buffer. Any intrusion into the buffer will require a permit or letter of authorization from the Maryland Department of the Environment. It is difficult to see how the applicant can build

Ms. Janet Davis
Lighthouse Sound – Lot 77

April 12, 2006
Page 2

the proposed dwelling and not intrude into the buffer during the construction phase.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the variance request. Also, please notify the Commission in writing of the decision made by the Board. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read 'Chris Clark', with a stylized, cursive script.

Chris Clark
Natural Resources Planner

cc: WC 31-06

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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April 12, 2006

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

VIA FACSIMILE

RE: Site Plan – Palm Isle Condominium, File 10769, 10770, & 10771

Dear Mr. Smith:

Thank you for providing the updated information on the above referenced project. The applicant proposes to demolish the existing structures and redevelop the site with 20 townhouse style condominiums. The site is not waterfront and is reported to be 24,000 square feet in size. Critical Area requirements include 10% pollutant reduction and 15% afforestation. This site was previously reviewed in December 2005.

During the last review the Commission had concerns about the pervious paver detail for the drive isles. This detail has been provided to the Commission. Since the developer is using the paver system as a BMP it is important to ensure the proper installation and maintenance of the pavers in the drive isles. The site plan as submitted meets the 10% pollutant reduction and 15% afforestation requirements.

Thank you for the opportunity to comment. If there are any changes to the site plans that would warrant further review, please submit them to this office. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Clark", written over the word "Sincerely,".

Chris Clark
Natural Resources Planner

cc: OC807-05

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/

April 12, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: Misty Harbor Condominiums

Dear Mr. Smith:

Thank you for including the Critical Area Commission during your April 6, 2006 technical review meeting regarding the above referenced project. In response to the discussion about the project, the Commission would offer the following comments for your records:

The applicant needs to provide the Commission staff with a site plan including stormwater, landscaping, and Critical Area plans. Several issues were noted during review that are unclear on the plans provided and the Commission would like the applicant to provide more detail pursuant to the Town of Ocean City Code Section 30-559.(2) *Atlantic Coastal Bays Critical Area Report*. **The report must include a description of the project and an environmental assessment of the site.**

Specifically, we would like to review a discussion of the proposed development including previous and proposed uses and a detailed explanation of the 10% worksheet submitted for compliance. The 10% worksheet submitted is unacceptable on its own. The 10% worksheet provided was incorrect and the BMP efficiency needs to be addressed.

If it is necessary to produce a separate plan sheet to indicate preexisting and proposed post development pollutant reduction measures please do so. If not, please be as detailed as possible in the narrative. Please also include all correspondence and findings received from any local, county, State or federal agency including the required Heritage letter. Please also include any soil boring information and its relationship to the proposed stormwater infiltration calculations.

Mr. Blaine Smith
Misty Harbor

Page 2
April 12, 2006

This office would like to see any revisions, alterations, or substitutions as related to the landscape, stormwater or site plans.

Please respond to the above comments and provide for resubmittal to the Commission staff for review. Please forward a copy of this letter to the applicant.

We look forward to the updated documentation. If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written in a cursive style.

Chris Clark
Natural Resources Planner

cc: OC778-04

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
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April 12, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File #04-04-12-0008-C – Project: Appletree Homes

Dear Ms. Spinelli:

Thank you for providing the updated site plan and comment response from DMS Associates, LLC regarding the above referenced project.

It appears that the previous comments from this office have been addressed concerning the project. At this time, no further comments are warranted.

Please forward any revised plans to this office for review as they become available. Thank you for the opportunity to review this project. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC504-04

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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April 11, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Variance Request – David W. and Joan M. Bodley;
2140 Riverview Park Dr., Pocomoke, MD

Dear Ms. Davis:

Thank you for providing information on the above referenced variance application. The applicant intends to remodel and expand the footprint of an existing structure at the above referenced location. The total land area of the site is reported to be approximately 43,699± square feet. The current dwelling, including steps, walks and decks, consists of 2,304 square feet. 1,870 square feet is currently within the 100-foot Buffer. The applicant is requesting a variance to add an additional 286 square feet of impervious surface and a new potable well within the Buffer. The applicant is subject to the variance standards, conditions, and mitigation as outlined in the Worcester County Code § NR3-211.(b) and § NR3-211.(e).

Given the location of the existing home, Commission staff would not oppose the applicant's request for the variance. However, if the County finds that the applicant is entitled to relief from the Code then recommendations include the following:

1. Relocate the additional impervious surface the upland side of the existing structure.
2. Provide mitigation of any disturbed area of the Buffer at a 3:1 ratio.
3. Relocate the proposed well out of the Buffer. If site constraints prevent this then, relocate the well as far from the water as possible while remaining in compliance with the County environmental code. All drill cuttings should be contained and immediately removed after drilling. Any purge water from the installation, development or testing of the well should be redirected outside the Buffer.

Ms. Janet Davis
Bodley Variance Request

April 12, 2006
Page 2

I appreciate the opportunity to comment on this request. Please forward the record of the Board of Appeals decision to this office for review. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written over a horizontal line.

Chris Clark
Natural Resources Planner

cc: WC219-06

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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March 20, 2006

Mr. Steve Cohoon
Queen Anne's County Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: File #04-05-05-0008-C Ellendale Revision #4

Dear Mr. Cohoon:

Thank you for submitting the latest site revisions for the above referenced project. It is our understanding that the applicant is intending to submit the subdivision plans to the Queen Anne's County Planning Commission on June 8, 2006 for final approval.

Previously, a draft long-term protective Forest Conservation Easement was submitted for review. Critical Area staff had several comments related to the easement that were to be addressed. Staff has not been provided an updated copy of the easement. Specifically, under the section "Grant and Agreements" Item 2 should have a provision for the review by the County and Critical Area staff. The Commission would also like to see Item 4 reflect some language that would require notification to the County and the Critical Area Commission for review and approval regarding the clearing of any trees, understory or noxious plants or weeds. Before execution of this document, Critical Area Commission staff would ask the Planning Commission to require the applicant to provide an updated Forest Conservation Easement for review and comment as a condition of approval. In addition, the final version of the required Buffer Management Plan should be provided to County and Commission staff. To date, the applicant has only provided a draft copy.

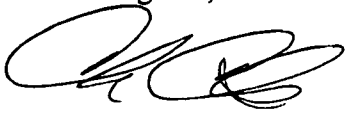
Critical Area staff has no other comments regarding this subdivision as all previous concerns have been addressed.

Mr. Cohoon
Ellendale

Page 2
May 18, 2006

Thank you for providing the Critical Area Commission the opportunity to comment on the above project. If you have questions or comments please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', with a stylized, cursive script.

Chris Clark
Natural Resources Planner

cc: QC160-00

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

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

Re: 45th Street Village – Hotel and Condominiums – Non-Compliance Issues

Dear Mr. Smith:

I appreciate you meeting with me on April 6th to discuss the 45th Street Village project. As we discussed, the Commission continues to be seriously concerned about the current status of this project. Numerous issues of concern have not been addressed from the Town or from the architecture/engineering firm overseeing the construction of this project. In a letter dated March 10, 2006, LeeAnne Chandler from this office forwarded the Town comments outlining the inconsistencies with this site and the Town's Critical Area Program. I am attaching a copy of that letter for reference. To date, the Commission has not received a written response to the comments.

From our conversation, it appears that the applicant continues to approach this project without regard to the Critical Area Law and the Town of Ocean City's Critical Area Ordinance. In addition, the project continues under development review by the Town without any substantive conditions to bring the developer into compliance.

The "piecemeal" project approach Ms. Chandler was concerned with is particularly troubling. The plan for the peninsula extending outside the "proposed limits of construction" has now been supplied to the Town. From our conversation, I believe it was clear that the concept drawing in possession of the Town at the time of our discussion would not comply with either the intent or the requirements under the Law or the Town's Ordinance. The issue of the Town requirements for 15% afforestation within any development or redevelopment site was clearly not addressed in the proposed plan. In fact, the applicant is now proposing additional parking on the peninsula. In previous plans this was discussed as a potential afforestation mitigation planting site. The additional proposed parking on the peninsula is shown to be in compliance with the 25-foot Buffer requirement on the concept drawing we reviewed in your office but it was clear from our conversation that the Town's position is that it will not consider any of this

Mr. Blaine Smith

April 18, 2006

Page 2 of 2

area as pervious. This only compounds the issues of the impervious cover mitigation requirements. In addition, the applicant has removed the previously discussed mitigation at the end of the peninsula and has replaced it with a swimming pool and associated deck that not only extends into the Buffer but is shown to the limits of the bulkhead.

COMAR 27.03.01.03 of the Commission's regulations authorizes the Commission to require submittal of additional information related to development projects under review by a local government. Please have the engineer submit, by May 1, 2006, the documents required in the Town of Ocean City Ordinance Section 30-559(1) and Section 30-559(2) which includes a Critical Area Site Plan and Atlantic Coastal Bays Critical Area Report. These documents must cover the entire proposed project rather than portions of it.

We must stress that the Town and the applicant have had sufficient time to address all concerns outlined above and in previous documentation. In order to ensure compliance with applicable laws and regulations and effective implementation of the Town's Ordinances, we again recommend suspension of active permits pending resolution of the above issues. We have asked the Assistant Attorney General for guidance in this matter. If you have any further questions regarding this project or your program requirements in general, please contact Ren Serey at 410-260-3460.

Sincerely,



Chris Clark
Natural Resources Planner

cc: OC385-04

Marianne Mason, Asst. Attorney General
Ren Serey, Executive Director
Regina Esslinger, Project Evaluation Chief
Mary Owens, Program Evaluation Chief
LeeAnne Chandler, Science Advisor
Jesse Houston, Ocean City Director of Planning

enclosure: letter from CAC dated 3/10/06

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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April 12, 2006

Ms. Phyllis H. Wimbrow, Deputy Director
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Rezoning Case #381

Dear Ms. Wimbrow:

Thank you for providing information on the above referenced rezoning case. The applicant had previously requested rezoning approximately 52.68 acres from A-1, Agricultural District to R-2 Suburban Residential District. It is our understanding that the applicant has amended his application to exclude all portions of the Resource Conservation Area (RCA) from the application. It is also our understanding that the applicant intends to request from the Planning Commission a rezoning of all portions of the Intensely Developed Area (IDA) to R-3 Multi-Family Residential District. This reduces the request to an area of approximately 38.87 acres.

For the Planning Commission's consideration on this request, the Critical Area Commission will reiterate the requirements the applicant must meet if the rezoning is approved.

Parcel 315 is mostly within the Coastal Bays Critical Area (CBCA) and is designated Resource Conservation Area (RCA). This portion, as we understand from the information provided, is now excluded from the application. The western portion of Parcel 315, of undetermined acreage, is out of the Coastal Bays Critical Area. Parcel 33 is almost entirely within the CBCA with the exception of a small portion of undetermined acreage, in the northwestern corner of the parcel. Parcel 33 is designated as Intensely Developed Area (IDA). Parcel 235 is entirely within the CBCA. Most of the site is in the IDA with the exception of the eastern portion, of undetermined acreage, which is designated RCA. Both parcels 33 and 235 are within the CBCA Buffer Management Area.

If the underlying zoning district on one or more of the parcels is changed to R-3, the portion(s) of the property within the Critical Area is still subject to the development standards of the CBCA designation.

Please be aware that it appears there is a small amount of RCA designated area on the eastern proportion of Parcel 235. This area of the property would also be subject to the development limits within the RCA regardless of the zoning district change.

Thank you for the opportunity to review this case. If you have any questions or concerns, please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read 'Chris Clark', with a stylized, cursive script.

Chris Clark
Natural Resources Planner

cc: WC148-06
Janet Davis, Worcester County Critical Area Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

April 10, 2006

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

VIA FACSIMILE

RE: Site Plan – Worcester County Public Library, Ocean City Branch

Dear Mr. Smith:

Pursuant to your request, I have reviewed the supplied information regarding the above referenced site plan. The applicant proposes to construct a 12,500 square foot library on what is currently a municipal parking lot. The total lot size is reported to be 25,650 square feet. The site is outside of the 100-foot Buffer and is designated IDA. The proposed plan indicates a reduction in total impervious surface area from .596 acres to .498 acres. A non-structural BMP is proposed to disconnect .053 acres through the use of a bioretention area. Critical Area issues include stormwater management, pollutant removal and afforestation.

The Commission has the following comments based upon the information provided:

1. There is a 15% afforestation requirement outside the 100-foot Buffer. For the proposed project this would require 3,848 square feet of landscaping. The applicant is proposing to plant 19,725 square feet of landscaping. Some of the plantings on the schedule are considered herbaceous and would only be allowed a credit of 2 square feet. Nevertheless, the project will meet the afforestation requirement as currently proposed.
2. It is unclear how stormwater will be handled on this site. Please provide a proposed stormwater management plan.
3. Please provide detail on the pervious paver materials and installation requirements.
4. Please show the intended disconnect areas.

TTY for the Deaf

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

Mr. Blaine Smith

April 10, 2006

Page 2

5. Please indicate Critical Area information on the Site Plan (i.e. site status (IDA), notification that the site is within the Critical Area for Chesapeake and Atlantic Coastal Bays, impervious\pervious area, etc.)
6. Please provide a breakdown of pervious vs. impervious areas on the 10% calculation worksheet including the building, roads, parking lots, etc.

Thank you for the opportunity to comment. Please provide the updated information to this office before the issuance of permits. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,



Chris Clark
Natural Resources Planner

cc: OC184-06
Donna Sanders, Davis Bowen & Friedel, Inc.
Gail Blazer, Town of Ocean City

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 10, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Worcester County Sketch Plan – Perkins Farm

Dear Ms. Davis:

Thank you for submitting the site plan for the above referenced project. I have reviewed the information submitted and have provided comments below. In order for the Commission staff to comment on the proposed subdivisions we will require additional information. Please have the applicant submit the following information to the Commission for review per Worcester County §NR 3-109 (d) – Implementation of the Atlantic Coastal Bays Critical Area Provisions, Application Requirements. This section requires the applicant to supply both an Atlantic Coastal Bays Critical Area Site Plan as outlined in § NR 3-109.1 and an Atlantic Coastal Bays Critical Area Report as outlined in § NR 3-109.2. This should include a discussion of impacts and mitigation measures associated with FIDS and other threatened or endangered species that may be present on the property. DNR's comments from the Wildlife and Heritage Service regarding the site should be with the Critical Area Report.

In addition to the above information the Commission would appreciate if the applicant can clarify issues regarding the boundaries, determination and justification of tidal vs. nontidal wetlands, and private vs. State owned wetlands. The intent of the Commission is to clearly identify the wetland types, boundaries, and ownership prior to a final site plan revision. This should save the County and the applicant some time and confusion and provide for an expedited review process on future plat revisions.

This office would like to schedule a site visit prior to further comment in order to evaluate the wetland areas. We would like to conduct this site visit in coordination with MDE, the site engineer and a representative with the County.

It is unclear if Lot 19 as shown on the sketch plan backs to the tidal pond as shown on the sketch plan. This should be resolved before the next submission. The sketch plan shows a stormwater management basin within the RCA that serves an area outside the RCA. This must be moved outside the RCA.

I appreciate the opportunity to comment and look forward to receiving the additional information required for site plan review. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: WC 207-06

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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April 10, 2006

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

VIA FACSIMILE

RE: Site Plan – Jim Ruark; File # 11016

Dear Mr. Smith:

Thank you for the submission of required documents related to the above referenced site plan. It is understood that the applicant proposes to construct a new home and pool on an 11,620 square foot lot. The lot is designated IDA, is within the 100-foot Buffer and is subject to a 15 foot Critical Area setback. The applicant intends to construct a 2,522 square foot dwelling with a 1,512 square foot pool area. Other impervious features include associated porches and steps for a total of 4,677 square feet of impervious surface cover. The driveway is approximately 1,500 square feet and it is to be constructed of pervious pavers.

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

1. The value of construction on this parcel is reported to be \$500,000. Using the Town of Ocean City's mitigation worksheet, the applicant is required to install \$10,000 in landscaping. The mitigation worksheet indicates that the applicant intends on installing \$18,400 in landscaping. This appears to be incorrect. The 18,400 was transposed from the square foot requirements for afforestation for the requirement outside the 100-foot Buffer. The landscaping appears to be adequate but the applicant did not attach a cost value to the proposed plan. Please provide the cost schedule for our files.
2. The stormwater management appears to be adequately addressed through the use of infiltration trenches, rain gardens and a pervious paver system for the driveway. It should be noted that the applicant lists a cost estimate of \$10,000 for the stormwater design. The note on the plat lists the total cost of the paver system alone at \$25,970.

3. A proposed bulkhead is listed on the site plan. Please forward a copy of the MDE permit for the new bulkhead.

I appreciate the opportunity to comment on the proposed plan. If you have any questions please feel free to contact me directly.

Best regards,



Chris Clark
Natural Resources Planner

cc: OC209-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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April 10, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Worcester County Sketch Plan – Holland Point

Dear Ms. Davis:

Thank you for submitting the site plan for the above referenced project. I have reviewed the information submitted and have provided comments below. In order for the Commission staff to comment on the proposed subdivisions we will require additional information. Please have the applicant submit the following information to the Commission for review per Worcester County §NR 3-109 (d) – Implementation of the Atlantic Coastal Bays Critical Area Provisions, Application Requirements. This section requires the applicant to supply both an Atlantic Coastal Bays Critical Area Site Plan as outlined in § NR 3-109.1 and an Atlantic Coastal Bays Critical Area Report as outlined in § NR 3-109.2. This should include a discussion of impacts and mitigation measures associated with FIDS and other threatened or endangered species that may be present on the property. I have attached DNR's comments from the Wildlife and Heritage Service for your reference.

In addition to the above information the Commission would appreciate if the applicant can clarify issues regarding the boundaries, determination and justification of tidal vs. nontidal wetlands, and private vs. State owned wetlands. The intent of the Commission is to clearly identify the wetland types, boundaries, and ownership prior to a final site plan revision. This should save the County and the applicant some time and confusion and provide for an expedited review process on future plat revisions.

This office would like to schedule a site visit prior to further comment in order to evaluate the wetland areas. We would like to conduct this site visit in coordination with MDE, the site engineer and a representative with the County.

I appreciate the opportunity to comment and look forward to receiving the additional information required for site plan review. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: WC 206-06

attachment: Heritage Letter

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. Holly Tompkins
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: File #02-06-03-0014-C Project: Weese Development Administrative Subdivision

Dear Ms. Tompkins:

Thank you for the information concerning the intent of the above property owner to seek an administrative subdivision through the adjustment of common lot lines. It is understood that property is located on Queen Anne's County Tax Map 10, Parcel 46 and is described as Lots 835 and 836. The property is within the Critical Area and is designated LDA. The property owner is currently seeking to combine the parcels by removing the lot line between lots 835 and 836.

Since there is no construction pending on the property as part of this administrative subdivision, the Commission has no further comment. Thank you for the opportunity to review this project. If you have any further questions or comments please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark", written over the typed name.

Chris Clark
Natural Resources Planner

cc: QC213-06

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 4, 2006

Ms. Holly Tompkins
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: File #02-06-03-0013-C Project: Weese Development Administrative Subdivision

Dear Ms. Tompkins:

Thank you for the information concerning the intent of the above property owner to seek an administrative subdivision through the adjustment of common lot lines. It is understood that property is located on Queen Anne's County Tax Map 10, Parcel 46 and is described as Lots 829 and 830. The property is within the Critical Area and is designated LDA. The property owner is currently seeking to combine the parcels by removing the lot line between lots 829 and 830.

Since there is no construction pending on the property as part of this administrative subdivision, the Commission has no further comment. Thank you for the opportunity to review this project. If you have any further questions or comments please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC212-06

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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April 4, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: 6-60th Street, Meridian Condominiums – File # 10530/#10680

Dear Mr. Smith:

Thank you for your recent submittal for the above applicants' request to construct two towers of condominiums of seven and ten stories respectively on the above referenced site. The total site area is reported to be 1.87 acres and is located in the IDA. The proposed development will create 1.37 acres of impervious surface. Critical Area concerns are: stormwater management, pollutant removal and afforestation.

The applicant has provided the Commission staff with a site plan including stormwater, landscaping, and Critical Area plans. Several issues were noted during review that are unclear on the plans provided and the Commission would like the applicant to provide more detail pursuant to the Town of Ocean City Code Section 30-559.(2) *Atlantic Coastal Bays Critical Area Report*. **The report must include a description of the project and an environmental assessment of the site.**

Specifically, we would like to review a discussion of the proposed development including previous and proposed uses and a detailed explanation of the 10% worksheet submitted for compliance. The 10% worksheet submitted is unacceptable on its own. It is unclear what stormwater will flow to the "existing BMP" and how it will work and/or if it is intended to be redesigned. If it is necessary to produce a separate plan sheet to indicate preexisting and proposed post development pollutant reduction measures please do so. If not, please be as detailed as possible in the narrative. Please also include all correspondence and findings received from any local, county, state or federal agency including the required Heritage letter for parcels 40,000 square feet and larger. Please also include any soil boring information and its relationship to the proposed stormwater infiltration calculations.

As presented, the applicant has met the afforestation requirement on the site. This office would like to see any revisions, alterations, or substitutions as related to the landscape, stormwater or site plans.

Please respond to the above comments and provide for resubmittal to the Commission staff for review.

We look forward to the updated documentation. If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: OC195-06

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/

April 4, 2006

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

RE: Site Plan – 221 Wicomico Street – Emerson Towers

Dear Mr. Smith:

The representative for the applicant, Ron Lambert – AES Architects, consulted the Critical Area Commission directly to address the site plan comments sent to you in a letter dated March 20, 2006. Our primary concerns at that time were: the absence of a landscaping/mitigation plan, detail on the pervious deck in the setback, and the roofline extending into the setback.

The architect has supplied this office with all relevant information related to our review. However, it has come to our attention that this project was well under construction before the Critical Area Commission received any notification. Please be advised that the Town of Ocean City is required under COMAR 27.03.01.02.F to submit development review information to the Critical Area Commission prior to the application being processed, or the approval is void. Issues such as structures in the setback can not be easily changed or altered after completion.

All issues regarding the Critical Area have been resolved. This office has no further comment on this project.

I will look forward to any appropriate updates as this project progresses. Please forward any other revisions of this site plan to this office. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: OC84-06
Ren Serey, Critical Area Commission

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 4, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: 621 Bayside Keys – 94th Street; File 10936

Dear Mr. Smith:

Thank you for your recent submittal for the above applicants request to construct a 1,600 square foot three story townhome complex at the above referenced location. The 6,126 square foot lot is designated IDA and is in a Buffer Management Area.

The applicant and/or Town has forwarded the Commission incomplete and incorrect information regarding this project. The following comments are noted and need to be addressed before this permit should move forward:

1. The proposed impervious surface calculations provided on the Critical Area Project Application and a spreadsheet compiled by J.W. Salm Engineers indicate that the total impervious surface proposed is equal to 4,544 square feet. The 10% rule worksheet provided states the total impervious surface is 4,224 square feet. The applicant needs to clarify and supply this office with an updated and correct 10% worksheet. If the pollutant removal requirement is not met then we suggest fees in lieu.
2. Please also use the updated existing and proposed impervious information to ensure consistency between the 10% worksheet and the Mitigation Worksheet in the 100 foot Buffer.
3. Stormwater calculations indicate that the required storage volume and the provided storage volume are equal. This pushes the applicant to the limit of available storage capacity and allows no room for error. Given the high water table reported on the property and the extensive use of pavers being proposed the Commission has concern of the property meeting the infiltration requirements for stormwater. This would of particular concern when the parking lot is full. Some storage buffer should be considered.

4. The zoning setback should be labeled on the plat. Proposed pervious decks are sited within 3.5 feet of the existing bulkhead. The applicant needs to provide mitigation at a ratio of 2:1 in the setback for any portion of the deck and/or trash pads that intrude into the setback. Please provide the setback on the site plan.

With the above information provided the Commission staff can not complete our review. Please respond to the above comments and provide for resubmittal to the Commission staff for review.

We look forward to the updated documentation. If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: OC194-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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April 4, 2006

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

VIA FACSIMILE

RE: Site Plan – 10604 Point Lookout Road - File #11035

Dear Mr. Smith:

Pursuant to your request, I have reviewed the supplied information regarding the above referenced site plan. The applicant proposes to replace an existing two story framed dwelling with a 2,284 square foot, three story dwelling. The parcel is in a Buffer Management Area and is subject to a 15-foot setback. Critical Area issues include stormwater management, Buffer mitigation and afforestation.

The Commission has the following comments based upon the information provided:

1. The Buffer setback needs to be measured from the old bulkhead line as shown on the site plan provided by "Oceanbay Surveys, Inc." MDE has jurisdiction up to the placement of the previous bulkhead. Please move the setback accordingly.
2. The Town of Ocean City Section 30-554.(5) states "The setback shall be vegetated at least 25 percent with native plant material, and the Buffer area shall be vegetated at least 15 percent with native material." The 25 percent afforestation requirement in the setback is not detailed on the site or landscaping plan. Please also note that Section 30-554.(7)g. states "Any construction in a setback, including pervious decks and walkways shall be mitigated at a two to one ratio (2:1)." The site plan indicates the proposed deck will be 216 square feet. This will require 432 square feet of mitigation.
3. The deck detail on the Site Plan shows plantings for "vegetative stabilization" but there is no reference to this on the landscaping plant schedule or plan.
4. The 2% fee for landscaping within the Buffer is to provide for pollutant removal mitigation. The references to decorative stone in the Landscaping Plan may provide some value for stormwater and impervious surface calculations but it can not be used as an offset for pollutant removal. The landscaping plan must be

Mr. Blaine Smith
File 11035
April 4, 2006

revised. Please include a revised plant schedule and show the placement of the additional 6-foot upright spruce referenced on the plan. If the applicant can not meet the planting requirements for the site then we suggest collecting fees in lieu.

Thank you for the opportunity to comment. Please provide the updated information to this office before the issuance of permits. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,



Chris Clark
Natural Resources Planner

cc: OC193-06
Gail Blazer, Town of Ocean City

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 3, 2006

Mr. Steve Cahoon
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: Major Site Plan, Chesapeake Bay Beach Club
File#04-06-02-0010-C, Amendment #4

Dear Mr. Cahoon:

Mr. Tom Davis, DMS & Associates, has provided this office with an update to the impervious figures at the above referenced site. It was previously reported to the Commission that the site consisted of 1.983 acres of impervious surface. According to Mr. Davis, the total amount of impervious surface has now been adjusted to 2.3 acres.

This has required further evaluation of the applicant's pollutant removal obligation. The site does not meet the pollutant removal requirements for the IDA. An excess of 1.35 pounds of phosphorus per year is present after applying all current BMP's on the site. The applicant proposes to plant 70 trees on the site to mitigate 0.35 pounds. The remaining 1.0 pound excess would be mitigated through a fee in lieu in the amount of \$20,000 that we understand the County is holding in escrow. The Commission would like a response from your staff indicating if you believe that, after Buffer mitigation is performed, there is enough room on the site to support the 70 trees proposed. Through our conversations with Mr. Davis, it is our understanding that the applicant wishes to release the money in escrow to the County. The Commission does not oppose this approach provided the above conditions are met by the applicant.

As previously stated by this office in a letter dated February 28, 2006, we would like an assessment by the County to determine compliance with the previous Buffer mitigation requirements, as well as the 10 percent rule. Areas planted to offset the 10% compliance can not also be counted toward Buffer mitigation.

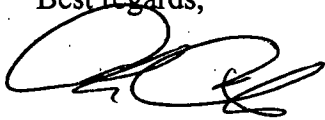
Mr. Cahoon

April 3, 2006
Page 2

Please follow-up with a letter from the County regarding the status of this project and confirmation of the applicant's compliance under the County Critical Area Program.

If you have any questions related to this case please feel free to call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written over a horizontal line.

Chris Clark
Natural Resources Planner

cc: QC 755-04

Mr. Tom Davis, DMS & Associates

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 3, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Arcadia Center (formerly Rainy Day) M21 P107 MD Route 589, Berlin

Dear Ms. Davis:

Thank you for submitting the site plans for the above referenced project. I have reviewed the information submitted and have provided comments below. The 1.53 acre site is within the Critical Area and is designated as IDA. The site currently consists of two single story commercial buildings with several sheds and outbuildings. It is reported that approximately 1.38 acres of the site is currently impervious. After redevelopment the site will consist of 0.97 acres of impervious cover. The applicant has submitted a Critical Area Site Plan as required under § NR 3-109.1. The following are our comments on the proposed plan:

1. The applicant may not address Worcester County §NR 3-109 (d)(2) on the site plan. A more complete discussion of the proposed development must accompany the site plan as outlined in the Code.
2. Although the 10% rule has been established on the site plan, the worksheet should accompany the written narrative as an appendix. The Heritage letter should also be part of this report. The copy of the worksheet and Heritage letter may remain on the site plan.
3. The site must meet the 15% requirement afforestation requirement. This should be discussed in detail in the Critical Area Report.
4. Please provide details of the stormwater management measures.
5. The pollutant removal requirement as listed on the site plan is incorrect. It should read as (-0.587) lbs per year not (0.587) lbs per year.
6. The notes on the Critical Area Plan state that "Water Quality Increases with Proposed BMP." There are no BMP's proposed to improve water quality and the

note should be removed along with the entire section that attempts to address §NR 3-109 (d)(2) on the site plan.

7. It is not clear if the applicant is attempting to use "pervious pavers" as 100% pervious surface. This should be clarified. This is due to several factors: the pavers require specialized installation, plans, materials and experience and over time, if not maintained, the pavers will become impervious. It is our experience that the Counties, where pavers are installed, do not have the resources or experience to inspect the unique installation requirements of all manufacturer and/or track maintenance of the pavers after installation. In order to use the pavers for credit the Commission should be supplied with detailed specifications to determine the permissible pervious credit.

I appreciate the opportunity to comment and look forward to receiving the additional information required for site plan review. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC 182-06

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. Holly Tompkins, Land Use Planner IV
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: File CP #03-05-12-0009C Project Name: Camp Pecometh

Dear Ms. Tompkins:

Thank you for your recent submittal of the updated concept plan for the proposed project. We understand that the applicant wishes to expand an institutional use within the RCA. The facility is currently operated as a camp and retreat for church and educational groups. According to the narrative supplied by the applicant, the primary purpose of the intensification is to provide more comfortable meeting space and accommodations. It is also clear that the expansion would certainly create more opportunities for the attraction of larger groups to the site.

Section 14:1-39(B)(3)(d) of the Queen Anne's County Code states that "Intensification or expansion of existing industrial, commercial, and institutional facilities and uses may be permitted in the RCA by the Planning Commission. A variance, in accordance with Part 7 of this Chapter 14:1 must be granted if such expansion or intensification involves a use which the Planning Commission determines does not conform with the provisions of the Queen Anne's County Critical Area Program and this Chapter 14:1."

The primary consideration under the proposed concept plan is to determine if the intensification of the property significantly changes the predominant RCA characteristics of the site. It is clear that the site, already designated RCA, has been historically used as a summer church camp facility. The property is approximately 275 acres in size with most of the developed lands close the shoreline. Some of this development is within the Critical Area Buffer but predates Critical Area Law. The intended future development is proposed on an upland, water oriented portion of the site almost entirely within the Critical Area Boundary previously described as RCA. All future development on the site is subject to the current County and State regulations regarding the Critical Area.

The Commission would not oppose the Planning Commission's Determination that the expansion of this use complies with the County Code as long as appropriate measures are implemented to ensure that the project meets the policies for the RCA as set forth in COMAR 27.01.02.05. Although the Commission does not oppose the expansion currently proposed, any further expansion or intensification of this use will require growth allocation or will need to be located outside the Critical Area boundary. Specifically, the Commission recommends the following:

1. Most of the proposed development is located in the area identified as "The Meadow." In order to ensure that the change in intensification of this area does not significantly affect the conservation, protection, and enhancement of the overall ecological values of the Critical Area, the 100-foot Buffer should be established in this area. It appears that some of the Buffer is forested, however, a Buffer Management Plan should be prepared and submitted for the portions of the Buffer that are not completely forested.
2. The applicant proposes to increase the impervious area of the RCA by approximately 2.25± acres. This will bring the total impervious surface to 5.64± acres or 4.3 percent of the RCA. Appropriate stormwater quality management measures shall be implemented to treat the proposed development. According to historical USGS Quadrangle Maps and the DNR Merlin mapping system, there are several streams on the site that need to be field delineated. .
3. In addition to these issues, the following comments pertaining to the site plan need to be addressed:
 - a. The 100-foot Buffer will need to extend from any identified stream. This is also true for the 100-foot shoreline Buffer.
 - b. There are several areas of steep slopes on the site. The slopes need to be analyzed to determine if the Buffer from the Chester River and/or any of the tributary streams requires expansion. A topographic analysis of the site within the RCA should be completed within the RCA with the intent of locating suitable areas outside the steep slope/stream Buffer where buildings may be appropriately located
 - c. In order to reduce the intensification of the use within the RCA, the location of the parking lot and chapel should be moved outside the Critical Area Boundary. Porous pavers are not an acceptable alternative to allowing the parking area to remain in the RCA.
 - d. It is recommended that the applicant provide some offset to the intensification of use, and human activity on, the site by proposing

Ms. Tompkins
March 30, 2006
Page 3

areas within the Critical Area to expand existing woodland sections to create a larger contiguous area of forest.

- e. Field delineation of all steep slopes, streams, forest boundaries, and tidal/nontidal wetlands is required in order to properly place building or road footprints.

Thank you for submitting the information regarding the site. Please provide notice to this office in writing regarding the decision of the Planning Commission. If you have any questions or concerns, please call me directly at 410-260-3467.

Best regards,



Chris Clark
Natural Resources Planner

cc: QC842-05

Joseph Stevens, Esquire – Stevens and Associates, LLC
Barry Griffith, AICP – Lane Engineering

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. Gail Blazer, Stormwater Engineer
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: 718 – 32nd Street Property owner: Sandra Holleger; File # 11109

Dear Ms. Blazer:

Thank you for your recent resubmittal for the above applicants request to construct a 167 square foot addition to the above referenced residence.

While we recognize that incorrect information was previously submitted, it is extremely difficult to review these projects for Ocean City's Critical Area Program compliance when there is contradictory information supplied for review. The most recent information supplied also has errors on the plat concerning the areas of impervious surface. The "General Notes" section # 15 indicates a total impervious surface of 1,047.37 square feet where the "Impervious Area Calculation" table reflects a number of 1,578.57 square feet. Using the conservative calculation under the stormwater management application and Critical Area 10% rule compliance, the project meets the intent of the regulation.

The site appears to have met with the stormwater management and Critical Area Buffer vegetative compliance requirements. The Commission has no further comment on the project.

Thank you once again for providing the Commission with the required documentation. If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: OC146-06

Mr. Blaine Smith, Zoning Administrator for the Deaf

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 30, 2006

Ms. Helen Spinelli, Land Use Planner IV
Queen Anne's County Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: Gibson's Grant Major Subdivision File #04-05-11-0009 Revision #1

Dear Ms. Spinelli:

Thank you for providing the updated package of information on the proposed Gibson's Grant project. Commission staff has reviewed the information supplied and has also cross-referenced the proposal in its current form to that which was approved during the growth allocation request.

The following comments are presented for your review:

General Comments:

1. The key to sheets shown on SU-1 is not correct.
2. The 100-foot Buffer needs to be revised around Lot 74 to reflect current shoreline conditions.
3. The concept plan for the dock shows the boathouse as "relocated". This will require MDE approval. Please provide a full set of permit drawings when available.
4. Please provide outflow detail for Pond 4B. Specifically, how and where it will be discharged.
5. Sheet marked Post Watershed Map Pond # 2 Sheet No. 2 has two drainage areas labeled "Area 18A". One area (0.49 acres) labeled "Area 18A" on the sheet is

- addressed in the stormwater analysis for pond #2. The other "Area 18A" consisting of 1.03 acres is not addressed in the analysis for Pond #2. The drainage acreage for Area 24A is not depicted on the sheet but is addressed in the analysis. Please correct and/or clarify. Please also recalculate stormwater volume and nutrient removal capacity if necessary.
6. Sheet marked Post Watershed Map Pond # 3 Sheet No. 3 depicts one drainage area that is illegible due to the fact that the text "layer" is under the lines for Road #3. This area appears to be within the drainage boundary for Pond 3. Please correct and/or clarify. Please also recalculate stormwater volume and nutrient removal capacity if necessary.
 7. Sheet marked Post Watershed Map Pond # 4A and #4B Sheet No. 4 has a drainage area labeled "Area 48A". This is listed on the plat as consisting of 1.52 acres. The Storm Drain Analysis worksheet lists this area as 0.87 acres. Please correct and/or clarify. Please also recalculate stormwater volume and nutrient removal capacity if necessary. The area labeled as "Area 40B" describes the acreage as 0.76 acres on the plat and 0.30 acres on the worksheet. Please correct and/or clarify. Please also recalculate stormwater volume and nutrient removal capacity if necessary. The following areas are listed in the Storm Drain Analysis worksheets but are not listed on Sheet 4: Areas 40-C, 40-D, and 48-B.
 8. Sheet marked Post Watershed Map Pond # 1 has a drainage area labeled "Area 6B". This is listed on the plat as consisting of 2.76 acres. The Storm Drain Analysis worksheet lists this area as 2.38 acres. Please correct and/or clarify. Please also recalculate stormwater volume if necessary. The area labeled as "Area 12B" describes the acreage as 2.12 acres on the plat and 1.99 acres on the worksheet. Please correct and/or clarify. Please also recalculate stormwater volume and nutrient removal capacity if necessary.
 9. The table labeled "Stormwater Management Water Quality Summary" in the Stormwater Management Analysis information supplied has several mistakes in totaling the numbers for: the Drainage Area Served in the Critical Area, Pollutant Load Removal Requirement (Pollutant is also spelled incorrectly), Load Removed, and Net\Deficit. These numbers should be reevaluated and totaled after the above issues are addressed.
 10. Please provide revised By-Pass calculations as previously requested for the remainder of the IDA.
 11. The applicant may not use the 100-foot Buffer in conjunction with rooftop disconnects associated with lots 1-9, 14, and 21-24.
 12. The observation decks in their current size and configuration conflict with the RCA designation. Please provide revised plan for passive recreation opportunities that do not include 40-foot diameter decks with 15-foot wide walkways.

13. Please explain the specifics of what a "compost berm" is including its necessity, placement, and function.
14. Are there any planned modifications to any existing structures within the Buffer?
15. The Buffer Management Plan indicates in Area B (Macum Creek Buffer Zone) there are "Natural Regeneration Management Areas" and "Planted Management Areas." Please provide clarification as to where the Planted Management Areas are. The northern portion of Area B has been recently cultivated. We do not believe natural regeneration for this area is sufficient. Please provide a supplemental planting guide for this area. The Buffer Management Plan has been submitted to DNR for review and comment by the wetland restoration team. They will be involved in the upcoming field meeting and future renditions of the "Conservation Park." It would be helpful if a representative from the firm working on the Buffer Management Plan could also be involved site visit.

A field meeting is required to resolve the following issues:

1. The boundary of the property and the acreages used for all site statistics should be based on a current determination of mean high water (MHW). Additional detail is needed on how a MHW elevation of 0.51 feet was determined. For example, what location was used as the baseline for the biological mean high water line? It may not be appropriate to extrapolate this information from one water body to another. Please note that this elevation appears low as the nearest NOAA Tide Station data (at Love Point) shows mean high water at 0.89 feet.
2. There are areas above mean high water that are private tidal wetlands. The 100-foot Buffer and 300-foot setback must be measured from the landward edge of all tidal wetlands.
3. Please note that there are pockets of private tidal wetlands in several small areas along Macum Creek (based on vegetation types) according to the State Wetland Boundary maps. Some of these same areas are shown as nontidal wetlands on the plans. A field visit to these areas would be useful in addressing this issue.
4. It does not appear that the 300-foot setback has been consistently measured from the same point. For example, in the area where there is a pocket of tidal wetlands on the east side of the entrance road, the 300-foot setback seems to be measured from an unlabeled line. In other areas, the 300-foot setback is measured from the newly established MHW line along the shore.
5. It would be helpful to have more detailed topographical information along the shorelines, especially if elevation is used to determine MHW and the upper

limits of tidal wetlands. The topography shown in some of the wetland areas does not appear accurate at all.

6. Depending on the resolution of this issue, the update or extension to the jurisdictional determination by the Corps may be affected.

Thank you for the opportunity to comment on this submittal. We would like to set up a site visit with all parties involved as soon as possible to resolve many of the outstanding issues regarding this project. If you have any questions or concerns, please contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

QC595-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 29, 2006

Ms. Janet Davis, Critical Area Planner
Worcester County
Development review and Permitting
One W. Market Street, Room 1201
Snow Hill MD 21863

VIA FACSIMILE

RE: Preliminary Plat: Bay Point Plantation

Dear Ms. Davis:

Thank you for the opportunity to review the enclosed Critical Area Report and Preliminary Plat for the above referenced project. This project lies almost entirely in the Critical Area with 143.46 acres in the RCA and 38.0 acres now in the IDA due to an award of growth allocation to the applicant. After staff review of the plat and Critical Area plan we have the following comments.

GENERAL COMMENTS

1. The primary sewage reserve is located on the within the development envelope. The sewage reserve is not. This is required to be part of the development envelope and its use will be subject to a refinement to the Growth Allocation for the site. The area will also be subject on a planting\mitigation plan.
2. The Commission would like to review updated Buffer impact and mitigation figures, non-tidal wetland impact and mitigation figures, detailed stormwater and 10% compliance figures, and a detailed Buffer management plan for all areas required.
3. Please provide the Commission with a copy of the conservation easement of the lands that are not included within the developed area of the subdivision. The conservation easement for this area must include provisions that ensure its viability as FIDS habitat and shall be submitted to Commission staff for review and approval.

4. The area of FIDS habitat affected must be clearly labeled on the plat. The applicant should provide the Commission staff with a planting plan for review that will mitigate any impact to FIDS in areas impacted. The plan shall specify the planting of the two open field areas, totaling approximately nine acres, with primarily hardwood species. The planting plan may include transplanted stock from areas of the site proposed to be developed. The plan shall be bonded or implemented prior to the issuance of any building permits on the site. The County shall monitor the site and shall coordinate an inspection with Commission staff at the appropriate time. If the Commission staff determines that the planting is not sufficient to meet the requirements for FIDS habitat, then supplemental planting or the removal of invasive species may be required. This planting plan must accompany the above easement.
5. It appears the applicant has concentrated all stormwater BMPs within the development envelope. Please provide detailed stormwater management plan with revised calculations for review and approval by Commission staff prior to final subdivision approval. The Commission shall seek comment and recommendations from MDE.
6. Documents should be prepared for the future Homeowners Association (HOA), for incorporation into their covenants, the applicable requirements and responsibilities for habitat protection, Buffer management responsibilities, and the requirement to maintain stormwater BMPs. The document should also outline to the HOA and its members the rights, privileges, and responsibilities related to the conservation easement and Buffer restrictions.
7. If the HOA is responsible for the future stormwater, open space, and recreation areas, then the applicant shall supply the HOA with the appropriate maintenance checklists and schedules so these areas may be properly maintained. In addition, none of the areas outlined above will be turned over for the responsibility of the HOA until all Critical Area Commission and Worcester County requirements have been met.
8. Under "General Notes", Number 7, it should state that there will be no more than 33 lots *and dwelling units*.
9. The requirement for the removal of all existing piers is stated on Sheet 1/11 on the preliminary plan but the piers are present on Sheet 2/11. Please remove.
10. If a community pier is proposed please note the location, size and slip numbers. Also note who will be responsible for the conceptual design and application to MDE for the permit for construction.
11. Wetlands in the area of the two dredge spoil sites on the property need to be identified on the plat and a plan needs to be submitted for their restoration.

12. What is the "proposed tidal marsh" on Sheet 5. What is there now and how do you propose the change?
13. Sheet 6 – The 20-foot access easement (road around Outlot C) extends into the Buffer. It is unclear where the road goes or how it may serve the eastern end of the site.
14. Please provide impervious site calculations.
15. Where is the current community pier location proposed?
16. Where will the parking lot be located for the pier?
17. Please review all conditions as they apply with the requirements set forth under the Growth Allocation from Worcester County for compliance.

Lot concerns:

General:

- No building footprint or driveways indicated
- BRL's match Buffer lines

Specific:

- Lot 4 – BRL intrudes into the Buffer. Why is there a 20 and 25 foot buffer indicated? What are the non-tidal wetland Buffer impacts indicated by the hatch pattern?
- Lot 5 – Where is the BRL on the west end of the lot? The lot boundary line extends into the road. What are the non-tidal wetland Buffer impacts indicated by the hatch pattern?
- Lot 6 - What are the non-tidal wetland Buffer impacts indicated by the hatch pattern?
- Lot 7 - The lot boundary line extends into the road. What are the non-tidal wetland Buffer impacts indicated by the hatch pattern?
- Lot 8 – The BRL extends into the Buffer.
- Is it feasible to build on Lot 9 in its current configuration?
- Lots 10-14 What are the non-tidal wetland impacts indicated by the hatch pattern?
- Lot 15 is not fully depicted on any sheet.
- Lot 18 - BRL extends into the Buffer.
- Lot 19 - BRL extends into the Buffer.
- Lot 20 - It is unclear where the entire BRL is, nevertheless it extends into the Buffer.
- Lot 22 - It is unclear where the entire BRL is, nevertheless what is shown extends into the Buffer.

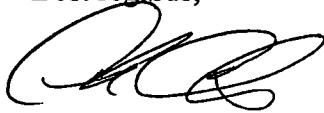
Ms. Davis
Bay Point Plantation

Page 4
March 29, 2006

- If Lots 25 and 26 are to be part of the Greenbelt Easement then appropriate signage should be placed along the "greenbelt boundary."

Thank you the opportunity to review the preliminary site plan for this project. If you have any questions or concerns, please do not hesitate to call me directly at 410-260-3467.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written in a cursive style.

Chris Clark
Natural Resources Planner

cc: WC-766-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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 29, 2006

Mr. Michael Scott, P.L.S.
207 Maple Avenue
Chestertown, MD 21620

RE: File#03-05-10-0028-C Project: Clagget, Hershell

Dear Mr. Scott:

Thank you for your phone call on March 27, 2006 regarding the reforestation requirements and non-tidal wetland designations on the plat provided by your firm regarding the above referenced project. The applicant intends to administratively move the lot lines on the Parcel109 to create one large lot (Tract 5B) of approximately 80.77± acres and one smaller lot (Tract 5A) of 2 acres. At your request, the following issues have been addressed:

1. The wetland designation on the plat (E2EM5P) indicates the presence tidal wetlands. Please update the plat to reflect the required 100 foot Buffer. It is understood that if new development is proposed on either parcel then an Army Corps of Engineers Jurisdictional Determination (JD) of wetlands will be required.
2. Tract 5B is within the RCA portion of the property and would typically require a 15% afforestation requirement. It is understood that this parcel is currently cultivated. If this is the case, the area would not be subject to the afforestation requirement until such time as it is further developed. Please provide Queen Anne's County Department of Planning and review with any current NRCS soil conservation and agriculture planning documents. The forested areas on this property are within the Critical Area may not be disturbed without a permit and review by Queen Anne's County. If further development of this site is envisioned in the future, the applicant may want to ensure the 15% vegetation requirement is met by blocking out an area for natural regeneration that would meet the 15% total requirement.
3. Tract 5A is clearly a smaller (2.216± acre) residential parcel. The Buffer must be established on this lot. We recommend a Buffer Management Plan for this parcel.

Mr. Michael Scott
Claggett Site

March 29, 2006
Page2

Currently, the septic reserve area is partially within the Buffer. This area may be avoided with future plantings provided they are placed elsewhere on the Tract 5A. Mitigation and/or afforestation to create the Buffer may not be performed off-site. If the homeowner needs assistance with the creation of the Buffer Management Plan, this office is available.

Thank you for your comments regarding this project. If you have questions or comments regarding this correspondence please contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: Ms. Holly Tompkins, Queens Anne's County Planning and Zoning
QC718-05

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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March 27, 2006

Ms. Janet Davis, Critical Area Planner
Development Review and Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

RE: Snow Hill Storage Facility

Dear Ms. Davis:

Thank you for providing information related to the site plan. The applicant proposes to construct a mini-storage facility on a 2.81-acre parcel near Snow Hill. The property is designated IDA. The primary Critical Area concern is the 10% pollution reduction requirement. Commission staff has reviewed the information provided and have the following comments:

1. The 10% requirement is addressed through a combination of disconnections into grass swales and two stormwater ponds. While the initial calculations indicated compliance there is some concern about using the grass swales as disconnect credit from the rooftops and parking areas. Commission staff consulted with the Maryland Department of the Environment (MDE) stormwater group and the engineer for the project. MDE has suggested the engineer redirect some of the point source stormwater near the center of the site. The engineer is providing the Commission with updated grass swale cross sections and revised calculations that indicate the site will comply with the 10% requirement. Copies of these documents will be added to the project file for future reference for compliance after construction.
2. In addition, the site engineer is proposing the use of additional planting in order to satisfy the pollutant removal requirement. The available space on this site limits what we would consider viable habitat for a large number of trees and shrubs. This office would recommend that the Worcester County require a planting schedule and detailed landscaping plan for the site prior to the issuance of any permits and the landscaping should be complete before final approval is granted. The applicant should provide the landscaping at or near the areas of stormwater congregation. The applicant should provide the County with, at least, two year viability guarantee of the planted shrubs and trees.

Ms. Davis
Snow Hill Storage

Page 2
March29, 2006

3. The applicant needs to update Critical Area Site Plan impervious tables to match the Site Plan Impervious Table with the revised figures listed in the updated 10% worksheet.

Thank you for the opportunity to comment on this project. Please notify this office of the Planning Commission's decision in this case. If you have any questions or comments you may contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written in a cursive style.

Chris Clark
Natural Resources Planner

cc: WO579-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 24, 2006

Ms. Helen Spinelli
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Dr.
Centreville, MD 21617

VIA FACSIMILE

RE: File 04-05-01-0001 Project Name: Cate, Austin J. and Evelyn B. *Revision #4*

Dear Ms. Spinelli:

Thank you for your recent submission of site plan documents related to the above referenced project. It is understood that the applicant is proposing to administratively add Parcel 530 to Parcel 100 and create seven (7) new lots with no new roads. All lots will be located within the Critical Areas LDA designation. We understand the applicant will present the subdivision to the Planning Commission for final approval on April 13, 2006. The following are our comments:

1. The issue regarding the use of "pervious" pavers was discussed with Queen Anne's County planning officials. At this time, the Commission does not promote the use of pavers for driveways. This is due to the required site evaluation, installation, and maintenance expertise needed to ensure the pavers will perform properly. Due to the sensitive nature of this site, we would request that the applicant use only gravel for the driveway areas. In order to prevent the driveway areas from being paved in the future, there should be a deed restriction in place when the lots are recorded.

All other Critical Area concerns appear to have been addressed. If you any have questions or comments please call me directly at 410-260-3476. Please provide this office with a copy of the decision from the Planning Commission for our file.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: QC1-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

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Executive Director

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March 24, 2006

Ms. Holly Tompkins
Queen Anne's County
Department of Planning and Zoning
160 Couresevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: File #05-06-03-0010-C Project Name: Kilby, Roy

Dear Ms. Tompkins:

Thank you for the information concerning the intent of the above property owner to seek an administrative subdivision through the adjustment of common lot lines. It is understood that property is located on Queen Anne's County Tax Map 77, Grid 22, Parcel 7 and is described as Units 5, 6, and 7.

Since the site is fully within the Critical Area, the 50 foot BRL's do not apply and should be removed from the plat. Note #4 should reflect some additional language that any construction within the Critical Area must be reviewed by Queen Anne's County for Critical Area compliance before it can be permitted.

Since there is no construction pending on the property as part of this administrative subdivision, the Commission has no further comment. Thank you for the opportunity to review this project. If you have any further questions or comments please call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC289-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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March 22, 2006

Mr. Blaine Smith, Zoning Administrator
Planning and Community Development
P.O. Box 158
Ocean City, MD 21843

RE: 718 – 32nd Street Property owner: Sandra Holleger; File # 11109

Dear Mr. Smith:

Thank you for your recent submittal for the above applicants request to construct a 186 square foot addition to the above referenced residence.

The applicant and/or Town has forwarded the Commission incomplete and incorrect information regarding this project. The following comments are noted and need to be addressed before this permit should move forward:

1. The Critical Area Project Application lists the current impervious surface area as 1,417 square feet with the proposed impervious conditions as 1,579 square feet. The Standard Stormwater Management Plan lists the existing impervious surface as 1,579 square feet and the proposed impervious surface as 1,579 square feet. The applicant needs to clarify.
2. The additional requirements under the Stormwater Plan are not included other than the area of the grass swale.
3. Rain garden detail needs to be provided in addition to a list of proposed plantings.
4. The applicant signature is absent on the Stormwater Plan providing no acknowledgement of receipt or intent to comply with the Plan. The details of which will be needed to meet the applicants requirement for the afforestation of at least 25% within the setback.
5. We would like to receive as listed in the "Stormwater Management Checklist": All necessary structural and construction details and specifications for all components of the proposed drainage system or systems, and stormwater management facilities, a table of materials to be used for stormwater facility vegetation, a plan with a legend scale and north arrow, owner/developer certifications that all stormwater management construction will be done according

to this plan, and a professional Engineer, Surveyor or a Landscape Architects Seal. Sketch plans which are not to scale are not acceptable for review.

6. The applicant or Town does not acknowledge or address the proposed deck on the plan. This must be addressed.

With the above information provided the Commission staff can not complete our review. Please revise and fully complete the site plan and provide for resubmittal to the Commission staff for review.

We look forward to the updated documentation. If you have any further questions regarding this project, please call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: OC146-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 22, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: File MISP #04-05-07-0014-C – Project: MD General Land Revision #2

Dear Ms. Spinelli:

Pursuant to your request, I have reviewed the documents related to the proposal to construct two dwellings on Queen Anne's County Tax Map 57, Grid 10, Parcels 155, 469, and 485 - Lot 2 owned by the MD General Land Company.

It appears that the previous comments from this office have been addressed concerning the portion of the property within the Critical Area. However, we continue to have concerns about the "piecemeal" approach to development on this site. It is difficult to review these projects when presented in this fashion for consistency for the Critical Area Program. It is understood that a concept plan has also been submitted for review by your office concerning development on the rest of the lot. We have submitted our comments regarding that concept plan.

Any further development of the site within the Critical Area will require growth allocation as the impervious limits have been reached under the LDA standards.

Thank you for the opportunity to comment on this minor subdivision plan. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,

A handwritten signature in dark ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC498-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Ren Serey
Executive Director

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March 21, 2006

Ms. Holly Tompkins, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: File #04-05-09-0015-C Minor Subdivision; Project: Callahan

Dear Ms. Tompkins:

Thank you for providing the documentation regarding the intent of the above applicant to create a Minor Subdivision on the lands of the above referenced applicant. The most recent submittal to the Critical Area Commission indicates the applicant would like to pursue a Minor Subdivision of this parcel rather than an Administrative Subdivision as previously indicated.

The "Purpose and Intent" statement on the plat provided indicates that "The purpose of this plat is to create two new lots from existing lot 83-B."

Approving the Minor Subdivision as two "new" lots would remove the "Buffer Exempt" status for the proposed lot 82-A. Since this would be an entirely new lot of record, Queen Anne's County Title 14:53.C would find that the new lot no longer has applicability under the code. This would require that the new parcel be subject to the 100-foot Buffer and that the County address all LDA requirements upon any further development.

Please keep this office advised of any plans to move forward with this minor subdivision. If you have any questions related to this case please feel free to call me directly at 410-260-3476.

Best regards,

Chris Clark
Natural Resources Planner

cc: QC 652-05

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

Robert L. Ehrlich, Jr.
Governor



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March 21, 2006

Mr. Tony Prochaska, Riverkeeper
Chester River Association
100 N. Cross St., Suite One
Chestertown, MD 21620

RE: COMAR Title 27 – Critical Areas

Dear Mr. Prochaska:

It was nice meeting you and getting to speak with you yesterday. I can assure you and your organization that we will work diligently to implement the Critical Area program in all areas associated with the Chester River and beyond.

As discussed today, I am enclosing a copy of COMAR Title 27 Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. Please be aware that Title 27 is a guidance document that all counties and municipalities must use when creating and/or modifying their own Critical Area programs.

If you have any specific questions please let me know and I will be happy to assist the Association in any way I can.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 21, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACSIMILE

Dear Ms. Davis:

Thank you for providing the Commission staff with the concept site plan Pine Shore Golf south. The property is identified as being located on Worcester County Tax map 33, Grid 21, Parcel 80. It is understood that the applicant would like to apply to the County for Growth Allocation to change the status of the property under the Critical Area and Coastal Bays law from Resource Conservation Area (RCA) to Limited Development Area (LDA).

Parcel 80 is described on the plat provided as consisting of 3.96 acres of LDA, 90.00 acres of RCA, and 9.38 acres out of the program. The site is currently used as a golf course. The following are our comments for your review:

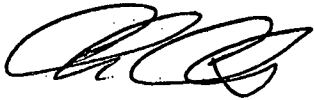
1. Based on the site plan, the applicant intends to leave "2.42" acres of RCA as "undisturbed." It is assumed that the undisturbed area referenced is the 100 foot Buffer. When applying for growth allocation, the applicant may not leave the Buffer out of the deduction unless a 300-foot setback is created.
2. The applicant could create a development envelope that would encompass the entire project. The development envelope would require at least 20 acres to remain as RCA.
3. The applicant should address how private vs. State wetlands were determined. Are any private wetlands being used to generate density?
4. Some of the proposed lots, in their current configuration, leave very little room outside the Buffer for construction. Lot lines are drawn into the expanded tidal wetland Buffer, non-tidal wetlands and sediment ponds. It appears the intent of

the applicant is to locate the lots in such a configuration as to provide for waterfront access.

5. We are assuming the Primary and Seasonal Irrigation Areas 1-4 are for wastewater disposal. Please clarify.
6. How is the applicant proposing to provide water and sewer? Have any studies been conducted to address the effectiveness\capacity or impacts of on-site wastewater disposal?
7. We will need a copy of a Heritage letter for any subdivision.

Thank you for the opportunity to comment on this proposed concept plan. If you have any questions or comments please contact me directly.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC – General File

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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Martin G. Madden
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Ren Serey
Executive Director

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March 20, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File SSP #05-05-05-0007 – Project: Walters Properties

Dear Ms. Spinelli:

Pursuant to your request, I have reviewed the documents related to the proposal to construct a single family cluster subdivision consisting of 41 townhomes and 127 single family lots plus a "donation parcel" and five open space lots.

According to the plat submitted and the narratives from the offices of Ronald W. Johnson Associates, Inc. and Pace Design, LLC the project is now entirely outside of the Critical Area.

Understanding that this is a sketch plan approval and the fact that some lots are barely outside the mapped Critical Area line, this office would like to see any future renditions of the project.

Thank you for the opportunity to comment on this concept plan. If you have any questions or concerns, please contact me directly at (410) 260-3476.

Best regards,

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

Chris Clark
Natural Resources Planner

cc: QC350-05

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

VIA FACSIMILE

RE: Site Plan – 221 Wicomico Street – Emerson Towers

Dear Mr. Smith:

Pursuant to your request, I have reviewed the supplied information regarding the above referenced site plan. The applicant proposes to replace an existing building with a new condominium complex. The site is reported as 15,113 square feet in size with 13,543 square feet (89%) currently impervious. The new construction calls for a reduction in impervious surface area to 12,768 (84.5%). Critical Area and Coastal Bay issues include stormwater management, Buffer mitigation and afforestation. Please address the following concerns:

1. The site plan does not indicate that the applicant intends to meet vegetation requirements related to Town of Ocean City Article VII Sec. 30-554(d)(5). Twenty-five (25%) percent of the setback is required to be vegetated with native plant material.
2. The roofline extends into the setback. This should be moved to the edge of the building restriction line.
3. What is the structure shown in the setback first appearing on Sheet C2.1? If this is an impervious structure it must be moved out of the setback.

Thank you for the opportunity to comment. I will look forward to your responses as this project progresses. Please forward any other revisions of this site plan to this office. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,

Chris Clark
Natural Resources Planner

cc: OC84-06

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

Mr. Steve Cohoon
Queen Anne's County Department of Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

RE: File #04-05-05-0008-C Ellendale Revision #3

Dear Mr. Cohoon:

Thank you for submitting the latest site revisions for the above referenced project. It is our understanding that the applicant is intending to submit the subdivision plans to Planning Commission on April 14, 2006 for preliminary approval.

It appears that the issues related to the Critical Area on the site have been addressed through the last two comment periods. Updates to the 300-foot Buffer line have been completed based on field delineation with MDE and Critical Area staff. Lot 20 has been removed from the Buffer. Detailed stormwater and impervious surface calculations have been provided. Non-native species will be replaced with recommended species on final plat.

A long-term protective forest conservation easement was submitted for review. Under the section "Grant and Agreements" Item 2 should have a provision for the review by the County and Critical Area staff. The Commission would also like to see item 4 reflect some language that would require notification to the County and the Critical Area Commission for review and approval regarding the clearing of any trees, understory or noxious plants or weeds.

Mr. Cohoon
Ellendale

Page 2
March 20, 2006

The Buffer Management Plan submitted is sufficient and addresses previous concerns. The typographic error in the first paragraph, last sentence under "Proposed Action" should be corrected.

Thank you for providing the Critical Area Commission the opportunity to comment on the above project. If you have questions or comments please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to be "Chris Clark", written in a cursive style.

Chris Clark
Natural Resources Planner

cc: QC160-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Chairman

Ren Serey
Executive Director

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March 17, 2006

Mr. James Barton, III
Queens Anne's County Planning and Zoning
160 Coursevall Drive
Centreville, MD 21617

VIA FACSIMILE

RE: Property of Mr. Frank Dudley – Buffer Clearing Violation

Dear Mr. Barton:

As you are aware, this office was contacted by a citizen who notified Commission staff of a potential clearing of the Critical Area Buffer near the mouth of Salthouse Cove. I contacted your office regarding the potential violation and subsequently met with Mr. Gene Palmatary, Queen Anne's County Inspector, at the subject property on March 14, 2006. The property is currently owned by Mr. Frank Dudley and is reported to be the future home of his son F. "Wick" Dudley.

The property was accessed via Salthouse Cove Lane where two large brush piles were observed in an open field. Commission staff inspected the property with Mr. Palmatary and observed the clear presence of a piezometer, pin flags outlining a potential building footprint, and a large area of vegetation within the Buffer that was obviously either disturbed and/or removed.

As noted in COMAR 27.01.01(3) "The Buffer shall be maintained in natural vegetation, but may include planted vegetation where necessary to protect, stabilize, or enhance the shoreline." As documentation, I have attached photographs of the site in its condition at the time of the inspection and a recent (June 2005) aerial photograph showing the Buffer intact.

It is understood that the property owner may not have been aware of the regulation regarding the Buffer. Nevertheless, the violation has occurred.

We recommend that this violation be resolved immediately and that the applicant provide mitigation to the Buffer at a ratio not less than 3:1 within the Buffer. We would appreciate the opportunity to review a Buffer Management Plan prepared by the property

Mr. Jim Barton
Dudley Property

March 17, 2006
Page 2

owner in conjunction with this violation. The mitigation for the violation should be addressed separately from the requirement to establish a functioning Buffer on this site related to the proposed dwelling. This Buffer Management Plan would be in conjunction with applicant requirements under COMAR 27.01.01(7) that "Where agricultural use of lands within the area of the Buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide forest vegetation that assures the Buffer functions set forth in this chapter."

We also respectfully request that all future permits related to construction on the property be held until the Buffer is established.

If you have any questions or comments you may contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

attachments: Photos of Violation (3/14/06),
Aerial Photo of Subject Property (6/18/05)

cc: Ms. Faith Elliot-Rossing, QAC Planning and Zoning
Mr. Ren Serey, Executive Director, CAC
Ms. Regina Esslinger, Project Chief, CAC

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Governor

Michael S. Steele
Lt. Governor



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March 15, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACIMILE

RE: Variance Request – Captains Hill Subdivision, Plat 3, Section 1, Lots 34 & 35

Dear Ms. Davis:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit construction of a fence within the 50-foot Critical Area Buffer on the above referenced property.

It is understood that the applicant intends to construct a chain-link fence, not to exceed 48-inches in height, binding lots 34 and 35 on all sides except to the south. The southern portions of both properties border a roadway. The applicant has requested the variance due to safety concerns for small children falling into the canal to the north. The lots are bound to the north by an existing bulkhead. Although a site visit has not taken place, due to the presence of the bulkhead, the lots seem to provide little, if any, transitional habitat.

Commission staff will defer to the County on this request. However, if any variance is granted, we recommend mitigation for any vegetation removed in the Buffer for installation of the fence, at a 3:1 ratio.

I appreciate the opportunity to comment and look forward to receiving the additional information required for site plan review. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,

A handwritten signature in dark ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: WC176-06

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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(410) 260-3460 Fax: (410) 974-5338
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March 15, 2006

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

RE: Property Resubdivision – File #06-07800002

Dear Mr. Smith:

Thank you for the opportunity to comment on the proposed resubdivision of Lot 204, Bayside Keys Plat, into Lots 204-A, 204-B, and 204-C further described as located on the north side of 94th Street and known locally as 744-94th Street, in the Town Ocean City.

As you know, this office has previously conducted a site plan review of the property and responded with comments dated February 23, 2006 (attached). It does not appear that the resubdivision plat differs from the proposed site plan. As such, the Commission would request that all comments previously provided to the Town regarding issues within the Critical Area be addressed. If there are any alterations to the proposed site plan or resubdivision, please forward those changes to this office for review.

Thank you for the opportunity to comment on the project and the resulting resubdivision. If you have any questions or comments, please contact me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

enclosure – Critical Area site plan comments

cc: OC82-06
Nolan Graves - Commonwealth Land Development

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
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MEMORANDUM

To: Raj Williams, Resource Planning
From: Chris Clark, ^{CA}Natural Resources Planner
Date: March 10, 2006
Subject: Project Review #2004-DNR-125

Commission staff has reviewed the information provided related to the proposed Ducks Unlimited Cairn at Wye Island. Provided the Cairn is located outside the Buffer, Commission staff has no substantive comments regarding the proposal.

If you have any further comments or questions please contact me directly at 410-260-3476.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 9, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File CP #04-06-03-0002-C Project Name: Maryland General Land Company, LLC

Dear Ms. Spinelli:

Pursuant to your request, I have reviewed the documents related to the proposal to construct six commercial buildings referenced on Queen Anne's County Tax Map 57, Block 10, Lot 7, Parcels 155, 469, and 485. The subject property is reported to be 8.87± acres in size. Approximately 3.94± acres rest within the Critical Area. Of this 1.036 acres is designated IDA Intensely Developed Area (IDA) and 2.904 acres Limited Developed Area (LDA). Growth allocation was previously allotted on this site to provide for a stormwater management easement. Proposed impervious surface depicted on the concept plan provided would require the applicant to pursue growth allocation in order to reclassify the remainder of the LDA portion of the property within the Critical Area to an Intensely Developed Area (IDA). Commission staff has reviewed the information provided and we have the following comments:

1. The project will require the use of growth allocation to change its designation to IDA. All IDA requirements must be addressed at the time of development. These include the requirements in the Queen Anne's County Land Use Code under 14:1-37, 18-1-143(c)(6) and COMAR 27.01.02.03 as well as provide all required application package requirements.
2. The applicant should be made aware of the potential difficulty meeting the 10% pollutant reduction requirement on site when impervious coverage is intended to be 70% (i.e., treatment of off-site runoff may be needed). It appears the site will share an existing stormwater pond serving Lot 6 that is

Ms. Helen Spinelli
Project Name: MD General Land Company, LLC

March 9, 2006
Page 2

also intended to serve Lot 2 which is subject to a separate growth allocation request. Future site revisions should include the engineered capacity of the basin and the calculated load.

3. Impacts to non-tidal wetlands and their buffers should be avoided.
4. Commission staff would like the opportunity to visit the site early in the project design process.

Thank you for the opportunity to comment on this concept plan. If a site visit can be arranged or if you have any questions or concerns, please contact me at (410) 260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: QC 165-06

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

March 9, 2006

Ms. Holly Tompkins, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File #05-03-09-0002 – The Woods Phase II (Amendment #1)

Dear Ms. Tompkins:

Pursuant to your request, I have reviewed the documents related to the Amendment for the reconfiguration of lots 76 & 77 to take access from Gravel Run Road, removal of an existing building pad and redesigning the sewer laterals as necessary.

The subject site is not mapped within the Critical Area. Therefore, this office does not have any comment on the subdivision amendment.

If you have any questions related to this case please feel free to call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: QC 164-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 9, 2006

Ms. Helen Spinelli, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File CP #04-06-03-0003-C – Project: Wilson, Kay

Dear Ms. Spinelli:

Pursuant to your request, I have reviewed the documents related to the proposal to construct two commercial buildings referenced on Queen Anne's County Tax Map 57, Block 10, Lot 6, Parcel 155. The subject property is reported to be 1.0± acres in size. Approximately 0.556± acres rest within the Critical Area with a Limited Development Area (LDA) designation. Proposed impervious surface depicted on the concept plan provided would require the applicant to pursue growth allocation in order to reclassify the portion of the property within the Critical Area to an Intense Development Area (IDA). Commission staff has reviewed the information provided and we have the following comments:

1. The project will require the use of growth allocation to change its designation to IDA. All IDA requirements must be addressed at the time of development. These include the requirements in the Queen Anne's County Land Use Code under 14:1-37, 18-1-143(c)(6) and COMAR 27.01.02.03 as well as provide all required application package requirements.
2. The applicant should be made aware of the potential difficulty meeting the 10% pollutant reduction requirement on site when impervious coverage is intended to be 70% (i.e., treatment of off-site runoff may be needed). It appears the site will share an existing stormwater pond serving Lot 7 that is also intended to serve Lot 2 which is subject to a separate growth allocation

request. Future site revisions should include the engineered capacity of the basin and the calculated load.

3. Impacts to non-tidal wetlands and their buffers should be avoided.
4. Commission staff would like the opportunity to visit the site early in the project design process.

Thank you for the opportunity to comment on this concept plan. If a site visit can be arranged or if you have any questions or concerns, please contact me at (410) 260-3476.

Best regards,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: QC 107-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 8, 2006

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

VIA FACSIMILE

RE: Site Plan – 132 Peach Tree Road; File #10971

Dear Mr. Smith:

Pursuant to your request, I have reviewed the supplied information regarding the above referenced site plan. The applicant proposes to construct a single family dwelling and a shed on a 6,357 square foot lot. The proposed impervious surface after construction is reported to be 2,754 square feet. Buildings in this area of Ocean City are subject to a 5-foot waterfront setback. Critical Area issues include stormwater management, Buffer mitigation and afforestation.

It is understood that the Critical Area 10% Rule will be met by the creation of vegetated swales along the property lines, afforestation within the boundaries of the site, and within the Buffer. In addition, four (4) rain gardens are proposed to capture stormwater diverted by the swales along the property boundary. We view these rain gardens as an integral part of this site plan as the applicant is just above the necessary requirement for pervious surface. The requirement for pervious surface using the Town of Ocean City's Standard Stormwater Management Plan is 976.8 square feet. The applicant is proposing to create 981 square feet of pervious surface. Of particular concern is a note on the second plat sheet provided where it is indicated that "rain gardens shown are approximate in size and location." The note should be removed or amended to reflect the requirement under the regulation for pervious surface area and the permit for final occupancy should be conditional after satisfying the pervious surface requirement. This is especially important within the Buffer.

Mr. Blaine Smith
Site Plan Review – File 10971

Page 2
March 8, 2006

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to be 'Chris Clark', written in a cursive style.

Chris Clark
Natural Resources Planner

cc: OC147-06
Gail Blazer, Town of Ocean City

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 8, 2006

Ms. Phyllis H. Wimbrow, Deputy Director
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Rezoning Case #381

Dear Ms. Wimbrow:

Thank you for providing information on the above referenced rezoning case. The applicant has requested the rezoning of three (3) parcels referenced on Worcester County Tax Map 33 as Parcels 315, 33, and 235. The total area requested for rezoning is approximately 52.68± acres. According to the Maryland Department of Assessments and Taxation - Real Property Data Search performed, the parcel sizes are 22.2, 23.89, and 6.59 acres respectively. The applicant claims in the documents provided that the current zoning of all three parcels is A-1, Agricultural District. The intention is for the county to rezone all three parcels to R-2, Suburban Residential District.

Parcel 315 is mostly within the Coastal Bays Critical Area (CBCA) and is designated Resource Conservation Area (RCA). The western portion of Parcel 315, of undetermined acreage, is out of the Coastal Bays Critical Area. Parcel 33 is almost entirely within the CBCA with the exception of a small portion of undetermined acreage, in the northwestern corner of the parcel. Parcel 33 is designated as Intensely Developed Area (IDA). Parcel 235 is entirely within the CBCA. Most of the site is in the IDA with the exception of the eastern portion, of undetermined acreage, which is designated RCA. Both parcels 33 and 235 are within the CBCA Buffer Management Area.

If the underlying zoning district on one or more of the parcels is changed to R-2, the portion(s) of the property within the Critical Area is still subject to the development standards of the CBCA designation. In areas of RCA the applicant would not be able to change RCA density based upon rezoning. Other RCA development standards would also apply (e.g., impervious surface and clearing limits). New commercial, industrial, and institutional limits are also not permitted in the RCA. Based on the letter from Mr. Hugh

Ms. Phyllis Wimbrow
Rezoning Case #381

Page 2
March 8, 2006

Cropper, IV, Esquire accompanying the Application for Amendment of Official Zoning Map, he indicated that the applicant may amend the application to remove the RCA portion of the property from the rezoning application. If the intent is to develop outside the scope of what is permitted within the RCA then regardless of the zoning, the applicant will need to apply for growth allocation from the County.

Again, please be aware that it appears there is a small amount of RCA designated area on the eastern proportion of Parcel 235. This area of the property would also be subject to the development limits within the RCA regardless of the zoning district change.

Thank you for the opportunity to review this case. If you have any questions or concerns, please contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC148-06

Janet Davis, Worcester County Critical Area Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 7, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACIMILE

RE: Worcester County Sketch Plans – Scarboro Run, Mapleton Farm, and Salt Grass
Point Farm

Dear Ms. Davis:

Thank you for submitting the site plans for the above referenced projects. I have reviewed the information submitted and have provided comments below. In order for the Commission staff to comment on the proposed subdivisions we will require additional information. Please have the applicant submit the following information to the Commission for review per Worcester County §NR 3-109 (d) – Implementation of the Atlantic Coastal Bays Critical Area Provisions, Application Requirements. This section requires the applicant to supply both an Atlantic Coastal Bays Critical Area Site Plan as outlined in § NR 3-109.1 and an Atlantic Coastal Bays Critical Area Report as outlined in § NR 3-109.2.

In addition to the above information the Commission would appreciate if the applicant can clarify issues regarding the boundaries, determination and justification of tidal vs. nontidal wetlands, private vs. State owned wetlands, and lot boundary limits that appear to extrude into State owned waters. To this regard, I have attached some guidance documents that may be helpful for the County and any applicant proposing development in areas with various types of wetlands and/or lot boundaries extending into State owned waters. The intent of the Commission is to clearly identify the wetland types, boundaries, and ownership prior to a final site plan revision. This should save the County and the applicant some time and confusion and provide for an expedited review process on future plat revisions.

Future review of all three site plans listed above will require a site visit prior to further comment in order to evaluate the wetland areas. We would like to conduct this site visit in coordination with MDE, the site engineer and a representative with the County.

In review of the limited stormwater management information provided, the County should be aware of the developers intent to artificially load mapped wetland areas with stormwater or converting existing wetland areas into stormwater basins. MDE should be contacted for comment regarding this practice prior to site plan approval.

It was also noted on the sketch plans provided that the limits of disturbance and the building restriction lines crossed into the 100 foot Buffer on several of the plans. On other plans the applicant used the 100-foot Buffer and/or the Critical Area line interchangeably with the Building Restriction Line. This is unrealistic and puts the applicant in a situation where the builder/developer could become out of compliance. The County should be aware of this during any future meetings with the applicant.

I appreciate the opportunity to comment and look forward to receiving the additional information required for site plan review. If you have any questions please feel free to contact me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC 139-06, WC 140-06, WC 141-06

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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March 6, 2006

Ms. Janet Davis, Critical Area Planner
Department of Development Review and Permitting
Worcester County
One West Market Street, Room 1201
Snow Hill, MD 21863

VIA FACIMILE

RE: Tax Map 49 Parcel 90 a/k/a 9025 Marshall Creek Road, Newark, MD
Owners – Travers/Cushing

Dear Ms. Davis:

Thank you for submitting the site plan for the above referenced project. It is understood that the applicant would like to proceed to the Board of Zoning Appeals for Worcester County to pursue a variance for construction of two impervious porches. I have reviewed the information submitted and have provided comments below.

The subject property is almost entirely within the Critical Area Buffer. The applicant proposes to remove several areas of existing impervious surface in order to accommodate the construction. From the information provided it appears that there will be a net reduction in impervious surface of approximately 145 square feet. Much of the reduction is related to the removal of a portion of the existing driveway and concrete sidewalk. It was not noted on the plan how the applicant intends to provide pedestrian access to the home from the driveway. If stepping stones are proposed, they should be considered in the final impervious cover calculation.

This office does not oppose the variance. The site plan has one area labeled as "Wetland Area." During the site visit to the property it was determined that this area was nontidal. The site plan should be updated to reflect that determination. If the Board of Zoning Appeals finds the applicant is entitled to relief then this office has the following recommendations:

1. 3:1 mitigation for all new disturbance in the Buffer with native Buffer species to be planted on site as much as possible.

2. The driveway area to be removed should be planted in native vegetation which would be of a size and density that would not allow for the applicant to reclaim the driveway area at a later date.
3. The proposed screened porch is extremely close to non-tidal wetlands on the north side of the property. It may be appropriate to try to capture as much of the stormwater runoff as quickly as possible and have it infiltrate the site on the southern end of the porch through the use of a rain garden. I have attached some documentation regarding the installation of a rain garden for your review.
4. Stormwater associated with the proposed covered porch should be directed toward the southern end of the site away from the shoreline to provide as much time as possible for infiltration before leaving the property boundary.

I appreciate the opportunity to comment on this project. If you have any questions please feel free to contact me directly at 410-260-3476. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission in writing of the decision made in this case.

Best regards,



Chris Clark
Natural Resources Planner

cc: WC 138-06

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 28, 2006

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

VIA FACIMILE

Re: Town of Chestertown WWTP – 06-09

Dear Ms. Moredock:

Pursuant to your request I have reviewed the information submitted to me regarding the above referenced project. It is understood that the Town of Chestertown intends to upgrade the current wastewater treatment plant. The goal of the upgrade is to further enhance the ability of the treatment facility to meet MDE requirements for Enhanced Nutrient Removal (ENR). The treatment facility upgrades will also provide for a more efficient and reliable facility to serve the Town.

The subject site is located within the Critical Area within the Resource Conservation Area (RCA) also referred to as the Resource Conservation District (RCD) under the Kent County Land Use Ordinance.

Article V Section 2 2.3 of the Kent County Ordinance provides for the permission of "public utilities and structures" within the RCA provided the disturbance conforms to the standards and limitations of Article VII (Special Exceptions) under the Ordinance.

The proposed scope of construction within the RCA/RCD consists of the addition of an enhanced nutrient removal monitoring and control system building and denitrification filters. The proposed structures and associated impervious surface will be adjacent to existing facilities used for the plant. Based on the information provided by the County, the existing impervious surface within the RCA/RCD is 37,850 square feet. The proposed improvements will increase the impervious surface by 3,212 square feet.

From the site plans provided it appears that an existing road intrudes into the 100 foot buffer. If improvements are being considered for this access road then consideration should be made to relocate the road outside the Buffer. All new improvements shown on the site plan are located outside the 100 foot Buffer. It is recommended that all BMP's are used to protect the Buffer from any disturbance during construction of the upgrade and operation of the facility.

If the Kent County Planning Commission determines the Town has sufficiently addressed all planning issues as included in the Ordinance then this office does not oppose the special exception. If approval is granted for the special exception by the Kent County Planning Commission, then under COMAR 27.02.02 the County should submit a copy of a Consistency Report for Critical Area Commission file.

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

Best regards,



Chris Clark
Natural Resources Planner

cc: KC 114-06

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

February 28, 2006

Ms. Holly Tompkins, Planner
Department of Planning and Zoning
Queen Anne's County
160 Coursevall Drive
Centreville, MD 21617

RE: File #03-04-01-0008-C Revision #1

Dear Ms. Tompkins:

Pursuant to your request I have reviewed the site plan revisions for the proposed sliding scale subdivision referenced above. It appears since the last review, the site plan has remained relatively consistent with the proposal of splitting one 53-acre parcel into two lots. The entire parcel is in the Resource Conservation Area (RCA) with the current land use listed as agricultural. The site plan proposes to divide the property into one lot of 46.5± acres partially in the Critical Area which would remain in agriculture and one residential building lot of 7.0± acres that rests entirely within the Critical Area. My comments on the proposed site plan are as follows:

1. The land use is changing from agricultural to residential. It is understood that only one home is proposed adjoining the Buffer. Due to the nature of the change in land use the Buffer must be established in accordance with COMAR 27.01.09.01(C)(6). The Buffer Management Plan should also be provided.
2. When developing any lot on the subject site with impervious cover, afforestation needs to occur on the lot to provide a forest or developed woodland cover of at least 15 percent in accordance with COMAR 27.01.05(7).
3. Sheet 3/3 indicates the presence of two (2) Willow Oaks within the Buffer and that "protective devices and/or procedures shall be implemented if construction activity is proposed in the area..." The specified trees are well within the 100 foot Buffer. All construction activity should remain outside the Buffer. This should be noted on the Plat in place of the previous comment.

4. The southern portion of the Building Restriction Line is also the 100-foot Buffer line. This is unrealistic and could put the builder/developer out of compliance.
5. Under the Plat Notes on Sheet 2/3 Number 4 indicates that the "Nontidal wetlands were taken from the U.S. Department of the Interior FWS 1981 National Wetland Inventory Map No.6." Sheet 3/3 denotes that the nontidal wetlands were field delineated. Please clarify.
6. Under the Plat Notes on Sheet 2/3 Number 6 indicates that the Critical Area Line was taken from the 1972 State of Maryland Wetland Maps. It should read that the Critical Area Line was taken from the Queen Anne's County Critical Area Maps.

Thank you for the opportunity to comment on this subdivision plan. If you have any questions or comments please feel free to call me directly at 410-260-3476.

Best regards,



Chris Clark
Natural Resources Planner

cc: QC 30-04

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
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February 23, 2006

Ms. Karen Houtman, Planner
Town of Snow Hill
Municipal Building
P.O. Box 348
Snow Hill, MD 21863

RE: Consistency Report – Concession Stand\Restroom Facility

Dear Ms. Houtman:

Thank you for sending the consistency report for the Byrd Park concession stand\restroom facility expansion project. I have reviewed this project per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report, the accompanying site plan, and impervious surface calculations, this office agrees that the project is consistent with the local Critical Area Program.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410) 260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: SN126-06
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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February 23, 2006

Ms. Phyllis H. Wimbrow, Deputy Director
Department of Development Review and Permitting
Government Center
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Rezoning Case No. 382

Dear Ms. Wimbrow:

Pursuant to your request, I have reviewed the documents related to the rezoning of the subject site identified as "Out C, Tax Map 26, Parcel 431."

The subject site is not mapped within the Critical Area for the Atlantic Coastal Bays. Therefore, this office does not have any comment on the rezoning application.

If you have any questions related to this case please feel free to call me directly at 410-260-3476.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: WC 127-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

February 23, 2006

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

VIA FACSIMILE

RE: Site Plan – 143 Pine Tree Road, File #11037

Dear Mr. Smith:

Pursuant to your request, I have reviewed the supplied information regarding the above referenced site plan. The applicant proposes to replace an existing mobile home with a modular home and pervious deck. The proposed home is 1,465 square feet in size and is subject to a 5-foot waterfront setback. Critical Area issues include stormwater management, Buffer mitigation and afforestation.

It appears that the maximum impervious surface requirement in your Homeowners BMP's was exceeded by 9.2% and the town is collecting a fee in lieu of meeting this requirement. As discussed with Ms. Gail Blazer, the calculations regarding pervious cover include a concrete sidewalk. The reference to pervious sidewalks in the Homeowner BMP will be corrected in the site plan documents by your staff. It is understood that the Critical Area 10%Rule will be further met by the swales along the property lines, the afforestation within the Buffer and along the northern portion of the property. In addition, a 5x5 foot rain garden will be constructed for the retention and infiltration of stormwater. The proposal, as presented, appears consistent with the Town's Critical Area Program.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me directly at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: OC129-06
Gail Blazer, Town of Ocean City

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 23, 2006

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

RE: Bryan Site - 06-11

Dear Ms. Moredock:

Pursuant to your request, I have reviewed the submitted site plan and application requesting a variance within the Critical Area Buffer on the property owned by Ms. Elizabeth S. Bryan. The total reported property size of this parcel is 124 acres and borders Island Creek to the east. It appears from the material provided that the site consists of an existing home and two out buildings which are all within the 100 foot Buffer. The applicant is requesting to increase the overall footprint of the home by approximately 366 square feet. I have outlined my comments below.

In speaking with you today, it is understood that the Kent County Department of Planning is opposing the request for a variance. If the Board of Appeals finds the applicant is entitled to relief we recommend the following:

- The applicant provides vegetative mitigation at a 3:1 ratio on site to the extent possible.
- The applicant provides adequate erosion control measures around the excavation in order to minimize nutrient loading into the buffer.
- Any soil excavated during construction be stockpiled outside the Buffer and stabilized by silt fence or other erosion control devices and/or temporarily vegetated.

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

Best regards,

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

Chris Clark
Natural Resource Planner

cc: KC105-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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February 21, 2006

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

VIA FACIMILE

RE: Site Plan - Greg Groves; 700 139th Street

Dear Mr. Smith:

Thank you for the submission of required documents related to the above referenced site plan. It is understood that the applicant proposes to construct a 504 square foot pervious deck addition on an existing townhouse. The subject site is less than 40,000 square feet and will therefore require a Critical Area setback equal to the zoning setback of 15 feet.

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

1. A Water Quality Management Plan has been submitted as part of the review package. Since the plan calls for pervious deck construction, a 10% Rule Compliance Waiver is warranted for the proposed construction.
2. Landscape mitigation measures within the boundaries of the subject site have been adequately addressed.

I appreciate the opportunity to comment on the proposed plan. If you have any questions please feel free to contact me directly.

Best regards,

A handwritten signature in black ink, appearing to read "Chris Clark".

Chris Clark
Natural Resources Planner

cc: OC108-06

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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May 23, 2006

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

RE: 2006-0133-V
W. Harley Smith Variance

Dear Ms. Rhodes:

The applicant is requesting a variance to disturb steep slopes to build a detached garage. Based on the information provided, the garage will be 336 square feet and placed over existing impervious gravel. The site contains 7219 square feet of impervious surface (53%), which is 3000 square feet over the impervious surface limit of 31.25%.

This office does not oppose the placement of a garage over existing impervious surface, but it appears there is extensive gravel and macadam on the site and we recommend that the applicant look for opportunities to reduce the impervious surfaces and runoff on steep slopes.

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

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 23, 2006

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

RE: 2006-0131-V
Sallie H. Gentry Variance

Dear Ms. Rhodes: *Lori:*

The applicant is requesting an after-the-fact variance to disturb the 100-foot Buffer and steep slopes to build a deck, screened porch, and retaining walls on an existing dwelling. Based on the information provided, most of the variance request is over an existing patio and sidewalk. The proposal is within the impervious surface limits.

This office does not oppose the granting of this variance; however, we recommend that 3:1 mitigation, consisting of native trees and shrubs, for all disturbance within the Buffer be required and any areas of steep slopes beyond the Buffer be revegetated.

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

Sincerely,

Regina A. Esslinger
Regina A. Esslinger, Chief
Project Evaluation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 9, 2006

Mr. Michael S. Baker
Environmental Construction Manager
Woodrow Wilson Bridge Project
Potomac Crossing Consultants/URS Corporation
6711-A Oxon Hill Road
Oxon Hill, Maryland 20745

RE: Woodrow Wilson Bridge North Access Road
Contract BR-3C and MA-4

Dear Mr. Baker:

On May 3, 2006, the Critical Area Commission unanimously approved the North Access Road for the Woodrow Wilson Bridge with the following conditions:

1. State Highway Administration shall restore the area within the entire limits of disturbance, including replanting the area with native Buffer vegetation.
2. SHA shall hire an ecological restoration expert to restore the forested area on National Park Service property.
3. The restoration area shall be monitored for a period of no less than five years.

Thank you for your presentation as well as your diligent efforts in providing all necessary information. I heard many positive comments about the project and your presentation after the meeting from Commission members.

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".
Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Lisa Hoerger
MDOT file

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 5, 2006

Ms. Robin Bowie
Maryland Aviation Administration
Martin State Airport
P O Box 8766
Baltimore, Maryland 21240

RE: Airport Ramp Extension

Dear Ms. Bowie:

On May 3, 2006 the Critical Area Commission approved the airport ramp extension for Martin State Airport with the condition that all MDE permits be obtained before work commences. Please notify me if the plans change as alterations may warrant additional review.

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Tim Trumbauer, Straughan Environmental
MDOT 01-06

CRITICAL AREA COMMISSION

**1804 West Street, Suite 100
Annapolis, Maryland 21401**

TO: Tim Larney

FROM: Regina Esslinger



RE: Puritan Tiger Beetle Habitat Restoration **DATE:** April 13, 2006
Kent County
Sassafras Natural Resources Management Area

I have reviewed the proposal to alter the vegetation along the cliff face and access road at Sassafras Natural Resources Management Area to restore habitat for the Puritan Tiger Beetle. The habitat to this endangered species is being lost as invasive vegetation is taking over the cliffs. The proposal includes spraying herbicides on invasive species on the cliff face, removing brush along the access road, removal of beach debris, and possibly some mechanical control of cliffside vegetation. All work will be done within 2006, although monitoring of the species will continue through 2009.

Your question to me was whether this activity would need formal Critical Area Commission approval. It does not, although it does need our review. Restoration of habitat is consistent with the Critical Area regulations, and as proposed, we support this course of action.

Thank you for the opportunity to comment. Please call me if you have any questions.

cc: Chris Clark
Gail Owings, Kent County

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 11, 2006

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

Dear Ms. Shull:

At the April 5, 2006 meeting, the Critical Area Commission unanimously approved the conditional approval request for the Crouse Park Visitor Center. If the proposed plans change in any way, please contact me as changes may need to be reviewed by the Commission.

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: Roby Hurley
DE188-06

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

Mr. Michael Kulis
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Lakes at Stansbury Shores – Forest Protection and Establishment/Buffer Protection Plan

Dear Mr. ~~Kulis~~ *Mike*:

This office is in receipt of the revised Forest Protection and Establishment/Buffer Protection Plan. The applicant has addressed the comments from Lisa Hoerger's March 9, 2006 letter with the following exceptions.

1. On sheet 1 of 4 all three proposed reforestation areas total 56,121 square feet, but on sheet 2 of 4 the table indicates there is 55,930 square feet of reforestation. Please have the applicant clarify this item.
2. The 100-foot Buffer on the IDA portion of the site on sheet 2 of 4 and sheet 3 of 4 may not be delineated correctly if the wetlands labeled "tidal" are tidal wetlands. It is our understanding that these wetlands are nontidal; if so they must be correctly labeled and the Buffer redrawn to include these wetlands. The Buffer is also incorrectly delineated immediately to the south where it is shown through the middle of nontidal wetlands. The Buffer must be expanded to include nontidal wetlands that extend beyond the 100-foot Buffer line.

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

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: BC416-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 28, 2006

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

RE: Variance 2006-0006-V Lorenz and Anne Zimmerman

Dear Ms. *Pam* Cotter:

Thank you for providing information on the above variance request. The applicant is requesting a variance to permit the reconstruction of the existing single-family dwelling with a new single family dwelling, decks, porch, driveway, retaining wall, and septic system with less setbacks than required and with disturbance to steep slopes. The property is currently developed with a single-family dwelling, decks, retaining wall, driveway, and septic system and is designated as Limited Development Area (LDA), contains steep slopes and is partially forested.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the reconstruction of the existing dwelling; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

- 1) As stated on the site plan, steep slopes encumber the entire property.
- 2) The property is 4,475 square feet and the applicant proposes a total impervious surface coverage of 1,695 square feet which is both the existing and allowable impervious coverage for this property. The amount of ground disturbance is 4,400 square feet and the amount of forest coverage is 1,136 square feet. The amount of vegetation to be cleared is 1,034 square feet.
- 3) Mitigation for forest clearing should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Pam Cotter
Variance 2006-0006-V Lorenz and Anne Zimmerman
February 28, 2006
Page 2

- 4) Stormwater from the dwelling and a driveway should be directed to stable vegetated outfalls and away from steep slopes to provide water quality benefits on the site.
- 5) Footers for the decks should be hand dug to reduce impacts.

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

Sincerely,



 Gary Green
Environmental Analyst

cc: AA86-06

CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

MEMORANDUM

To: Butch Norden
From: Regina Esslinger 
Date: February 15, 2006
Subject: Elk Neck SP
North Bay lights
2006-DNR-031

I have reviewed the proposal to add 45 lights at the North Bay facilities, for a total of 45 square feet of additional impervious surface. While these lights were not specified in the prior plans, this proposal fits under the Critical Area Commission's prior approval. Therefore, no additional action by the Commission is needed at this time. Please be advised, however, that any changes must be sent to this office for our review and may need Commission approval.

Thank you for the opportunity to review the proposal.

CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

TO: Roland Limpert

FROM: Regina Esslinger 

RE: Richard Lowery
Dorchester County
Tracking #200661866

DATE: February 13, 2006

I have reviewed the proposal to construct a bermed infiltration pond, a shared driveway, and two houses by grading and filling nontidal wetlands and associated buffer. The site is in the Critical Area and it appears the lots are grandfathered. The site plan does not appear to be accurate as it shows two areas of "uplands" crossing over the mean high water line into the Chesapeake Bay. It is possible the 100-foot Buffer may need to be expanded and could affect the proposal.

The Permit Application Tracking Form indicates the site contains a rare/threatened/endangered species. At this time I do not have any additional information on this. While this office would not oppose the placement of two dwellings, a driveway, and a bermed infiltration pond on these the two lots, I am unable to determine whether any specific protection measures for the species are necessary and whether the 100-foot Buffer needs to be expanded. Any impacts to the Buffer will necessitate a variance under Dorchester County's Critical Area regulations.

Thank you for the opportunity to comment. Please call me if you have any questions.

cc: Steve Dodd

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 10, 2006

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

RE: Variance 2005-0478-V Ray Salkeld

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of an attached deck with impacts to the 100-foot Buffer. The property is currently designated as Intensely Developed Area (IDA) and a Buffer modification area. A dwelling on the property is currently under construction and has received a building permit.

Provided that the property is properly grandfathered, this office would not oppose a variance request to permit the construction of a deck; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

1. Because the property is designated as IDA, water quality improvements must be provided on the site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings.
2. Footers for the deck should be hand dug to reduce impacts to the Buffer.
3. Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

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,


for Gary Green
Environmental Analyst

cc: AA0013-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 10, 2006

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

RE: BA 107-05V
William Huffard/Frank Citrano Variance

Dear Ms. West:

We have received notice on the appeal of the above referenced variance. The applicant is requesting a variance to permit a dwelling with less setbacks and Buffer than required and with disturbance to steep slopes. The property is currently undeveloped, and has a split designation of Resource Conservation Area (RCA) and Limited Development Area (LDA). It is our understanding that the variance application has not changed from the plans reviewed by the Administrative Hearing Officer.

Provided this lot is properly grandfathered, we do not oppose a variance to develop the property; however, impacts must be minimized and the variance the minimum necessary. Based on the additional information provided, we have the following comments regarding the revised development proposal and variance request.

1. As shown on the site plan, much of this property is encumbered by nontidal wetlands, tidal wetlands, and the Buffer, which is expanded for steep slopes, and therefore we recognize that a variance is necessary to permit development of the site.
2. Septic drain fields are proposed in the northeast corner of the property outside the Buffer, and a dwelling is proposed in the northwest corner of the property within the Buffer and partially on steep slopes. As reported on the site plan, existing and proposed impervious surfaces total 10,838 square feet (including an existing driveway to the beach area) and proposed clearing is 31,300 square feet (22.16%).

Ms. West
February 10, 2006
Page Two

3. Mitigation, at a ratio of 3:1 for disturbance within the Buffer and 1:1.5 for disturbance outside the Buffer should be required. Mitigation plantings should be accommodated on the site to the extent possible. Mitigation plantings could be placed around the perimeter of the tidal pond and adjacent to the shoreline.
4. Stormwater from the dwelling and new driveway should be directed away from steep slopes and wetlands, preferably to a best management practice to provide water quality benefits on the site.

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

Sincerely,



Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: AA785-04

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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February 9, 2006

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

RE: Ellen W. Wiess Variance
2005-0476-V

Dear Ms. Schappert: *Suzzy:*

I have received the above referenced variance. The applicant is requesting a variance to build a pool with impacts to the 100-foot Buffer and less setbacks than allowed. The lot is developed with a dwelling, garage, septic system, and well. It is designated LDA and is in a Buffer modification area. The dwelling is 77 feet back from the existing bulkhead. The proposed pool will be 77 feet back from the existing bulkhead.

Based on my reading of the Anne Arundel County Code, a Buffer variance is not necessary. 26-8-702(b)(1) states that new accessory structures placed in Buffer modification areas shall not be located closer to the shoreline than the existing principal structure. It appears this proposal meets this provision. This office does not oppose the side yard setback 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. Please notify the Commission in writing of the decision made in this case.

Sincerely,

Regina A. Esslinger
Regina A. Esslinger, Chief
Project Evaluation Division

cc: AA15-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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Executive Director

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February 8, 2006

Mr. Rob Konowal
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: John and Daphne Anderson Variance
2005-0466-V

Dear Mr. Konowal: *Rob*:

I have received the above referenced variance. The applicant is requesting a variance to build a dwelling and associated facilities with impacts to steep slopes and with more forest clearing than allowed. The lot is undeveloped, is designated LDA, and is completely forested. 81.1% clearing is proposed.

This office does not oppose the variance to place a dwelling on this lot. We recommend 3:1 mitigation for all forest clearing.

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

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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February 8, 2006

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

RE: White Plains Farm Lot 7 Variance
#05-3628

Dear Ms. Merriman:

I have reviewed the revised variance application for the above referenced property. The applicant is requesting an after the fact variance for a 12'x 24' shed in the 100-foot stream Buffer. The site plan shows an existing dwelling, driveway, septic system, and proposed well. The 100-foot stream Buffer is not shown on the site plan. The shed appears to be 35 feet from the edge of the stream. The lot is 5.27 acres.

In evaluating the request for a variance to the 100-foot Buffer requirements, the Board must consider whether the applicant has overcome the burden to prove that each of the County's variance standards have been met. As you aware, in 2002 and 2004, the Maryland General Assembly strengthened the Critical Area Law, and reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values, emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent variance standards, including providing a refinement of the definition of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." We do not believe that the standard of unwarranted hardship can be met on this site. While no justification of the County's variance standards was provided by the applicant, I have addressed each of the standards as it pertains to this case:

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.* As indicated, sheds are considered accessory structures within the Critical Area. Denial of this variance request would not constitute an unwarranted hardship as the applicant currently enjoys reasonable and significant use of the entire parcel through the use of the dwelling and appurtenances. In addition, ample room exists outside of the Buffer to accommodate a shed.

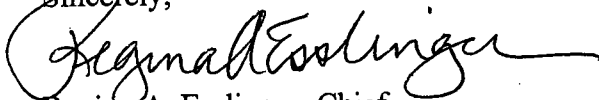
Ms. Merriman
February 8, 2006
Page Two

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 shed 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.* The General Assembly's amendments to the Critical Area Act in 2004 expressly provide that a local Board of Appeals can consider this fact. We do not believe that the applicant can meet this standard.
5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.* In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The applicant is proposing to place impervious surface within the Buffer for the purposes of accommodating an accessory structure. This new impervious surface area and consequential disturbance to the land results in increased stormwater and sediment runoff within the Buffer, and results in the loss of essential infiltration opportunities. The approval of this variance would not be in harmony with the general intent and spirit of the law.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the applicant's request for a variance to construct a shed.

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

Sincerely,



Regina A. Esslinger, Chief
Project Evaluation Division
RAE/jjd
cc: SM66-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

1804 West Street, Suite 100, Annapolis, Maryland 21401
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February 8, 2006

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

RE: Downey Variance
#05-1302

Dear Ms. Merriman: *Staci*

I have reviewed the revised variance application for the above referenced property. The applicant is requesting a variance to add a porch onto an existing home in the 100-foot Buffer. The site plan shows an existing deck, steps, and bath house attached to the house labeled as "to be removed." The property also contains a driveway, barn, concrete pad, well, septic system, pier, and a chicken coop labeled as "to be removed." 326 square feet of impervious surface is proposed and 435 square feet of impervious surface is proposed to be removed.

Provided this lot is properly grandfathered, this office does not oppose the variance. We recommend that mitigation be provided in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance.

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

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM67-06

CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

MEMORANDUM

To: Arnold Norden

From: Regina Esslinger 

Date: February 7, 2006

Subject: North Bay Parking Lot Paving
(2006-DNR-033)

The request to pave the existing crushed rock parking area at the top of the site (formerly the construction trailer site) is acceptable and does not need formal Commission approval. Since the parking area was included in the initial impervious surface calculations and the parking lot is not proposed to be expanded there is no change from a Critical Area perspective.

Thanks for forwarding this request.

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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February 3, 2006

Mr. Michael Kulis
Department of Environmental Protection
And Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

RE: Wilson Point Park

Dear Mr. ~~Kulis~~ *Mike*:

I have reviewed the plans for Wilson Point Park. On March 3, 2004 the Critical Area Commission granted two conditional approvals for this project which authorized impervious surface up to 19% on the LDA portion of the park and disturbance of the 100-foot Buffer. The entire site is designated a Buffer Management Area. I have the following comments.

1. The mitigation provided for Buffer disturbance does not match the amount approved the Commission. The Commission's approval was based on 44,600 square feet of IDA Buffer plantings and 17,750 square feet of LDA Buffer plantings. Specifically, the County proposed 29,800 square feet of trees, understory trees, shrubs, and herbaceous plants in the IDA and an additional 14,800 square feet of shrubs and ornamental grasses in front of the amphitheater. The current plans show a proposed IDA planting area of 25,157 (or 25,257) square feet. Any reductions to the amount of approved mitigation must be authorized by the Commission.
2. It appears that the proposed grading between the parking lot and Martin Lagoon in the northeastern area could be revised to save more of the existing trees.
3. The 10% pollutant reduction calculations are correct.

Thank you for the opportunity to review these plans. Please forward any revised plans you receive, and we will provide additional comments. If you have any questions, I can be reached at (410) 260-3479.

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

cc: BC279-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 2, 2006

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

RE: Stanley and Vicky Hayden Revised Variance
#05-3011

Dear Ms. *Staci* Merriman:

I have reviewed the revised variance application for the above referenced property. The applicant is requesting a variance to build a replacement home partially in the 100-foot Buffer in the same area as the existing home. The property also contains a driveway, two garages, a pier, a well, a septic system, and a concrete pad labeled as "to be removed." A new septic system and driveway extension are proposed outside of the Buffer.

The impacts to the Buffer are no different from the earlier variance application. This office does not oppose the variance. We recommend that mitigation be provided in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance.

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

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM740-05

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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January 31, 2006

Ms. Staci Merriman
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

RE: Walters Property, Lot 960 Golden Beach
#04-0901

Dear Ms. Merriman:

I have reviewed the revised variance application to clear more than 30% on Lot 960. 41% of the existing forest has already been removed for a proposed dwelling and septic system. The site was mostly wooded, undeveloped, and contains steep slopes on the western end. No additional clearing is proposed. The original proposal in October 2005 included an additional 1,663 square feet of proposed clearing. I have the following comments.

1. The limit of disturbance has been reduced from 10,961 square feet to 8,420 square feet through a reduction in the size of the septic system and the subsequent relocation of the proposed dwelling farther east on the site.
2. The driveway is significantly shorter than in the October 2005 submittal, yet the impervious surface figures for the driveway are almost identical: 1436 square feet on the prior plan, 1437 square feet on this plan. Please clarify if the current number is correct and note that the impervious surface total may also need to be adjusted.

This office does not oppose the variance. If the variance request is approved, the Commission recommends that mitigation be provided in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance. It appears that there is room on site for some of the mitigation.

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

Sincerely,

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM733-05

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 31, 2006

Ms. Staci Merriman
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

RE: David Spore Variance
Case #05-3786

Dear Ms. Merriman:

I have received the variance application for the above referenced property to place new impervious surface in nontidal wetlands. The lot is 1.36 acres, is designated RCA, and is all nontidal wetlands. The applicant is proposing 4,926 square feet of disturbance to build a house, well, and driveway. Impervious surface on site will be 3.8%. I have the following comments.

Provided this parcel is properly grandfathered, this office does not oppose a variance to develop this property with a dwelling. We recommend that plantings appropriate for a wetland be provided in accordance with the County's Critical Area provisions.

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

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM51-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 24, 2006

Ms. Lori Rhodes
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Sam Giordano and George Smoot Variance
2005-0459-V

Dear Ms. Rhodes:

I have received the above referenced variance. The applicant is requesting a variance to build a dwelling with less setback and 100-foot Buffer than required and to build a detached garage with less setbacks than required. This grandfathered lot is undeveloped and is designated IDA. The house is proposed 50 feet from the bulkhead; limits of disturbance are 34 feet from the bulkhead.

This office does not oppose a variance to place a dwelling on this lot; however, it appears the dwelling could be moved north to reduce impacts to the Buffer. We recommend 3:1 mitigation for all Buffer disturbance, with plantings occurring on site where 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. Please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: AA19-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 24, 2006

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

RE: Variance 2005-0443-V George and Kathryn Vincent

Dear Ms. Schappert: *Suzy*

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a 136 square foot pool with less setbacks and Buffer than required. The property is 0.41 acres and designated as Limited Development Area (LDA) and a Buffer Exemption Area. It is currently developed with a single-family dwelling, garage, driveway, and porch.

We note that this property was a subject of a previous variance application (Variance 2004-0451-V) whereby the applicant was granted approval to construct a dwelling, garage, porch, and deck in the Buffer. The approval included the condition that no new accessory structures are allowed. The pool is proposed within the deck approved under the previous variance.

In 2002 and 2004, the Maryland General Assembly strengthened the Critical Area Law and reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values, emphasizing the importance of the 100-foot and expanded Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area Law. The State law provides that variances to a local jurisdiction's Critical Area Program may be granted **only** if a zoning board finds that an

applicant has satisfied its burden to prove that the applicant meets each one of the County's variance standards, including that of "unwarranted hardship". The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot". Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law.

The applicant must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. In this case, the applicant is proposing to place a 136 square foot pool within the expanded Buffer. Because pools are accessory structures not permitted in the Buffer, the applicant must present competent and material evidence to satisfy the burden of proof on each of the variance standards described below. Under the law established by the General Assembly, even if there is nowhere else on the lot to site the proposed pool, the variance cannot be granted unless the applicant proves and the Administrative Hearing Office finds that, without the variance, the applicant would suffer an unwarranted hardship, that is, "denial of reasonable and significant use of the entire parcel or lot". We do not believe that this standard is met in this case and accordingly, the variance should be denied. I have discussed each one of the standards below as it pertains to this site:

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area Program that would result in an unwarranted hardship to the applicant.* As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, the applicant would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information in our file, we do not believe that the County has evidence on which to base a favorable finding in this factor.
2. *That a literal interpretation of this subtitle or the Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.* The applicants have reasonable use of this property for residential purposes and, therefore, they would not be denied a right commonly enjoyed by their neighbors. In addition, accessory structures, such as swimming pools, are not permitted in the Buffer. Even if other properties have swimming pools, certain structures that existed prior to December 1, 1985 or the effective date of the Anne Arundel County Critical Area regulations are considered grandfathered and do not convey a right for similar structures to be built in the Buffer in the future. The

General Assembly made this clear in the 2002 amendments to the Critical Area Law, as discussed above. We do not believe that the applicants have met this standard.

3. *The granting of a variance will not confer upon the applicant any special privilege that would be denied by this subtitle or the local Critical Area Program to other lands or structures within the jurisdiction's Critical Area.* If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to place more development in the Buffer would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe that the applicants have overcome this burden.
4. *The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.* According to the application submitted by the applicants, it is our understanding that this variance is not based upon conditions or circumstances that are a result of actions by the applicants, or arise from any neighboring conforming condition.
5. *If granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law and the regulations.* In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area Law and regulations. It appears that 136 square feet of new development and consequential disturbance to the land will occur, which results in increased stormwater and sediment runoff within the Buffer and the loss of essential infiltration opportunities.

Ms. Suzy Schappert
Variance 2005-0443-V George and Kathryn Vincent
January 24, 2006
Page 4

In conclusion, it is our position that, unless the Administrative Hearing Officer finds, by competent and substantial evidence, that the applicants have met the burden of proof to overcome the presumption of nonconformance and the burden to prove that the applicants have met each one of the County's variance standards, the Administrative Hearing Officer must deny this application.

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

Sincerely,



for Gary Green
Environmental Analyst

cc: AA782-04

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 19, 2006

Mr. Robert Konowal
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: 2005-0450-V
Zohrab and Darlene Marshlian

Dear Mr. Konowal:

I have received the above referenced variance application to permit a dwelling addition with less Buffer than required. The applicant is proposing to construct a 347 square foot addition onto an existing dwelling and to remove a carport, shed, and above ground pool. Impervious surface on site will be reduced by approximately 500 square feet. The site is LDA and is currently developed with a dwelling, deck, pool, shed, and carport.

Provided this lot is properly grandfathered, this office does not oppose the variance. Mitigation, at a ratio of 3:1 for disturbance within the Buffer, should be provided. Plantings should be accommodated on the site to the extent possible.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record. Please forward a copy of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: AA21-06

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

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

RE: Steven and Mary T. Wathen Minor Subdivision
#06-110-00009

Dear Ms. ~~Veith~~ ^{Sue}:

I have reviewed the proposal to create a two lot minor subdivision from a 39.815 acre parcel. The site is outside the Critical Area. Therefore, we have no comments.

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM48-06

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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January 20, 2006

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

RE: Meinhardt's Choice Subdivision
#06-110-0004

Dear Ms. Veith: *Sue!*

I have reviewed the proposal to create Lot 1 from Parcel 180 and part of Parcel 44. The total site is 102.102 acres; total acreage in the Critical Area is not provided. Lot 1 will be 20 acres and entirely in the RCA. I have the following comments.

1. General Note #12 indicates this subdivision is proposed as an intrafamily transfer. It is not clear how many acres are in the Critical Area and whether this parcel qualifies under the intrafamily provisions. In addition, no information is provided as to whether there are any existing dwellings in the RCA. If this parcel qualifies, a note must be provided on the plat stating that it is an intrafamily transfer, providing the name of the recipient, and referencing the provisions in the Natural Resources Article, 8-1808.2.
2. The Buffer has not been properly expanded in the area of nontidal wetlands and steep slopes along the northern property boundaries.
3. A letter from the Department of Natural Resources Heritage Division must be obtained, verifying that there are no impacts to any rare, threatened, or endangered species, before final approvals are granted.
4. Although no development is proposed at this time, we recommend that when development occurs the applicant place all structures in the clearing adjacent to the gravel drive outside the Buffer to minimize tree clearing.

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

Sincerely,

Regina A. Esslinger
Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM47-06

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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January 20, 2006

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

RE: Beitzell Minor Subdivision
#06-110-0003

Dear Ms. Veith: *Sue*

I have reviewed the proposal to create Lot 2 from Parcel 282. No information was provided regarding the acreage of the parcel. Lot 2 will be 1.513 acres in the RCA. I have the following comments.

1. General Note #12 indicates Lot 1 is proposed as an intrafamily transfer. It is not clear how many acres are in the Critical Area and how this lot relates to the current proposal. In addition, no information is provided as to whether there are any existing dwellings in the RCA; the DNR Merlin aerial photos show this site as Parcel 154 with a structure beyond proposed Lot 2. At this time I cannot determine whether the applicant has enough RCA acreage and/or density to create Lot 2. Please clarify.
2. The subdivision plan indicates areas of tidal wetlands on the site; for Critical Area purposes, field verification should be used to identify tidal wetlands. A field delineation may also be required to determine the exact boundaries of wetlands and to distinguish between State and private tidal wetlands. Documentation of the field delineation should be submitted with the plan and should describe the methodology used to determine the wetland boundary and to determine if the wetlands are State or private. State tidal wetlands cannot be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area.

The Critical Area Commission is currently working with the Maryland Department of the Environment and the Board of Public Works' Wetlands Administrator to analyze this issue and cooperatively identify a strategy that will best provide for the protection and conservation of the State's wetland resources. In the interim, the Commission will be requesting that if applicants are including areas of private tidal wetlands within lot boundaries, they provide a description and field data information outlining how the

Ms. Veith
January 20, 2006
Page 2

wetland delineation and State and private wetland acreage determination were performed. We hope this interim measure will ensure that State wetlands are not illegally used to generate density and may provide insight as to the most efficient and appropriate methodology for delineating and identifying State and private tidal wetlands.

3. Critical Area Note #8 states there are 14 trees on site. These should be shown on the plan. The reforestation location of the 11 trees specified in Critical Area Note #15 should also be shown.
4. If a dwelling is proposed in the Critical Area, information on impervious surface, clearing and associated mitigation must be provided.
5. A letter from the Department of Natural Resources Heritage Division must be obtained, verifying that there are no impacts to any rare, threatened, or endangered species, before final approvals are granted.

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

Sincerely,



Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM46-06

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

RE: Frederick Carter Variance
BA 97-05V

Dear Ms. West:

I have received the above referenced variance. The applicant is requesting an after-the-fact variance to place 900 square feet of gravel in the 100-foot Buffer to repair an existing road. Based on our conversations on July 27, 2005 and January 13, 2006, the county staff has been unable to verify that a road or any impervious surface previously existed in this location. Without this information, this office cannot support this variance. We recommend that the gravel be removed and the area restored, and 3:1 Buffer mitigation provided for the area disturbed.

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

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: AA382-05

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. Staci Merriman
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

RE: Lots 57 and 58, Leverings Subdivision
#05-3121

Dear Ms. Merriman:

I have reviewed the variance application to clear more than 30% on Lots 57 and 58. 52% of the existing forest is proposed for removal under the redevelopment of the site for a proposed dwelling and septic system. The site is partially wooded, undeveloped, and comprised of two grandfathered lots.

This office does not oppose the variance. If the variance request is approved, the Commission recommends that mitigation be provided in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance. It appears that there is room on site for some of the mitigation.

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

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM28-06

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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January 13, 2006

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

RE: Variance #3202
Joseph J. and Sheila R. Santoro

Dear Mr. Johnson:

I have reviewed the variance application for the Santoro property. The applicants are requesting a two foot height variance to build a two-story dwelling at 64 Greenbrier Road that meets floodplain elevation requirements. The lot is currently developed with a dwelling; it is in the LDA and is outside the Buffer. No site plan was submitted with the application showing the proposed dwelling in regards to the location on the lot.

This office does not oppose the height variance.

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

Sincerely,

A handwritten signature in cursive script that reads "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: CE23-06

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 13, 2006

Ms. Angela Willis
State Highway Administration
707 North Calvert Street
Baltimore, MD 21202

RE: MD 16 over Corsey Creek
Structure No. 09022X0
Dorchester County

Dear Ms. Willis:

I have received your January 10, 2006 email that states there will be no clearing for MD 16 over Corsey Creek. I concur that the work will be consistent under Exhibit B1, A.3.b of the Memorandum of Understanding between the Commission and the Department of Transportation.

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: 52-05

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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January 12, 2006

Mr. David Black
Office of Planning and Zoning
129 E. Main Street, Room 300
Elkton, Maryland 21921

RE: Camp Grove Point

Dear Mr. Black:

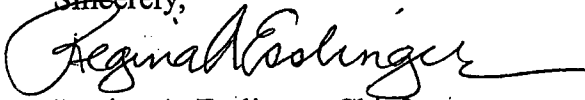
I have reviewed the site plan to expand the Grove Point Girl Scout campground by building a shelter, a gravel access road, and an equestrian center. The site is 156.26 acres, with 60.06 acres of LDA, 72.6 acres of RCA, and 23.6 acres outside the Critical Area. The shelter is proposed in the LDA and the access road and equestrian facility are proposed in the RCA. The parcel currently contains existing camp facilities that include shelters, a dining hall, boat storage, a lodge, a pool, dwellings, and maintenance facilities. I have the following comments.

1. Please provide a letter from the Department of Natural Resources Heritage Division regarding the presence of rare, threatened, and endangered species and other habitats. This information must be evaluated and addressed before any approvals are granted.
2. It appears a portion of the proposed 5,000 square foot septic reserve area for the shelter will be on steep slopes. We recommend the septic reserve area be moved off the steep slopes or a Critical Area variance will be necessary.
3. Based on the County Zoning Ordinance in Article V, Part V, Section 101.16 (Campgrounds and Recreational Vehicle Parks), growth allocation will be necessary for camp buildings and roads in the RCA.
4. The 110-foot stream Buffer is incorrectly labeled. The Buffer needs to be expanded for nontidal wetlands when the wetlands extend beyond 110 feet.
5. Total clearing and reforestation areas must be identified on the plan.

Mr. David Black
January 12, 2006
Page 2

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Regina A. Esslinger", with a long horizontal flourish extending to the right.

Regina A. Esslinger, Chief
Project Evaluation Division

cc: Mary Owens
CE840-05

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. Staci Merriman
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

RE: St. George's Island, Lot 62A
Case #05-3265

Dear Ms. Merriman:

I have received the variance application for the above referenced property to place new impervious surface in the expanded Buffer. The lot is 1.5 acres, is designated RCA, and is bisected by Harm's Way. The site plan shows an old foundation; the applicant is proposing 6,856 square feet of disturbance to build a house, well, and driveway in the expanded Buffer. Impervious surface on site will be 8.8%. I have the following comments.

The expanded Buffer is not shown on the site plan. The adjacent northeast property is labeled as "marsh"; this area should be identified as either tidal or nontidal wetlands, including where they might exist on Parcel 62A, and appropriate buffers shown.

Critical Area Note #5 states that existing impervious surface within the 100-foot Buffer is 154 square feet. This is not shown on the site plan.

General Note #1 references Parcel 68, while the drawing refers to Parcel 62A. The tax maps also show this property as Parcel 62A. General Note #1 should be corrected.

Provided this parcel is properly grandfathered, this office does not oppose a variance to develop this property with a dwelling. We recommend that Buffer plantings be provided in accordance with the County's Critical Area provisions.

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

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: SM5-06

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

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: Phil Jackson Subdivision
1110

Dear Mr. Dodd: *Steve!*

Thank you for providing information on the referenced project. The parent parcel is 131.56 acres, and one 2.0 acre intrafamily transfer lot (Lot 1) is proposed. The site is designated Resource Conservation Area (RCA). I have reviewed the plan submitted, and I have the following comments:

1. The site plan indicates the parent parcel is 131.56 acres, but the tax maps show the parcel as 135.11 acres. Please clarify which is correct and how much of the original parcel is in the Critical Area as well as how many dwellings currently exist in the Critical Area. There appear to be several structures on the property immediately to the east.
2. Without additional information regarding the amount of acreage in the Critical Area, it does not appear that this parcel is eligible for an intrafamily transfer. Note #13 should be removed.
3. Please provide additional information regarding the environmental features of the site including soil types and vegetative cover. There appear to be some trees on the site based on the DNR Merlin aerial photography.
4. 15% afforestation is required.
5. Please provide a letter from the Department of Natural Resources Heritage Division regarding the presence of rare, threatened, and endangered species and other habitats. This information must be evaluated and addressed before the subdivision is approved.

Mr. Steve Dodd
January 12, 2006
Page 2

Thank you for the opportunity to provide comments on this proposed subdivision. Please provide revised plats when these comments have been addressed. If you would like to discuss these comments, please call me at (410) 260-3479.

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger", followed by a long horizontal flourish line.

Regina A. Esslinger, Chief
Project Evaluation Division

cc: DC6-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 6, 2006

Ms. Lisa Thomas
Cecil County Office of Planning and Zoning
129 E. Main St. Room 300
Elkton, MD 21921

Re: Minor Subdivision - Woodall Road
(Tax Map 35, Parcels 182 and 285)

Dear Ms. Thomas:

Thank you for providing additional information on the above referenced minor subdivision. The applicant proposes to subdivide Parcels 182 and 285 to create three lots outside the Critical Area and two lots within the Critical Area. The Critical Area portion of the properties is designated a Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided, this office has the following comments regarding the subdivision proposal.

- 1) As described in the report by Little & Associates, Inc. and as identified on the site plan provided with the subdivision application, an intermittent stream and nontidal wetlands are present within the Critical Area portion of the property. Mr. Kensinger's December 13, 2005 letter to you states that the intermittent stream is nontidal, and therefore a 110-foot Buffer is not required, only a 25-foot nontidal wetland buffer. The definition of tributary streams in the County Zoning Ordinance (Article II, Section 12) and the Code of Maryland Regulations (27.01.01.01.B(72)) includes all perennial and intermittent streams in the Critical Area, not just tidally influenced perennial and intermittent streams. A minimum 110-foot Buffer must be identified from the stream and, in this case, the Buffer must be expanded to include contiguous nontidal wetlands and the 25-foot nontidal wetland buffer (Cecil County Zoning Ordinance Article XI, Section 196 Buffer Requirements). It appears that the Buffer as shown on the minor subdivision plat dated November 1, 2005 is correct.
- 2) As estimated from the site plan, it appears that the following development is located within the 110-foot Buffer: the driveway access from Woodall Road, the driveway serving Lots 3, 4 and 5 outside the Critical Area and the driveway serving Lots 1 and 2 within the Critical Area. The proposed driveways are approximately 16 feet wide. This office assumes that the driveways will provide private access to the proposed lots and are not considered public roads. This office will not oppose a variance to permit disturbance to the Buffer to establish

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Lisa Thomas
January 6, 2006
Page 2

private access to the proposed lots if impacts are minimized and the variance is the minimum necessary.

- 3) Please provide a copy of the forest mitigation plan referenced in the Little & Associates November 1, 2005 memo for our review and comment prior to final approval of the subdivision plat.
- 4) It is our understanding that the applicant has applied for the necessary authorizations from the Department of the Environment and the U.S. Army Corps of Engineers for impacts to nontidal wetlands and their buffers.

Thank you for the opportunity to provide comments. If additional information is provided, we may have additional comments on this subdivision proposal.

Sincerely,



Regina A. Esslinger, Chief
Project Evaluation Division

cc: CE259-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 6, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: Richard Wilson Subdivision, # 49E

Dear Mr. Dodd: *Steve:*

Thank you for providing information on the referenced project. The site is 12.12 acres, and one 2.0 acre intrafamily transfer lot (Lot 5C) is proposed. The remaining lands (Lot 5B) are reserved for agricultural use. I have reviewed the plan submitted, and I have the following comments:

1. Please provide additional information regarding the environmental features of the site including soil types and vegetative cover.
2. All existing features should be shown on the plan. No driveway to the existing dwelling is shown.
3. 15% afforestation must be provided, if applicable.
4. Please provide a letter from the Department of Natural Resources Heritage Division regarding the presence of rare, threatened, and endangered species and other habitats. This information must be evaluated and addressed before the subdivision is approved.
5. We recommend that plat note #13 refer not only to the intrafamily transfer provisions, but also to the specific family member receiving Lot 5C.

Thank you for the opportunity to provide comments on this proposed subdivision. Please provide revised plats when these comments have been addressed. If you would like to discuss these comments, please call me at (410) 260-3479.

Sincerely;

Regina A. Esslinger
Regina A. Esslinger, Chief

Project Evaluation Division

cc: DC843-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 6, 2006

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

RE: GP Investments Subdivision

Dear Ms. Thomas:

I have reviewed the subdivision proposal to create three new lots and remaining lands from a 19.14 acre parcel, 2.988 acres of which are in the Critical Area. A portion of Lot 3 and the remaining lands are proposed in the Critical Area. The parcel currently contains an existing barn and well outside the Critical Area and a County substation within the Critical Area. The site is designated LDA. I have the following comments.

1. Please provide a letter from the Department of Natural Resources Heritage Division regarding the presence of rare, threatened, and endangered species and other habitats. This information must be evaluated and addressed before the subdivision is approved.
2. Impervious surface on Lot 3 is limited to 15% in the Critical Area.
3. If the Critical Area portion of the remaining lands is developed in the future, the 100-foot Buffer will need to be fully established in plantings.

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

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".

Regina A. Esslinger, Chief
Project Evaluation Division

cc: CE819-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 4, 2006

Ms. Angela Willis
State Highway Administration
707 North Calvert Street
Baltimore, MD 21202

RE: MD 16 over Corsey Creek
Structure No. 09022X0
Dorchester County

Dear Ms. Willis:

I have received your December 15, 2005 letter regarding the proposal for MD 16 over Corsey Creek in which you state that the project appears to be consistent with the Memorandum of Understanding between MDOT and the Commission. Based on the information in your letter and your previous letter of November 30, 2005, I need clarification as to whether any clearing in the Buffer will occur. Your November letter refers to specific square footage amounts of impact in the wetlands and buffer, but does not indicate if any clearing is included in these impacts. The site plans do not provide me any clarification on this point.

If there is no clearing, it appears the work will be consistent under Exhibit B1, A.3.b. Please forward this information so I can make a final determination. If you have any questions, please call me at (410) 260-3479.

Sincerely,

A handwritten signature in cursive script, reading "Regina A. Esslinger".
Regina A. Esslinger, Chief
Project Evaluation Division

RAE/jjd

cc: 52-05

TTY for the Deaf

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Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 28, 2006

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

RE: Variance 2006-0027-V Carl and Phyllis Peterson

Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the reconstruction of the existing single-family dwelling, driveway, and septic-system with less setbacks than required. The property is currently designated as Intensely Developed Area (IDA), has a single-family dwelling, driveway, and septic system.

Though the proposed improvements occur within the IDA, the project does not require a Critical Area variance and we have no comments on the proposed improvements.

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,

A handwritten signature in dark ink, appearing to read "Gary Green", with a stylized flourish at the end.

Gary Green
Environmental Analyst
cc: AA119-06

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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February 23, 2006

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

RE: Variance 2006-0028-V Curtis and Janice Payne

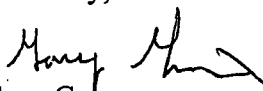
Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the enclosure of a deck with less Buffer than required. The property is currently designated as Intensely Developed Area (IDA), has a single-family dwelling, driveway, walkway, pier, and bulkhead with some vegetation.

Provided that the property is properly grandfathered, this office would not oppose a variance request to enclose the deck; however, the impacts must be minimized and the variance the minimum necessary. Because the property is designated as IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings. Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA120-06

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 23, 2006

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

RE: Variance 2006-0025-V Richard and Teresa Martins

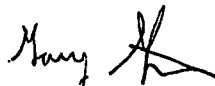
Dear Ms. West:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a pier with less setbacks than required. The property is designated as Limited Development Area (LDA) and is currently developed with a single-family dwelling, driveway, and patio.

Provided that the property is properly grandfathered, we would not oppose this variance. We understand that this pier and its access would be with the above owner. There are no steep slopes and no disturbances to any vegetation and no activity above the mean high water mark.

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA118-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 23, 2006

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

RE: Variance 2006-0024-V Countrywide Home Property, LLC.

Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit an after-the fact deck to remain with less Buffer than required. The property is currently designated as Intensely Developed Area (IDA), has a single-family dwelling, patio, and driveway.

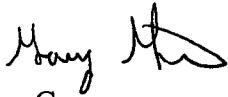
Provided that the property is properly grandfathered, this office would not oppose a variance request to permit a deck; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

- 1) We understand the applicant has constructed an after-the-fact deck within 88 feet of Cornfield Creek and Anne Arundel County Department of Inspections and Permits issued a stop-work order and that the building permit indicated that the proposed deck was located within the 100-foot Buffer.
- 2) Because the property is designated as IDA, water quality improvements must be provided on site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Liz West
Variance 2006-0024-V Countrywide Home Property, LLC
February 23, 2006
Page 2

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,

A handwritten signature in black ink, appearing to read "Gary Green", with a stylized flourish at the end.

Gary Green
Environmental Analyst
cc: AA117-06

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 22, 2006

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

RE: Variance 2006-0005-V Douglas Hartley

Dear Ms. Rhodes:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a single-family dwelling and attached garage with less setbacks than required. The property is currently designated as Limited Development Area (LDA) and has been cleared of the previous dwelling but retains the existing driveway and shed.

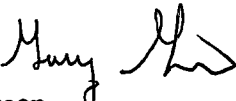
Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling; however, impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

- 1) The property is 0.178 acres (7,746 square feet) and the applicant proposes a total of 3,706 square feet of impervious surface coverage which includes 1,385 square feet of existing impervious surface coverage. The amount of allowable impervious surface coverage is 3,813 square feet. The amount of ground disturbance is 6,521 square feet. There is no disturbance to forest coverage.
- 2) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls to provide water quality benefits on the site.

Ms. Lori Rhodes
Variance 2006-0005-V Douglas Hartley
February 22, 2006
Page 2

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA85-06

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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February 22, 2006

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

RE: Variance 2006-0010-V John Romary

Dear Ms. Rhodes:

Thank you for providing information on the above variance request. The applicant is requesting a variance to permit the reconstruction of the existing single-family dwelling with a new single-family dwelling, deck, attached garage, and septic system with less setbacks than required and with disturbance to steep slopes. The property is currently developed with a single-family dwelling, deck, porch, driveway, and septic system is designated as Limited Development Area (LDA), is Buffer Exempt, contains steep slopes, and is forested in the southwest portion of the property.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the reconstruction of the existing dwelling; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

- 1) As stated on the site plan, steep slopes encumber the southwest portion of the property.
- 2) The property is 40,474 square feet (0.929 acres) and the applicant proposes a total impervious surface coverage of 7,064 square feet (17.4% of the site). The allowable amount of impervious surface is 15% or 6,071 square feet. The amount of existing impervious surface coverage is 7,174 square feet (17.7% of the site). The amount of forest coverage is 8,412 square feet with no forest coverage to be removed with the proposed improvements.

TTY for the Deaf

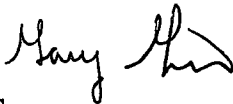
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Ms. Lori Rhodes
Variance 2006-0010-V John Romary
February 22, 2006
Page 2

- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 4) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls and away from steep slopes to provide water quality benefits on the site.

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA87-06

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

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February 22, 2006

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

RE: Variance 2006-0012-V Greg and Lisa Wills

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of attached garage, driveway, porch, rear and side addition, deck, and septic system with less setbacks and Buffer than required and impacts to steep slopes. The property is currently developed with a single family dwelling, driveway, deck, septic system, and playground and is currently designated as Limited Development Area (LDA), is mostly forested, and has steep slopes.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the dwelling additions and associated improvements; however, impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

- 1) As stated on the site plan, steep slopes almost encumber the entire property.
- 2) The property is 59,360 square feet (1.36 acres) and the applicant proposes 6,000 square feet of impervious surface coverage. 3,049 square feet of impervious surface exists on the site. 6,200 square feet of ground disturbance will be required including 115 square feet of disturbance occurring within steep slopes. The existing forest coverage is 51,790 square feet with a proposed clearing of 3,146 square feet.

Ms, Pam Cotter
Variance 2006-0012-V Greg and Lisa Wills
February 22, 2006
Page 2

- 3) Mitigation, at a ratio of 1:1 for all clearing should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 4) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA88-06

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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February 16, 2006

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

RE: Variance 2006-0020-V William and Stephanie Hollaway

Dear Ms. West:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a first floor and adjacent second story decks on the side of the existing dwelling with less setbacks and Buffer than required. The property is designated as Limited Development Area (LDA), is Buffer Exemption Area (BEA), and is developed with a single-family dwelling and driveway.

Provided that the property is properly grandfathered, we do not oppose the variance.

If granted, we recommend that the footers for the decks be hand dug to reduce impacts to the property and that mitigation at a ratio of 3:1 for disturbance within the Buffer should be required.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary Green".

Gary Green
Environmental Analyst
cc: AA91-06

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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February 16, 2006

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

RE: Variance 2006-0018-V William Phebus

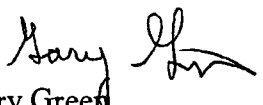
Dear Ms. West:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a joint-use pier with less setbacks than required. The property is designated as Limited Development Area (LDA) and is currently developed with a dwelling and no pier.

Provided that this property is properly grandfathered, we would not oppose this variance. We understand that this pier and its access would be joint-use with the above owner and adjacent owner (which is the same owner). There are no steep slopes and no disturbances to any vegetation and no activity above the mean high water mark.

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA90-06

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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February 16, 2006

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

RE: Variance 2006-0017-V Morsell T. and H. Brown

Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the reconstruction of the existing single-family dwelling with a new single-family dwelling, porch, and driveway with less setbacks than required and with disturbance to the expanded Buffer. The property is currently developed with a single-family dwelling (mobile home) and shed and is currently designated as Limited Development Area (LDA) and is mostly forested.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the reconstruction of the existing dwelling; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

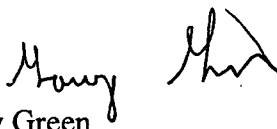
- 1) As stated on the site plan, the expanded Buffer encumbers the northwest portion of the lot.
- 2) Because of the expanded Buffer, the proposed dwelling is placed in relatively the same location as the existing dwelling; however, the proposed dwelling has been moved back on the lot to meet side, combined side, and rear yard setbacks. The proposed dwelling has been located where there would be minimal impact to the existing forest and less impact to the Buffer than the existing dwelling.

Ms. Liz West
Variance 2006-0017-V Morsell T. and H. Brown
February 16, 2006
Page 2

- 3) The property is 20,579 square feet and the applicant proposes a total impervious surface of 3,208 square feet, which includes 1,123 square feet of existing impervious surface. The amount of existing forest on the property is 16,919 square feet and the amount to be removed is 3,200 square feet. The amount of disturbance within the expanded Buffer is 5,842 square feet.
- 4) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible. Clearing outside the Buffer should be mitigated at 1:1.
- 5) Stormwater from dwelling and driveway should be directed to stable vegetated outfalls to provide water quality benefits on the site.

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA89-06

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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February 16, 2006

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

RE: Variance 2006-0022-V John Nye and Michael Helfrich

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a two-story, single family dwelling with attached garage, deck, driveway, septic system, and well with less setbacks and Buffer than required and impacts to steep slopes. The property is currently designated as Limited Development Area (LDA), and is vacant with forest and steep slopes.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and associated additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

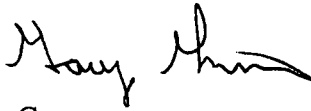
- 1) As stated on the site plan, steep slopes encumber a portion of the property. The expanded Buffer line stops in the middle of Lot 1901 on the plans; the expanded Buffer needs to be properly shown on Lot 1901. In addition, limits of 25% slopes are shown. In the Critical Area, slopes 15% and greater are considered steep. These should be shown on the plans.
- 2) The property consists of two non-contiguous lots that will be combined for a total of 15,451 square feet or 0.53 acres. The applicant proposes a total of 1,900 square feet of impervious surface coverage. The amount of ground disturbance is 3,760 square feet with 3,710 square feet of forest to be removed. 1,840 square feet of steep slopes will be disturbed by the proposed dwelling and improvements.

Ms. Pam Cotter
Variance 2006-022-V John Nye and Michael Helfrich
February 16, 2006
Page2

- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 4) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA92-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 1, 2006

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

RE: Variance 2005-0462-V Frank Sholley

Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a dwelling addition, porches, attached garage, and a second story to the existing single-family dwelling with less Buffer than required and with impacts to steep slopes greater than 15%. The property is currently designated as a Limited Development Area (LDA) and a Buffer Exemption Area (BEA), is partially forested, has a single-family dwelling with driveway and detached workshop, retaining walls, deck, patio, pathway, foot bridge, bulkhead, pier, well, and septic system, and steep slopes.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

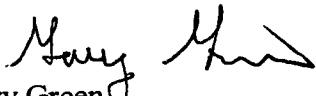
- 1) As stated in the site plans, steep slopes encumber almost the entire property.
- 2) The property is 0.65 acres (28,395 square feet) and the applicant proposes a total of 5,270 square feet of impervious surface coverage which includes 2,671 square feet of existing impervious coverage. The amount of allowable impervious surface coverage is 5,445 square feet. 14,139 square feet of forest exists on the property and 2,964 square feet of forest will be cleared with the proposed improvements. The amount of ground disturbance for the improvements is 7,000 square feet.

Ms. Liz West
Variance 2005-0462-V Frank Sholley
February 1, 2006
Page 2

- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 4) Stormwater from dwelling and driveway should be directed to stable vegetated outfalls away from steep slopes to provide water quality benefits on the site.

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA0018-06

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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February 1, 2006

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

RE: Variance 2005-0472-V Julie Barrett

Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the reconstruction of the existing single-family dwelling with less setbacks and Buffer than required and with impacts to steep slopes and with greater lot coverage than allowed. The property is designated as Limited Development Area (LDA) and is developed with a single-family dwelling, porch, shed, driveway, and septic system on steep slopes with a few trees.

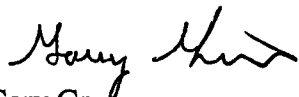
Provided that the property is properly grandfathered, this office does not oppose a variance to permit the reconstruction of the existing dwelling; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

- 1) The property is 3,984 square feet and the applicant proposes a total impervious surface of 1,440 square feet. 1,559 square feet of impervious surface exists on the site.
- 2) Mitigation, at a ratio 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 3) Stormwater from the dwelling should be directed to stable vegetated outfalls to provide water quality benefits on the site.

Ms. Liz West
Variance 2005-0472-V Julie Barrett
February 1, 2006
Page 2

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA0017-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 1, 2006

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

RE: Variance 2005-0485-V Timothy Nelson and Frank Wilde

Dear Ms. Rhodes:

Thank you for providing information on the above referenced variance request. The applicants are requesting a variance to permit the construction of a single-family dwelling, porch, well, and driveway with less setbacks and Buffer than required and a variance to permit an extension in-time for the implementation and completion of the previously approved variance. The property has a split designation of Limited Development Area (LDA) and Resource Conservation Area (RCA), is currently forested and contains wetlands.

This project was previously presented to the Administrative Hearing Officer on December 2004 (2004-0425-V) and on June 1996 (1996-0147-V). The requests conditionally approved the variance of 80 feet to the 100-foot Buffer and 25 feet from the required 50-foot setbacks to the Open Space to permit a single-family dwelling and additions. The applicants were granted a Buffer variance in the amount of 84 feet, a variance of 23 feet to the setback of the Open Space and a variance of 5 feet to the front setback to permit the dwelling, with the condition that the applicants provide mitigation at a ratio of 3:1 for disturbance in the Buffer with plantings between the dwelling and wetlands. The current site plan does not differ significantly in what was previously conditionally approved for in 2004. The changes are slight and are noted here:

The current site plan indicates the total site as 20,880 square feet (0.479 acres) with a proposed impervious surface of 2,200 square feet (10.5% of the site). The amount of forest on the site is 18,870 square feet with a proposed clearing of 4,500 square feet (23.8% of the site) with an allowable clearing of 5,661 square feet (or 30% of the site).

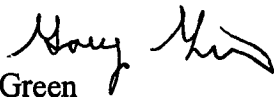
Ms. Lori Rhodes
Variance 2005-0485-V Timothy Nelson and Frank Wilde
February 1, 2006
Page 2

The original site plan proposed an impervious surface coverage of 1,862 square feet (or 10% of the site). The difference between the current site plan and the original is that the current plan now includes a side upper balcony and a front sidewalk. The original site plan indicated a clearing of 4,650 square feet which is slightly reduced under the current site plan.

This office does not oppose extension of time for this previously approved 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,


Gary Green
Environmental Analyst
cc: AA0010-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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January 27, 2006

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

RE: Variance 2005-0448-V Maxine Cunningham

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of two additions (master bedroom and screened porch) on the back of the existing dwelling on the existing concrete porch with less setbacks than required and impacts to steep slopes. The property is currently designated as Limited Development Area (LDA), is partially forested, has a single-family dwelling, driveway parking pad, porch and walkways, and has steep slopes.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

- 1) As stated on the site plans, steep slopes encumber almost the entire property.
- 2) The property is 0.64 acres and the applicant proposes a total of 338 square feet of impervious surface coverage in addition to the existing 5,086 square feet impervious surface coverage. The amount of existing forest on the property is 22,733 square feet and the amount to be removed is 338 square feet.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 4) Stormwater from the dwelling additions should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

Ms. Pam Cotter
Variance 2005-0448-V Maxine Cunningham
January 27, 2006
Page 2

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,

A handwritten signature in cursive script that reads "Gary Green". The signature is written in dark ink and is positioned above the printed name.

Gary Green

cc: AA0022-06

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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January 26, 2006

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

RE: Variance 2005-0453-V Kurt Jensen

Dear Ms. Miley:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a single-family dwelling, driveway, porch, and walkway with less setbacks and Buffer than required and with impacts to steep slopes. The property is currently designated as Limited Development Area (LDA), is undeveloped, partially forested, and has steep slopes.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and associated improvements; however, impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

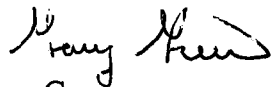
- 1) As stated on the site plans, the expanded Buffer encumbers most of the property.
- 2) The property is 1.65 acres (71,874 square feet) and the applicant proposes a total of 4,421 square feet of impervious surface coverage. The amount of existing forest on the property is 64,131 square feet and the amount to be removed is 6,600 square feet.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Pam Miley
Variance 2005-0453-V Kurt Jensen
January 17, 2006
Page 2

- 4) Stormwater from the dwelling and driveway should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA0020-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 26, 2006

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

RE: Variance 2005-0477-V Linda Bookhamer

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the reconstruction of the existing single-family dwelling with less setbacks and Buffer than required. The property is designated as Limited Development Area (LDA) and is developed with a single-family dwelling, detached garage, driveway, decks, retaining walls, boat house, and pier.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the reconstruction of the existing dwelling; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

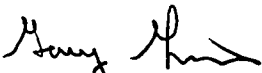
- 1) The property is 0.13 acres (5,650 square feet) and the applicant proposes a total impervious surface of 2,733 square feet or 48.4% of the site. 2,410 square feet impervious surface exists on the site (42.6%). An impervious surface variance will be necessary.
- 2) While this office does not oppose replacing the dwelling on this lot, we oppose increasing the amount of impervious surface beyond the existing level.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Ramona Ploceinnik
Variance 2005-0477-V Linda Bookhamer
January 26, 2006
Page 2

- 4) Stormwater from the dwelling should be directed to stable vegetated outfalls to provide water quality benefits on the site.

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA0014-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 26, 2006

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

RE: Variance 2005-0474-V Robert Tyson

Dear Ms. Plociennik:

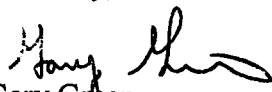
Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a concrete porch and walkway in the front of the existing dwelling with less setbacks than required. The property is designated as Limited Development Area (LDA) and is currently developed with a single-family dwelling, attached garage, driveway, decks, walkways sheds, bulkhead, and pier.

Provided that the property is properly grandfathered, we do not oppose the variance.

It appears this proposal is just beyond the 100-foot Buffer; however, if granted we recommend mitigation at a ratio of 3:1 for disturbance within the Buffer.

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

Sincerely,


Gary Green
Environmental Analyst
cc: AA0016-06

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/

January 26, 2006

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

RE: Variance 2005-0478-V Ray Salkeld

Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting an after-the-fact variance to permit the construction of a single-family dwelling, garage, driveway, walkway, deck and septic system with less setbacks and Buffer than required. The property is currently designated as Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA).

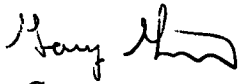
Provided that the property is properly grandfathered, this office would not oppose a variance request to permit the construction of a deck; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

1. Because the property is designated as IDA, water quality improvements must be provided on the site. Reductions in pollutants from runoff can be achieved through the implementation of a best management practice or with plantings.
2. Footers for the deck should be hand dug to reduce impacts to the parcel.
3. Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
4. Stormwater from the dwelling should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

Ms. Liz West
Variance 2005-0478-V Ray Salkeld
January 26, 2006
Page 2

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,

A handwritten signature in black ink, appearing to read "Gary Green", with a stylized flourish at the end.

Gary Green
Environmental Analyst
cc: AA0013-06

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

RE: Variance 2005-0483-V Scott Waldman

Dear Ms. West:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a dwelling addition, attached garage with second-story floor, and reconfiguration of the existing driveway with less setbacks than required and with impacts to the expanded Buffer. The property is currently designated as Limited Development Area (LDA), and is developed with a single-family, two-story dwelling, detached garage, shed, driveway, and septic system.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling additions and driveway reconfiguration; however, impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

- 1) As stated on the site plan, steep slopes encumber a portion of the property. The proposed garage will impact 1,200 square feet of 15% slopes.
- 2) The property is 15,825 square feet (0.363 acres) and the applicant proposes a total of 1,728 square feet of impervious surface coverage. 5,105 square feet of impervious surface exists on the site. The amount of impervious surface coverage allowed on the site is 4,974 square feet or 31.25%. The amount of impervious surface to be removed is 3,440 square feet for a total of 3,393 square feet of impervious surface to remain on the site. The amount of ground disturbance is 4,750 square feet.

Ms. Liz West
Variance 2005-0483-V Scott Waldman
January 17, 2006
Page 2

- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 4) Stormwater from the dwelling should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA0011-06

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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January 17, 2006

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

RE: Variance 2005-0489-V Jerome and Patrina Clark

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a dwelling, porch and deck on the existing dwelling footprint and the construction of wood ramp, breezeway, garage, driveway, well, and septic drain field with disturbance to steep slopes. The property is currently designated as Limited Development Area (LDA), and is developed with a single-family dwelling, decks, walkway, well, and septic system.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and associated improvements; however, the impacts must be minimized and the variance the minimum necessary. Based on the site plan, we have the following comments.

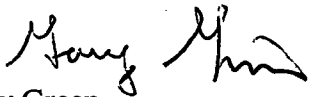
- 1) As stated on the site plan, steep slopes encumber most of the property.
- 2) The property is 47,701 square feet (1.10 acres) and the applicant proposes a total of 4,389 square feet of impervious surface coverage. 5,079 square feet of impervious surface exists on the site. The amount of impervious surface allowed on the site is 7,155 square feet or 15%. The amount of ground disturbance is 9,170 square feet.
- 3) The application indicates that the site contains 17,913 square feet of vegetation with no trees or vegetation to be removed. The site plan clearly indicates that three trees will be removed for the proposed driveway. The applicant must clarify how many trees or forest vegetation will be removed.

Ms. Ramona Plociennik
Variance 2005-0489-V Jerome and Patrina Clark
January 17, 2006
Page 2

- 4) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.
- 5) Stormwater from dwelling and driveway should be directed to stable vegetated outfalls away from steep slopes to provide water quality benefits on the site.

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA0008-06

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

RE: Local Case No. 05-110-116 Watson Subdivision

Dear Ms. Veith:

Thank you for providing a copy of the subdivision plat. I have reviewed the plat, and I have the following comments:

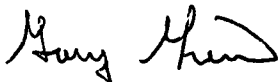
- 1) It is my understanding that the purpose of this plat is to subdivide the existing parcel under the Critical Area intrafamily transfer provisions from the current property owner to his son. The total site area of the parcel is 254.89 acres, the Critical Area portion of the site is 33.8 acres, and the proposed subdivision is 2 acres. Lot 1 is partially forested with an existing single-family dwelling, garage, driveway, well, and septic system. The plat indicates that a replacement septic mound will be proposed to the west of the existing mound. The property is designated a Resource Conservation Area (RCA).
- 2) According to the Maryland Listing of Historic Structures Mapping, the entire parcel including the proposed subdivision, is listed as Maryland Inventory. The current Maryland Department of Taxation only lists the entire parcel as agricultural (Agricultural Land Preservation Easement) with no dwelling.
- 3) No information was provided to determine the number of Critical Area density rights are remaining; however, it appears that the applicant could create a total of 3 lots in the Critical Area under the intrafamily transfer provisions.

Ms. Sue Veith
Local Case No. 05-110-116 Watson Subdivision
January 11, 2006
Page 2

- 4) The proposed septic mound will require ground disturbance and clearing of existing vegetation. No figures were given to determine the scope of proposed impacts.
- 5) According to both the Maryland Department of Natural Resources Wetlands of State Concern mapping and the National Wetland Inventory mapping (NWI), a stream and palustrine non-tidal, forested wetlands occur on the eastern and southern portion of Lot 1. Wetland areas and stream should be placed on the revised plat including the expanded 100-foot Buffer.
- 6) Any impacts to stream or wetlands would require authorization from the Maryland Department of the environment.
- 7) According to the Maryland Department of Natural Resources MDMerlin mapping, indicates that there are sensitive species in the area which could also indicate the potential to include Forest Interior Dwelling Bird Species (FIDS). Coordination with Maryland Department of Natural Resources, Heritage Division must be provided to determine if the proposed subdivision would impact any rare, threatened, or endangered species and unique habitat. A copy of their finding should be forward to our office.
- 8) A review of the St. Mary's County Soil Conservation District mapping did not indicate that the parcel have highly or severely erodable soils; however, it did indicate that the soils are hydric.

Thank you for the opportunity to provide comments for this project. We will provide additional comments when we receive the revised plat and additional coordination and information. Please contact me at (410) 260-3476 if you have any questions.

Sincerely,



Gary Green
Environmental Analyst

cc: SM783-05

Ms. Kathrine McCarthy, Maryland Department of Natural Resources, Heritage Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 11, 2006

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

RE: Variance 2005-0428-V Lorraine and Kevin Daly

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a single-story, single-family dwelling with attached garage, porch, and driveway on steep slopes with less setbacks than required. The property is currently designated as Limited Development Area (LDA), and is developed with a single-family dwelling and driveway.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

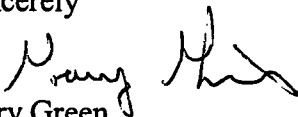
- 1) As stated on the site plans, steep slopes encumber almost half of the property; however, the proposed dwelling will not impact the slopes.
- 2) The property is 0.29 acres (11,907 square feet) and the applicant proposes a total of 2,470 square feet of impervious surface coverage. 1,194 square feet of impervious surface exists on the site. The amount of impervious surface coverage allowed on the site is 3,721 square feet. The amount of ground disturbance is 6,300 square feet with only one tree to be removed.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Ramona Plociennik
Variance 2005-0428-V Lorriane and Kevin Daly
January 11, 2006
Page 2

- 4) Stormwater from the dwelling should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely


Gary Green
Environmental Analyst
cc: AA822-05

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. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0431-V William and Cris Buck

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of an addition to the existing dwelling, modification to the existing front porch and rear patios, and the reconstruction of the existing front and side walkways on steep slopes. The property is currently designated as Limited Development Area (LDA) and is developed with a single-family dwelling, deck, porch, sidewalks, and driveway and is partially forested.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling addition and modification/reconstruction of porch, patio, and walkways; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

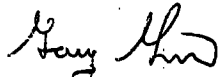
- 1) As stated in the Critical Area report, steep slopes encumber the entire property.
- 2) The property is 2.80 acres (121,128 square feet) and the applicant proposes 10,717 square feet of impervious surface coverage. 9,831 square feet of impervious surface exists on the site. The amount of impervious surface allowed on the site is 18,169 square feet (15%). The amount of ground disturbance proposed is 4,776 square feet with 1,720 square feet of vegetation to be disturbed or 2.6% of the total forest area.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Ramona Ploceinnik
Variance 2005-0431-V William and Cris Buck
January 9, 2006
Page 2

- 4) Stormwater from the dwelling should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site.

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA823-05

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. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MS 21401

RE: Variance 2005-0440-V Simon and Khristine Smith

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a second story sunroom and deck in the back of the existing dwelling with less setbacks and Buffer and disturbance to steep slopes. The property is designated as Limited Development Area (LDA) and is currently developed with a one and a half-story, single-family dwelling and driveway on steep slopes.

Provided that the property is properly grandfathered, we do not oppose the variance.

If granted, we recommend that the footers for the deck be hand dug to reduce impacts to steep slopes and that mitigation at a ratio of 3:1 for disturbance within the Buffer should be required.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Green".

Gary Green
Environmental Analyst
cc: AA824-05

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**

January 9, 2006

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

RE: Variance 2005-0442-V Jack and Linda Bannister

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a single-family dwelling, deck, driveway, and well with less setbacks and Buffer than required. The property is currently designated as Limited Development Area (LDA) and is undeveloped with a few trees.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of dwelling and additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

- 1) The property is 0.172 acres (7,500 square feet) and the applicant proposes a total of 2,302 square feet of impervious surface coverage or 30.7%. 730 square feet of existing impervious surface exists on the site due to Walnut Avenue being located on the portion of the property. The amount of disturbance is 4,860 square feet with 2,400 square feet of vegetation to be cleared.
- 2) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible
- 3) Stormwater from the dwelling should be directed to stable vegetated outfalls to provide water quality benefits on the site.

Ms. Ramona Plociennik
Variance 2005-0442-V Jack and Linda Bannister
January 9, 2006
Page 2

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

Sincerely,



Gary Green
Environmental Analyst
cc: AA825-05

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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January 9, 2006

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

RE: Variance 2005-0447-V Mary and Richard Gay

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a two-story, single-family dwelling with less setbacks than required and disturbance to steep slopes and the expanded Buffer. The property is currently designated as Limited Development Area (LDA), is developed with a single-family dwelling, driveway, porch, pool, and deck and is on steep slopes.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

- 1) As stated in the Critical Area report, steep slopes encumber almost the entire property.
- 2) The property is 2.286 acres (99,619 square feet) and the applicant proposes a total of 9,885 square feet of impervious surface coverage. 13,796 square feet of impervious surface exists on the site. The amount of impervious surface allowed on the site is 14,942 square feet. The amount of ground disturbance was not provided on the site plans. The amount of vegetation to be removed is 497 square feet.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Ramona Plociennik

Variance 2005-0447-V Mary and Richard Gay

January 9, 2006

Page 2

- 4) Stormwater from the dwelling should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site. The site plans noted that the existing infiltration trench will be expanded as part of the new construction; we recommend this be evaluated carefully as the trench is partially on steep slopes.

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

Sincerely,



Gary Green

Environmental Analyst

cc: AA826-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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(410) 260-3460 Fax: (410) 974-5338
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June 28, 2006

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtown, Maryland 20650

RE: SM 396-06 Mary Edna Estates

Dear Ms. Veith:

Thank you for providing information on the above referenced redevelopment project. I have reviewed the plans to develop this 12 lot subdivision. The entire parcel is 68.079 acres and .279 acres are designated RCA within St. Mary's Critical Area.

The plan shows that only one lot is planned for the RCA of this parcel, Parcel B. Parcel B is .535 acres in size and General Note 11 states that Parcel B is platted to meet the density requirements of St. Mary's Rural Preservation District (RPD). It appears that no development is planned for the parcel that impacts the Critical Area. As there are no impacts to lands within the Critical Area we have no further comments on this subdivision or development on this parcel.

Thank you for the opportunity to provide comments. We request any revisions that impact land within the Critical Area be sent to this office for our review and comment. If you have any questions, please call me at (410) 260-3481.

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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June 27, 2006

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtwn, Maryland 20650

**RE: SM 393-06 Potomac Farms Minor Subdivision
Local Case # 06-11000081**

Dear Ms. Veith:

Thank you for providing information on the above referenced redevelopment project. I have reviewed the plans for a minor subdivision and have the following comments:

- 1) The parcel is zoned RCA and consists of 21.46 acres. The applicant is requesting a minor subdivision which will divide the land into one 14.96 acre residential lot and one 6.50 agricultural parcel. We recommend a note be added to the recorded plats which states that only one dwelling unit is permitted on the residential parcel and that no dwelling units are permitted on the agricultural parcel as the RCA designation limits density to one unit per 20 acres.
- 2) All habitat protection areas should be identified, including nontidal wetlands, and habitats of rare, threatened and endangered species.
- 3) At this time we have not received comments from the Department of Natural Resources concerning the presence of rare, threatened or endangered species. Please forward a copy of their letter to our office once it is received.

Thank you for the opportunity to provide comments. We request any revisions be sent to this office for our review and comment. If you have any questions, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", written over the word "Sincerely,".

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

June 27, 2006

1804 West Street, Suite 100, Annapolis, Maryland 21401
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Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 394-06 Joseph E. Goddard Subdivision
Local Case #**

Dear Ms. Veith:

Thank you for providing information on the above referenced redevelopment project. I have reviewed the plans to redevelop the parcel into three separate lots. Only .044 acres of this parcel are within the Critical Area, and this portion is located in the IDA. The plan depicts an existing house and two development envelopes with only the development envelope on Lot 500-1C impacting the Critical Area.

Since the exact location of development is not presented it is impossible to determine whether the applicant will have to comply with the requirements of the 10% Pollutant Reduction Rule for new impervious surface in the IDA. If the final plan includes new impervious surface over 250 square feet within the Critical Area portion of Lot 500-1C then the owner will have to comply with the 10% Rule. In addition, it appears that reforestation is being provided which exceeds the actual clearing.

Our office has no concerns regarding this plan. Thank you for the opportunity to provide comments. We request any revisions be sent to this office for our review and comment. If you have any questions, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer B. Lester".

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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June 27, 2006

Staci Merriman, Planning Specialist
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 377-06 16451 Ball Point Drive
Local Case # 05-363**

Dear Ms. Merriman:

Thank you for providing information on the above referenced application. The applicant is requesting a variance to construct a single family home and deck which would result in 1,682 square feet of impervious surface in the Critical Area Buffer and to clear in excess of 30% within the 100-foot Buffer. The parcel is located in the LDA and contains 10,671 square feet developable land.

Based on my conversation with Yvonne Chaillet, it is my understanding that while the applicant has shown the property boundaries to contain 1.07 acres, the majority of this parcel is State tidal wetlands. State tidal wetlands cannot be privately owned; therefore the applicant should redraw the plat to exclude all State tidal wetlands. However, we recognize that the proposed development is within the impervious surface limitations permitted for the 10,671 square feet of developable land.

Provided that this lot is properly grandfathered we do not oppose these variances. The parcel is severely constrained by tidal wetlands and that the applicant is placing the house in the only area that is not impacted by tidal wetlands. These impacts appear to have been minimized. If these variances are granted we recommend mitigation plantings at a ratio of 3:1 for Buffer impacts and any areas disturbed during construction should be replanted following completion of the project.

Ms. Merriman
June 27, 2006
Page 2 of 2

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "JBLester", written over the word "Sincerely,".

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

June 25, 2006

Staci Merriman, Planning Specialist
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 386-06 49924 Airdele Road
Local Case # 06-0690**

Dear Ms. Merriman:

Thank you for providing information on the above referenced application. The applicant is requesting a variance to disturb hydric soils to place a new house on an existing foundation. The parcel is 3.36 acres and is located in the LDA. The applicant's construction will disturb .22 acres of hydric soils.

Provided that this lot is properly grandfathered we do not oppose the requested variance. All areas disturbed during construction should be replanted following completion of the project.

Thank you for the opportunity to provide comments on 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,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 25, 2006

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

**Re: AA 372-06 8130 Riverside Drive
Local Case # 2006-0188-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer requirement to allow an addition to his house to be located within 40 feet of the shoreline. The parcel is 7,400 square feet and is currently improved by a single family house that has a footprint of approximately 1,284 square feet.

Provided that the lot is properly grandfathered we do not oppose a variance to construct an addition to the house. However, the variance should be the minimum necessary to afford relief. In this case, the applicant is requesting to remove the 140 square foot sunroom and replace it with a 442 square foot addition. If a variance is granted we recommend mitigation for all new disturbance.

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

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 22, 2006

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 370-06 Deale Homes LLC, 6078 Drum Point Road
Local Case # 2006-0180-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting an after-the-fact variance to allow a deck in the 100' Buffer. The parcel is 10,541 square feet, located in the Intense Development Area (IDA), and prior to the construction of the deck was improved by a 1,196 square foot single family home, driveway, sidewalk, bulkhead, boat ramp and boathouse. State and local Critical Area law does not permit a non-water dependent structure within the 100' Buffer.

Provided that this lot is properly grandfathered, this office does not oppose a variance to construct a deck. If the variance is granted we recommend mitigation at a ratio of 3:1 for impacts to the Buffer. Mitigation should be planted on site. All areas disturbed during construction should be replanted following completion of the project.

Thank you for the opportunity to provide comments on 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,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 22, 2006

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

**Re: AA 371-06 172 Carvel Beach Road
Local Case # 03-0490-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is resubmitting a variance request for a variance that was granted on January 20, 2004. The original variance granted a shed with less setbacks than required. The parcel is 27,878 square feet and is located in the Limited Development Area (LDA).

It is our understanding that the applicant is reapplying for this variance as the applicant did not meet the condition required by the variance within the required time frame. However, we understand that the applicants have complied with all of the original conditions and are now reapplying for the exact same variance that was previously granted. No Critical Area variances are requested.

We do not oppose the re-granting of 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,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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June 13, 2006

Barbara Grey
Department of Natural Resources
Policy and Planning
Tawes Building, E-4
580 Taylor Avenue
Annapolis, Maryland 21401

RE: 26-06 DNR Greenwell State Park Classroom Buildings

Dear Ms. Grey:

At the June 7, 2006 meeting, the Critical Area Commission approved the above referenced project.

Thank you for all of your assistance on this project. If you have any further questions please feel free to contact me at 410-261-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", written over the word "Sincerely,".

Jennifer B. Lester
Natural Resources Planner

Cc: Kendall Sorenson-Clark
Andy Hanas
Robin Melton

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 13, 2006

Jimmy Sharp
Chesapeake Bay Critical Area Planner
Wicomico County
Department of Planning, Zoning and Community Development
P.O. Box 870
Salisbury, Maryland 21803-0870

RE: Rivers Edge Subdivision

Dear Mr. Sharp:

Thank you for submitting information on the above referenced subdivision. The parcel is 3.83 acres in size, is located entirely within the IDA classification of the Critical Area in Salisbury, and is Buffer Exempt. It is our understanding that currently no impervious surface exists on the parcel and that development will result in a total impervious surface on the site of 2.94 acres. I have reviewed the submitted plans and have the following comments:

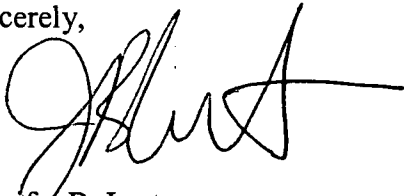
- 1) Buffer: It is our understanding that the parcel is a Buffer Exempt Area (BEA). Ordinarily, a BEA requires a 25 foot setback. However, in this case, the City of Salisbury has requested that the Critical Area Commission provide administrative approval to allow for development of a uniform Riverwalk which will provide public access to the water. At this time, in the absence of this approval, we have the following conditions for the proposed Riverwalk at this site: The specifications for the Riverwalk include an 8-foot walkway with a two-foot filter strip between the walkway and the water, and a 20-foot Buffer. The filter strip should be planted in native vegetation to absorb runoff.
- 2) Natural Features: Wicomico County Code section 125-46(B)(4) requires that the boundary survey plat show the location of all natural features, such as streams, major ravines and drainage patterns. These features are not shown and it is not clear whether these features exist on the parcel. Please request that the applicant either show these features or provide a plat note stating that no such features exist on the site.
- 3) Existing Conditions Map: The applicant is required to provide an existing conditions map which shows all existing natural and man-made features per the requirements of Wicomico County Code section 125-46(B)(5). While it seems that the "Topographical and Boundary Survey" site plan depicts some the existing conditions it is not clear

whether all of the existing conditions are shown. Please request that the applicant either resubmit with all existing conditions shown, or provide a plat note that states that all existing conditions are shown. This site plan should also include floodplain boundaries and identify all soils and the location of soils as required by 125-46(B)(6) and (7).

- 4) Habitat Protection Areas (HPAs): We have not received comments from the Department of Natural Resources Heritage Division and all other necessary agencies which are involved in the identification and regulation of any HPAs on this site. Please forward these letters to our office as they become available.
- 5) Environmental Assessment Report: The Wicomico County Code Section 125-46(F)(7) requires the applicant to submit an environmental assessment report which provides a statement of how the proposed development addresses the goals and objections of the Wicomico County Critical Area program. This report has not been submitted. Please request the applicant provide this report and include the information required by section 125-46 (F)(7).
- 6) Stormwater Management: It is our understanding that the applicant cannot meet the required phosphorus load removal onsite and is paying a fee-in-lieu of mitigation for .99 lbs that cannot be met on site.

Thank you for the opportunity to provide comments. We request any revisions be sent to this office for our review and comment, given the outstanding issues. If you have any questions, please call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Cc: Matthew R. Hedger

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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June 12, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 296-06 1024 River Point Road
Local Case # 2293**

Dear Mr. Dodd:

Thank you for providing updated information on the requested variance to construct an attached garage and deck in the 100-foot Buffer. The parcel is .37 acre located in the LDA. Currently, the property is improved by a single-family dwelling, garage and concrete slab. The owner has amended their previous application and is now proposing to replace the garage and to construct a deck, covered porch, and addition two feet closer to the shoreline than the original variance request. The applicant is requesting this variance as property owners in the Critical Area are not permitted to place non-water dependent structures within the 100-foot Buffer.

Provided this lot is properly grandfathered we do not oppose this variance. In removing the existing garage and concrete slab and constructing the attached structures adjacent to the house, the applicant will be increasing the distance from the shoreline on this section of the parcel. In addition, the configuration of the parcel makes it difficult to place these additions in any other location. If the variance is granted we recommend mitigation plantings in a ratio of 3:1 for impacts to the Buffer and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging or stockpile should be restored to the previous condition.

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", written over the word "Sincerely,".

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 9, 2006

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-132V; 1594 South Shore Parkway
Barrie & Rosemary Cowden

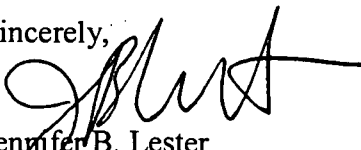
Dear Ms. Cotter:

This letter is a follow up to our previous letter sent May 25, 2006. Thank you for providing additional information on the above referenced variance. The applicant is requesting a variance to construct a dwelling addition (deck) with less setbacks and Buffer than required. The property is designated a Limited Development Area (LDA) and a Buffer Modification Area (BMA) and is currently being re-developed with a single family residence destroyed by Hurricane Isabel.

Previously we did not oppose this variance; however, upon further information from Anne Arundel County provided to our office we do oppose this variance. It is our understanding that the house currently has a deck located on the front of the building. The requested variance to place a deck on the rear of the building, closer to the water, does not meet the unwarranted hardship standard that an applicant must meet for a variance to be approved. The General Assembly has defined "unwarranted hardship" to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. Here, the applicant enjoys reasonable and significant use of the entire lot, including the use of an already constructed deck.

Thank you the opportunity to provide additional comments. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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June 9, 2006

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

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

RE: 11-06 DOT SHA MD 170 Streetscape

Dear Mr. Grey:

At the June 7, 2006 meeting, the Critical Area Commission approved the above referenced project. The Commission's approval includes the condition that all permits from all other agencies are received prior to work beginning on this site.

Thank you for all of your assistance on this project. If you have any further questions please feel free to contact me at 410-261-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. B. Lester".

Jennifer B. Lester
Natural Resources Planner

Cc: Angela Willis

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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June 1, 2006

Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 817-04 Gootees Marine Boat Storage Facility located MD RT 335
Local Case # 1059**

Dear Mr. Dodd:

We have received updated information on the above referenced project. Several of our previous comments have been addressed. Specifically, the stormwater management and the 10% reduction requirements have been satisfied and we have received a copy of the DNR Heritage letter. In order to complete the review of this project, the applicant must submit a Buffer Management Plan. This Plan was required by the Critical Area Commission as a condition of approval of the growth allocation request. Please have the applicant provide our office with the Buffer Management Plan as soon as it is completed. If you have any questions please call me at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. B. Lester", written over a horizontal line.

Jennifer B. Lester
Natural Resources Planner

Cc: Tom Davis, DMS and Associates, LLC

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 1, 2006

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

**RE: AA 782-04
Variance 2005-0443-V George and Kathryn Vincent**

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a 136 square foot pool with less setbacks and Buffer than required. The property is 0.41 acres and designated as Limited Development Area. It is currently developed with a single-family dwelling, garage, driveway, deck and porch.

We oppose the requested variance. In 2005, the applicants received a variance to construct a dwelling with a deck in the Buffer (see Variance 2004-0451-V attached as Exhibit A). This previously approved variance included a condition that prohibited new accessory structures on the parcel. The proposed pool is an accessory structure that is prohibited by the previously approved variance.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly required that, in evaluating requests for variances, local zoning boards "shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program." Annotated Code of Maryland, Natural Resources Article 8-1808(d)(2). The General Assembly further provided that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the application fails to meet the unwarranted hardship standard, and the other variance standards outlined below:

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

The property is 0.41 acres and is currently improved by a single-family dwelling, deck, driveway, and porch. There are no special conditions or circumstances that are peculiar to the property such that maintaining the Buffer without the additional accessory structure would result in an unwarranted hardship to the applicant.

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

The applicant has reasonable use of this property without approval of the requested variance, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to place non-water dependent structures within the 100-foot Buffer.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those similarly situated within the County's Critical Area. Property owners within the Critical Area are not permitted to place non-water dependent structures in the 100-foot Buffer.

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

The actions of the applicant have created the need for this variance as this request. The applicant has already received a variance to place structures in the Buffer on this parcel. Part of the original variance order was the condition that "no new accessory structures" shall be allowed.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance

Suzy Schappert

May 25, 2006

Page 3 of 3

of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the maintaining the minimum 100-foot Buffer in a natural state to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance in the Buffer on this site and decreasing the area of naturally vegetated Buffer. This impact contributes to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that the applicant will not be able to meet the requirements for the variance requested to place a swimming pool in the Buffer. For these reasons we oppose the variance. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", with a long horizontal stroke extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 1, 2006

Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 332-06 681 203rd Street
Local Case # 2006-0163-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The parcel is .344-acre (15,000 square feet) in size and is located within the LDA of the Critical Area. The applicant is requesting two variances to construct a single family dwelling within the Buffer and to impact steep slopes. Generally, property owners are not permitted to place non-water dependent structures within the 100-foot Buffer or to develop steep slopes. It is our understanding that this parcel is entirely constrained by both the 100-foot Buffer and steep slopes.

Provided the lot is properly grandfathered we do not oppose the requested variances. The applicant is proposing to construct a two-story dwelling with a 748 square footprint and a driveway on the parcel. This design seems to be the minimum necessary to locate a single family dwelling on this site. If the variance is granted we recommend mitigation at a ratio of 3:1 for disturbance within the Buffer. Mitigation plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible. If there is not room on site for full mitigation then appropriate fees for any mitigation not possible on site should be assessed under the County's fee-in-lieu program. All areas disturbed during construction should be replanted following completion of the project.

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,

A handwritten signature in black ink, appearing to read "J. Lester", written over the word "Sincerely,".

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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May 31, 2006

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

Joseph R. Kincaid
District Engineer
US Army Corps of Engineers Baltimore District
P.O. Box 1715
Baltimore, Maryland 21203-1715

RE: 200663122/06-WL-1479 Rewastico Creek Bridge Replacement

Dear Mr. Kincaid:

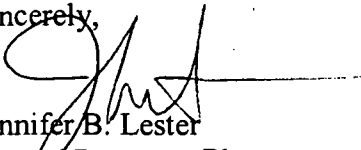
I have reviewed the Public Notice that includes information about the above referenced project, and have the following comments:

I have also reviewed this project for consistency with the Critical Area Law and have provided comments to the Wicomico County Planning Department. It is our understanding from the plans provided by the County that there will be impacts to the Buffer that will result in the removal of 12 trees and some areas of brush. In addition, the information provided by the MDE application indicates that 750 square feet of open water will be impacted through excavation and placement of rip rap. While it is not clear from the MDE application, the work proposed indicates that there may be some additional impact to the Buffer.

Any vegetation removed within the Buffer should be replaced at a 3:1 ratio and should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition. We are waiting for more information on impervious surface increases at this site and a planting plan for impacts to the Buffer.

Thank you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410)260-3481.

Sincerely,


Jennifer B. Lester
Natural Resource Planner

Cc: Jimmy Sharp

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
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CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

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

May 30, 2006

Dolden W. Moore, Jr.
Wetlands Administrator
Board of Public Works
State of Maryland
P.O. Box 1510
Annapolis, Maryland 21404

RE: State Wetlands Case No.: 06-WL-0472 Javaid Arshed

Dear Mr. Moore:

We have reviewed the above referenced application to grade 40 feet landward and emplace 540 linear feet of a stone revetment with 1,900 cubic yards of backfill for shoreline erosion control. In addition, the applicant is going to plant 6,400 square feet of marsh vegetation along 320 feet of eroding shoreline and enhance an existing tidal area by depositing 700 cubic yards of sand and plant *Spartina patens* landward if the proposed tidal marsh creation site. On March 22, 2006, we visited the site and met with the applicant's engineer, as well as officials from the required permitting agencies to review the project.

While our office would not usually support the grading of shoreline, extensive conversations with the project engineer and the on-site visit revealed that this parcel presents several unique circumstances. A portion of the project involves bank grading, minor grading of the lip and allowing it to reach a natural angle of repose, and the creation of a 22,400 square foot natural marsh area. Although portions of the site are forested, it is clear that the area is highly disturbed and there are a lot of invasive species and is experiencing a great deal of erosion because of the bank destabilizing. Once the project is complete the owner is going to replant with native species to maintain the stability of the new slope.

It is our understanding that the applicant will be required to have a signed planting plan with St. Mary's County government prior to beginning work. St. Mary's County Zoning Ordinance section 72.3.3.c outlines the planting requirements for shore erosion control projects. We support issuance of this permit with the condition that work will not begin until this planting plan is signed.

Dolden Moore
May 30, 2006
Page 2 of 2

Thank you for the opportunity to provide comments on this project. If you have any additional questions please contact me at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'JBLester', with a long horizontal flourish extending to the right.

Jennifer B. Lester
Natural Resources Planner

Cc: Bob Tabisz

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

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 80-04 Tower Hill Farmstead Subdivision
Local Case # 06-110-047**

Dear Ms. Veith:

This subdivision plan was reviewed by Wanda Cole in March 2004. I have reviewed the recently submitted documents for the above referenced subdivision and have compared the submission to the plat that was submitted to us in March 2004. In reviewing both plats I have noticed several discrepancies between the two proposals.

The current plat proposes development on four lots within the RCA. This is a 144.70 acre parcel, of which 85.01 acres are located within the Critical Area and designated RCA. In contrast the March 2004 submission identified only 60.51 acres within the Critical Area. A review of the plats submitted currently compared with the March 2004 submitted plats reveals a dramatic shift in the Critical Area boundary line and acreage. It appears that the same engineer has signed both plats, so I do not understand the different location of the Critical Area lines. Please have the applicant review the St. Mary's County Critical Area maps and make a correct delineation of the Critical Area boundary line on the plat, verify the acreage and resubmit for our review. In addition, I have the following comments on the proposed subdivision:

Development Rights

1. Until a correct boundary line for the Critical Area is shown it is impossible to determine how many development rights exist on the parcel. Under the current configuration, the property appears to have four RCA development rights and the applicant appears to propose subdivision into 7 lots as follows: Parcel Z, Lot 1, Lot 2, Farmstead 500-3, Farmstead 500-4, Out Parcel A and Out Parcel B. The applicant's general notes indicate that development will only occur in the Critical Area on Lots 1, 2, Farmstead 500-3 and Farmstead 500-4. It is our understanding that Parcel Z

consists of 41.76 acres in the RCA and has been platted in order to meet the density restrictions of the Critical Area law and a note is included which places a permanent restriction of development on this lot. However, there is a discrepancy that must be corrected between the current plat and the previously submitted plat. In 2004, the applicant was only entitled to three development rights due to only 60.57 acres in the Critical Area. Please have the applicant submit a new plat with the correct Critical Area acreage identified.

2. Note 20 indicates that Out Parcel A will be transferred to "Mulberry Fields" and that no development will be permitted on Out Parcels A or B. We recommend that a plat note is include on the plats for both Out Parcel A and Out Parcel B which permanently prohibits development within the Critical Area portions of these lots.

FIDs

1. It is our understanding that in 2004 the Department of Natural Resources Heritage Division identified the presence of FIDs habitat on this parcel. The applicant's plans do not provide information on where the FIDs habitat may be located, however the MERLIN aeriels indicate the entire site is forested. Please request that the applicant show the FIDs habitat areas on a plan.
2. For all FIDs habitat the applicant must address how preservation of the habitat will be achieved before any approvals are granted. This office will provide additional comments on this once we receive this information.

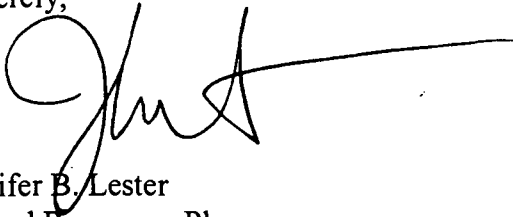
Buffer

1. Critical Area note 6 identifies 8,783 square feet of impervious surface within the 100' Buffer. The applicant does not identify the impervious surface area on the plans, other than a road that parallels the Potomac River.
2. Non-tidal wetlands are shown on Parcel Z, however, no Buffer is shown. All non-tidal wetlands require a 25-foot Buffer. Please have the applicant correct this and resubmit.
3. An area identified as "intermittent streams" is shown on Parcel Z, however, no Buffers are shown for these streams. These streams will need 100-foot Buffers. The streams and the associated Buffers need to be identified on the plans.
4. What is the dotted line box on Parcel Z? It is shown as a septic area on the 2004 plans. This box may be in the Buffer. If it is a sewage reserve area then the applicant is showing 5 development areas in the Critical Area despite note 21. Please have the applicant review and make any necessary corrections to the plat and notes.

Sue Veith
May 30, 2006
Page 3 of 3

Thank you for the opportunity to provide comments. We request any revisions be sent to this office for our review and comment, given the outstanding issues. If you have any questions, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Lester', with a long horizontal line extending to the right.

Jennifer B. Lester
Natural Resources Planner

Cc: Jerry Soderberg, DH Steffens Co. Inc.

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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May 26, 2006

Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 297-06 Bar Neck Road
Local Case # 1125**

Dear Mr. Dodd:

Thank you for providing information on the above referenced subdivision. The subdivision is for two lots on a total of 19.22 acres which are located within the RCA of the Critical Area. I have reviewed the plan submitted, and have the following comments:

- 1) The plans do not show proposed development. Please have the applicant resubmit plans which include information identifying plans for future building sites.
- 2) It is our understanding that the buildings shown on the plans include a small hunting cabin and shed located in the 100-foot Buffer. The applicant would need a variance to replace these structures with as no non-water dependent structures are permitted in the 100-foot Buffer. The proposed lot is over 10 acres in size and the lot should be created in such a way that there is a location for future improvements, including a replacement dwelling, outside of the Buffer.
- 3) All habitat protection areas should be identified, including, highly erodible soils, nontidal wetlands, and habitats of rare, threatened and endangered species. Significant areas of nontidal wetlands are shown on the plans. What is the source of this delineation?
- 4) The plan depicts ditches. The applicant needs to indicate whether these ditches are actually streams that need a 100-foot Buffer.

Steve Dodd
May 26, 2006
Page 2 of 2

Thank you for the opportunity to provide comments. Please forward a copy of the revised site plans to my office once the above corrections have been made. If you have any questions please contact me at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", with a long horizontal stroke extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 25, 2006

Bob Tabisz, Section Chief
Maryland Department of the Environment, Water Management Administration
Wetlands & Waterways Program
Tidal Wetlands Division—Baltimore Office
License & Permits Review Section
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230

RE: 200662854 Avenmar Community Association Pier

Dear Mr. Tabisz:

Our office has reviewed the above referenced application for a tidal wetland permit to extend the Avenmar Community Pier and construct 9 boat slips and a canoe/kayak launch. The property is located in St. Mary's County and received an award of Growth Allocation in 1991 to be classified as LDA.

We have significant concerns about the construction of 9 boat slips at this location. In 1991, the St. Mary's County Commissioners and the Critical Area Commission approved a request for growth allocation for the Avenmar Community Center. Growth Allocation was awarded for this site for a community center and as part of the approval, the Avenmar Community Association agreed to plat a conservation easement to provide a habitat protection zone for the *cheleone obliqua* plant species and to limit the water-dependent facility to a community pier which did not include slips for mooring boats. Therefore, boat slips attached to the Avenmar Community Pier would be inconsistent with the Growth Allocation approval. If the Avenmar Community Association wishes to construct boat slips at this location then the County Commissioners and the Critical Area Commission will need to review the proposal as a revision to the approved growth allocation.

In addition, there appears to be several habitat protection issues at this site. The Department of Natural Resources has identified a bald eagle's nest occurring within ¼ mile of the proposed project site and there are extensive wetlands in the area. Construction of boat slips will increase the traffic in this area and may damage these sensitive habitats.

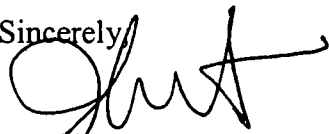
It is our understanding that water depths in the area where the slips are proposed to be located are generally one to two feet. It is likely that dredging will be necessary for the boat slips and to provide access to deeper waters. COMAR 27.01.03.04 includes factors that must be considered

Bob Tabisz
May 25, 2006
Page 2 of 2

minimization or avoidance of adverse environmental impacts. It is not clear if the applicant has addressed these factors.

Thank you for the opportunity to provide comments. Please contact me with any questions at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Lester', with a stylized flourish extending from the end.

Jennifer B. Lester
Natural Resources Planner

Cc: Sue Veith
Staci Merriman
Dolden Moore

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

May 24, 2006

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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Phillip Shire
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 289-06 Andover Estates Boundary Line Adjustment
Local Case # 06-141-037**

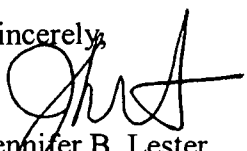
Dear Mr. Shire:

Thank you for forwarding information on the above referenced boundary line adjustment. It is my understanding from speaking with you that the applicant is proposing a boundary line adjustment in order to create a shared septic system outside of the Critical Area. I have reviewed the submitted plans and have the following comments:

- 1) It is our understanding that a portion of this project is within the Critical Area; however, the Critical Area boundary line is not shown on any of the plans. The Critical Area boundary line, as well as the 100-foot Buffer line, needs to be shown on the plans in order to determine if the activity that is planned to occur is within the Critical Area or impacts the Buffer.
- 2) The plans do not show any current or proposed development. Please have the applicant resubmit plans which include information identifying any current structures on the parcels and plans for future building sites.
- 3) All habitat protection areas should be identified, including steep slopes; highly erodible soils, nontidal wetlands, and habitats of rare, threatened and endangered species.

Thank you for the opportunity to provide comments. We request any revisions be sent to this office for our review and comment, given the outstanding issues. If you have any questions, please call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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May 23, 2006

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

**RE: SM 310-06 29939 Bager Drive
Local Case # 02-0606**

Dear Ms. Merriman:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to clear in excess of 30% for construction of a dwelling unit. The parcel is .34-acre in size, in the LDA and is currently unimproved.

Provided that the lot is properly grandfathered we do not oppose a variance to clear in excess of 30% to construct a dwelling unit. If the variance is approved we recommend mitigation at a rate of 3:1. Mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging or stockpile should be restored to the previous condition.

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 call me at (410) 260-3481.

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 23, 2006

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 305-06 Rykerds Subdivision
Local Case # 06-131-071**

Dear Ms. Veith:

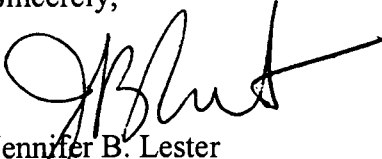
Thank you for providing information on the above referenced redevelopment project. I have reviewed the plans to redevelop the four lots at North Patuxent Beach Road with townhouses and have the following comments:

- 1) It is our understanding that these lots are located in the Buffer Management Overlay Zone (BMO), which permits residential development to be located within the same distance from the water as residential development on the adjacent parcels, or 25 feet, whichever is greater. The applicant has not indicated the distance from which the residential development is located from the water on the adjacent parcels. Please have the applicant identify this distance.
- 2) The 100' Buffer has not been identified on the plans. While development is permitted in the 100' Buffer within the BMO, development can only occur within the Buffer if not feasible alternative exists. Please have the applicant resubmit the plans with the 100' Buffer line depicted.
- 3) Mitigation for any Buffer impacts will be required pursuant to the St. Mary's County Zoning Ordinance section 41.7.5.
- 4) All habitat protection areas should be identified, including steep slopes, highly erodible soils, nontidal wetlands, and habitats of rare, threatened and endangered species.

Sue Veith
May 23, 2006
Page 2 of 2

Thank you for the opportunity to provide comments. We request any revisions be sent to this office for our review and comment, given the outstanding issues. If you have any questions, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'JBLester', with a long horizontal stroke extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 17, 2006

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 285-06 Burch Road Lot 1
Local Case # 06-140-010**

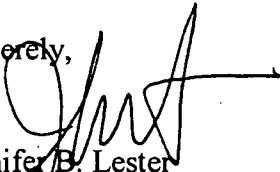
Dear Ms. Veith:

Thank you for forwarding information on the above reference minor subdivision. The applicant is requesting to convert a 2.622-acre agriculture lot to residential use. The parcel is located in the RCA and therefore must comply with the 1 dwelling unit per 20 acre density limitations.

We oppose this conversion from agriculture to residential use. It is our understanding that this lot is not grandfathered and is part of an unapproved agricultural subdivision. As an RCA parcel this property does not meet the density limitations of 1 dwelling unit per 20 acres. If the applicant wants to convert the parcel to residential zoning and place a dwelling unit on the property then the applicant must apply for growth allocation to change the Critical Area classification from RCA to LDA or IDA which permit higher density development. Please refer the applicant to Section 41.9 of the St. Mary's County Zoning Ordinance which governs St. Mary's County growth allocation process.

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. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 17, 2006

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 286-06 Burch Road Lot 1
Local Case # 06-140-010**

Dear Ms. Veith:

Thank you for forwarding information on the above reference minor subdivision. The applicant is requesting to convert a 3.62-acre agriculture lot to residential use. The parcel is located in the RCA and therefore must comply with the 1 dwelling unit per 20 acre density limitations.

We oppose this conversion from agriculture to residential use. It is our understanding that this lot is not grandfathered and is part of an unapproved agricultural subdivision. As an RCA parcel this property does not meet the density limitations of 1 dwelling unit per 20 acres. If the applicant wants to convert the parcel to residential zoning and place a dwelling unit on the property then the applicant must apply for growth allocation to change the Critical Area classification from RCA to LDA or IDA which permit higher density development. Please refer the applicant to Section 41.9 of the St. Mary's County Zoning Ordinance which governs St. Mary's County growth allocation process.

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. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,


Jennifer E. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
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Lt. Governor

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Executive Director

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May 16, 2006

Ms. Yvonne Chaillet, Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, 23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 306-06 16402 Ball Point Road
Local Case # 06-1422**

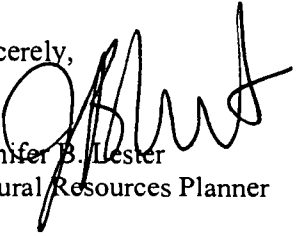
Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting two variances, the first to place new impervious surface in the expanded Buffer, and a second variance to exceed the impervious surface limits. The property is 4,356 square feet and is designated LDA. The variance is requested to replace an existing dwelling with a larger house. Generally, property owners are not permitted to place non-water dependent structures in the Buffer or expanded Buffer, or to exceed the impervious surface limits. The Critical Area law permits the owner of this lot to have 25% + 500 square feet of impervious surface or in this case 1,589 square feet of impervious surface on a lot this size. The applicant is requesting a variance for an additional 311 square feet of impervious surface.

Provided that this lot is properly grandfathered we do not oppose these variances to replace the existing house. However, the requirements of the St. Mary's Zoning Ordinance concerning impervious surface trading as outlined in the St. Mary's County Comprehensive Zoning Ordinance at 41.5(3)(i)(3)(b) should be followed. This provision provides that impervious surfaces may be replaced within a Buffer on grandfathered lots when no feasible site exists outside the Buffer. The replacement structure should not encroach any closer to tidal waters, wetlands, or tributary streams than the surfaces that are being replaced, and the total area of replacement impervious surface should not exceed the lesser of the area removed or 1,000 square feet. In addition, we recommend that all required clearing and an area equivalent to the footprint of the new disturbance be mitigated at a rate of 2:1.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
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Executive Director

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May 16, 2006

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

**RE: SM 298-06 16994 Piney Point Road
Local Case # 06-0394**

Dear Ms. Veith:

Thank you for providing information on the above referenced variance. It is my understanding that the applicant is proposing to rebuild dwellings that were damaged during Hurricane Isabel in 2003. The property is .9679 acres, located in the LDA and entirely within the Buffer. The applicant is requesting two variances. First, the applicant is requesting a variance to increase the impervious surface by 4,271 square feet, which will exceed the impervious surface limits allowed in the LDA. In addition, the applicant is requesting a variance to place a new non-water dependent structure in the Buffer, which State and local Critical Area law do not permit.

It is our understanding that the applicant has been advised to first obtain the necessary variances and then to subdivide the parcel so that each dwelling is on its own lot. We do not oppose a variance to replace the existing structures in the Buffer. However, we do oppose a variance to exceed the impervious surface limits. In its current configuration, the parcel is considered a grandfathered lot that exceeds 36,301 square feet and is therefore permitted to have 15% of the parcel covered in impervious surface. In this case, 15% of the parcel is 5,909.67 square feet impervious surface. Once the parcel is subdivided into two parcels, impervious surface cannot exceed 25% on each lot and 15% for the entire subdivision or to the impervious surface area that currently exists on each lot, whichever is greater.

The existing impervious surface is 4,977 square feet; the applicant is proposing to add an additional 6,558 square feet of impervious surface and to remove 2,287 square feet of impervious surface for a net increase of 4,271 square feet of impervious surface. This additional impervious surface would result in a total amount of 9,248 square feet of impervious surface on the lot, bringing the applicant's parcel 3,338.33 square feet over the permissible impervious surface limit. We oppose this variance request for exceeding the impervious surface limits.

Sue Vieth
May 16, 2006
Page 2 of 2

In addition to the above, I have the following comment based on my review of the applicant's variance request:

The removal of natural vegetation within the Buffer is generally prohibited unless certain conditions are met and the County approves a Buffer Management Plan. It appears that the applicant is going to provide mitigation at a ratio of 3:1. Appropriate notes regarding the protection of existing and vegetation that will be planted as mitigation within the Buffer should be included on the plat.

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. B. Lester', with a long horizontal stroke extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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May 16, 2006

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

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 296-06 1024 River Point Road
Local Case # 2293**

Dear Mr. Dodd:

Thank you for providing information on the requested variance to construct an attached garage and deck in the 100-foot Buffer. The parcel is .37 acre located in the LDA. Currently, the property is improved by a single-family dwelling, garage and concrete slab. The owner is proposing to demolish the concrete slab and garage and to construct a 725 square foot garage and a 224 square foot deck. The applicant is requesting this variance as property owners in the Critical Area are not permitted to place non-water dependent structures within the 100-foot Buffer.

Provided this lot is properly grandfathered we do not oppose this variance. In removing the existing garage and concrete slab and constructing the attached garage adjacent to the house, the applicant will be increasing the distance from the shoreline on this section of the parcel. In addition, the configuration of the parcel makes it difficult to place a garage and deck in any other location. If the variance is granted we recommend mitigation plantings in a ratio of 3:1 for impacts to the Buffer and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging or stockpile should be restored to the previous condition.

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. B. Lester", written over a horizontal line.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

May 11, 2006

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

Jim Sharp
Chesapeake Bay Critical Area Planner
Wicomico County
Department of Planning, Zoning and Community Development
P.O. Box 870
Salisbury, Maryland 21803-0870

RE: WI 277-06 Rewastico Pond Bridge Replacement

Dear Mr. Sharp:

Thank you for providing on the above referenced bridge replacement project. It appears that the Wicomico County Department of Public Works is proposing to replace the current concrete bridge with a wooden bridge. The project lies entirely within the Resource Conservation Area (RCA).

It is my understanding that the proposed replacement bridge will be placed in the same footprint as the current bridge, and that part of the project includes replacing a section of the road that approaches the bridge. It appears from your letter that the engineers have not yet determined if impervious surface will increase due to replacement of the road. However, it has been determined that the proposed scope of work will result in the removal of 12 trees in the Buffer and some areas of brush. Any vegetation removed within the Buffer should be replaced at a 3:1 ratio and should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

In order to make a determination as to whether the project is consistent with the provisions of COMAR 27.02.02 final information on increases in impervious surface needs to be provided. We appreciate the opportunity to provide comments on this development proposal. If you have any questions, please contact me at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "JBL", written over the typed name of Jennifer B. Lester.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 10, 2006

Staci Merriman, Planning Specialist
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 276-06 21669 Pebble Beach Court
Local Case # 06-760**

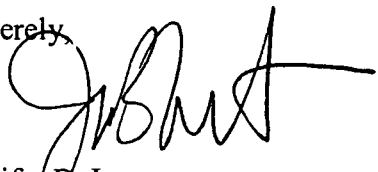
Dear Ms. Merriman:

Thank you for providing information on the above referenced application. The applicant is requesting a variance to place new impervious surface in the Buffer. The parcel is a one half acre lot and is currently improved by a single-family house and garage which encroaches into the Buffer. The applicant is requesting a variance to construct an additional garage and sidewalk in the Buffer which will result in an additional 500 square feet of impervious surface in the Buffer. The law does not permit non-water dependent structures to be placed in the Buffer.

Provided that this lot is properly grandfathered, we do not oppose a variance to impact the Buffer with this accessory structure. However, we recommend that the applicant minimize impacts to the greatest extent possible. If this variance is approved, we recommend mitigation, and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging or stockpile should be restored to the previous condition.

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 call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 9, 2006

Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 817-04 Gootees Marine Boat Storage Facility located MD RT 335
Local Case # 1059**

Dear Mr. Dodd:

Recently we received updated information on the above referenced project from Davis, Moore, Shearon, & Associates, LLC. I have reviewed their submission and have the following comments:

- 1) In June 2005, the Critical Area Commission approved the use of growth allocation to change the Critical Area designation of the project site from RCA to IDA to allow expansion of the marina use. One of the conditions of the Commission's approval was that the applicant was required to submit a Buffer Management Plan to Commission staff for review. Mary Owens requested this plan on December 29, 2005. The most recent plans received from the applicant's engineer on April 27, 2006 did not include a Buffer Management Plan. Submission of a Buffer Management Plan is a condition of approval of the growth allocation and must be provided to our office.
- 2) It is my understanding that the applicant has received comments from the Heritage Division of the Department of Natural Resources regarding the presence of rare, threatened and endangered species on the site and potential impacts to other Habitat Protection Areas. Please provide a copy of the response from the Heritage Division to the Commission.
- 3) In reviewing the plans submitted I noticed that the scale indicated of 1" = 40' does not appear to be the scale that was used to draw the building or gravel area on the plans. Please review the drawings and either adjust the scale or the size of these areas accordingly.
- 4) The Stormwater Management Report contains several issues that need to be addressed:

- a) In the Overall Development Analysis section reference is made to the post development drainage which will include stormwater being directed to "three small drainage areas." The location of the three drainage areas needs to be shown on a plan.
- b) Clarify how stormwater from the three drainage areas will be conveyed to the two wet swales.
- c) It appears that the pocket pond adjacent to Route 335 and the wet swale along the northern property boundary will function as "BMPs in a series." When BMPs are designed to function together, the calculations must be adjusted to account for the secondary treatment of the stormwater. The 10% pollutant reduction calculations should be performed using the methodology described on page 7-9 in the *Critical Area 10% Rule Guidance Manual* – Fall 2003.
- d) How does the existing pocket pond figure into the stormwater treatment strategy?
- e) The 10% Rule calculations for Drainage Area #1 indicate that the proposed BMP, a wet swale, has a removal efficiency of 65%. This is incorrect; the removal efficiency is 40% for this BMP. It is recommended that the applicant explore other types of BMPs with higher removal efficiencies, explore treating some off-site drainage on-site, or explore additional offsets.
- f) The 10% reduction calculations for Drainage Area #1 indicate that 12 trees will be planted as an offset. This will not be adequate to address the unmet pollutant load when the correct removal efficiency is used (see comment "e"). If planting is used as an offset, the plan must include the quantity, size, species, and location of all plantings. Plantings used to meet the 10% Rule requirements are in addition to any required Buffer plantings.

Thank you for the opportunity to comment on this project prior to the issuance of final local approvals. Please contact me at (410) 260-3481 if you have any comments.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Cc: Tom Davis, DMS and Associates, LLC

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 5, 2006

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

**RE: SM 241-06 38095 Beach Road
Local Case # 06-0508**

Dear Ms. Merriman:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to exceed the impervious surface limits through the addition of a 6' x 20' addition. The proposed addition is on a 1.18 acre lot located in the LDA. Currently, the parcel is improved by 7,888 square feet of impervious surface consisting of a dwelling unit, driveway and concrete walkway. Under the State law and the County Critical Area program, a lot of 1.18 acres in the LDA is allowed a maximum of 7,710 square feet of impervious surface. The existing impervious surface already exceeds the 15% impervious surface limits.

We oppose this variance to add an additional 188 square feet of impervious to this parcel which already exceeds the impervious surface limits. A variance would not be required if the applicant were to reduce existing impervious surface by 188 square feet. It appears that it is possible for the applicant to reduce impervious surface elsewhere on the property, for example, the circular driveway creates a large amount of impervious surface that could easily be reduced by changing the size and or shape of the driveway. Reducing the existing impervious surface would enable the applicant to construct a porch addition on the dwelling unit without increasing the existing impervious surface.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly instructed local zoning boards to presume that the specific project for which the variance is requested does not conform to the spirit and intent of the Critical Area law, regulations, and the County's program. Moreover, the legislature provided that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard

Staci Merriman

April 24, 2006

Page 2 of 3

of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the applicant currently enjoys reasonable and significant use of the property without increasing impervious surface beyond the allowable 15%. As proposed, the application does not meet the variance standards outlined below.

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

The property is a 1.18-acre lot containing a house, circular driveway and concrete walkway, which amount to 7,888 square feet of impervious surface. There are no special conditions or circumstances that are peculiar to the property that create a need for further exceeding the impervious surface limit.

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

The applicant has reasonable use of this property without approval of the requested variance, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to exceed the impervious surface limit.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. All property owners in the Critical Area are limited by the amount of impervious surface permitted on their lots. Granting this variance would confer a special privilege on the applicant in permitting more impervious surface on this parcel than allowed for other similarly situation property owners.

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

The variance request is based upon conditions or circumstances which are the result of actions by the applicant because if the applicant were to remove already existing impervious surface then a variance would not be required to exceed the impervious surface limits.

Staci Merriman

April 24, 2006

Page 3 of 3

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that they meet this standard, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds.

The General Assembly also reiterated the importance of the minimum 100-foot Buffer and the expanded Buffer for environmentally sensitive areas to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of impervious surface on this site and decreasing the amount of naturally vegetated area. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office opposes the requested variance as it is possible to remove some of the existing impervious surface and eliminate the need for a variance. 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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. B. Lester', with a long horizontal flourish extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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May 10, 2006

Staci Merriman, Planning Specialist
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 275-06 Waterview Drive
Local Case # 5B**

Dear Ms. Merriman:

Thank you for providing information on the above referenced application. The applicant is requesting a variance to clear in excess of 30%. The parcel is a .3697-acre lot located in the LDA and is not currently developed. The applicant is requesting a variance to clear in excess of 30% to construct a house with a 1,220 square foot print, a 616 square foot driveway, a 1,080 square foot porch and a 126 square foot stoop/walkway. Total projected impervious surface on this lot will be 3,042 square feet.

Provided that this lot is properly grandfathered, we do not oppose a variance to clear over 30% of the lot for construction of a new home. If this variance is approved, we recommend mitigation at the ratio of 1.5 to 1 as provided by St. Mary's County Zoning Ordinance 72.3.3.a.b, and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging or stockpile should be restored to the previous condition.

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. B. Lester".

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 2, 2006

Pam Cotter
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 272-06
Local Case # 2006-0080 V**

Dear Ms. Cotter:

Thank you for providing me with information on the above referenced variance. I have reviewed the applications and have the following comments. The Fair Oaks on the Magothy Community Association is requesting a variance to construct a pavilion and storage unit in an area with steep slopes. The parcel is 1.25 acres, located in the LDA, and is currently improved by a swimming pool, deck, gravel driveway, pool house, playground, and two pavilions. The applicant is requesting a variance from the prohibition against disturbing slopes 15% or greater in order to construct a new 50' x 25' pavilion and result in an additional 1,250 square feet of impervious surface. In the LDA property owners are not permitted to place structures within slopes of 15% or greater unless the development will stabilize the slope or the disturbance is necessary to allow a connection to a public utility.

We oppose the requested variance. The applicant currently enjoys reasonable use of the property and has not provided any information which demonstrates that this disturbance will stabilize the steep slopes or is necessary for a connection to a public utility. In addition, it appears that alternatives are available to the applicant which would eliminate the need for a variance.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly required that, in evaluating requests for variances, local zoning boards "shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program." Annotated Code of Maryland, Natural Resources Article 8-1808(d)(2). The General Assembly further provided that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted

hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the application fails to meet the unwarranted hardship standard, and the other variance standards outlined below:

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

The property is a 1.25-acre lot improved by a swimming pool, deck, gravel driveway, pool house, playground, and two pavilions. There are no special conditions or circumstances that are peculiar to the property such that avoiding development within the steep slopes would result in an unwarranted hardship to the applicant.

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

The applicant has reasonable use of this property without approval of the requested variance for disturbance to steep slopes and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to disturb steep slopes within the Critical Area absent a showing of stabilization of the steep slopes or a public utility connection.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area are not permitted to place structures within steep slopes.

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

The actions of the applicant have not created the conditions and circumstances which make this variance necessary.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the*

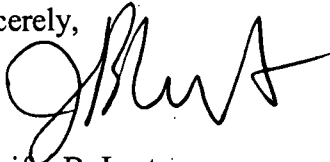
Pam Cotter
May 2, 2006
Page 3

variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance to steep slopes on this site, which in turn will increase the runoff into the Buffer and Bay. This impact contributes to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that the applicant will not be able to meet the requirements for a variance to develop the steep slopes on this site with a pavilion. We oppose the requested variance. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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May 2, 2006

Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 261-06 Verizon, Inc. Special Exception
Local Case # 2006-0112-S**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced special exception. The applicant is requesting a special exception to allow for a modification of a previously approved special exception permitting an office trailer on a parcel located in the Critical Area. The parcel is 2.810 acres, partially located in the RCA, and is currently improved by a brick telephone switching building and one supplemental trailer. The applicant is proposing the addition of a second office trailer.

We do not oppose this special exception for an additional office trailer. While the applicant is locating the trailer within the Critical Area, the applicant is not locating the trailer in the Buffer. However, the proposed site is close to the 25' nontidal wetland buffer. Along with the trailer, the applicant is proposing to remove the 3,800 square foot stone parking lot near the trailer location and then to landscape the area. In order to ensure the 25' nontidal wetland buffer is not impacted we recommend relocating the proposed trailer site further away from the wetlands into the existing stone parking lot.

If this special exception is approved we recommend mitigation plantings at the rate of 1:1 for removal of any vegetation within the Critical Area. Any areas that might be used for temporary staging or stockpile should be restored to the previous condition. 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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "JBL", with a long horizontal line extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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Ren Serey
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May 2, 2006

Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 843-05 5456 Ragged Point Road
Local Case # 49E**

Dear Mr. Dodd:

Thank you for providing information on the above referenced project. The site is 12.12 acres, and two lots including one 2.0 acre intrafamily transfer lot (Lot 5C) is proposed. A previously submitted plan included a note that Lot 5B was being reserved for agricultural use; this note is not included on the current plan therefore we will review both lots under subdivision regulations. I have reviewed the plan submitted, and have the following comments:

- 1) 15% afforestation must be provided, if applicable on both lots.
- 2) Please provide additional information regarding the soil types and vegetative cover for Lot 5C.
- 3) All existing features should be shown on the plan for both Lot 5B and Lot 5C. No driveway to the existing dwelling is shown on Lot 5C and the existing structures are not depicted on Lot 5B.
- 4) The letter from the Department of Natural Resources Heritage Division for identifies two habitat protection areas that must be identified on the plans.

Bald Eagle Nest: A bald eagles nest has been identified which requires the establishment of protection areas of ¼ mile radius around the nest tree. Within this area, three zones of protection must be established. Please refer to the Department of Natural Resources Heritage Division letter from Lori A. Byrne dated February 13, 2006 for habitat protection requirements.

Delmarva Fox Squirrel: The Delmarva Fox Squirrel is a state and federally listed endangered species and the parcel has been identified as a location in which the Delmarva Fox Squirrel is likely to inhabit. Protection for this species habitat must be provided. Please refer to the

Department of Natural Resources Heritage Division letter from Lori A. Byrne dated February 13, 2006 for habitat protection requirements.

- 5) We recommend that plat note #13 refer not only to the intrafamily transfer provisions, but also to the specific family member receiving Lot 5C.
- 6) Please provide additional information regarding the environmental features of the site including soil types and vegetative cover for both parcels.

Thank you for the opportunity to provide comments on this proposed subdivision. Please provide revised plats when these comments have been addressed. If you would like to discuss these comments, please call me at 410-260-3481.

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
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May 2, 2006

Staci Merriman, Planning Specialist
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 263-06 Mill Point Shores Lot 6
Local Case # 06-0664**

Dear Ms. Merriman:

Thank you for providing information on the above referenced application. The applicant is requesting a variance to locate a proposed deck closer to the water than the principal structures on adjacent properties in the Buffer Management Overlay district (BMO). The parcel is .3402 acres and is currently improved by a driveway and single-family dwelling. The applicant is proposing to construct a 13' x 9' deck. This parcel is almost entirely constrained by the Buffer.

The BMO is a special overlay district that establishes limited use of the shoreline areas where existing patterns of development prevent the Buffer from fulfilling the water quality and habitat protection functions outlined in the Critical Area law. Development standards in the BMO restrict property owners from constructing additions or accessory structures any closer to the water than the principal structures on adjacent properties or 25 feet, whichever is greater.

In this case, we do not oppose a variance on this parcel to construct a 13' x 9' deck closer to the water than the principle structure of the neighboring properties. The owner appears to have minimized impacts by designing a relatively small deck, there seems to be no other alternative, and the property owner does not appear to have any structure for the outside enjoyment of his parcel. If this variance is approved we recommend mitigation, at a ratio of 3:1 for disturbance within the Buffer and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

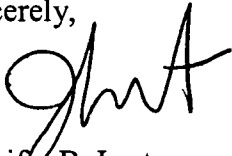
Staci Merriman

May 2, 2006

Page 2

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 I can be reached at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'JBL' or similar, written in a cursive style.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
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**STATE OF 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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May 2, 2006

Staci Merriman, Planning Specialist
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 264-06 24115 Ann Lane
Local Case # 06-0715**

Dear Ms. Merriman:

Thank you for providing information on the above referenced application. The applicant is requesting a variance to place new impervious surface in the Buffer. The parcel is a 2.225-acre lot and is currently improved by a single-family house, shed, driveway, deck and stone path to the dock. The applicant is requesting a variance to construct an addition, including a deck, onto the existing single-family home.

Provided that this lot is properly grandfathered, we do not oppose a variance for the proposed addition and deck. It appears that the lot is severely constrained by the Buffer and that the applicant's design has minimized impacts. If this variance is approved, we recommend mitigation, at a ratio of 3:1 for disturbance within the Buffer and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging or stockpile should be restored to the previous condition.

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "JBLester".
Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 1, 2006

Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 254-06 7536 Rock Creek Way
Local Case # B02219567**

Dear Ms. Plociennick:

Thank you for providing information on the above referenced after-the-fact variances to exceed impervious surface limits and to place a non-water dependent structure in the Buffer. The parcel is a 12,960 square foot lot located in the LDA. Currently, the parcel is improved by a single family dwelling, a deck, a pier, driveway, and extensive sidewalks resulting in 10,178 square feet of impervious surface. The applicant is requesting two after-the-fact variances. The first one is to further increase the impervious surface by 128 square feet resulting in a total impervious surface area of 10,306 square feet or approximately 80% impervious surface. The property owner does not have a right to have 80% impervious surface on his lot. The Critical Area law limits the impervious surface on a grandfathered lot of this size to 31.25%. The second variance is to place an 8' x 16' gazebo, which is a non-water dependent structure, in the Buffer. No property owners are permitted to place new non-water dependent structures in the Buffer.

We oppose both variance requests. In its present configuration, the impervious surface on the parcel exceeds the impervious surface limit by at least 50%. The applicant currently enjoys reasonable use of the property and will not suffer an unwarranted hardship if denied these variances.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly required that, in evaluating requests for variances, local zoning boards "shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program." Annotated Code of Maryland, Natural Resources Article 8-1808(d)(2). The General Assembly further provided that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request

meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the application fails to meet the unwarranted hardship standard, and the other variance standards outlined below:

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

The property is 12,960 square feet and is currently improved by a dwelling, deck, fence, driveway, and existing pier. There are no special conditions or circumstances that are peculiar to the property such that maintaining the Buffer without the additional non-water dependent structure, in the form of the requested 8' x 16' gazebo, would result in an unwarranted hardship to the applicant. The current impervious surface coverage of the parcel is 10,306 square feet or 80% of the lot. There are no special conditions peculiar to the land or structures that would result in an unwarranted hardship if the applicant were not permitted to increase the amount of impervious surface any further.

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

The applicant has reasonable use of this property without approval of the requested variances, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to place non-water dependent structures within the 100-foot Buffer, or to locate new non-water dependent structures in the Buffer. In addition, all lot owners in the Critical Area must comply with impervious surface limitations. No lot owner within the LDA is permitted to have 80% of their lot covered in impervious surface.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area are not permitted to place non-water dependent structures in the 100-foot Buffer.

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

Ms. Plociennik

April 28, 2006

Page 3

The actions of the applicant have created the need for this variance as this request is after-the-fact. The applicant placed the structure in a place that the law does not permit and is now seeking to remedy the situation. In addition, the applicant appears to have added many square feet of impervious surface without seeking the required permits or variances from the Critical Area law. The applicant has created the need for the impervious surface variance.

Our understanding is that the County Planning staff has requested that the applicant produce permits for all of the accessory structures on his property that have resulted in 80% impervious surface. If the applicant cannot produce these permits then the County may pursue enforcement action to require removal of non-permitted impervious structures. We support any enforcement action the County takes to bring the parcel into compliance with the Critical Area law.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the maintaining the minimum 100-foot Buffer in a natural state to promote the water quality and habitat goals of the legislation. Granting these variances will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance in the Buffer on this site and decreasing the area of naturally vegetated Buffer. This impact contributes to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that the applicant will not be able to meet the requirements for the variances requested to place a gazebo in the Buffer. We oppose the variances and support any remedial action the County proposes to require the applicant to reduce the impervious surface on his lot to within the limits permitted by law. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 28, 2006

Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 269-06 6106 Drum Point Road
Local Case # 2006-0122-V**

Dear Ms. Plociennick:

Thank you for providing information on the above referenced variance. The parcel is .32 acres located in the IDA. The parcel is improved by a single family dwelling, shed, utilities, fence, and existing pier. The applicant is requesting a variance to replace an existing pier which is in need of repair and to construct a deck in the location of the existing pier. The plans do not clearly indicate how much of the proposed deck is in the Buffer, we assume from the applicant's description that part of the deck is in the Buffer and part of the deck is over the water.

We do not oppose a variance oppose for the construction of a new pier. However, for any portion of the proposed deck that is in the Buffer we oppose a variance to place a deck in the location of the existing pier. For any portion of the proposed deck that is over the water, the Maryland Department of the Environment has jurisdiction and the applicant should consult with MDE to obtain the required approvals. Only water dependent structures are permitted in the Buffer. The pier is a water dependent structure and is therefore permitted. In contrast, the deck is not a water dependent structure, and is therefore not permitted in the Buffer.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly required that, in evaluating requests for variances, local zoning boards "shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program." Annotated Code of Maryland, Natural Resources Article 8-1808(d)(2). The General Assembly further provided that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted

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Ms. Plociennik

April 28, 2006

Page 2

hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the application fails to meet the unwarranted hardship standard, and the other variance standards outlined below:

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

The property is a .32-acre lot containing a dwelling, shed, utilities, fence, and existing pier. There are no special conditions or circumstances that are peculiar to the property such that maintaining without non-water dependent structures, such as the requested deck, would result in an unwarranted hardship to the applicant.

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

The applicant has reasonable use of this property without approval of the requested variance for placing a non-water dependent structure in the Buffer, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to place non-water dependent structures within the 100-foot Buffer, or to locate new non-water dependent structures in the Buffer.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area are not permitted to remove natural vegetation from the 100-foot Buffer for non-water dependent structures.

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

The actions of the applicant have not created the conditions and circumstances which make this variance necessary.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the*

Ms. Plociennik

April 28, 2006

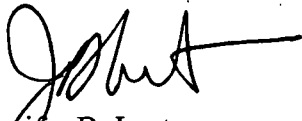
Page 3

variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance in the Buffer on this site and decreasing the area of naturally vegetated Buffer. This impact contributes to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that the applicant will not be able to meet the requirements for a variance to place a deck in the Buffer. We oppose the variance to locate a portion of this proposed deck in the Buffer. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 27, 2006

Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 210-04 Mill Pond at Cabin Creek Subdivision
Dorchester County Plan # 1042**

Dear Mr. Dodd:

I have recently received a preliminary plat for the referenced subdivision, for which the Commission had previously provided comments on June 22, 2005 and April 5, 2004. I have reviewed the information submitted, and I have the following comments, which are substantially similar to the comments previously provided:

1. The MERLIN database suggests there are forested, palustrine wetlands adjacent to the westernmost tributary stream. The 100-foot Buffer may need to be expanded for contiguous nontidal wetlands. The applicant must verify whether wetlands are present and provide appropriate expansion if necessary.
2. The applicant has not provided an environmental report or complete information about environmental features as described in §155-42 of the Dorchester County Zoning Regulations and in the Dorchester County Critical Area Program. Information about soil types, wetlands, streams, forest cover, etc. is necessary to ensure that the project conforms with the County's Critical Area regulations.
3. The Wildlife and Heritage Service (WHS) must be contacted for a determination regarding the presence of rare, threatened and/or endangered species and/or their habitats. The forested area of this property is contiguous to a larger tract of forest, and may qualify as FIDS habitat. The plat must address all WHS concerns. A copy of the WHS determination letter must be provided to this office.
4. A tree line is shown on the plans; however, the amount of existing forest area must be quantified. Appropriate notes regarding forest clearing, reforestation, and if applicable, afforestation must be provided on the plat.

Mr. Dodd

April 27, 2006

Page 2

5. It appears subdivision of this parcel represents a change in use from agricultural to residential. The 100-foot Buffer along the easternmost tributary stream must be fully established in forest vegetation.
6. All existing impervious areas must be shown and quantified, including any farm equipment access lanes. The impervious area associated with the portion of Little Creek Lane within the Critical Area must be included in the impervious surface calculations for Lot 46.
7. Lot 46 is bisected by a tributary stream, creating two potential upland development areas on this lot. There does not appear to be an existing crossing over the western tributary stream to provide access to the northernmost upland area. A crossing over this stream would require a Buffer variance, and it is unlikely that a variance for a new subdivision could be supported by the Commission. It appears that the southern portion of the lot is the only suitable location for residential development; therefore, the building restriction lines and/or plat notes should indicate this.

Thank you for the opportunity to provide comments on this subdivision. Please provide revised plans and the additional information requested. If you would like to discuss these comments, please call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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April 27, 2006

Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**Re: AA 533-04 817 North Shore Drive
Local Case # 2006-0104-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting two variances to permit a dwelling with less setbacks and Buffer than required, and to disturb steep slopes. A variance was previously granted for this applicant in 2004; apparently the applicant was unable to begin the work due to his wife's illness. The property remains undeveloped and is designated a Limited Development Area (LDA) and a Buffer Exemption Area (BEA).

Providing this lot is properly grandfathered, we do not oppose this variance. Based on the information provided, we have the following comments regarding the current development proposal and variance request.

- 1) As shown on the site plan provided, this lot is located entirely within the expanded Buffer, and therefore a variance is necessary to develop the property.
- 2) It appears that the applicant has minimized impacts by locating most of a modest sized dwelling in the cleared area of the site. The applicant proposes wooden steps from the deck to the bulkheaded shoreline. We recommend that clearing be kept to the minimum necessary for construction of the walkway. Existing large trees and canopy cover should be retained within the Buffer.
- 3) Mitigation, at a ratio of 2:1 for disturbance within the Buffer, should be required. Mitigation plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible. Because the lot is heavily forested, mitigation alternatives will need to be addressed.

Ramona Plociennik

April 26, 2006

Page 2 of 2

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,

A handwritten signature in black ink, appearing to read 'J. Lester', with a long horizontal flourish extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 27, 2006

Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 10-06 1700 Bay View Drive
Local Case # 2006-0120-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. My comments are substantially similar to those previously submitted by Gary Green on February 1, 2006. The applicant's proposal appears to be unchanged from the application that was reviewed by a colleague earlier this year. The applicants are requesting a variance to permit the construction of a single-family dwelling, porch, well, and driveway with less setbacks and Buffer than required. The property has a split designation of Limited Development Area (LDA) and Resource Conservation Area (RCA), is currently forested and contains wetlands.

This project was previously presented to the Administrative Hearing Officer on December 2004 (2004-0425-V) and on June 1996 (1996-0147-V). The requests conditionally approved the variance of 80 feet to the 100-foot Buffer and 25 feet from the required 50-foot setbacks to the Open Space to permit a single-family dwelling and additions. The applicants were granted a Buffer variance in the amount of 84 feet, a variance of 23 feet to the setback of the Open Space and a variance of 5 feet to the front setback to permit the dwelling, with the condition that the applicants provide mitigation at a ratio of 3:1 for disturbance in the Buffer with plantings between the dwelling and wetlands. The current site plan does not differ significantly in what was previously conditionally approved for in 2004. The changes are slight and are noted here:

The current site plan indicates the total site as 20,880 square feet with a proposed impervious surface of 2,200 square feet (10% of the site). The amount of forest on the site is 18,870 square feet with a proposed clearing of 4,500 square feet (23.8% of the site) with an allowable clearing of 5,661 square feet (or 30% of the site).

The original site plan proposed an impervious surface coverage of 1,862 square feet (or 10% of the site). The difference between the current site plan and the original is that the current plan now

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Ramona Plociennik

April 27, 2006

Page 2 of 2

includes a side upper balcony and a front sidewalk. The original site plan indicated a clearing of 4,650 square feet which is slightly reduced under the current site plan.

This office does not oppose this variance request. If the variance is granted we recommend mitigation at a ratio of 3:1 for disturbance within the Buffer. Mitigation plantings, consisting of native trees and shrubs, should be accommodated on the site to the extent possible. All areas disturbed during construction should be replanted following completion of the project.

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,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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April 26, 2006

Holly Shipley
Environmental Programs Division
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

RE: MD 16 from Brannocks Neck Road to South on MD 335

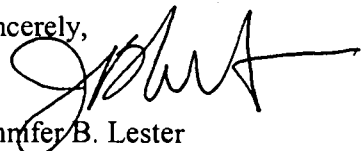
Dear Ms. Shipley:

I have received the above-referenced project for review. Based on the information provided, the proposed streetscape improvements may meet the Memorandum of Understanding (MOU) between the Maryland Department of Transportation and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. In order to make a final determination of consistency with the MOU we have the following comments and require the following additional information:

- 1) Both the Critical Area boundary line and the 100' Critical Area Buffer need to be shown on the plans.
- 2) It is our understanding that there is no proposed forest clearing, therefore, replacement is not required.
- 3) Changes in impervious surface in the Critical Area need to be calculated and it should be determined if there will be an increase in impervious surface. If there is an increase then Best Management Practices will need to be identified which will reduce the pollutant load by 10%.
- 4) Our initial review indicates that this project may fall within the MOU between State Highway Administration and the Critical Area Commission. Please provide justification that this project is consistent with the MOU and therefore does not need to go before the Commission for review.

Thank you for submitting this project to this office for review. If you have any questions, please do not hesitate to contact me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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April 26, 2006

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 256-04 1712 Harfield Trail
Local Case # 2006-0096-V**

Dear Ms. Plociennik:

Thank you for providing updated information on the above referenced variance. The applicant is requesting a variance to permit disturbance to steep slopes for expansion of a parking pad and expanded deck. The property is designated Limited Development Area (LDA) and is currently developed by a single family dwelling, an attached garage, a gravel parking pad, and a deck. I have reviewed the application and have the following comments.

Providing this lot is properly grandfathered, this office does not oppose a variance to disturb steep slopes for the installation of retaining walls to expand the parking and deck areas. Due to the constraints of the property by the steep slopes there are few alternatives for development other than the plan presented and a variance is necessary. However, a variance should be the minimum necessary to provide relief. All areas disturbed during construction should be replanted following completion of the project.

Thank you for the opportunity to provide comments on this variance request. If you have any questions please contact me at 410-260-3481. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester".
Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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April 26, 2006

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

**RE: SM 241-06 38095 Beach Road
Local Case # 06-0508**

Dear Ms. Merriman:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to exceed the impervious surface limits through the addition of a 10' x 24' screened porch. The proposed addition is on a 1.18 acre lot located in the LDA. Currently, the parcel is improved by 7,888 square feet of impervious surface consisting of a dwelling unit, driveway and concrete walkway. Under the State law and the County Critical Area program, a lot of 1.18 acres in the LDA is allowed a maximum of 7,710 square feet of impervious surface. The existing impervious surface already exceeds the 15% impervious surface limits.

We oppose this variance to add an additional 188 square feet of impervious to this parcel which already exceeds the impervious surface limits. A variance would not be required if the applicant were to reduce existing impervious surface by 188 square feet. It appears that it is possible for the applicant to reduce impervious surface elsewhere on the property, for example, the circular driveway creates a large amount of impervious surface that could easily be reduced by changing the size and or shape of the driveway. Reducing the existing impervious surface would enable the applicant to construct a porch addition on the dwelling unit without increasing the existing impervious surface.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly instructed local zoning boards to presume that the specific project for which the variance is requested does not conform to the spirit and intent of the Critical Area law, regulations, and the County's program. Moreover, the legislature provided that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard

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of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the applicant currently enjoys reasonable and significant use of the property without increasing impervious surface beyond the allowable 15%. As proposed, the application does not meet the variance standards outlined below.

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

The property is a 1.18-acre lot containing a house, circular driveway and concrete walkway, which amount to 7,888 square feet of impervious surface. There are no special conditions or circumstances that are peculiar to the property that create a need for further exceeding the impervious surface limit.

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

The applicant has reasonable use of this property without approval of the requested variance, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to exceed the impervious surface limit.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. All property owners in the Critical Area are limited by the amount of impervious surface permitted on their lots. Granting this variance would confer a special privilege on the applicant in permitting more impervious surface on this parcel than allowed for other similarly situation property owners.

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

The variance request is based upon conditions or circumstances which are the result of actions by the applicant because if the applicant were to remove already existing impervious surface then a variance would not be required to exceed the impervious surface limits.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that they meet this standard, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds.

The General Assembly also reiterated the importance of the minimum 100-foot Buffer and the expanded Buffer for environmentally sensitive areas to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of impervious surface on this site and decreasing the amount of naturally vegetated area. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office opposes the requested variance as it is possible to remove some of the existing impervious surface and eliminate the need for a variance. 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 call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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April 26, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 245-06 2541 Old House Point Road
Local Case # 2288**

Dear Mr. Dodd:

Thank you for providing information on the requested variance to construct new impervious surface in the 100 foot Critical Area Buffer. The applicant proposes to place 24 feet of a new 40' x 60' garage in the Buffer. The parcel is .50 acre and is located in the IDA and appears to be improved by a 24' x 34' structure and driveway.

We oppose this variance because this property is already subject to a reasonable and significant use. Moreover, as you know, both State and local Critical Area law prohibit the construction of new non-water dependent structures in the 100' Buffer. Here the applicant is requesting to locate part of a 40' x 60' detached garage in the Buffer. It appears from the plans provided that the applicant could either reduce the size of the garage or eliminate the need for a variance by relocating the structure completely outside the Buffer.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly required that, in evaluating requests for variances, local zoning boards "shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program." Annotated Code of Maryland, Natural Resources Article 8-1808(d)(2). The General Assembly further provided that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the application fails to meet the unwarranted hardship standard, and the other variance standards outlined below:

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

The property is a one-half acre lot containing a 24' x 34' structure and driveway outside of the Buffer. Even with these improvements, extensive areas of this property are available for further development outside of the Buffer. There are no special conditions or circumstances that are peculiar to the property such that maintaining the Buffer in the natural state would result in an unwarranted hardship to the applicant.

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

The applicant has reasonable use of this property without approval of the requested variances, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to clear vegetation within the 100-foot Buffer, or to locate new non-water dependent structures in the Buffer.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area are not permitted to remove natural vegetation from the 100-foot Buffer for new non-water dependent structures.

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

The actions of the applicant have not created the conditions and circumstances which make this variance necessary, except that if the garage were to be redesigned or reconfigured on the property then a variance would not be necessary.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance

Steve Dodd
April 21, 2006
Page 3 of 3

of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance in the Buffer on this site and decreasing the area of naturally vegetated Buffer. This impact contributes to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that the applicant will not be able to meet the requirements for a variance. We oppose the variance to locate a portion of this garage in the Buffer. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Please provide me with a copy of the Board's decision.

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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April 19, 2006

Jim Sharp
Wicomico County
Department of Planning, Zoning and Community Development
P.O. Box 870
Salisbury, Maryland 21803-0870

RE: WI 208-06 Whitetail Subdivision

Dear Mr. Sharp:

I have reviewed the plat for this subdivision. This 61.35-acre parcel contains 46.28 acres in the RCA and the remaining 15.07 acres are located outside of the Critical Area. Acreage that can be counted for density development within the RCA is 40.26 acres, allowing for two dwelling units.

As you are aware, there are strict limitations on density and land use within the RCA. These restrictions are intended to conserve, protect, and enhance the overall ecological values of land characterized as nature-dominated. Without the use of growth allocation, land within the RCA cannot be used to support development outside of the Critical Area, or to support density higher than one dwelling unit per twenty acres. This policy is consistent with previous Critical Area approvals within Wicomico County and within surrounding counties.

Regarding the lot lines on the proposed subdivision of the Whitetail Subdivision I have the following comments:

- 1) It appears that lots 4 through 7 are drawn to include areas located in the RCA. Please note that no development activity, including, but not limited to dwelling units, patios, decks, sidewalks, garages, and sheds are not permitted in the RCA portion of these lots. Given the size of the lots 4 through 7 it is not clear that there is a large enough area outside of the RCA portion of the lots which would allow for a dwelling unit. The developer may want to redraw these lot lines so that the lots are entirely outside of the Critical Area. The note specifying allowable impervious surfaces on each lot must be revised to eliminate the allowable impervious surface numbers.
- 2) Lots 2 and 3 are drawn to include extensive areas that are within the RCA. As you know, the law permits only 1 dwelling unit per 20 acres in the RCA. Lots 8 and 9 each contain building envelopes that cover the 2 dwelling units permitted in this subdivision. While the lot lines for 2 and 3 may include portions in the RCA, please note that no

Jim Sharp
April 19, 2006
Page 2

development activity is permitted in the Critical Area portions of lots 2 and 3. Development activity on lots 2 and 3 including, but not limited to, dwelling units, patios, decks, sidewalks, garages, sheds, driveways, roads, piers, gazebos, pools, and any and all other structures.

In addition to the lot lines, I have the following general comments on the subdivision plan:

- 1) A determination letter must be obtained from the Department of Natural Resources Wildlife and Heritage Service (WHS) regarding the presence of rare, threatened and/or endangered species and/or their habitats on this site. All WHS comments must be addressed on the plat. A copy of the WHS comments must be provided to this office prior to final plat approval.

If you have any questions about my comments you can contact me at 410-260-3481. Thank you for the opportunity to provide comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Lester', with a long horizontal stroke extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 19, 2006

Angela Willis
Project Planning Division
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

**RE: SHA MD 170 Streetscape Improvements Anne Arundel County
11-06 SHA**

Dear Ms. Willis:

Thank you for setting up the meeting for Tuesday, April 25, 2006, at 9:30 am so that we may address outstanding issues for the above referenced project. In preparation for the meeting please forward this letter which addresses the issues to be resolved to all individuals involved in the project.

In order for the Critical Area Commission to move forward on project approval we require the following additional information:

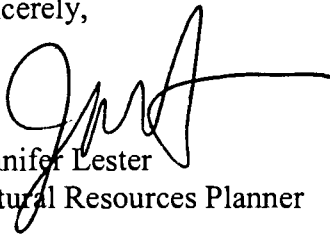
- 1) Overview Plan: An overview plan of the project are should be provided which includes the boundary of the Critical Area and Buffer areas surrounding the project.
- 2) Plans: The plans need to clearly identify the following: limits of disturbance, topography, vegetative cover and soils.
- 3) Buffer: The 100' Buffer needs to be clearly shown and should include all of the land that is 100' landward from tidal waters, tidal wetlands and tributary streams. The Buffer must be expanded to include 15% slopes, and hydric soils and highly erodible soils if the proposal will impact streams, wetlands, or aquatic environments.
- 4) Wetlands: The plans should identify all tidal and nontidal wetlands and include a 25' buffer from nontidal wetlands.
- 5) Habitat: All plant and wildlife habitat should be identified. All impacts to vegetation within the 100' Buffer and outside of the 100' Buffer needs to be identified. For disturbance to vegetation within the Buffer 3:1 mitigation is required. Disturbance to vegetation outside the Buffer requires 1:1 mitigation. Specific mitigation plans need

to be provided. This includes all tributary streams to the Patapsco River that the project will impact.

- 6) Timeline: A timeline for project completion should be provided.
- 7) Erosion and Sediment Control: All soil erosion and sediment control measures that will be used during the project should be identified.

Thank you for coordinating the contacts for this project. If you have any questions, please do not hesitate to contact me at (410) 260-3481.

Sincerely,



Jennifer Lester
Natural Resources Planner

Cc: Regina Esslinger

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

Staci Merriman, Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 198-06 45086 Lighthouse Road
Local Case # 06-0138**

Dear Ms. Merriman:

Thank you for providing updated information about the above referenced variance to increase the impervious surface in the expanded Buffer by 417 square feet. Please include these comments in addition to our previously submitted comments dated March 30, 2006.

The parcel is .53 acres in size, located in the IDA and appears to be entirely constrained by the expanded Buffer, which the County has determined requires expansion for hydric soils. The applicant is proposing to tear down an existing house and rebuild in the same general vicinity.

Provided that the lot is properly grandfathered, we don't oppose a variance to build a replacement house on this lot. It appears the dwelling is sited to minimize impacts to the Buffer and that the applicant is proposing to provide mitigation planting as required. Please call me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 18, 2006

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

**RE: Hyatt Marina Expansion, Utility Lines, Lot Fill and Bridge
JOINT FEDERAL/STATE APPLICATION NUMBER 200662883**

Dear Mr. Limpert:

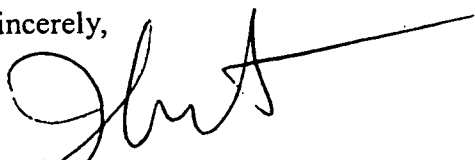
Thank you for forwarding the above referenced project application. I have reviewed the file and the application and have the following comments.

- 1) Lot Fill: The applicant is proposing to fill several nontidal wetlands. The first identified nontidal wetland is located next to the planned 6-foot wide pedestrian walkway (sheet 5 of 12). It is not clear from the plans why this wetland needs to be filled. As you are aware when nontidal wetlands are contiguous with the 100-foot Buffer, the Buffer must be expanded to include the nontidal wetland. New development activities and disturbance cannot be permitted within the Buffer and expanded Buffer without a variance, unless the activity is water-dependent. On sheet 6 of 12 the applicant is proposing to fill another area of nontidal wetlands. This wetland also appears to be located within the expanded Buffer. Additional explanation is needed to clarify why these nontidal wetlands are proposed to be filled and what alternatives were evaluated.
- 2) Utility Lines: The applicant is proposing to disturb tidal wetlands and the 100-foot Buffer in order to remove the water main as identified on page 5 of 12. It is not clear from the plans submitted why this proposed disturbance to the tidal wetlands and Buffer is necessary. New development activities and disturbance cannot be permitted within the Buffer without a variance, unless the activity is water-dependent. Additional explanation is needed to clarify why this disturbance is necessary and whether impacts to the wetland and the Buffer have been minimized.

- 3) Marina Expansion: It is our understanding that the proposed marina expansion has not changed from the previously approved application. If this is this case, then we have no additional comments; however, if the proposal has changed then we would need to review any specific modifications to the original application.
- 4) Bridge: The proposed impact associated with the access road/bridge may be necessary and possible under the City's Critical Area Program; however, it is not clear how the proposed impacts to the 100-foot Buffer will be addressed. The applicant has not provided any justification for this impact and will need to coordinate with the City regarding the need for a variance and minimization of impacts to the Buffer. It is likely that mitigation will be required for these impacts, and no information about mitigation has been provided.
- 5) Buffer: The 100-foot Buffer and all required expansion need to be clearly identified on all of the plans. The Buffer is not shown on the plans or identified. All impacts to the 100-foot Buffer and expanded Buffer (where necessary for contiguous hydric or highly erodible soils and non-tidal wetlands) will require mitigation and may require additional local approvals or variances. Revised plans should be submitted that clearly delineate the Buffer and expanded Buffer, as well as any proposed impacts.

Thank you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

cc: Mr. Roby Hurley, MDP
Ms. Anne Roane, City of Cambridge
Mr. Bob Tabisz, MDE

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

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Executive Director

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April 18, 2006

Staci Merriman, Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653, Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 227-06 49859 Gray Goose Lane
Local Case # 02-0565**

Dear Ms. Merriman:

Thank you for providing information about the above referenced variance. The applicant is requesting a variance to place new impervious surface in the Buffer and to locate a portion of the replacement septic system in the Buffer. The parcel is .67 acres in size and located in the LDA. The proposal involves replacing the existing house with a new house and a front and back porch resulting in an overall net increase of 11 square feet of impervious surface.

Provided that the lot is properly grandfathered, we do not oppose the replacement of this dwelling unit that will result in a net increase of 11 square feet of impervious surface. It appears that the property is severely constrained by the Buffer. It is our understanding that the applicant has attempted to minimize impacts by locating most of replacement septic out of the Buffer and by removing a large area of gravel from the Buffer which will be regenerated. In addition, we recommend mitigation, at a ratio of 3:1 for disturbance within the Buffer and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

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 call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 13, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 217-06 1537 Bennett Road
Local Case # 2286**

Dear Mr. Dodd:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling unit in the Buffer. The parcel consists of approximately 1 acre and is located in the RCA and is entirely constrained by the 100' Buffer. Currently, the parcel is improved by a dirt driveway. According to the staff report provided by Dorchester County, the conditions of the property are such that there is no alternative location for the proposed dwelling unit.

State and local Critical Area law prohibits the construction of new non-water dependent structures in the 100' Buffer, unless the lot is properly grandfathered. A lot is properly grandfathered when the applicant can provide documentation that the lot existed prior to 1985. We oppose this variance as the County has been unable to find documentation evidencing that the lot is properly grandfathered. However, if the Board were to determine that the lot is properly grandfathered we would not oppose 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. If you have any questions, please call me at (410) 260-3481.

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

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Executive Director

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April 12, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 216-05 5303 Morris Neck Road
Local Case # 2285**

Dear Mr. Dodd:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a 12' x 20' sunroom that encroaches 10' into the Buffer. The parcel consists of 2.91 acres and is located in the RCA. The parcel is improved by a house, driveway and garage. According to the staff report provided by Dorchester County, the conditions of the property are such that there is not an alternative location for the sunroom.

Provided that the lot is properly grandfathered we do not oppose this variance. Dorchester County planning staff is recommending 3:1 mitigation in the Buffer which would result in 270 square feet of new native plantings. In addition, the County staff is recommending that the occupancy permit be withheld until the plantings are accomplished. We support these recommendations.

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", with a long horizontal stroke extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

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**STATE OF MARYLAND
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April 12, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 215-06 MCB Harmony Farms
Local Case # 2284**

Dear Mr. Dodd:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to place sewage reserve areas in the expanded Buffer. The parcel consists of 1.8 acres and is located in the LDA. The parcel is improved by two dwelling units and the County health department is requiring two sewage reserve areas for a future subdivision. According to the staff report provided by Dorchester County, the conditions of the property are such around the existing dwellings that there is no alternative location for the sewage reserve areas.

We do not oppose this variance. It is our understanding that no clearing of woody vegetation will occur and that mitigation for disturbances to the expanded Buffer will be at a rate of 3 times the area disturbed. If a variance is approved we support the proposed mitigation as a condition.

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 call me at (410) 260-3481.

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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April 12, 2006

1804 West Street, Suite 100, Annapolis, Maryland 21401
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Ms. Yvonne Chaillet
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 137-06 26200 Skyview Drive
Local Case #: 06-0229**

Dear Ms. Chaillet:

Thank you for providing the updated plan on the above referenced variance. The applicant is requesting two variances, the first to construct a garage and shed in the expanded Buffer, and a second variance to clear over 30%. The property is designated a Limited Development Area (LDA), and is currently undeveloped.

The updated plan appears to contain details of the planting mitigation and indicates that the proposed shed is in an area already containing impervious surface. Our comments on this updated plan are the same as on the original submission. As proposed, we oppose this variance request as the updated plan does not minimize disturbance to the expanded Buffer. The proposed total amount of new impervious surface on the lot is 2,994 square feet, which includes a 48' x 30' garage and a 12' x 18' shed. No information was provided regarding how this proposal can meet the variance standards particularly that the variance request is the minimum necessary. If the plan were revised to minimize the total amount of impervious surface through reducing the size of the garage and/or eliminating the shed we would not oppose the variance.

If granted we recommend the mitigation, at a ratio of 3:1 for all disturbance and removal of trees. Mitigation plantings, consisting of a mix of native trees and shrubs, should be directed to non-forested areas within the expanded Buffer and 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. If you have any questions, please call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 11, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 714-05 Ragged Point Road Subdivision
Local Case # 622E**

Dear Mr. Dodd:

Thank you for providing updated information on the referenced project. The proposed re-subdivision is within the LDA and creates two lots, lot 5 and lot 5A. Our comments on the updated subdivision plan are as follows:

1. A vegetated 100-foot Buffer needs to be established on both lot 5 and lot 5A.
2. Forest cover must be established over 15% of each lot; the vegetated Buffer may count toward this aforestation requirement.

Thank you for the opportunity to provide comments on this proposed subdivision. If you would like to discuss these comments, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", written over the printed name.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

April 11, 2006

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

Staci Merriman, Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 211-06 23585 Town Creek Drive
Local Case # 06-0465**

Dear Ms. Merriman:

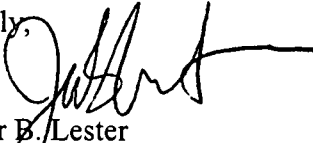
Thank you for providing information on the above referenced variance to expand an existing dwelling by constructing a sunroom on top of an existing patio in the expanded Buffer. The applicant is requesting a variance to construct a sunroom on an existing concrete patio and to increase the impervious surface by adding a new 248 square foot sidewalk around the sunroom and a new 366 square foot deck. The parcel consists of 1.2912 acres in the LDA.

Providing the lot is properly grandfathered, we do not oppose a variance to expanded the existing dwelling; however, impacts must be minimized and the variance should be the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

- 1) We recommend the applicant consider using a pervious material for the walkway to reduce impervious surface.
- 2) We recommend on-site mitigation, at a ratio of 3:1 for disturbance within the expanded Buffer. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

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,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman
Ren Serey
Executive Director

**STATE OF MARYLAND
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April 4, 2006

Staci Merriman
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 156-06 17020 Three Notch Road
Local Case No.: 06-0102**

Dear Ms. Merriman:

Thank you for providing information on the above referenced variance to place an additional 3,183 square feet of impervious surface in the expanded Buffer. It is our understanding of the requested 3,183 square feet of new impervious surface, that 1,935 square feet requires an after-the-fact variance because the applicant added new structures without a proper variance. The property is over 12 acres in size, located in the RCA, and is currently improved by an existing house and pool. The applicant is requesting a variance to exceed the impervious surface limits in the expanded Buffer in order to construct a tiki bar, a shed, a pavilion and to install a concrete patio around the pool. We oppose the applicant's variance as the need for the variance is in part based on conditions and circumstances that are a direct result of the applicant's actions. In addition, the large size of the parcel indicates that the applicant would be able to locate all of the requested accessory structures outside of the expanded Buffer; therefore, the requested variance is not the minimum necessary to provide reasonable use of the property.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the applicant currently enjoys reasonable and significant use of the property without impacting the expanded Buffer. In addition, the need for a portion of this variance is self-created and this office believes that the standards of unwarranted hardship, along with the other variance standards outlined below, have not been met.

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

The property is a 12.256-acre lot containing a large house, driveway, and pool located within the expanded Buffer. Extensive areas of this property are located outside of the Buffer and the expanded Buffer. The accessory structures which the applicant is requesting be placed in the expanded Buffer are not water-dependent and therefore could easily be located outside of the expanded Buffer. There are no special conditions or circumstances that are peculiar to the property such that maintaining the expanded Buffer in the natural state would result in an unwarranted hardship to the applicant.

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

The applicant has reasonable use of this property for residential purposes without approval of the requested variance, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. Property owners are not permitted to locate any new non-water dependent impervious surface in the Buffer or the expanded Buffer. It appears that the applicant is already enjoying reasonable residential use of the property, and this use is not affected by not being permitted to locate the requested accessory structures within the expanded Buffer.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area are not permitted to place accessory structures that are not water-dependent within the expanded Buffer. Permitting this applicant to add new non water-dependent impervious surface in the expanded Buffer would confer upon the applicant a special privilege that would be denied to similarly situated property owners.

Staci Merriman
April 4, 2006
Page 3

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

The applicant is requesting this variance in part because of installing non water-dependnet accessory structures which total 1,935 square feet of impervious surface, in the expanded Buffer prior to obtaining a variance. The actions of the applicant created the conditions and circumstances which make this variance necessary.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum Buffer to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of impervious surface in the expanded Buffer on this site and decreasing the area of naturally vegetated Buffer. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

6. *The variance is the minimum necessary to achieve a reasonable use of land or structures.*

The parcel is 12.256 acres in size and is currently improved by a house, driveway, and pool. Many locations on the property exist for accessory structures which would not have an impact on the expanded Buffer. The variance request is not the minimum necessary to achieve reasonable use of the land or structures.

In conclusion, this office opposes this variance as it is not necessary to enjoy reasonable use of the property and the applicant is unable to meet the burdens of demonstrating an unwarranted hardship and the other variance factors. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

March 30, 2006

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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Staci Merriman
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 205-06 27303 Cat Creek Road
Local Case # 06-0419**

Dear Ms. Merriman:

Thank you for providing information about the above referenced variance to increase the impervious surface in the expanded Buffer. The parcel is .72 acres in size and located in the IDA. The applicant is proposing to construct a 192 square foot deck on the side of his house, resulting in an overall net increase of 61 square feet of impervious surface. It is our understanding that the County has determined that the entire parcel is located in the expanded Buffer due to highly erodible soils and steep slopes.

Provided that the lot is properly grandfathered, we do not oppose the construction of the deck which would result in 61 square feet of additional impervious surface. It appears that the deck has been designed and located to minimize impacts to the Buffer. If the variance is approved, we recommend mitigation planting as provided by the local Critical Area regulations.

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 call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", written over the word "Sincerely,".

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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CHESAPEAKE AND ATLANTIC COASTAL BAYS**

March 30, 2006

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Ms. Staci Merriman
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 0042-06 24305 Mariner Lane
Local Case #: 05-3752**

Dear Ms. Merriman:

Thank you for providing information on the above referenced after-the-fact variance for new impervious surface within the 100-foot Critical Area Buffer at 24305 Mariner Lane. The property is a .6125 acre lot located in the LDA and is impacted by the expanded Buffer. The applicants are requesting a variance to locate a 1,000 square foot stone patio in the 100-foot Buffer.

As currently proposed we oppose this variance as it is not the minimum necessary to provide relief to the applicant. It is unfortunate that the applicants did not apply for this variance prior to constructing their patio; if they had done so then County staff could have easily worked with them to find an appropriate size and location for their desired use. On March 22, 2006, we visited the site with County planning staff. In visiting the site, meeting with the applicant and reviewing the application it is clear that the parcel is constrained by environmental features that make locating a patio elsewhere difficult. Provided the lot is properly grandfathered, we would not oppose a variance for a smaller patio. If the variance is granted, we recommend that 3:1 mitigation for the entire patio be provided. It appears there is room on site to accommodate the mitigation.

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

Sincerely,

A handwritten signature in black ink, appearing to read "JLester", with a long horizontal line extending to the right.

Jennifer Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

March 30, 2006

1804 West Street, Suite 100, Annapolis, Maryland 21401
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www.dnr.state.md.us/criticalarea/

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 199-06 Rippling Road Subdivision
Local Case # 1117**

Dear Mr. Dodd:

I have reviewed the plat for this minor subdivision, which is being created through the intra-family transfer provisions. This 58-acre parcel is located entirely within the RCA of Dorchester County. The subdivision will create Lot 1 and the Residue. We do not oppose an intra-family subdivision on this parcel. However, the plat must provide the following additional information:

1. The plat should include a note that impervious surfaces are limited to 15% of each lot.
2. A determination must be obtained from the Department of Natural Resources Wildlife and Heritage Service (WHS) regarding the presence of rare, threatened and/or endangered species and/or their habitats on this site. All WHS comments must be addressed on the plat. A copy of the WHS comments must be provided to this office prior to final plat approval.
3. Topography and soils types must be shown on the site plan in order to determine whether the Buffer applies on this site.
4. The receiver of Lot 1 should be identified on the plat through a plat note.

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

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lester", with a long horizontal line extending to the right.

Jennifer B. Lester
Natural Resources Planner

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
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

March 30, 2006

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Staci Merriman
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 198-06 45086 Lighthouse Road
Local Case # 06-0138**

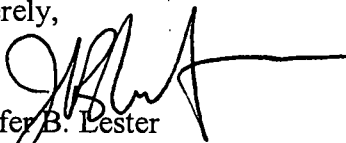
Dear Ms. Merriman:

Thank you for providing information about the above referenced variance to increase the impervious surface in the expanded Buffer. The parcel is .53 acres in size and located in the IDA. The applicant is proposing to tear down an existing house and rebuild in the same general vicinity. It is our understanding that the County has determined the Buffer has been expanded for hydric soils and encompasses the entire site. We have the following comments:

1. The applicant must select a residential best management practice (BMP) which is appropriately suited to the site. If site constraints are such that residential BMPs cannot be employed on the site then a planting plan which includes the mitigation requirements outlined in St. Mary's County's Critical Area program section 41.4.3.3 shall be included with the site plan.

We don't oppose a variance to build a replacement house on this lot. It appears the dwelling is sited to minimize impacts to the Buffer. We may have additional comments based upon any new information. Please call me at 410-260-3481 if you have any questions regarding these comments.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

March 27, 2006

Raj Williams, AICP
Eastern Region Planning Chief
Public Lands Policy and Planning
Tawes Office Building E-4
580 Taylor Avenue
Annapolis, Maryland 21401

RE: Sharptown Dunes Restoration

Dear Ms. Williams:

Thank you for forwarding a copy of the Department of Natural Resources-Natural Heritage Program's proposal for the Restoration of a Natural Community and Endangered Beetle Habitat at Sharptown Dunes. Sharptown Dunes is a State of Maryland Natural Heritage Area located along the Wicomico River, and is located in Wicomico County's Critical Area. I have reviewed the proposal and support the project to restore the oak-lichen dune community in order to preserve the habitat of the endangered and rare beetle species.

The applicant is requesting funds to restore 25 acres of oak-lichen dune community in order to improve the habitat for two rare beetles, *S. puberulus* and *H. cisteloides*. This office supports the restoration of this habitat for the protection of rare species. The applicant is not proposing any development activities nor any activities that will impact the Critical Area, therefore the project is not required to be approved by the Commission.

Thank you for the opportunity to provide comments on this project. Please contact me with any questions at 410-260-3481.

Sincerely,

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

Jennifer Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

March 21, 2006

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

**RE: SM 575-05 26218 Skyview Drive
Local Case No.: 04-2972**

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling, driveway, porch, deck, septic system, drainage and stormwater management system, and within the expanded Buffer. The proposed dwelling and associated improvements will be located on two lots (referred to as lots 20 and 21, Block F). The properties are currently undeveloped, forested with steep slopes and expanded Buffer, and are designated as Limited Development Area (LDA).

Providing that these lots are properly grandfathered, we do not oppose a variance to develop the parcels; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

As shown on the site plan, steep slopes encompass a large portion of the site, and therefore we recognize that a variance is necessary to permit development of the site. The proposed dwelling and associated attachments and systems have been located to a portion of Lot 20 that is the flattest and close to the existing roadway. The drainage from the dwelling has been designed to carry runoff away from steep slopes. In addition, the properties have a combined total of 86,200 square feet of forest, 11,438 square feet of forest will be removed, and 34,314 square feet of forest will be replaced.

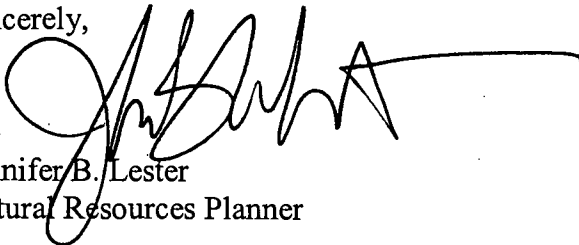
- 1) We recommend mitigation, at a ratio of 3:1 for disturbance within the Buffer and mitigation plantings should be accommodated on site to the extent possible. Any areas that might be used for temporary staging and stockpile should be restored to the previous condition.

Yvonne Chaillet
March 21, 2006
Page Two

- 2) Stormwater from the new driveway parking pad should be directed away from steep slopes, preferably to a best management practice (BMP) to provide water quality benefits to the site.

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

Sincerely,

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

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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March 15, 2006

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Ms. Yvonne Chaillet
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 132-06 49857 Gray Goose Lane
Local Case # 05-3800**

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling unit partially within the Buffer which would result in creating 1,607 square feet of new impervious surface in the Buffer and 1,594 square feet of impervious surface outside of the Buffer. The property is designated a Resource Conservation Area (RCA), and is currently undeveloped with approximately half of the parcel located in the Buffer.

We have reviewed this variance request and have the following comments.

- 1) The submitted plan does not appear to minimize disturbance within the Buffer to the greatest extent possible. While development on the lot is restricted by the extent of impact of the Buffer, development within the portion of the property impacted by the Buffer can be minimized.
- 2) The applicant proposes to construct a single family dwelling, porch, balcony, and driveway which would create 1,607 square feet of impervious surface within the Buffer and 1,594 square feet of impervious surface outside of the Buffer. We recommend the applicant consider revising the development plan to reduce disturbance to the Buffer by bringing the front of the house up to the 25' front yard setback line.

March 13, 2006
Ms. Yvonne Chaillet
Page 2

- 3) The proposed sewage reserve area is located outside of the Buffer and the sewage field is located inside the Buffer. We recommend reversing this so that the reserve field is located in the Buffer.

If granted, we recommend mitigation according to St. Mary's County regulations for disturbance within the Buffer. Mitigation plantings, consisting of a mix of native trees and shrubs, should be directed to non-forested areas within the Buffer and 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. If you have any questions, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. B. Lester', with a long horizontal line extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
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STATE OF MARYLAND
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www.dnr.state.md.us/criticalarea/

March 15, 2006

Ms. Staci Merriman
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

**RE: SM—0051-06 David Spore Variance
Case #05-3786**

Dear Ms. Merriman:

I have received the revised site plan and request for a variance for the above referenced property to place new impervious surface in nontidal wetlands. The lot is 1.36 acres, is designated RCA, and is all nontidal wetlands. The applicant is proposing 5,094 square feet of disturbance to build a house, garage, well and driveway. Impervious surface on the site in the revised site plan will be 8.75%, which is within the 15% impervious surface limits. I have the following comments.

Provided this parcel is properly grandfathered, this office does not oppose a variance to develop this property with a dwelling. We recommend that plantings appropriate for a wetland be provided in accordance with the County's Critical Area provisions.

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

Sincerely,

A handwritten signature in black ink, appearing to read "JLester", with a long horizontal line extending to the right.

Jennifer Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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**STATE OF MARYLAND
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March 15, 2006

Ms. Yvonne Chaillet
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 137-06 26200 Skyview Drive
Local Case #: 06-0229**

Dear Ms. Chaillet:

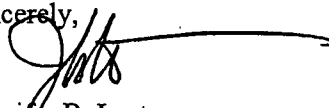
Thank you for providing information on the above referenced variance. The applicant is requesting two variances, the first to construct a garage and shed in the expanded Buffer, and a second variance to clear over 30%. The property is designated a Limited Development Area (LDA), and is currently undeveloped.

As proposed, we oppose this variance request as the submitted plan does not appear to minimize disturbance to the expanded Buffer. The proposed total amount of new impervious surface on the lot is 2,898 square feet, which includes a 48 x 30 garage and a 12 x 18 shed. No information was provided regarding how this proposal can meet the variance standards, particularly that the variance request is the minimum necessary. If the plan were revised to minimize the total amount of impervious surface through reducing the size of the garage and/or eliminating the shed we would not oppose the variance.

If granted we recommend the mitigation, at a ratio of 3:1 for all disturbance and removal of trees. Mitigation plantings, consisting of a mix of native trees and shrubs, should be directed to non-forested areas within the expanded Buffer and 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. If you have any questions, please call me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

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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CRITICAL AREA COMMISSION
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March 14, 2006

Raj Williams, AICP
Eastern Region Planning Chief
Public Lands Policy and Planning
Tawes Office Building E-4
580 Taylor Avenue
Annapolis, Maryland 21401

RE: Puckum Branch Fish Barrier Removal and Stream Enhancement Project

Dear Ms. Williams:

Thank you for forwarding a copy of the Department of Natural Resources application for financial support for the Puckum Branch Fish Barrier Removal and Stream Enhancement Project. This project is located in and along the banks of Puckum Branch, a tributary of Marshy Hope Creek, which is located in Dorchester County's Critical Area. I have reviewed the application and support the project to remove the fish barrier and enhance the quality of the stream.

The applicant is requesting funds to survey, design, and remove a blockage located at the head of the tide in Puckum Branch. Removing this blockage will improve instream and spawning habitat for anadromous fish species. As proposed, 1.2 linear miles of stream habitat will be enhanced through native plantings. The applicant is not proposing any development activities, therefore the project is not required to be reviewed by the Commission.

Thank you for the opportunity to provide comments on this project. Please contact me with any questions at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "JLester", with a long horizontal stroke extending to the right.

Jennifer Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

March 9, 2006

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

Re: SHA MD 170 Streetscape Improvements Anne Arundel County
11-06 SHA

Dear Mr. Grey:

I have received the above-referenced project for review. Based on the information provided, the proposed streetscape improvements do not meet the Memorandum of Understanding between the Maryland Department of Transportation and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, and therefore require review and approval of the Commission. In order to present to the project to the Commission the following information is needed:

- 1) Please clearly identify the tributary streams of the Patapsco River that the project will impact.
- 2) Identify all impacts to vegetation within the 100' Buffer and impacts to vegetation outside of the 100' foot Buffer.
- 3) A copy of the letter of habitat impacts, if any, from the Department of Natural Resources needs to be submitted to our office. This letter must be dated within the past two years.
- 4) For disturbance to vegetation within the Buffer 3:1 mitigation is required. Disturbance to vegetation outside the Buffer requires 1:1 mitigation. Please identify the location and calculate the extent of disturbance to vegetation and provide specific information on plans for the required mitigation for this disturbance.

Page 2

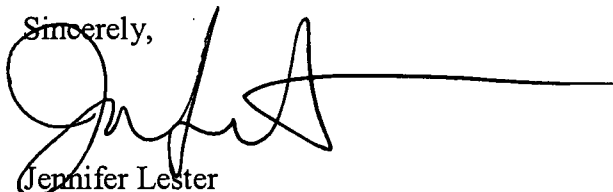
Mr. Bruce M. Grey

SHA MD 170 Streetscape Improvements

It is my understanding that SHA would like to have all of the required approvals in place by the middle of May. Please forward any comments or approvals from the required MDE permit applications as they become available to our office so that we may include them in our review.

Thank you for submitting this project to this office for review. If you have any questions, please do not hesitate to contact me at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Lester', with a long horizontal line extending to the right.

Jennifer Lester

Natural Resources Planner

cc: Ms. Angela Willis, SHA

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

March 6, 2006

Kathy Anderson
District Engineer
US Army Corps of Engineers Baltimore District
P.O. Box 1715
Baltimore, Maryland 21203-1715

RE: CENAB-OP-R (Bailey et al, William & Patricia Revetment & Breakwaters)
05-66163-4

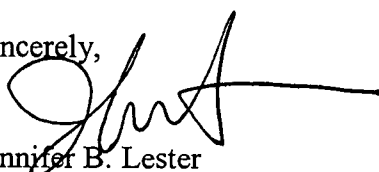
Dear Ms. Anderson:

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

It is not clear from the information submitted whether there will be any impacts to the 100-foot Buffer associated with access to the shoreline, material storage, or the construction of the structure. It appears that there may be some grading of the bank and possibly removal or disturbance of natural vegetation. These activities would require mitigation. St. Mary's County requires that applicants for shoreline erosion control projects obtain a local permit from the Department of Land Use and Growth Management, and the County staff can provide additional guidance regarding any mitigation requirements. Additional information can be obtained from Ms. Staci Merriman at (301) 475-4200 X1525.

Thank-you for the opportunity to provide comments on this application. If you have any questions, please feel free to contact me at (410) 260-3481.

Sincerely,


Jennifer B. Lester
Natural Resources Planner

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 3, 2006

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 124-06 VAR Lot 20 Cheltenham Hills
Local Case No.: 2006-0034-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling with disturbance to steep slopes. The property is designated Limited Development Area (LDA) and is currently undeveloped.

Providing this lot is properly grandfathered, this office does not oppose a variance to construct a dwelling. Due to the constraints of the property by the steep slopes there are few alternatives for development other than the plan presented and a variance is necessary for use of the property. All areas disturbed during construction should be replanted following completion of the project.

Thank you for the opportunity to provide comments on 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,

A handwritten signature in dark ink, appearing to read "J. Lester", with a long horizontal line extending to the right.

Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 2, 2006

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: AA 125-06 VAR 3813 Thomas Point Road
Local Case No.: 2006-0036-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a deck in the Buffer and with less setbacks than required. The property is designated a Limited Development Area (LDA) and is currently developed with a house, deck, driveway and gazebo.

Providing this lot is properly grandfathered, this office does not oppose a variance to construct a deck; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

- 1) The applicant proposes adding a 537 square foot deck, 82 square foot grill and 120 square foot spa. In addition, the applicant is proposing to remove a gazebo that is 169 square feet of impervious surface, resulting in a net increase of 33 square feet of impervious surface. We recommend that the applicant explore possibilities of reducing the scale of the proposal so that no new impervious surface is created.
- 2) Mitigation, at a ratio of 3:1 for disturbance within the Buffer, should be provided. This office recommends that some plantings be used to manage and treat storm water on the site. Plantings should consist of species similar to the existing natural vegetation in the wetland.

TTY for the Deaf

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

Ramona Plociennik
Variance, 2006-0036-V 3813 Thomas Point Road
Page 2

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,

A handwritten signature in black ink, appearing to read 'JBL', followed by a long horizontal line extending to the right.

Jennifer B. Lester
Natural Resource Planner

AA 125-06

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**

February 28, 2006

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

Ms. Yvonne Chaillet
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 113-06 Rosecroft Lot 1, 18083 Rosecroft Lane
Local Case # 05-3347**

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to impact the expanded Buffer in order to construct a detached garage. The property is designated a Resource Conservation Area (RCA), 156.38 acres, and is currently developed with a house, deck, circular driveway and an attached garage. We oppose the requested variance as the property already has a house and an attached garage in the expanded Buffer, and there are several acres of the property outside of the expanded Buffer area which would allow the structure to be located so as to not impact the sensitive environmental features of this site.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the applicant currently enjoys reasonable and significant use of the property without further impacting the expanded Buffer, and can easily locate the detached garage outside of the expanded Buffer thereby eliminating the need for a variance. As proposed, the application does not meet the variance standards outlined below.

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

The property is a 6.58-acre lot containing a house, deck, circular driveway and attached garage and driveway located outside the 100-foot Buffer, but within the expanded Buffer. Extensive areas of this property are located outside of both the 100-foot Buffer and expanded Buffer. There are no special conditions or circumstances that are peculiar to the property such that prohibiting the building of the detached garage in the expanded Buffer would result in an unwarranted hardship to the applicant.

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

The applicant has reasonable use of this property without approval of the requested variance, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to locate an accessory structure within the expanded Buffer. It appears that there is ample opportunity to locate the detached garage without additional impacts to the expanded Buffer.

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

If the requested variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. St. Mary's County comprehensive zoning ordinance and the County's policy for hydric soils requires expansion of the Buffer by an additional 100 feet where there are hydric soils. Property owners that have expanded Buffers on their property are not permitted to develop in the expanded Buffer without meeting all of the variance requirements. This applicant does not meet the variance requirements and granting this variance would confer a special privilege on the applicant that would be denied to other property owners within the Critical Area.

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

Page 3

Ms. Yvonne Chaillet

February 28, 2006

The variance request is not based upon conditions or circumstances which are result of actions by the applicant.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer and the expanded Buffer for environmentally sensitive areas to promote the water quality and habitat goals of the legislation. Granting this variance will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance in the expanded Buffer on this site and decreasing the area of naturally vegetated expanded Buffer. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office opposes the requested variance as it is possible to construct the detached garage outside of the expanded Buffer eliminating the need for a variance. 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 call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester

Natural Resources Planner

Cc: Marianne Mason
Mary R. Owens

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 28, 2006

Ms. Yvonne Chaillet
Planning Specialist
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Government Center
23115 Leonard Hall Drive
Leonardtown, Maryland 20650

**RE: SM 109-06 Sandy Maple Farm Lot 1, 17630 Cherryfield Road
Local Case # 04-3124**

Dear Ms. Chaillet:

Thank you for providing information on the above referenced after-the-fact variances for the unauthorized clearing of over 30%, and the unauthorized clearing within the 100-foot Critical Area Buffer at 17630 Cherryfield Road. As the need for these variances are based on conditions and circumstances that are a direct result of the applicant's actions we strongly oppose both of these variances.

In 2004, State law was amended to allow counties to assess civil fines of up to \$10,000 for each violation of the Critical Area regulations or ordinance. Under provisions of the Critical Area Act, NR Article, Section 8-1808 (c) (2), counties may consider the gravity of the violation, any willfulness or negligence involved in the violation, and the environmental impact of the violation. The applicant had previously obtained permits to construct a revetment and a three-foot path to the waterfront and he had understanding and knowledge of the applicable laws and procedures prohibiting development activities in the Buffer. Despite this, the applicant acted in complete disregard of the law and completely cleared all vegetation from the 100-foot Critical Area Buffer affecting .89 acres and approximately 367.41 linear feet of shoreline.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

In this case, the applicant currently enjoys reasonable and significant use of the property without impacting the 100-foot Buffer, or clearing in excess of 30 percent of existing forest. In addition the need for these variances is self-created and this office believes that the standard of unwarranted hardship, along with the other variance standards outlined below, have not been met.

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

The property is a 5.761-acre lot containing a large house, driveway, pool, and concrete patio located outside the Buffer. Within the Buffer are water-dependent structures which include a boat ramp and pier. Extensive areas of this property are located outside of the Buffer. There are no special conditions or circumstances that are peculiar to the property such that maintaining the Buffer in the natural state would result in an unwarranted hardship to the applicant.

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

The applicant has reasonable use of this property for residential purposes without approval of the requested variances, and therefore, would not be denied rights commonly enjoyed by neighboring property owners within the Critical Area. Rights commonly enjoyed must be compared to the rights of other property owners who develop or redevelop their properties in compliance with the Critical Area regulations. There is no right to clear vegetation within the 100-foot Buffer, or to clear in excess of 30% in order to enhance the view of the water. It appears that the applicant is already enjoying reasonable residential use of the property, and this use is not affected by vegetation within the Buffer.

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

If the requested variances are granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as those in similar situations within the County's Critical Area. Property owners within the Critical Area are not permitted to remove natural vegetation from the 100-foot Buffer for the sole purpose of enhancing their view of the water.

February 28, 2006
Ms. Yvonne Chaillet
Page 3

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

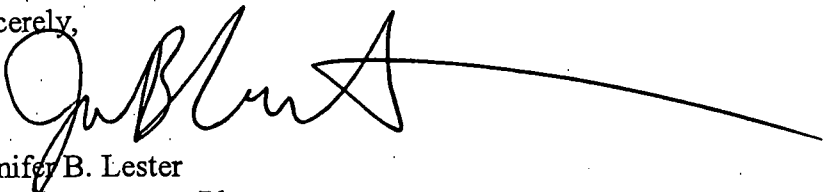
The applicant is requesting these variances after being cited and fined for violating the St. Mary's County's Critical Area law which prohibits the clearing of natural vegetation within the 100-foot Buffer. The actions of the applicant created the conditions and circumstances which make these variances necessary.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdictions' Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations.*

The applicant bears the burden to prove that this standard is met, along with those set forth above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Granting these variances will contribute to the decline of the Chesapeake Bay by substantially increasing the amount of disturbance in the Buffer on this site and decreasing the area of naturally vegetated Buffer. These impacts contribute to declines in water quality and aquatic and terrestrial habitats that must be reversed in order to successfully restore and protect the Chesapeake Bay.

In conclusion, this office believes that these variances are needed solely because of conditions and circumstances created by the applicant's actions. The clearing of the Buffer on this large property with over 367.41 linear feet of shoreline is an egregious violation of the law and should not be rewarded with after-the-fact variances. While we support the County's proposed 3:1 mitigation for both variances, and any other mitigation that the County may deem appropriate, we do not support the granting of any variances in this case. In addition, we believe the County should assess a substantial fine as provided by law. Please provide this office with a copy of the written decision made in this case. If you have any questions, please call me at (410) 260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Cc: Marianne Mason
Mary R. Owens

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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February 23, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

RE: DC 72-06 1114 Holland Point Preserve
Dorchester County Case # 1114

Dear Mr. Dodd:

Thank you for providing information on the requested project. I have reviewed the plan submitted, and have the following comments:

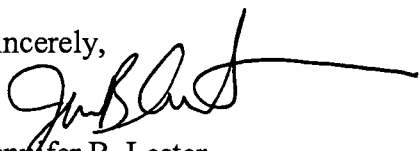
- 1) The Critical Area boundary and corresponding acreage must be provided to determine allowable RCA density.
- 2) The 100-foot Buffer is not shown on the plan; please have the applicant resubmit the plan with the 100-foot Buffer. The 100-foot Buffer shall be established from the mean high water line of tidal waters and from the landward edge of tidal wetlands, and tributary streams. In accordance with the Critical Area Criteria, the Buffer may need to be expanded for contiguous sensitive areas. The 100-foot Buffer needs to be shown on the plan and should be addressed in the environmental report.
- 3) Plan comments indicate that tidal and nontidal wetlands may exist on the property; however, no wetlands have been identified. For Critical Area purposes, the 1972 State Tidal Wetlands Maps and field verification should be used to determine if tidal wetlands are present on a site. Field verification, and if necessary a field delineation, should be used to determine the exact boundary of tidal wetlands and to distinguish between State and private tidal wetlands. State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area. Please provide a revised plan which clearly depicts the location of all tidal and nontidal wetlands. Please note that the site plan shows a property line different from the shoreline.

Mr. Dodd
February 23, 2006
Page 2

- 4) Topography and soil information must be shown on the plan in order to determine if the 100-foot Buffer has been properly expanded for steep slopes and nontidal wetlands.
- 5) To date, a copy of the environmental report for this project was not received by the Commission. Additional information is needed regarding the environmental features of the site.
- 6) In accordance with § 155-38.J.18 of the Dorchester County Code, when agricultural lands are converted to other uses, the 100-foot Buffer shall be established in natural forest vegetation, a Buffer Management Plan should be developed to address this requirement. Appropriate notes must be placed on the plat indicating that this area shall be vegetated, and that clearing or removal of natural vegetation within the 100-foot Buffer is prohibited.
- 7) The plan does not include information about current forest cover or proposed clearing; therefore, it cannot be determined if reforestation or afforestation will be required. Forest establishment and replacement requirements are set forth in § 155-38.H.4 of the Dorchester County Code.
- 8) The plan does not include a key. A key would be helpful in identifying the environmental and other features of the site.
- 9) The plan does not clearly identify the existing structures located on the parcels. It is necessary to show the location of existing and future structures so that compliance with the impervious surface limitations identified in § 155-38.O of the Dorchester County Code can be demonstrated. Also, existing structures will determine how many new structures are permitted per the RCA density limits.
- 10) Please provide a letter from the Department of Natural Resources History Division regarding the presence of rare, threatened, or endangered species and other habitats. This information must be evaluated and addressed before the subdivision is approved.

Thank you for the opportunity to provide comments on this subdivision. Please provide revised plans and the additional information request. If you would like to discuss these comments, please call me at (410)260-3481.

Sincerely,



Jennifer B. Lester
Natural Resources Planner

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 23, 2006

Ms. Laschelle Miller
Commissioners of Leonardtown
P. O. Box 1
Leonardtown, Maryland 20650

**RE: LE 935-05
Leonardtown Waterfront Park**

Dear Ms. Miller:

The purpose of this letter is to follow up on our telephone conversation earlier today regarding implementation of the plan for the Leonardtown Waterfront Park. As we discussed, I have reviewed the information that you submitted to satisfy the Commission's conditions of approval. The Town has received the required approvals from MDE and the Army Corps of Engineers, and the Landscape Plan for the Park has been finalized and is acceptable. As we discussed, if the bufferyard planting needs to be increased in order to minimize mulched areas that could become overgrown, necessary adjustments will be made by the landscape contractor in the field using native species.

In addition to the final Landscape Plan, you also submitted plans regarding the other mitigation strategies and locations. At this time, Commission staff can consider this submittal finalized for purposes of issuing permits for the Park; however, the Town should continue to coordinate with the Commission to ensure that the remaining mitigation strategies are implemented within the next two years.

Based on the information you provided, the landscape planting at the Park will exceed the amount originally proposed to be provided at that location by 0.11 acres. The Town has added an additional mitigation location at the Town's Municipal Parking Lot which will provide an additional 0.15 acres of mitigation. These changes have facilitated a reduction in the planting that will be required at the Port of Leonardtown Site from 1.37 acres to 1.11 acres. It is possible that the required planting at the Port of Leonardtown Site may be further reduced depending on how much planting is provided at the Commercial Site. I will continue to coordinate with Larry Ludwig regarding the mitigation credit for that element of the project. The following table summarizes the current status of mitigation strategies and credits.

TABLE 1: Summary of Mitigation Strategies and Credits

Mitigation Proposed	Area in Acres Proposed	Area in Acres Provided	Comments
Waterfront Park Landscape Planting	0.43	0.54	
Waterfront Park Wetland Creation	0.08	0.08	In excess of area required to mitigate for wetland impacts
Waterfront Park Education Signage	0.05	0.05	Ten (10) signs at 200 SF of credit – signs to have environmental content
Waterfront Park Impervious Surface Removal	0.17	0.17	In excess of that required for stormwater management
Commercial Site Landscape Planting	0.31	0.31	Exact area has not been finalized
Off-Site Washington Street Tree Planting	0.30	0.30	65 Street trees at 200 SF of credit
Clean-up and Containment of Hazardous Materials on the Project Site	0.34	0.34	Sheet pile bulkhead preventing leaching from 15,000 SF
Off-site Forest and Developed Woodland Planting at Port of Leonardtown Site	1.37	1.11	
Off-site Forest and Developed Woodland Planting - Municipal Parking Lot (P. 441/442)	0.00	0.15	
TOTAL	3.05	3.05	

Thank you for providing the information necessary to satisfy the Commission's conditions of approval for the Waterfront Park and for coordinating with the Commission to ensure that all the mitigation requirements are satisfied.. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

cc: Mr. Larry Ludwig (D.H. Steffens Co.)

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

**RE: Fortier Variance
CB 574-03 Wickersham Lot 31**

Dear Mr. Watson:

I have received revised information pertaining to the referenced variance application and in response to my letter dated January 17, 2006. At this time, the applicant is requesting a variance to impact the 100-foot Buffer and expanded Buffer by constructing a house and driveway on Lot 31 in the Wickersham Subdivision. The property is an existing grandfathered lot, and is entirely constrained by the Buffer and expanded Buffer. The applicant has designed the project to minimize disturbance to the Buffer and expanded Buffer and is proposing to impact 4,104 square feet with the proposed construction.

If the variance request is approved, the applicant is proposing to provide three-to-one mitigation for the impacts associated with construction of the house and the driveway. Plantings on the project site and along the access road and driveway will be used to satisfy 7,800 square feet of the mitigation requirement. In addition an easement will be placed on Lots 27-29, Block C and Lot 40, Block B, to protect and conserve existing forested areas near Lot 31. The area to be protected by the easement totals 13,704 square feet and includes the remaining 4,522 square feet of mitigation.

It is my understanding that the Town of Chesapeake Beach will hold the conservation easement. I have reviewed the draft easement, which prohibits all development activity, grading, and the removal of natural vegetation. These restrictions are acceptable; however, the easement contains language on page 2 that allows the Town to terminate the easement. Because the protective easement is part of the applicant's mitigation strategy, the easement cannot be terminated without providing a replacement form of mitigation. The following language should be added to this paragraph. "Prior to the termination of the easement, the Town shall notify the Critical Area Commission of their intention to terminate the easement and shall propose an alternative

Mr. Watson
June 21, 2006
Page 2

mitigation proposal equivalent to 4,522 square feet. The proposal shall be accepted by the Commission and the Town notified in writing prior to the termination of the easement."

The proposed project is designated as an Intensely Developed Area; therefore, the project must comply with the 10% pollutant reduction requirement. The lot is an existing grandfathered residential lot; therefore, the applicant has prepared a Residential Water Quality Management Plan as outlined in the *Critical Area 10% Rule Guidance Manual, Fall 2003*. The Plan submitted is acceptable, and the Town shall ensure that the proposed French Drains and Turf-Block Grid Pavers are properly installed.

This office does not oppose the variance request for impacts to the Buffer as the applicant's proposal is to develop an existing lot for residential use and the size of the dwelling is reasonable. Because the lot is completely constrained by the Buffer and expanded Buffer, there appear to be no alternatives to further minimize impacts to the Buffer. If the variance request is approved, Commission staff recommends implementation of the two mitigation strategies proposed by the applicant.

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

Sincerely yours,


Mary R. Owens, Chief
Program Implementation Division

cc: Kevin Shaver, Wilkerson and Associates

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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June 13, 2006

Mr. Al Henry
Department of Planning and Economic Development
City of Havre de Grace
711 Pennington Avenue
Havre de Grace, Maryland 21078

RE: City of Havre de Grace Critical Area Ordinance

Dear Mr. Henry:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the City of Havre de Grace Critical Area Ordinance. On June 5, 2006, the Critical Area Commission approved the Ordinance with eight conditions as set forth below:

The following text changes shall be made as specified.

1. Page 3 Section 1-102. Definitions

Revise the definition of Bufferyard as follows:

"Bufferyard" means an area, at least 15 feet wide, located between development activity and the water (or edge of wetlands or streams), planted with vegetation consisting of native species and other appropriate plantings. This area shall be maintained primarily for the purposes of wildlife habitat and water quality and shall not be maintained in a manner that promotes conflicts with these purposes. ~~such as by mowing or the application of herbicides. A bufferyard will not be required in an IDA Area where the shoreline was adequately bulkheaded or rip-rapped before the commencement of development or redevelopment activity.~~

2. Page 27 Section 1-108 Resource Conservation Area

Correct typographical error in paragraph D. as follows:

"Impervious surface limits in sub-sections A through C and B above may be exceeded, upon findings by ..."

TTY for the Deaf

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

3. Page 29 Section 1-110. The 100-foot Buffer
Revise the Section title as follows:

Section 1-110. The ~~25-foot Buffer~~ 100-foot Buffer

4. Page 29 Section 110. The 100-foot Buffer
Revise paragraph (b) as follows:

(b) "... establishment of a minimum ~~25-foot buffer~~ 100-foot Buffer from the mean high water line ..."

5. Page 30 Section 110. The 100-foot Buffer
Revise paragraph (d) (1) and (d) (2) as follows:

(1) "The Buffer shall be established at a minimum distance of ~~25-feet~~ 100 feet landward from the Mean High water Line of tidal waters ..."

(2) "The Buffer shall be expanded beyond ~~25-feet~~ 100 feet to include areas of steep slopes ..."

6. Page 33 Section 111. Buffer Exemption Areas (BEAs)
Revise paragraph (e) (1) as follows:

(1) "... Native vegetation or other appropriate species of an area twice the extent of the footprint of the development activity within the ~~25-foot~~ 100-foot Buffer shall be planted on the site ..."

7. Page 34 Section 111. Buffer Exemption Areas (BEAs)
Revise paragraph (g) (1) as follows:

(1) "... For all development and redevelopment projects, a landscaped bufferyard, fifteen (15) feet wide, shall be established on the project site between the development and the water. This bufferyard shall be densely planted with native trees, shrubs, and herbaceous plants or other appropriate species in accordance with Table 1 below. Maintenance of the bufferyard shall minimize activities that may adversely affect the adjacent tidal waters or wetlands. Any required mitigation/offset areas must be protected from future development through an easement, development agreement, plat notes, or other similar instrument."

8. Page 34 Section 111. Buffer Exemption Areas (BEAs)
Revise paragraph (g) (4) as follows:

- (1) "... Fees-in-lieu of mitigation activities shall be assessed at the rate of \$2.50 per square foot of development activity in the 100-foot ~~25-foot~~ Buffer. The applicant must provide proof that they are unable to comply with planting, mitigation, or offset requirements. 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. Acceptable projects are the same as those listed in Section 1-111(i)(2) for the Critical Area Special Taxing District. The status of these funds must be provided in the City's quarterly reports."

In accordance with the provisions of Chapter 55 of the 2006 Laws of Maryland, adopted this spring, the City shall notify the Commission of its intent to adopt the conditions within 60 days. The approved program amendment and any required conditions shall be incorporated into the City's Critical Area Program within 120 days of the date of this letter. Please provide two copies of the final Ordinance when it becomes available.

I want to thank you, Bridgette Robinson, and Jay Bautz for all of your support and assistance during this rather lengthy process. I believe that the new Ordinance will facilitate more streamlined and effective implementation of the City's Program and I look forward to working with you ensure this. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

cc: The Honorable John P. Coreri
The Honorable Fred Cullum
The Honorable Wayne Dougherty
The Honorable Steve Gamatoria
The Honorable Garrett Lyttle
The Honorable James Miller
The Honorable Gary Wasielewski
Jay Bautz
Bridgette Robinson
Marianne Mason, OAG

Robert L. Ehrlich, Jr.
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Michael S. Steele
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Martin G. Madden
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June 12, 2006

Ms. Laschelle Miller
Commissioners of Leonardtown
P.O. Box 1
Leonardtown, Maryland 20650

**RE: LE 704-05
Leonardtown Landing Phase II**

Dear Ms. Miller:

I have recently completed my review of the revised Landscape and Traffic Signage Plan and the Pollutant Removal Computations for the Leonardtown Landing Phase II Project. I have met with Larry Ludwig of Loiederman Soltesz and Associates, and I believe that most of the substantive issues have been addressed; however, the following revisions are necessary:

Pollutant Removal Computations

1. On page 3, the pre-development load for the commercial site should be 2.97 rather than 2.91.
2. On page 3, the pre-development load for the off-site area should be N.A., and the post-development load should be 2.02.
3. On page 4, the removal rate for the off-site area should be 1.01, and the total removal rate should be 4.06. On this page, the summary should state that, "Total Removal Requirement = 3.93 and Total Removal Provided = 4.06. Note that the results show a total pollutant removal provided in excess of that required by 0.13 pounds per year."

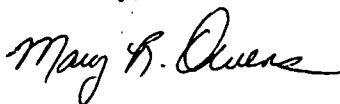
Landscape and Traffic Signage Plan

1. The Plan shows only 16 Red Maple (TAh) and the Schedule indicates that 20 are provided.
2. The Plan shows 11 Downy Serviceberry (Tat) and the Schedule indicates that 10 are provided.

3. The Plan shows 16 Eastern Redbud (TCK) and the Schedule indicates that 8 are provided.
4. The Plan shows 83 Cranberry (SBf) and the Schedule indicates that 123 are provided. I do not recommend the use of this species in the areas indicated on the Plan as this species needs a shaded, moist environment. American beautyberry is an alternative species to consider.
5. The Plan shows 123 Inkberry (Sbi) and the Schedule indicates that 137 are provided. The correct botanical name for Inkberry is *Ilex glabra*, not *Ilex plabra*.
6. The Plan shows 0 Witherod viburnum (SBm) and the Schedule indicates that 5 are provided. There is a note for (5) SWm on the Plan, but this isn't in the Schedule. Maybe SBm and SWm are the same?
7. The Plan shows 201 Dwarf Azalea (SSg) and the Schedule indicates that 171 are provided.
8. The Plan shows 264 Lowbush Blueberry (SVa) and the Schedule indicates that 228 are provided.
9. The use of Wild Hydrangea (SHd) in some of the areas shown on the Plan is not recommended. This species needs rich loamy soil and shady conditions. Virginia sweetspire and buttonbush are alternative species to consider.
10. It is recommended that at least some of the Mission Arborvitae (STg), the Weigela (SWa) and the Variegated Weigela (SWa) be replaced with species native to the Chesapeake Bay watershed.
11. After addressing these comments, please verify that all quantities shown on the Plan match those listed in the Schedule.

Thank you for the opportunity to provide comments on the Landscape Plan and Pollutant Removal Computations. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

cc: Larry Ludwig, Loiederman Solesz Associates, Inc.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 7, 2006

Mr. Tom Roland
Department of Public Facilities
1001 Radio Station Road
LaPlata, Maryland 20646

RE: Mallow's Bay – Wilson Farm Concept Planning

Dear Mr. Roland:

I am writing to follow up on the information you sent me, and our telephone conversation, regarding the development of a conceptual site plan for parking, a canoe/kayak launch area, and a trail system at the Mallow's Bay – Wilson Farm Area. I have reviewed the proposal prepared by Ben Dyer Associates, Inc., and it seems to adequately address the required information that will be necessary to review the project for compliance with the Critical Area regulations. As we discussed, existing forest cover and/or trees and shrubs should also be shown on the plans.

As you know, during the original transfer of this property, clearing and grading took place within the 100-foot Buffer without proper authorization or the approval of a Buffer Management Plan. Prior to initiating any development activity on this property, a Buffer Management Plan for the area that was cleared and graded in 2002 must be developed and submitted to the Critical Area Commission for review and approval. The Plan must include mitigation plantings for the vegetation removed in 2002. The County shall coordinate the development and implementation of the Plan with assistance from the Department of Natural Resources and the Critical Area Commission. The County shall ensure that the Plan is implemented before, or simultaneously with, any new development activity on the property, including the widening of the access road, installation of a boat ramp, and the construction of any park amenities.

During our recent telephone conversation, you informed me of some stormwater and erosion problems on the site that may need to be corrected in the near future, possibly before the Conceptual Site Plan is completed. Please be advised that any type of "emergency repair" must be executed in accordance with the "Agreement of Lease," and that you must coordinate with the Department of Natural Resources (DNR) prior to initiating any activity of this nature on the property. As we discussed, I am willing to meet with you and other County staff on the site to

Mr. Roland
June 5, 2006
Page 2

look at the problem and can make arrangements to have the appropriate staff person from DNR there as well.

As we discussed, I have contacted Kathy McCarthy of the Heritage Division of the Department of Natural Resources regarding the presence of rare, threatened, and endangered species habitat. She informed me that there are documented rare species in the wetlands to the north and south of the entrance road. In order to protect the water quality and hydrology of the rare species' wetland habitat, she recommends that low low-impact development methods be used. These included reducing clearing as much as possible, managing stormwater run-off from roads and parking areas with infiltration and bioretention (i.e. swales along the road and parking areas), minimizing impervious surface area, using pervious materials where possible (gravel or pavers), and maintaining a 100-foot upland buffer to nontidal wetlands. She also stated that every effort should be made to stabilize the site within 24 hours, inspect sediment control measures daily, and correct problems immediately. If these measures can be implemented, she would not recommend pursuing any more rare species inventory work. Because Heritage staff has identified rare species in the wetlands, they will need to be involved in the location of the trail system. Generally, they recommend that wetlands will need to be bridged, no boardwalks shall be located in wetlands, and no trails shall be placed on steep slopes. There are certain wetland areas that Heritage staff has determined to be particularly sensitive. These will need to be avoided. Heritage can provide mapping to the County, and perhaps walk the site to point out those areas that must be avoided (not crossed).

Thank you for the opportunity to comment on the proposal for consultant services. If you have any questions or would like to arrange a date to look at the stormwater problem and the future trail locations, please call me at (410) 260-3480. I can coordinate with the appropriate staff from the Heritage Division and Engineering and Construction.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

cc: Barbara Grey, DNR
Andy Hanas, DNR
Marianne Mason, OAG
Kathy McCarthy, DNR
Charles Rice, Charles County Land Use and Growth Management
The Honorable Allan R. Smith, Commission Member

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 26, 2006

The Honorable Fred Cullum
The Honorable Wayne Dougherty
The Honorable Steve Gamatoria
The Honorable Garrett Lyttle
The Honorable James Miller
The Honorable Gary Wasielewski
City of Havre de Grace
711 Pennington Avenue
Havre de Grace, Maryland 21078

RE: City of Havre de Grace Critical Area Ordinance

Dear Messrs. Cullum, Dougherty, Gamatoria, Lyttle, Miller, and Wasielewski:

I am writing to follow up on the recent public hearing on the City's new Critical Area Ordinance, which took place on May 17, 2006. At the Commission's public hearing, the Commission Panel heard extensive testimony from property owners regarding concerns they had with the new ordinance and amendments to the ordinance proposed by Commission staff. Following the public hearing, the Panel requested that Commission staff research several issues and provide additional information to them in a staff report prior to the Commission's consideration of the matter at the regular meeting on June 7, 2006. We have prepared a staff report, and this report is included with this letter. I would direct your attention to the "Panel Discussion" section of the report that starts on page 2 and continues through page 5. Hopefully this section will serve to clarify some of the issues that we heard from citizens that testified at the hearing.

The Panel will meet at 9:00 a.m. on June 7, 2006 to continue their consideration of this amendment. You are welcome to attend the Panel's meeting; however as you know, the public record was closed following the public hearing on May 17, 2006; therefore, the Panel will not be taking any additional testimony that morning. The ordinance is on the full Commission's agenda for a vote at 1:00 pm on June 7, 2006. Both meetings will be held at the Department of Housing and Community Development at 100 Community Place in Crownsville.

If at all possible, it is the strong desire of the Panel and Commission staff to try to resolve any outstanding concerns that you may have prior to the Commission's vote on the ordinance on

Havre de Grace City Council

May 26, 2006

Page 2

June 7, 2006. Commission staff is available to discuss these issues at your convenience. I will be contacting Mr. Albert Henry next week to see if I can provide any further assistance in that regard. In the interim, if you have any questions, do not hesitate to call me or Ren Serey at (410) 260-3460.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

cc: The Honorable John P. Correr
Mr. Al Henry
Ms. Bridgette Robinson

Critical Area Commission

STAFF REPORT

June 7, 2006

JURISDICTION: City of Havre de Grace

PROPOSAL: Amendment – Comprehensive Review

COMMISSION ACTION: Vote

PANEL MEMBERS: Frank Dawson (Chair), Louise Lawrence, Pete Gutwald, Skip Gibson, and Jim McLean

PANEL RECOMMENDATION: Pending Panel Recommendation

STAFF: Mary Owens

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article §8-1809

DISCUSSION:

The Town of Havre de Grace has completed their first comprehensive review of their Critical Area Program. The result of this review is the adoption of the City of Havre de Grace Critical Area Ordinance. The Ordinance was developed using the Commission's model ordinance, which was then customized to address specific conditions within the City. The model is considered sufficiently comprehensive, so as to replace the City's original Critical Area Program document for regulatory purposes. The original Havre de Grace Critical Area Program was never codified, so it was difficult to implement and enforce the Critical Area Program effectively and consistently on all project sites. Because the comprehensive review resulted in significant changes to the City's Critical Area Program and the adoption of a new ordinance, Chairman Madden determined that this matter should be handled as an amendment.

Through coordination with Commission staff, the sections that were customized by the City were designed to address specific processes and procedures used by the City, to abbreviate sections that apply to Limited Development Areas and specific land uses that are not permitted within the City, to provide additional flexibility within Buffer Exemption Areas (BEAs), to clarify how stormwater and Buffer fees-in-lieu may be used, and to clarify the regulations regarding the Critical Area Taxing District. Commercial timber harvesting, agriculture, and surface mining are not permitted uses in the City, and these sections have been modified to reflect the City's intent to adopt provisions at a later date if the City's zoning ordinance is amended to allow these uses or land is annexed into the City that would require that these uses be addressed.

The draft Critical Area Ordinance developed by the City was generally consistent with the

Criteria; however, following Commission staff's final review and comments, the City Council made several substantive changes that will need to be addressed. The Council amended the 100-foot Buffer to a 25-foot Buffer, which is clearly inconsistent with the Critical Area law and Criteria. This change was made to Section 1-110 (The 100-foot Buffer) which sets forth the general description of the Buffer and the required standards to ensure that it is protected. The change was also made to Section 1-111 (Buffer Exemption Areas), which affects how mitigation for new development and redevelopment activities is calculated.

The City also amended the definition of "Bufferyard" so that it could be interpreted in such a way as to not be applicable in Buffer Exemption Areas where the shoreline is bulkheaded or rip-rapped. This change to the definition is inconsistent with other provisions within the ordinance and is inconsistent with the Commission's adopted policies for development and redevelopment activities in BEAs. Commission staff has worked closely with City staff over the past three years to develop provisions for development and redevelopment in BEAs that meet the requirements of COMAR 27.01.09.01.C(8) to "propose other measures for achieving the water quality and habitat protection objectives" of the Buffer. The City's Ordinance includes fees-in-lieu provisions that should provide the City with the necessary flexibility to effectively implement the provisions on any site, regardless of whether shore erosion protection measures are in place or not.

PANEL DISCUSSION:

The Panel held a public hearing on May 17, 2006 to hear public comment on the proposed ordinance. There was extensive public comment on a variety of issues including the 100-foot Buffer, Buffer Exemption Areas, mitigation for development in Buffer Exemption Areas, and stormwater management. Following the public hearing, Commission staff was asked to obtain additional information as set forth below:

General Information about the City's Critical Area and BEA Program

At the public hearing, the Panel heard extensive testimony that the new ordinance would prohibit development and redevelopment within the 100-foot Buffer, even in areas designated as Buffer Exemption Areas. This is not the case. The original Havre de Grace Critical Area Program states that approximately 443 acres of the City are designated IDA and 147 acres are designated RCA. (The RCA portion of the City consists of two areas: the less developed areas generally north of Route 40 and Tydings Island. There are no mapped Limited Development Areas in the City.) The entire shoreline of the IDA is designated as a BEA and was designated when the City adopted its Critical Area Program in 1988. No changes are proposed to the mapped BEA, so all properties that were originally included in the City's BEA will still be permitted to develop within the 100-foot Buffer.

The City's Critical Area Program has always included provisions prohibiting development within the 100-foot Buffer as these provisions are applicable to the RCA portions of the City that are not designated as BEAs. The new ordinance brings the City's Buffer provisions into compliance with the Critical Area Criteria, but these provisions will not apply to areas designated as BEAs (all of the City's IDA). The provisions in Section 1-111 of the new ordinance, entitled "Buffer Exemption Areas" will apply in these areas.

General Information about the City's Critical Area Special Tax District

The Critical Area Special Tax District includes all land generally bounded by Route 40 to the north, and approximately following Water Street, St. John Street, Market Street, and Concord Street to the west, ending at the Havre de Grace Decoy Museum to the south, and bounded by the Susquehanna River and Chesapeake Bay shoreline to the east. The Critical Area Special Taxing District encompasses approximately 25 to 30 percent of the City's Critical Area. The c

Comparison of Havre de Grace BEA Provisions with Port Deposit BEA Provisions

Both the proposed Havre de Grace BEA provisions and the Port Deposit BEA provisions are based on the Commission's model ordinance and BEA policies. Port Deposit uses the term Special Buffer Area (SBA) as opposed to Buffer Exemption Area (BEA).

- Both the Port Deposit ordinance and the Havre de Grace ordinance (as proposed to be amended) require two-to-one mitigation for all development and redevelopment activities (including single-family residential) within the 100-foot Buffer. This is consistent with the Commission's policies.
- Both the Havre de Grace and Port Deposit ordinances include the provisions for a 100-foot Buffer outside of designated BEAs or SBAs as required by COMAR.
- Both ordinances require a 25-foot setback or the local zoning setback, whichever is greater, for new development. There is no minimum local zoning setback in Havre de Grace adjacent to the water.
- Port Deposit requires a 25-foot setback or the local zoning setback, whichever is greater, for redevelopment and Havre de Grace requires a 15-foot setback or the local zoning setback, whichever is greater, for redevelopment. There is no minimum local zoning setback in Havre de Grace adjacent to the water.
- Except for single-family residential development, Port Deposit requires the creation of a 25-foot bufferyard for new development and redevelopment sites and allows flexibility to rebuild on an existing footprint on redevelopment sites. Havre de Grace requires a 15-foot bufferyard for new development and redevelopment and also allows flexibility to rebuild on an existing foot print on redevelopment sites.
- Except for single-family residential development, Port Deposit requires the establishment of a 25-foot bufferyard whereas Havre de Grace requires a 15-foot bufferyard

Grandfathering

The Havre de Grace ordinance includes the provisions for grandfathering as set forth in COMAR 27.01.02.07. In addition, the City included specific grandfathering provisions in Section 1-116(c) on page 50 to address site plans and project plans that had received approval by the City prior to March 6, 2006 (the date the City Council approved the Critical Area ordinance).

Fees-in-Lieu

The Havre de Grace ordinance includes provisions to allow the collection of fees-in-lieu for both compliance with the 10% pollutant reduction requirement and for Buffer impacts in BEAs. The fees are proposed to be collected and held in separate accounts. Stormwater fees must be used for projects that will result in measureable water quality improvements. A list of suitable projects is included on page 20 in Section 1-106(d)(3). Additional information is also found in the *Critical Area 10% Rule Guidance Manual*, which is specifically referenced in this Section. The stormwater fee is \$30,000 per pound of phosphorus as recommended by the Center for Watershed Protection as set forth in *Critical Area 10% Rule Guidance Manual*. Most jurisdictions that have performed comprehensive reviews since the Commission adopted the 2003 Manual have incorporated the recommendations in the Manual.

BEA fees can be used for a variety of projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the City's Critical Area Program. The City has included in the ordinance, in Section 1-111(i) on page 37, a comprehensive list of projects that may be accomplished using the Special Critical Area Taxing District Funds. This list can also be used as guidance for the expenditure of fees-in-lieu collected for development and redevelopment in BEAs. In order to provide clarification, an amendment to the ordinance is proposed to reference this list in Section 1-111(g)(3). Condition 8 addresses this change.

The fee for Buffer impacts is \$2.50 per square foot, and most jurisdictions charge between \$1.50 and \$2.50 per square foot. City staff decided on \$2.50 because they wanted the fee to be a disincentive for excessive impacts to the Buffer and to encourage applicants to mitigate on site. City staff felt strongly that mitigating on-site would enhance the design and environmental sensitivity of proposed projects.

Bufferyard

The 15-foot bufferyard is a mitigation element required for new development and redevelopment projects except those associated with single-family residential lots. The bufferyard mitigation element is part of the "Buffer Exemption Area Policy for Commercial, Industrial, Institutional, Recreational, and Multi-Family Residential Development" adopted by the Commission in April, 2000. The Policy specifies a 25-foot bufferyard, but City staff requested flexibility to use a 15-foot bufferyard in order to address the unique configuration of the City's shoreline. The bufferyard is required to be planted with native trees, shrubs, and herbaceous plants and should be designed to require minimal maintenance. Generally the area should be densely planted and mulched and should not include areas of turf grass or other species that require the frequent application of fertilizer or pesticides or that require mowing. Condition 7 clarifies the type of plantings.

In 2000, when the Commission substantially revised the BEA Policy, the Commission strongly supported the bufferyard element because the Commission members felt that it was important for some mitigation to be provided on the site where the development and redevelopment activity is taking place. The bufferyard also serves to reduce sheet flow of untreated stormwater into tidal waters, to reduce overall site imperviousness, to reduce the temperature of stormwater, and to provide some transitional habitat at the water's edge. In addition to the environmental benefits,

City staff supported the bufferyard concept because it provided an opportunity to unify the design of waterfront sites and enhance the appearance of the City.

CONDITIONS

In order to address the issues identified by Commission staff and those raised by the Panel, and to correct a typographical error that changes the meaning of a specific section, the following changes are proposed as conditions of approval:

1. Page 3 Section 1-102. Definitions

Revise the definition of Bufferyard as follows:

"Bufferyard" means an area, at least 25 feet wide, located between development activity and the water (or edge of wetlands or streams), planted with vegetation consisting of native species and other appropriate plantings. This area shall be maintained primarily for the purposes of wildlife habitat and water quality and shall not be maintained in a manner that promotes conflicts with these purposes. ~~such as by mowing or the application of herbicides. A bufferyard will not be required in an IDA Area where the shoreline was adequately bulkheaded or rip-rapped before the commencement of development or redevelopment activity.~~

2. Page 27 Section 1-108 Resource Conservation Area

Correct typographical error in paragraph D. as follows:

"Impervious surface limits in sub-sections A ~~through C~~ and B above may be exceeded, upon findings by ..."

3. Page 29 Section 1-110. The 100-foot Buffer

Revise the Section title as follows:

Section 1-110. The 25-foot Buffer-100-foot Buffer

4. Page 29 Section 110. The 100-foot Buffer

Revise paragraph (b) as follows:

(b) "... establishment of a minimum ~~25-foot buffer~~ 100-foot Buffer from the mean high water line ..."

5. Page 30 Section 110. The 100-foot Buffer

Revise paragraph (d) (1) and (d) (2) as follows:

(1) "The Buffer shall be established at a minimum distance of ~~25 feet~~ 100 feet landward from the Mean High water Line of tidal waters ..."

(2) "The Buffer shall be expanded beyond ~~25 feet~~ 100 feet to include areas of steep slopes ..."

6. Page 33 Section 111. Buffer Exemption Areas (BEAs)
Revise paragraph (e) (1) as follows:

- (1) "... Native vegetation of an area twice the extent of the footprint of the development activity within the ~~25-foot~~ 100-foot Buffer shall be planted on the site ..."

7. Page 34 Section 111. Buffer Exemption Areas (BEAs)
Revise paragraph (g) (1) as follows:

- (1) "... For all development and redevelopment projects, a landscaped bufferyard, fifteen (15) feet wide, shall be established on the project site between the development and the water. This bufferyard shall be densely planted with native trees, shrubs, and herbaceous plants in accordance with Table 1 below. Maintenance of the bufferyard shall minimize activities that may adversely affect the adjacent tidal waters or wetlands. Any required mitigation/offset areas must be protected from future development through an easement, development agreement, plat notes, or other similar instrument."

8. Page 34 Section 111. Buffer Exemption Areas (BEAs)
Revise paragraph (g) (4) as follows:

- (1) "... Fees-in-lieu of mitigation activities shall be assessed at the rate of \$2.50 per square foot of development activity in the 100-foot ~~25-foot~~ Buffer. The applicant must provide proof that they are unable to comply with planting, mitigation, or offset requirements. 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. Acceptable projects are the same as those listed in Section 1-111(i)(2) for the Critical Area Special Taxing District. The status of these funds must be provided in the City's quarterly reports."

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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May 22, 2006

Ms. Elinor Gawel
Office of Environmental and Cultural Resources
2664 Riva Road
P.O. Box 6675
Annapolis, Maryland 21401

**RE: Buffer Modification Request – Jenner/Cummings Property
496 Ferry Point Road**

Dear Ms. Gawel:

Thank you for providing information on the proposed amendment to the Anne Arundel County Critical Area Maps to expand a Buffer Modification Area on Tax Map 51, Block 22, Parcel 207. The modification will affect a portion of Lot 16, which is located directly east of and adjacent to Lot 15. Currently the Buffer Modification Area only includes Lot 15, even though Lots 15 and 16 are effectively merged, and a portion of the dwelling and the driveway are located in the 100-foot Buffer on Lot 16.

The applicant has submitted documentation regarding how the pattern of development in existence on December 1, 1985 on Lot 16 prevents the Buffer from fulfilling the water quality and habitat protection functions of the Buffer. The applicant has also provided site plans and aerial photographs showing that the development in the Buffer on a portion of Lot 16 precludes the Buffer from functioning optimally to minimize the adverse affects of human activities on shorelines and aquatic resources.

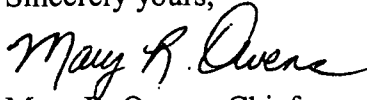
It is my understanding that the County is proposing to expand the Buffer Modification Area approximately 120 feet east of the western lot line as shown in the attached drawing. This area is developed with a portion of the dwelling and driveway as well as brick walkways, a fence, and a propane tank.

Commission staff does not oppose the proposed map amendment as submitted. As you know, the Critical Area Commission must review and approve all requests for all map amendments that affect the Critical Area. During its formal review, the Commission may request additional

Ms. Gawel
May 22, 2006
Page 2

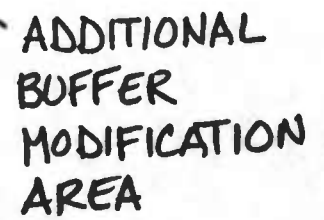
information or have additional concerns. Thank you for the opportunity to provide comments at this time. If you have any questions, please contact me at 410-260-3480.

Sincerely yours,

A handwritten signature in cursive script that reads "Mary R. Owens". The signature is fluid and written in dark ink.

Mary R. Owens, Chief
Program Implementation Division

OF ANNE ARUNDEL COUNTY, AND ERIC SEE
SEE ENVIRONMENTAL



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

May 22, 2006

Ms. Patricia Farr
Baltimore County DEPRM
401 Bosley Avenue, Suite 410
Towson, Maryland 21204

RE: Growth Allocation Request for Preserve at Holly Neck

Dear Ms. Farr:

Thank you for providing information on the growth allocation request for the Preserve at Holly Neck. I have reviewed the information that you provided dated May 8, 2006. In order for the proposed request for a Critical Area Program change to be complete, the following additional information is needed:

A site plan of the project clearly showing the area proposed to be changed from Resource Conservation Area (RCA) to Intensely Developed Area (IDA), similar to previous submissions, but with more distinctive labeling so that the areas to be deducted from the County's growth allocation can be clearly identified. The site plan should also clearly show any Habitat Protection Areas (HPAs), like the minimum 100-foot Buffer. Multiple plans may be submitted for clarity.

A conceptual stormwater management plan and 10% pollutant reduction calculations.

Upon receipt and staff review of this additional information, you will be notified if the submittal is complete or not. If the submittal is complete, the Chairman will make an amendment or refinement determination within 30 days, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

If you have any questions, please call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: Marianne Mason, OAG

**CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100
Annapolis, Maryland 21401**

MEMORANDUM

To: Scott Smith, DNR - Heritage
From: Mary Owens, CAC *MO*
Date: May 19, 2006
Subject: Vienna Village

Enclosed is a copy of the "Vienna Villaghe Environmental Assessment" and a copy of the preliminary plan showing areas to be developed (gold) and areas to be conserved (green). The 100-foot Buffer is also shown. The Town and the developer met with Commission staff a couple of weeks ago to discuss this proposal.

It is likely that they are going to want to come to the Program Subcommittee for preliminary feedback at the July meeting. If at all possible, I would like to have written comments from you, even if they are preliminary, by June 15, 2006.

I will contact you next week to discuss what they have submitted. In the interim, if you have any questions, please call me at (410) 260-3480.

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 18, 2006

Ms. Anne Roane
City of Cambridge
Department of Public Works
705 Leonard Lane
Cambridge, Maryland 21613

RE: Growth Allocation Request for Blackwater Resort Communities

Dear Ms. Roane:

Thank you for providing information on the growth allocation request for Blackwater Resort Communities. I have reviewed the information that you provided to me on May 4, 2006. As we discussed, the information that was submitted by Mr. Ryan Showalter of Miles and Stockbridge was returned to them because in accordance with Annotated Code of Maryland, Natural Resources Article §8-1809(g) – (p), requests for amendments and refinements to local Critical Area Programs, including the use of growth allocation, shall be submitted to the Commission by the local jurisdiction.

In order for the proposed request for a Critical Area Program change to be complete, the following additional information is needed:

1. A site plan of the project clearly showing the area proposed to be changed from Resource Conservation Area (RCA) to Intensely Developed Area (IDA) and all Habitat Protection Areas. Multiple plans may be submitted for clarity.
2. A conceptual stormwater management plan and 10% pollutant reduction calculations.
3. A final Environmental Site Assessment reflecting current information about the project.
4. Written correspondence from the Heritage Division of the Department of Natural Resources regarding State rare, threatened, and endangered species and from the United States Fish and Wildlife Service regarding federal endangered species (Delmarva Fox Squirrel) that may be affected by the proposed development on this site.

Ms. Roane
May 18, 2006
Page 2

Upon receipt and staff review of this additional information, you will be notified if the submittal is complete or not. If the submittal is complete, the Chairman will make an amendment or refinement determination within 30 days, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

If you have any questions, please call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: Ryan Showalter, Miles and Stockbridge
Roby Hurley, MDP
Marianne Mason, OAG

Robert L. Ehrlich, Jr.
Governor



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Lt. Governor

Martin G. Madden
Chairman

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Executive Director

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May 18, 2006

Ms. Anne Roane
City of Cambridge
Department of Public Works
705 Leonard Lane
Cambridge, Maryland 21613

RE: Growth Allocation Request for Blackwater Resort Communities

Dear Ms. Roane:

Thank you for providing information on the growth allocation request for Blackwater Resort Communities. I have reviewed the information that you provided to me on May 4, 2006. As we discussed, the information that was submitted by Mr. Ryan Showalter of Miles and Stockbridge was returned to them because in accordance with Annotated Code of Maryland, Natural Resources Article §8-1809(g) – (p), requests for amendments and refinements to local Critical Area Programs, including the use of growth allocation, shall be submitted to the Commission by the local jurisdiction.

In order for the proposed request for a Critical Area Program change to be complete, the following additional information is needed:

1. A site plan of the project clearly showing the area proposed to be changed from Resource Conservation Area (RCA) to Intensely Developed Area (IDA) and all Habitat Protection Areas. Multiple plans may be submitted for clarity.
2. A conceptual stormwater management plan and 10% pollutant reduction calculations.
3. A final Environmental Site Assessment reflecting current information about the project.
4. Written correspondence from the Heritage Division of the Department of Natural Resources regarding State rare, threatened, and endangered species and from the United States Fish and Wildlife Service regarding federal endangered species (Delmarva Fox Squirrel) that may be affected by the proposed development on this site.

Ms. Roane
May 18, 2006
Page 2

Upon receipt and staff review of this additional information, you will be notified if the submittal is complete or not. If the submittal is complete, the Chairman will make an amendment or refinement determination within 30 days, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

If you have any questions, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

cc: Ryan Showalter, Miles and Stockbridge
Roby Hurley, MDP
Marianne Mason, OAG

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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Chairman

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Executive Director

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May 15, 2006

Mr. Ryan Showalter
Miles and Stockbridge P.C.
101 Bay Street
Easton, Maryland 21601-2718

RE: Cambridge Growth Allocation Approval for Blackwater Resort Communities

Dear Mr. Showalter:

I am writing in response to your letter dated April 28, 2006 requesting Critical Area Commission review of the City of Cambridge's proposed Critical Area program amendment to award growth allocation for the Blackwater Resort Communities project. Your letter, sent on behalf of the applicants, Egypt Road, LLC, and the Thomas Land Group, LLC, also states that it is sent on behalf of the City of Cambridge. However, on May 4, 2006, I received a formal request for the use of growth allocation for the Blackwater Resort Communities project from the City of Cambridge. Although both your submittal and the City's submittal contained supplemental information, the information in the two submittals is not the same.

In accordance with Annotated Code of Maryland, Natural Resources Article §8-1809(g) – (p), requests for amendments and refinements to local Critical Area Programs, including the use of growth allocation, shall be submitted to the Commission by the local jurisdiction; therefore, I am unable to accept the request you submitted. Because the City of Cambridge has submitted a request for use of growth allocation, I am returning the information that you submitted to me, so that you may work with the City of Cambridge. The City should determine what information included in your submittal was not included in the City's submittal and is necessary, in the City's view, for Commission review.

If you prefer, you can wait until the City is notified on May 18, 2006 regarding the completeness of its submittal. If you have any questions, please feel free to call me at (410) 260-3480.

Sincerely,


Mary R. Owens, Chief
Program Implementation Division

cc: Anne Roane, City of Cambridge

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

Robert L. Ehrlich, Jr.
Governor



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MEMORANDUM

DATE: May 2, 2006

TO: Barbara Grey, Policy and Planning

FROM: Mary Owens, Critical Area Commission

SUBJECT: Project Review # 2006-DNR-108, Sandy Point State Park
Curatorship – Garage

Thank you for providing preliminary information on the referenced project at Sandy Point State Park. It is my understanding that the curators at the Sandy Point Farmhouse had started construction of a 16' by 24' storage building without the appropriate authorizations. I have reviewed the information submitted, and I have the following comments:

1. The site plan submitted is not sufficient to review the project for compliance with the Critical Area regulations. I have attached a copy of the "Chesapeake Bay Critical Area Commission Project Application Checklist," which describes the information that the Commission uses to evaluate projects in the Critical Area. While not all of this information is necessary or appropriate for this project, a detailed site plan, showing the project site and the proposed structure must be provided.
2. It is my understanding that the storage building may be located within the 100-foot Buffer of a stream or tidal wetlands. In general, new development activities are not permitted within the 100-foot Buffer; therefore, the exact location of the 100-foot Buffer must be determined. Qualified DNR staff or an environmental consultant will need to determine the extent of the wetlands or the location of the tributary stream on the property and delineate the Buffer.
3. If the storage building is located within the 100-foot Buffer, it is strongly recommended that the curators evaluate the site and identify a location outside the Buffer where the building could be relocated. If an alternate location cannot be identified, then conditional approval of the project, in accordance with COMAR 27.02.06.01, will be required.

4. **Critical Area Commission review and approval of this project will be required.** A site plan, drawn to scale, and depicting the applicable information set forth in the attached checklist should be submitted one month before the meeting. The Commission meets the first Wednesday of every month.

cc: Charlie Mazurak, Land and Property Management

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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Executive Director

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April 28, 2006

Mr. Bill Watson
Town of Chesapeake Beach
P. O. Box 400
Chesapeake Beach, Maryland 20732

**RE: Richfield Station – Critical Area 10% Rule Computations
CB 138-04**

Dear Mr. Watson:

The Critical Area Commission has received revised stormwater management plans and calculations regarding compliance with the 10% pollutant removal requirement associated with the Richfield Station Project. As you are aware, in April 2005, the Critical Area Commission approved the use of 22.24 acres of growth allocation. The submittal of detailed stormwater management plans was a condition of the Commission's approval. The plans and calculations submitted are acceptable. It should be noted that the forested areas planted to meet the 10% pollutant removal requirement will need to be permanently protected by easement, developer's agreement, or a similar legal instrument.

At this time, the only outstanding issue is the execution of the FIDS protection agreement. A draft document has been developed and conceptually approved. I believe that Marianne Mason is working with Joe Devlin to finalize it. Please provide a copy of the final signed document to the Commission after it has been recorded.

Thank you for the opportunity to review the final stormwater management plans. If you have any questions, please call me at (410) 260-3480.

Sincerely yours,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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April 13, 2006

Mr. David Black
Cecil County Government
Office of Planning and Zoning
129 East Main Street, Room 300
Elkton, Maryland 21921

**RE: Camp Grove Point
CE 840-05**

Dear Mr. Black:

I am writing to follow up on our meeting about the proposed improvements at Camp Grove Point on February 7, 2006. I received additional information in a letter from Barry Griffith dated March 16, 2006, which included revised plans. I have reviewed the additional information, and I have the following comments:

1. The Heritage Division of the Department of Natural Resources has provided a letter indicating that the project site includes habitat for the Puritan Tiger Beetle and Forest Interior Dwelling Bird species (FIDS). Commission staff agrees with the consultant's assessment that the proposed improvements are located well away from the eroding cliff face and shoreline; therefore, Tiger Beetle habitat will not be affected. The improvements are proposed to be located in existing cleared areas, and no additional forest clearing is proposed; therefore no impacts to FIDS habitat is anticipated.
2. The 5,000 square foot sewage disposal area at the Asosowah campsite has been relocated so that it is no longer located on steep slopes.
3. The applicant's consultant has analyzed the topography in the area near the proposed horse barn and determined that no expansion of the Buffer for steep slopes is necessary.
4. Commission staff has reviewed the applicant's proposal and Article IV and Article V of the Cecil County Zoning Code. Based on the provisions relating to agricultural uses and commercial stables, as well as the provisions of COMAR 27.01.02.05, Commission staff believes that the construction of a stable on this property can be defined as an

"agricultural use" that may be permitted within the Resource Conservation Area without the use of growth allocation. In Article IV, Section 54.4, the "Table of Permitted Uses" includes both "Agriculture" (1.01.000) and "Commercial Stables" (1.01.600) as uses that may be permitted within the RCA without the use of growth allocation.

5. On the "Overall Site Plan" on Sheet 2, the 100-foot Buffer is shown running through nontidal wetlands adjacent to the existing perennial stream. The 100-foot Buffer must be expanded to include contiguous nontidal wetlands. I do not believe that the required expansion will affect the proposed development activities; however, the "Overall Site Plan" should be amended to show the correct location of the expanded Buffer as this plan may be used as a reference for future development activities on this site.
6. It is my understanding that no forest clearing is proposed, and the applicant's consultant has indicated that the site is mostly forested. The Plan should include appropriate notes addressing existing forest cover and indicating that no clearing is proposed.

Thank you for the opportunity to provide additional comments on this project. If you have any questions, please call me at (410) 260-3480 or Regina Esslinger at (410) 260-3479.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

Barry Griffith, Lane Engineering

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

April 4, 2006

Ms. Anne Roane
City of Cambridge
Department of Public Works
705 Leonard Lane
Cambridge, Maryland 21613

**RE: Longboat Buffer Management Plan
CM #473-04**

Dear Ms. Roane:

I am writing in response to information that I received from Lane Engineering and to follow up on our telephone conversation last week regarding changes to the Buffer Management Plan for the Longboat Subdivision. As we discussed, the applicant is now proposing to install 100 linear feet of stone revetment along the shoreline of the referenced project. The revetment will be installed in the area where the pier and boat ramp are located. The installation of this measure will involve the removal of 17 trees, and the applicant is proposing to replace them at one-to-one.

This office does not oppose this change to the Buffer Management Plan; although, nonstructural erosion control measures are generally preferred on sites like this one. In reviewing the Tree Placement and Public Dock Plan, it is not clear that it has been accurately revised to reflect the change. The Plan shows the location of the additional trees, but it does not appear that the quantities in the table have been adjusted. It is recommended that the applicant verify that the quantities in the tables accurately reflect the additional plantings because often the tables are used to prepare bids for these types of projects.

Thank you for the opportunity to review the revised Buffer Management Plan. If you have any questions, please contact me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

Cc: Sean Callahan, Lane Engineering

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

March 30, 2006

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: St. Mary's County Tidal Wetlands Project

Dear Mr. Tabisz:

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

200564948/ 06-WL-0081 MD DEPARTMENT OF NATURAL RESOURCES

It is not clear from the information submitted whether there will be any significant clearing or grading within the 100-foot Buffer associated with the construction access and material storage. If there is any grading of the bank or disturbance of natural vegetation, then mitigation will be required. This project is a State agency action on State-owned land; therefore, the project must be reviewed and approved by the Critical Area Commission. The Commission received preliminary information on the project in August, 2002 and was generally supportive of the need for structural protection in this area.

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

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: Tom Brower, DNR
Staci Merriman, St. Mary's County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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(410) 260-3460 Fax: (410) 974-5338
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March 30, 2006

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: St. Mary's County Tidal Wetlands Project

Dear Mr. Tabisz:

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

200564948/ 06-WL-0081 MD DEPARTMENT OF NATURAL RESOURCES

It is not clear from the information submitted whether there will be any significant clearing or grading within the 100-foot Buffer associated with the construction access and material storage. If there is any grading of the bank or disturbance of natural vegetation, then mitigation will be required. This project is a State agency action on State-owned land; therefore, the project must be reviewed and approved by the Critical Area Commission. The Commission received preliminary information on the project in August, 2002 and was generally supportive of the need for structural protection in this area.

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

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: Tom Brower, DNR
Staci Merriman, St. Mary's County

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. Albert J. Henry
Department of Economic Development and Planning
City of Havre de Grace
711 Pennington Avenue
Havre de Grace, Maryland 21078

RE: Havre de Grace Critical Area Ordinance

Dear Mr. Henry:

Thank you for forwarding the City of Havre de Grace Critical Area Ordinance, which is a revised ordinance reflecting changes resulting from the required comprehensive review of the Havre de Grace Critical Area Program. The Commission staff has accepted the materials forwarded by the City as a complete submittal. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

Please telephone me at (410) 260-3480 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: Marianne Mason, OAG
Dawnn McCleary, CAC
Bridgette Robinson, City of Havre de Grace

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Mary-Reader
Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 16, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 203-05 Sunnyside Landing Subdivision (Revised Plan Dated June 9, 2005)
Dorchester County Plan # 1082**

Dear Mr. Dodd:

Thank you for providing a revised plan for the referenced project. I have reviewed the plan submitted, and most of the comments in my letter dated July 7, 2005 still need to be addressed. I have the following comments on the revised plan:

1. A copy of the environmental report for this project was not received by the Commission. Additional information is needed regarding the environmental features of the site.
2. The applicant has not provided any information about threatened and endangered species on the site or correspondence with the Heritage Division of the Department of Natural Resources (DNR). The Heritage Division also screens for threatened and endangered species and evaluates potential impacts to other Habitat Protection Areas including Natural Heritage Areas, colonial water bird nesting sites, and Forest Interior Dwelling Species (FIDS) habitat. The applicant must provide a copy of current correspondence from DNR.
3. The plan indicates that areas of private tidal wetlands have been delineated along the southern and western boundaries of the project site. Areas of these private tidal wetlands are included in the boundaries of Lots 8 through 15. Please provide documentation regarding the process used to delineate the boundary between State and private tidal wetlands, including field data.
4. The 100-foot Buffer has been shown on the plans; however, it has not been properly expanded on Lots 13 and 14 to include the nontidal wetland (pond) on these lots. It is my understanding that the pond does not have any connection to tidal waters.

5. It is not clear if there are any hydric soils that are contiguous to the 100-foot Buffer because the soils legend does not indicate whether the soils are considered to be hydric or to have hydric inclusions. Please provide additional information about the soils, so that it can be determined if expansion of the Buffer for hydric soils is necessary on this site.
6. In accordance with § 155-38.J.18 of the Dorchester County Code, when agricultural lands are converted to other uses, the 100-foot Buffer shall be established in natural forest vegetation. For this subdivision, the 100-foot Buffer is required to be planted or allowed to naturally regenerate, and a Buffer Management Plan or Plans should be developed to address this requirement. Appropriate notes must be placed on the plat indicating that this area shall be vegetated, and that clearing or removal of natural vegetation within the 100-foot Buffer is prohibited.
7. The notes on Sheet 1 indicate that existing forest cover is 7.3 acres, and that the proposed clearing is 3.8 acres. This represents clearing in excess of 52 percent of existing forest cover. In accordance with § 155-38.G of the Dorchester County Code and the provisions of COMAR 27.01.02.C(3), forest clearing is limited to no more than 30 percent of existing forest cover. An applicant may clear up to 20 percent of existing forest and provide replacement forest as a 1:1 ratio. Forest cleared in excess of 20 percent of existing forest cover shall be replaced at 1.5 times the entire area of forest cleared. Appropriate notes providing clearing limits, replanting standards, and permanent protection of all existing and replanted forest must be included on the plat.
8. Note 18 includes impervious surface limits for the entire subdivision. The list of impervious surface computations, that is proposed to be provided at the time of final subdivision approval, must include the area of the road and any impervious surface associated with access to the community pier.
9. The plans show a "Community Dock Access" and a community pier, and they indicate that 15 slips will be provided. This is the maximum number of slips permitted by §8-1808.5 of the Natural Resources Article of the Annotated Code of Maryland. The plat should include a note clearly stating that a community pier is provided for the property owners in the subdivision; therefore, individual private piers are not permitted.
10. Note 22 states that there are no known streams, nontidal wetlands, steep slopes, habitats of rare, threatened, and endangered species, or burial sites on the proposed lots. This note is not accurate and does not reflect the information on the plans. As stated in Note 2 above, documentation from the Heritage Division of the Department of Natural Resources regarding rare, threatened, and endangered species must be provided.
11. Information about stormwater management was not received by the Commission. The nontidal pond on Lots 13 and 14 is part of the expanded 100-foot Buffer; therefore, it cannot be used for stormwater management as proposed in Note 13 unless the applicant obtains a variance. In order to obtain a variance, the applicant will need to meet the standard of unwarranted hardship. It is strongly recommended that the applicant evaluate alternative stormwater management measures.

Mr. Dodd

March 16, 2006

Page 3

Thank you for the opportunity to provide comments on this subdivision. Please provide revised plans and the additional information requested. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Mary-Reader
Martin G. Madden
Chairman

Ren Serey
Executive Director

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

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

March 16, 2006

The Honorable Robert L. Flanagan, Secretary
Maryland Department of Transportation
P. O. Box 548
7201 Corporate Center Drive
Hanover, Maryland 21076

Dear Secretary Flanagan:

I am writing to express my sincere appreciation to you and the Department for providing assistance to the Critical Area Commission for the past eight months through the loan of Gary Green. As you are aware, the Commission had had three vacant positions for an extended period of time, and without assistance from your agency, I was concerned about the Commission's ability to continue to provide landowners and local governments with the level of service that is necessary and appropriate for the Commission to ensure effective implementation of the Critical Area Program.

Gary did an excellent job for the Commission, learning quickly and showing initiative with regard to researching and responding to technical questions. His positive attitude and willingness to perform any task made him a wonderful asset to the Commission. Gary's easygoing personality and thoughtfulness was greatly appreciated by all of the staff.

As you are aware, the success of the work of any State agency is largely a function of the employees of the agency and their commitment to providing outstanding customer service and professional work products. Thanks to the efforts of Gary Green, the Commission was able to continue to provide the services and perform the work that is essential to the success of the Critical Area Program.

Thank very much for your responsiveness to the Commission's request and the support of the Critical Area Program by you and your staff.

Sincerely,

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

Martin G. Madden
Chairman

cc: Mr. Darrell Sacks, SHA

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Mary Fessler
Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 14, 2006

The Honorable Gerald Donovan
Town of Chesapeake Beach
P. O. Box 400
Chesapeake Beach, Maryland 20732

RE: Forest and Developed Woodland Master Plan

Dear Mayor Donovan:

The Critical Area Commission has received the revised final draft of the Town of Chesapeake Beach Forest and Developed Woodland Master Plan. The staff has reviewed the Plan and the comments provided to the consultant. It appears that most of the Commission's significant concerns have been resolved; however, there are still some minor issues that should be addressed before the Plan is brought to the Critical Area Commission for final approval. The issues are as follows:

1. It is the Commission's understanding that, in addition to the specific changes identified in the Town's zoning ordinance, the Forest and Developed Woodland Master Plan document will replace and supersede the forest and woodland protection provisions, portions of the Buffer Exemption Area (BEA) provisions, and portions of the Buffer disturbance provisions in the Town's Critical Area Program. It is not clear what specific provisions of the Town's Program document are being replaced by the Plan. Please identify the specific sections of the Program that will be replaced.
2. On page 3, the third bullet of section 2.1 should read, "... may be reasonable to assume that it will be distributed similar to the percentages of"
3. On page 5, Table 1 – Mitigation Forecast (2005 – 2015) appears to have been deleted. This Table must be included in the Plan.
4. On page 7 in the paragraph "*Phragmites removal and native plant restoration*," clarify as follows: "Fees-in-lieu may be used to remove phragmites **as long as restoration of native vegetation takes place** ~~when also used to restore native vegetation~~ once the invasive species are is removed."

Mayor Donovan

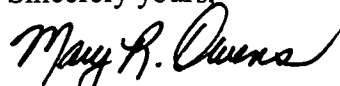
March 14, 2006

Page 2

5. On page 14, Subsection F.i.i) should read, "Except for projects in the Buffer ~~Yard~~ on individual residential lots ..."
6. On page 14, in Subsection F.i.j), it is unclear how this provision would be interpreted or applied, and it does not appear to be consistent with the mitigation strategies discussed by Commission staff and the consultants over the last several months. For development projects on grandfathered single-family residential lots (i.e. additions, decks, etc.), there is some flexibility regarding the application of the buffer yard provisions and the mitigation for disturbance. However, for commercial, multi-family residential, industrial, institutional, and recreational projects, which are generally larger in scale and more intense, the Commission's policy includes two forms of mitigation: the provision of a buffer yard *and* planting of an area two times the area of disturbance of the development activity. It is the Commission's view that this approach to mitigation results in some water quality and habitat benefits at the shoreline, as well as, additional benefits on the site as a whole. As we have discussed, either of these mitigation requirements that cannot be met on the project site can be accomplished through the payment of fees-in-lieu, offsets, or off-site planting.
7. On page 18, it is not clear how the changes proposed to Section 4-410 B (Limited Development Areas) will be incorporated into the Zoning Ordinance as the referenced provisions appear to be in Section 4-410(b)(5)F.ii. Clarification is needed.
8. On page 18, in Section 4-410(b)(5)F.ii[1], the entire paragraph should be deleted as follows, "~~All forests cleared or developed shall be replaced on not less than an equal area basis on the property or on an alternative property approved by the Zoning Administrator. When the actual development pad is created and cleared, and areas are reforested or afforested to the extent possible, a forest area shall continue to be considered a developed woodland and no replacement shall be required.~~" because it is inconsistent with the Critical Area Criteria. The proposed replacement language is consistent with the Criteria.

Thank you for the opportunity to provide final comments on the Plan. If you have any questions about these comments, please call me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

cc: Marianne Mason, OAG
Donovan Hart, Jakubiak and Associates
Bill Watson, Town of Chesapeake Beach

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 13, 2006

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: St. Mary's County Tidal Wetlands Project

Dear Mr. Tabisz:

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

200660910/ 06-WL-0820 MARK GUADAGNOLI

It is not clear from the information submitted whether there will be any impacts to the 100-foot Buffer associated with backfilling the replacement bulkhead, access to the shoreline, material storage, or the construction of the structure. If there is any grading of the bank or disturbance of natural vegetation, then mitigation will be required. St. Mary's County requires that applicants for shoreline erosion control projects obtain a local permit from the Department of Land Use and Growth Management, and the County staff can provide additional guidance regarding any mitigation requirements. Additional information can be obtained from Ms. Staci Merriman at (301) 475-4200 X1525.

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

Sincerely,


Mary R. Owens, Chief
Program Implementation Division

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

**CRITICAL AREA COMMISSION
CHESAPAEKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100
Annapolis, Maryland 21401**

MEMORANDUM

TO: Neal Welch, Resource Planning

FROM: *mo*
Mary Owens

SUBJECT: Red Trail Rehabilitation, Calvert Cliffs State Park

DATE: March 7, 2006

Thank you for providing preliminary information on the referenced project. Based on the information and photographs provided, it appears that the repairs to the trail may be significant in some areas and may involve disturbance on steep slopes and within the 100-foot Buffer and expanded Buffer. The Commission has no objection to the project; however, the following issues should be considered as the design of the repairs is finalized.

1. Construction and disturbance on steep slopes (15% slope or greater) should be the minimum necessary to stabilize the trail.
2. Construction and disturbance within the 100-foot Buffer and the expanded Buffer (for steep slopes and for highly erodible soils) should be the minimum necessary to improve access and stabilize the trail.
3. To the extent possible, the trails should be constructed in such a way as to remain at least partially pervious. It is my understanding that the at-grade portions of the trails are not proposed to be paved. The boardwalk portions of the trail should be constructed with spaces between the boards.
4. The applicants should coordinate with the Maryland Department of the Environment and the U.S. Army Corps of Engineers to determine if any State or federal permits may be necessary because of potential impacts to tidal or nontidal wetlands.
5. It is not clear if any portions of the trail are proposed to be widened or reconfigured or if any benches or overlooks are proposed along the trail. Clarification is needed.
6. The project information submitted does not include any information about removal of trees or natural vegetation. If clearing of trees or the removal of natural vegetation will be part of this project, the mitigation, in the form of plantings, will be required.

Mr. Welch
March 7, 2006
Page 2

7. This project involves the rehabilitation of approximately 0.8 miles of trail with potential impacts to steep slopes and the Buffer; therefore, the project will need to be reviewed and approved by the Critical Area Commission. The Critical Area Commission meets the first Wednesday of every month. Project materials should be submitted to Commission staff one month prior to the meeting, so that they can be reviewed by staff and provided to the Commission members prior to the meeting. It is likely that Commission staff will want to review the project on-site with Robert Cantin. He can contact Kerrie Gallo at (410) 260-3483 to schedule a convenient time.

Thank you for the opportunity to provide comments on this project. For additional information regarding scheduling of the project for review by the Commission, please contact Regina Esslinger at (410) 260-3479 or Kerrie Gallo at (410) 260-3482.

cc: Kerrie Gallo, CAC
Robert Cantin, Jr., DNR

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 7, 2006

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

**Re: Beach Elementary School – Kindergarten Addition
Consistency Report**

Dear Mr. Watson: *Bill*

Thank you for forwarding the consistency report for the referenced project to this office in accordance with the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report, and the accompanying drawings provided by Mr. George R. Leah, Jr., this office agrees that the project is consistent with the Town of Chesapeake Beach Critical Area Program.

The project involves the construction of a building addition and related appurtenances, totaling approximately 4,800 square feet. The project site is designated IDA, and the location of the addition is currently developed with a paved play area. The addition is not located within the 100-foot Buffer and there are no proposed impacts to other Habitat Protection Areas. Stormwater management will be addressed by directing roof-top run-off into new drywells as a roof-top disconnect strategy in accordance with the design standards in the 2000 Maryland Stormwater Design Manual.

It is my understanding that the parking lot shown on the plans is not proposed to be constructed at this time, and it will be submitted to the Commission as a separate project at a later date. Because of this, the parking lot has not been included in the stormwater calculations.

This project is considered development of a minor scale that does not substantially affect the Town's Critical Area Program; therefore, it will not require formal approval by the Critical Area Commission.

Mr. Watson
March 7, 2006
Page 2

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script, reading "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: George Leah, Calvert County Public Schools
CB 689-05

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

Michael S. Steele
Lt. Governor

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March 6, 2006

Mr. Andy Hanas
Department of Natural Resources
Engineering and Construction
Matapeake Marine Terminal
305 Marine Academy Drive
Stevensville, Maryland 21666

**RE: Greenwell State Park – ADA Canoe/Kayak Launch
DNR 55-05**

Dear Mr. Hanas:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the proposed ADA Canoe/Kayak Launch Project at Greenwell State Park in St. Mary's County. On March 1, 2006, the Critical Area Commission voted to approve the project. Please provide a copy of the planting plan, showing the 420 square feet of mitigation plantings, to Commission staff prior to the start of construction. Thank you for your cooperation in the preparation of the materials for the meeting. If you or the staff at Greenwell State Park has any questions, please feel free to contact me at (410) 260-3480.

Sincerely yours,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: Kendall Sorenson-Clark, Greenwell State Park

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 23, 2006

The Honorable Wayne Dougherty, Chair
The Honorable Gary Wasielewski
The Honorable Vince Way
City of Havre de Grace
Council Planning Committee
711 Pennington Avenue
Havre de Grace, Maryland 21078

RE Proposed Ordinance No. 870

Dear Messrs. Dougherty, Wasielewski, and Way,

Thank you for the opportunity to follow up our conference call on Friday, February 10, 2006, with a written response addressing our discussion of the issues included in the letter to you from Robert J. Carson, dated January 26, 2006. The following issues were discussed:

1. The first comment pertaining to §1-111 (i) (2) expresses concern that this subsection does not contain specific references to water quality improvement programs referenced in a memo from Al Henry to the Mayor and Council dated January 19, 2006. The provisions in this subsection cover a wide range of project types and in our view adequately address the City's desire for flexibility regarding the types of projects that may be accomplished using these funds. With regard to the projects included in the memo, we recommend that the City determine the specific water quality and/or habitat benefits associated with each project and work with the Commission to determine what percentage of the project can be funded with Critical Area Taxing District funds.
2. The second comment recommends that the provisions of §1-102 (a) (9) relating to bufferyards should be deleted because the provisions would only affect a few properties and could not be fairly applied. The bufferyard provisions are an important element of the Critical Area Commission's policies for Buffer Exemption Areas. The Commission has consistently supported the adoption of bufferyard provisions in many jurisdictions as a way to achieve the water quality and habitat protection objectives of the Buffer as required by the provisions of COMAR 27.01.09.01.C(8). Bufferyards provide some advantages over other mitigation techniques in that they can be consistently and

effectively implemented on both new development and redevelopment projects. There are also cumulative benefits associated with providing bufferyards on project sites throughout the City that contribute to accomplishing the overall goals of the Critical Area Program. As discussed on February 10, 2006, if the City identifies alternative mitigation measures that are more suitable to meeting the needs of the City, the City may propose a change to their Critical Area Ordinance at any time.

3. The third comment recommends that an amendment should be made to §1-111 (b) that the provisions of §1-111 (d)(3), §1-120, §1-120 do not apply in the Buffer Exemption Areas. After reviewing the provisions, it does not appear that further clarification is warranted as the provisions of §1-111 (a) through (c) are explicit and are similar to the provisions used in other jurisdictions. With regard to §1-120 and §1-121, these provisions would be applicable within Buffer Exemption Areas as water-dependent facilities can be located within the 100-foot Buffer and would not necessarily be subject to the same setbacks and mitigation requirements as nonwater-dependent facilities.
4. The fourth comment recommends that §1-111 (d) should be deleted because it would prohibit development or redevelopment activities unless the applicant demonstrates that there is no feasible alternative. As discussed, it is recommended that this section be revised to read as follows, "New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces will not be permitted in the Buffer unless the applicant can demonstrate that there is no ~~feasible~~ **practical** alternative, and the City finds that efforts have been made to minimize Buffer impacts based on the following guidelines ..."
5. The fifth comment proposes that the setbacks included in §1-111 (d)(2) and (3) should be eliminated or substantially reduced. As discussed previously, the setback (bufferyard) provisions are an important element of the Critical Area Commission's policies for Buffer Exemption Areas. The Commission has consistently supported the adoption of setback (bufferyard) provisions in many jurisdictions as a way to achieve the water quality and habitat protection objectives of the Buffer as required by the provisions of COMAR 27.01.09.01.C(8). As discussed on February 10, 2006, if the City identifies alternative mitigation measures that are more suitable to meeting the needs of the City, the City may propose a change to their Critical Area Ordinance at any time.
6. The sixth comment proposes that the provisions requiring the establishment of bufferyards as included in §1-111 (d)(8), (e) and (g) are not necessary. The provisions in §1-111 (d)(8) describe general mitigation requirements for development in Buffer Exemption Areas and are not specific to buffer yards. The provisions in §1-111(e) relate to mitigation associated with development and redevelopment activities on existing single-family detached properties. Bufferyards are not required for these types of projects. The provisions in §1-111(g) relate to the requirement for bufferyards and the reasons for their implementation are discussed in the preceding comments. The fee-in-lieu provisions in this subsection are included to provide the City with the flexibility to

collect fees rather than impose the bufferyard or other planting requirements on sites where planting may be impractical or ineffective.

7. The seventh comment recommends that §1-116 (a) be revised to permit the continuation of existing uses and structures. The Commission has interpreted these provisions to allow the continuation of existing structures, as well as, existing uses; therefore, it is not problematic to revise this section to read, "Continuation of existing uses and structures. The City shall permit the continuation, but not necessarily the intensification or expansion, of any use or structure in existence on the date of Program approval, unless the use or structure has been abandoned for more than one year or is otherwise restricted by existing local ordinances. If any existing use or structure does not conform with the provisions of this ordinance, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in the variances section of this ordinance."
8. The eighth comment recommends that §1-120 (f) (10) regarding requirements to maintain a viewshed be deleted. This provision is not required by the Critical Area Criteria or law and was proposed by City staff; therefore, Commission staff does not oppose the removal of this section.
9. The ninth comment proposes that §1-120 (d) (1) D and E pertaining to the requirements for water-dependent facilities should be deleted. These provisions are part of the Criteria and must be included in the City's Critical Area ordinance.
10. The tenth comment recommends that "§1-122 Shore Erosion Protection Works" should be deleted. These provisions are part of the Criteria and must be included in the City's Critical Area ordinance.
11. Following the conference call, Commission staff has been working with City staff to develop special "grandfathering" provisions for projects that are currently under review by the City staff. We have reformatted and clarified the draft language you provided and propose the following language to be added as §1-120 (c):

"The City of Havre de Grace shall permit the implementation of any project that has received site plan approval prior to March 6, 2006 (the date of City Council approval of the new Chesapeake Bay Critical Area Ordinance) notwithstanding that the plan may not be fully compliant with the provisions of this Ordinance.

 - (1) If the site plan approval expires after March 6, 2006, the site plan or project plan shall then be subject to regulations of this Ordinance. If necessary, the site plan or project plan shall be revised to be fully compliant with the provisions of this Ordinance, or the applicant shall obtain a variance in accordance with the provisions of §1-118.

- (2) A minor revision to a site plan or project plan that received site plan approval prior to March 6, 2006 will not affect the approval, and the project may be implemented in accordance with the revised plan notwithstanding that the plan may not be fully compliant with the provisions of this Ordinance. A minor revision is defined as a change to the site plan or project plan that does not affect the approved limits of disturbance, does not increase the approved area of impervious surface by more than 10 percent, and does not involve disturbance within the 100-foot Buffer in excess of that on the originally approved plan. A minor revision to an approved site plan or project plan shall be subject to the regulations in effect at the time of approval; however, if impervious surface area is increased, the stormwater management design shall be revised to be fully compliant with the provisions of this Ordinance.
- (3) If an approved site plan or project plan is revised to accommodate a change in use, a new site plan or project plan shall be prepared in accordance with the provisions of this Ordinance."

I believe this letter accurately summarizes our discussion of the issues raised in Robert Carson's letter and provides additional information regarding how City staff will handle projects that are currently under review and close to implementation. If you have any questions or need additional information, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

Cc: Al Henry
Bridgette Robinson
Dawnn McCleary

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

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 79-06 Jacob and Lili Lea Kaminsky Special Exception for Marina
Dorchester County Plan # 2278**

Dear Mr. Dodd:

Thank you for providing information on the referenced project. It is my understanding that the property owners are requesting a special exception in order to develop this 0.84 acre site with a commercial marina. The information provided is not complete enough to fully review the project; therefore, my comments are preliminary, and I may have additional comments.

1. It is my understanding that this property was used as a marina as long as twelve years ago; however the Staff Report indicates that the County would not consider it an existing grandfathered nonconforming use. Therefore, the project must comply with current zoning regulations and performance standards for commercial marinas and new development activities in the Critical Area as set forth in § 155-38 of the Dorchester County Code
2. The information provided to the Commission did not include an Environmental Report. All projects involving the development or redevelopment of commercial marinas must provide an environmental report and must address the standards in § 155-38.G and § 155-38.J. of the Dorchester County Code.
3. The applicant has not provided comments from the Heritage Division of the Department of Natural Resources regarding the presence of rare, threatened and endangered species on the site and potential impacts to other Habitat Protection Areas. Information about Habitat Protection Areas must be provided in order to provide complete comments on this project.
4. The plans submitted do not include information about impervious surface limits. This property is designated as a Limited Development Area (LDA); therefore, impervious surfaces are is limited to 15 percent of the site.

5. The plans do not include information about forest cover or the removal of natural vegetation. In general, reforestation is required for the removal of natural vegetation.
6. According to the plan submitted with the project, the entire property is located within the 100-foot Buffer; however, the property is located within a designated Buffer Exemption Area. All development activities on the project site will need to comply with the Buffer Exemption Area provisions in § 155-38.J.5 of the Dorchester County Code. Mitigation will be required for all disturbance within the 100-foot Buffer, and the applicant should provide information and/or landscape plans indicating how this requirement will be satisfied.
7. Although this project is not located within an Intensely Developed Area and the 10% pollutant reduction requirement is not applicable, the applicant must demonstrate that the facility will not adversely affect water quality. No information about water quality protection or stormwater quality management has been provided.
8. In addition to compliance with the County's Critical Area regulations, the applicant will also need to comply with federal and State regulations for new marinas. The Maryland Department of the Environment and the U.S. Army Corps of Engineers are the agencies responsible for reviewing this type of project. The applicant should contact these agencies as the plans for the facility are developed in order to ensure a coordinated review of the project.

The preceding comments represent the Commission staff's review and evaluation of the information submitted by the applicant. When more detailed information is submitted, there may be additional comments. Thank you for the opportunity to comment on this proposal. Please contact me at (410) 260-3480 if you have any questions.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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February 16, 2006

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P.O. Box 107
Cambridge, Maryland 21613

**RE: DC 78-06 David Neigus and Mike Meurs
Dorchester County Plan # 2277**

Dear Mr. Dodd:

Thank you for providing information on the referenced project. The applicant is requesting approval of a variance to construct a 300 square foot deck within the 100-foot Buffer. The property is an existing grandfathered parcel, and it is severely constrained by the 100-foot Buffer both from the west and the east. The existing dwelling is located almost entirely within the 100-foot Buffer. The property is located within a designated Buffer Exemption Area; however, the proposed development activity does not meet the standards in § 155-38.J.5 of the Dorchester County Code, which does not allow additions to exceed the shoreward extent of existing structures on the property.

The Commission does not oppose the proposed variance to impact the Buffer, as the proposed deck appears to be a reasonable expansion of living space. If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with the provisions of the Dorchester County Code. Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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February 16, 2006

Ms. Alexis Gray
Naval Air Station Patuxent River
Environmental Department
22445 Peary Road, Building 504
Patuxent River, Maryland 20670

**RE: Presidential Replacement Helicopter Programs Support Facility
VXX Hangar
CAC Project # 43-04**

Dear Ms. Gray:

I am writing in response to the plans and information that you provided regarding the landscaping plan for the referenced project. The plan involves the installation of 10 large trees, 35 medium trees, 28 small trees, and 20 shrubs. All plantings shall be species that are native to Maryland and the plantings are generally located near the stream where the impacts to the 100-foot Buffer are proposed.

The plan as submitted provides satisfactory mitigation for the impacts to the 100-foot Buffer associated with the construction of this project. Thank you for the opportunity to comment on this plan and for your cooperation during the review process. If you have any questions, please do not hesitate to call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Mary Reader
Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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February 14, 2006

Ms. Anne Roane
City of Cambridge
Department of Public Works
705 Leonard Lane
Cambridge, Maryland 21613

RE: Chesapeake Hyatt Resort

Dear Ms. Roane:

I am writing to follow up on our meeting last week with Roby Hurley, Glenn Therres, Scott Smith, and Trevor Clarke regarding the designated Habitat Protection Areas at the Chesapeake Hyatt Resort property. As we discussed, preliminary site plans have been submitted for the area identified as "H-1" or River Parcel #1 of the Residences at River Marsh. This area is located adjacent to the designated Habitat Protection Area, identified as Heron Point Woods.

On November 15, 2005, Mr. Smith sent a letter to me that included comments on the development of the golf course relative to compliance with the Critical Area Commission's conditions on the growth allocation, as well as, comments on the proposed development of condominiums adjacent to Heron Point Woods. (Please see Attachment A.) Mr. Smith's letter identified several deficiencies in vegetative protection, access restrictions, and unauthorized placement of structures. It is my understanding that the City is addressing these problems. All deficiencies should be corrected before any formal action is taken by the City on the proposed residential development. Please provide a status report on the City's actions by March 15, 2006.

Mr. Smith's letter also provided specific recommendations relative to the establishment and conservation of protection zones around two designated Habitat Protection Areas on the property, a bald eagle nest and a heron rookery.

As you know, the Critical Area law and Criteria and Section 199 of Article IX of the City of Cambridge Zoning Ordinance require protection of designated Habitat Protection Areas. As set forth in these provisions, the City staff and Planning Commission are

Ms. Roane
February 14, 2006
Page 2

required to coordinate with the Department of Natural Resources (Wildlife and Heritage Division) regarding development proposals that may affect these areas. For all development activities or disturbances, applicants are required to submit a Habitat Protection Plan prepared by a professional biologist.

During the meeting, Mr. Smith and Mr. Therres affirmed that the plan and recommendations developed for the golf course in conjunction with the Critical Area Commission's approval of the growth allocation were specific to the golf course project and were limited to that project. The plan and recommendations did not address the proposed residential development of River Parcel #1 because specific development plans were not available. Moreover, the Commission did not review or approve any development plans for the River Parcel # 1.

At this time, as part of the Planning Commission's review and approval of this phase of the project, a detailed Habitat Protection Plan must be prepared for this area. The Plan will need to show the location of the bald eagle nest and the heron rookery, as well as, the 330-foot, 660-foot, and ¼- mile protection zones included in Mr. Smith's letter. The Plan should also show all existing vegetation, particularly the mature trees on the development site that currently screen the nests from the Hyatt Hotel. The Plan must address the specific comments provided by Mr. Smith and must be prepared before the Planning Commission may take action on the project.

Thank you for the opportunity to meet with you to discuss the coordination of the development of an acceptable Habitat Protection Area Plan for River Parcel #1. As we discussed, staff of the Commission and the Department of Natural Resources are available to meet with you and the applicants to facilitate the development of the Plan. If you have any questions or would like for me to schedule a meeting, please call me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

cc: Roby Hurley, MDP
Marianne Mason, OAG
Scott Smith, DNR
Glenn Therres, DNR



Robert L. Ehrlich, Jr., Governor

Michael S. Steele, Lt. Governor

C. Ronald Franks, Secretary

November 15, 2005

Mary Owen
Chesapeake Bay Critical Area Commission
1804 West St., Suite 100
Annapolis, MD 21401

Subject: Proposed Condominiums at Cambridge Hyatt and Heron/Eagle concerns

Dear Ms. Owen:

I met at the Cambridge Hyatt property yesterday (11/14/05) with Roby Hurley, MD Dept. of Planning and Anne Roane, City Planner for Cambridge. We met to observe the area proposed for condominiums adjacent to "Heron Point Woods" and to also check compliance with the DNR conditions the Critical Area Commission approved (9/2/1998) for the golf course, in reference to protection of the Great Blue Heron colony. We also checked for compliance with recommendations I made for protection of the newly discovered Bald Eagle nest in Heron Point Woods in a letter dated 3/16/2001 to Daniel Strotman of Quandrangle Development Corporation. First, I will address the compliance issues and then later in this letter discuss the proposed condominiums.

Compliance with DNR Golf Course Conditions (9/2/1998)

- 1) Point #2 under "Golf Course Design": *"A permanent hedge will be planted along the cart path between Hole #17 and the "T" for Hole #18 and left to grow to a minimum height of 8 feet using woody evergreen species"*. While a slip rail fence has been constructed along the 330-foot buffer line, a permanent hedge of 8+ foot tall woody evergreen species has not been completed. While there are a few plantings, they do not form a permanent hedge, most are less than 8 feet tall, and the majority are deciduous species. This non-compliance was also noted in my 3/16/2001 letter. The need for the hedge is to provide a "visual buffer" between herons and golfers.

In my 3/16/2001 letter I also requested that a tightly spaced screen of loblolly pines, a minimum of 15 feet tall, be placed behind the "T" box at Hole #18 to provide a visual buffer between the eagles and golfers. In this case the "T" box is ~100 feet from the nest tree. While one holly specimen placed in this area is >15 feet tall, the rest of the plantings appear inadequate to effectively act as a visual buffer.

- 2) Point #3 under "Golf Course Design": *"A walking trail will be allowed through Heron Point Woods provided it is not used during the Great Blue Heron nesting season (Feb. 15-July 31)." I further amended this in my 3/16/01 letter concerning the Bald Eagle nest: "...the area behind the fence and plantings should be closed to entry from Dec. 15-June 15..."*. By my comments, I implied that this would be in addition to time-of-year entry closure for herons; thus, the area behind the fence should not be entered Dec. 15-July 31. Yesterday I noted that there was no gate or other permanent barrier

that would be used to keep people out of Heron Point Woods during the entry closure periods (though, Roby informed me that he had observed that some fence rails were nailed over this opening in the past). I also observed that wooden benches and garbage cans have been placed at intervals along this "walking trail". Interpretive signs have also been placed at key spots, in particular, directly under the bald eagle nest. One sign glorified the "White Swan" with a picture of mute swans. The text mentioned nothing about this species non-native status nor conservation concerns with this invasive species negative effects on submerged aquatic vegetation and native wildlife. There was also a wooden gazebo that had been placed within 10 feet of the Choptank River shoreline near Heron Point. A few discussion points:

- a) As part of the review process for this project we never reviewed any proposals for benches, garbage cans, permanent signage or a gazebo. All but the gazebo are acceptable, as long as the seasonal entry closure is enforced. We do not want people attracted to directly beneath the eagle nest or heron nests during the nesting season. The gazebo is within the 50-foot Buffer.
 - b) I recommend that the signage for "White Swans" (Mute Swans) should be replaced with something about our native Tundra Swans, or include text explaining the problems with Mute Swans or just be removed.
 - c) A permanent hinged gate should be installed at the entrance to the walking trail into Heron Point Woods. This gate should be locked from Dec. 15-July 31.
- 3) Point # 6 under "Post Construction": *"Golf course/conference center operators will exclude all people from Heron Point Woods during the heron nesting season (Feb. 15-July 31)."* As stated above, this should be amended to read, *"Golf course/conference center operators will exclude all people from Heron Point Woods during the heron and eagle nesting seasons (Dec. 15-July 31)."*
- 4) Point #7 under "Post Construction": *"Golf course rules will state that no one is allowed to retrieve balls or equipment in the woods adjacent to the green at Hole #17 and #18, or in Heron Point Woods. This will be indicated with placement of appropriate signage and enforced by course marshals."* Only one sign has been placed along the edge of Shoal Creek by Hole #17. More signs are needed along the fence line between Holes # 17 and the "T" box for Hole #18.
- 5) Point # 9 under "Post Construction": *"Heron Point Woods shall be designated as a conservation area where no logging or above grade construction is permitted."* The gazebo is in direct violation of this condition.

Recommendations for Proposed Condominiums adjacent to Heron Point Woods

Our standard protection zones for both Bald Eagles and Great Blue Herons are the same:

- 1) **Protection Zone 1:** the boundary of this zone is a minimum of 330 feet from the nest(s). Year round restrictions within this zone include:
 - a) No timber cutting.
 - b) No land clearing.
 - c) No building, road or trail construction.

- d) People should be excluded from this area during the nesting season (Dec. 15-July 31 for both species inclusive).
- 2) **Protection Zone 2:** the boundary of this zone should extend to a minimum of 660 feet from the nest(s). Year round restrictions within this zone include:
- e) No clear-cutting.
 - f) No land clearing.
 - g) No building, road or trail construction.
 - h) People should be excluded from this area during the nesting season (Dec. 15-July 31 for both species inclusive), unless it can be demonstrated that the eagles/herons are tolerant of these activities (note: the function of the visual buffers we required at the 330-foot fence were to allow greater use of Protection Zone 2 for golfing, construction of cart paths, etc. Thus, the inadequacy of these plantings is very problematic.).
- 3) **Protection Zone 3:** the boundary of this zone should extend to a minimum of 0.25 mile from the nest(s). During the nesting season (Dec. 15-July 31) timber cutting, land clearing, road or trail construction, and exterior building should be restricted.

Based on these standard protection zones, no parking lots, condominiums or other permanent habitations should be constructed within the 660-foot buffer line from the nests. Also, all land clearing and other exterior construction activities out to 0.25 mile from the nest(s) should occur outside the nesting season (Dec. 15-July 31).

Roby sent me a copy of plans prepared by Andrews, Miller & Assoc., Inc., for "River Parcel #1" dated October 2005. The plans show the proposed condominiums and parking lots overlayed with the 330-foot and 660-foot buffer lines from the heron nests. They do not show the same buffer zones from the eagle nest nor the 0.25 mile buffer zone. One entire condominium unit is within Protection Zone 2 (660 feet), plus a greater area of parking lot. These plans should be modified showing no development of any area within 660 feet of the heron colony or the eagle nest. All exterior work within 0.25 mile of the nests should be outside the nesting season.

As Bald Eagles are also a federally listed species, Mr. John Wolflin of the U.S. Fish & Wildlife Service-Chesapeake Bay Field Office should also be contacted for comment. Lastly, the waters of the Choptank River and Shoal Creek are designated as Historic Waterfowl Concentration and Staging Areas. Mr. Larry Hindman of DNR-Wildlife & Heritage Services should be contacted for further time-of-year or other concerns.

Sincerely,

Scott A. Smith

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 9, 2006

Mr. Bill Watson
Town of Chesapeake Beach
P. O. Box 400
Chesapeake Beach, Maryland 20732

**RE: Fortier Variance
CB 574 - 03 Lot 31**

Dear Mr. Watson:

I have reviewed the letters to you from Mr. Mark Davis, dated January 20 and January 31, 2006, advocating his interpretation of the Critical Area regulations of the Town of Chesapeake Beach as they relate to the application by Mike Fortier for a variance to construct a single family dwelling. It is Mr. Davis's position that Mr. Fortier's lot may be developed with a single family residence, and that because the lot is grandfathered, proposed development must only comply with the Town's Critical Area regulations "insofar as possible as determined by the Planning and Zoning Commission." He further states that the proposed development of the lot should be reviewed by the Planning and Zoning Commission, rather than the Board of Appeals, and that the Commission may not impose any conditions which the property owner cannot meet on this lot.

Over the years, the Commission has worked with the Town on a number of Critical Area variances for the construction of single-family dwellings on grandfathered lots in the Critical Area. As you know, the State Critical Area law and Criteria define the 100-foot Buffer, and any required expansion, as a Habitat Protection Area. Moreover, COMAR 27.01.02.07.D, pertaining to grandfathering, clearly states that nothing in the grandfathering provisions may be interpreted as altering the requirements for development activities set out in COMAR 27.01.09 (Habitat Protection Areas in the Critical Area).

As you are aware, new development activities within the Buffer are not permitted, unless the applicant obtains a variance. Section 4-404(a) of the Zoning Ordinance for the Town of Chesapeake Beach states, "No development including septic systems, impervious

surfaces, parking areas, roads, or structures are permitted in the Buffer, except as may be necessarily associated with water dependent facilities in accordance with this Ordinance."

After reviewing this matter with the Attorney General's office, I must advise you that the Commission strongly disagrees with Mr. Davis's suggested interpretation. Rather, we maintain that the Town should treat this application as it has consistently handled other such cases in the past.

As prescribed by the Criteria, Section 4-406 of the Zoning Ordinance for the Town of Chesapeake Beach also states that all development and redevelopment must meet certain criteria with respect to Rare Species and Habitat Protection Areas. The Ordinance further states that all development and redevelopment shall be subject to provisions set forth in the Town Critical Area Protection Program. The provisions in the Program also include protection of the 100-foot Buffer and expanded Buffer. No exceptions for grandfathered lots are provided. These provisions of the Town's ordinance are consistent with the State law and criteria.

Over the years, the Town and the Commission have consistently interpreted the Town's Critical Area Ordinance and Program to prohibit development activities within the Buffer (and expanded Buffer), and to require variances for these activities on grandfathered lots. The Commission has worked cooperatively with the Town to provide comments on these variance requests and to develop appropriate mitigation plans for variances that can be approved in accordance with the variance standards.

Mr. Davis references sections of the Town's zoning ordinance which, he argues, allow some flexibility regarding compliance with the development standards in the IDA on grandfathered lots. While it may be possible to read the ordinance as he suggests, such an interpretation would produce a clear inconsistency with regard to the protection of the Buffer and other Habitat Protection Areas. The Critical Area law and Criteria absolutely require compliance with these provisions on grandfathered lots. If the Town interprets its ordinance otherwise, the Commission would likely have to consider action under the provisions of § 8-1809 to require an amendment to the Town's Program and Ordinance to rectify this conflict with the Law and the Criteria.

Mr. Davis also expresses concern regarding the use of other lots owned by Mr. Fortier to meet the mitigation requirements associated with the granting of a variance on Lot 31. Mr. Davis states that, "...if we are forced to use other single lots or parcels to provide mitigation, then we would be deprived of the right granted under 4-403(a)(1) to build on the lot on which we were providing mitigation." This statement reflects a lack of consideration of the Critical Area variance requirements which must be met in order for the proposed development on Lot 31 to be approved.

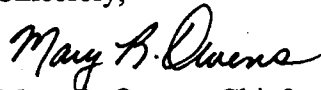
Commission staff has worked with you and Mr. Fortier's consultant for several months to develop a mitigation strategy, so that it may be possible for the Board of Appeals to

Mr. Watson
February 9, 2006
Page 3

determine that the granting of a variance will not adversely affect water quality or adversely affect fish, wildlife, or plant habitat within the Critical Area of Chesapeake Beach and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and regulations. It is my understanding that the applicant proffered the mitigation proposed after evaluating a variety of options. The applicant is not being "forced" to forfeit the right to build on any lot in order to provide mitigation. As we have discussed, there are a wide variety of options for providing mitigation associated with the granting of a variance, and an applicant can work with the Town to find those that are most appropriate for his particular situation.

In conclusion, the Commission believes that the Town is correct in requiring that the applicant obtain a variance to construct a dwelling within the expanded Buffer. Further, we believe that the proposed mitigation is both reasonable and necessary to support the granting of a variance on this lot. If you have any questions or would like to discuss this letter, please feel free to contact me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

Cc: Eric Blitz, Webb and Blitz, L.L.C.
Mark Davis, Davis, Upton and Palumbo, L.L.C.
Mr. Mike Fortier
Mr. Kevin Shaver, Wilkerson and Associates
Marianne Mason, OAG

Robert L. Ehrlich, Jr.
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February 8, 2006

Ms. Sharon Weygand
Town of Port Deposit
64 South Main Street
Port Deposit, Maryland 21904

RE: Comprehensive Review of the Town of Port Deposit Critical Area Program

Dear Ms. Weygand:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the referenced Critical Area Program amendment. On February 1, 2006, the Critical Area Commission voted to approve with conditions the new ordinance sections and new maps resulting from the comprehensive review of the Town of Port Deposit Critical Area Program. The conditions of approval are as follows:

Proposed Revisions and Clarifications to Port Deposit Zoning Ordinance

1. Page 15 Section 12. Definitions of Basic Terms
Add the definition of Dwelling Unit-Critical Area as follows.

Dwelling Unit – Critical Area - 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 caretaker residence.

2. Page 35 Section 12. Definitions of Basic Terms
Add the definition of Unwarranted Hardship as follows:

Unwarranted Hardship – A situation whereby without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which a variance is requested.

3. Page 134 Section 130. Implementation of the Critical Area Provisions
Add the following language regarding the elements of the Town's Critical Area Program:

2. Implementation. For the purposes of implementing the Critical Area Program in the Town of Port Deposit, the Program consists of the Port Deposit Zoning Ordinance, the Port Deposit Comprehensive Plan, the Port Deposit Critical Area Maps and the Port Deposit Habitat Protection Area Maps.

4. Page 134 Section 130. Implementation of the Critical Area Provisions
Add the following language regarding the procedures for review of State and Local Projects:

4. 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.

5. Page 135 Section 132. Development in the Critical Area Overlay District
Add the following language regarding the three overlay classifications:

The following general provisions are applicable throughout the Critical Area:

6. Page 139 Section 133. Intensely Developed Area
Add the following language as Section 133.4.e(5) and (6) to allow the collection of fees-in-lieu monies for compliance with the 10% pollutant reduction requirement:

(5) If offsets are determined not to be feasible, then fees-in-lieu shall be collected for the improvement of stormwater quality within the Town of Port Deposit. The applicant shall compute the pollutant removal requirement in accordance with the guidance provided by the Critical Area Commission as set forth in the *Critical Area 10% Rule Guidance Manual – Fall 2003*, and as may be subsequently amended. Fees-in-lieu of pollutant reduction shall be assessed based on the average of two estimates of the cost of designing, installing, and maintaining (for ten years) appropriate Best Management Practices on the project site. The estimates shall be prepared by two different qualified contractors experienced in the construction of Best

Management Practices and shall be based on conceptual designs prepared by a registered civil engineer. The estimates shall include the cost of purchasing or leasing land on which the stormwater practices would be located. A combination of Best Management Practices, offsets, and fees-in-lieu may be used to meet the pollutant removal requirement.

- (6) As an alternative, fees-in-lieu of pollutant reduction shall be assessed at the rate of \$27,000 per pound of phosphorus. The fee shall be proportionally adjusted for fractions of pounds.**

7. Page 149 Section 136. Growth Allocation

Delete subparagraph (8) and add Section 136.1.c regarding the process for using growth allocation and obtaining growth allocation acreage from Cecil County.

- c. Process. Applications for growth allocation shall be submitted to the Town Administrator. Changes within the Critical Area Overlay District associated with the use of growth allocation shall be treated as zoning amendments for floating zones consistent with the provisions of Article XIX, Section 338. The Zoning Inspector shall forward a copy of the application materials to the Cecil County Commissioners with a request to use growth allocation within the Town of Port Deposit. The Town shall request that the Cecil County Commissioners respond to the Town's request within 45 days. If the request to use growth allocation is denied, the County Commissioners' response shall clearly outline the reasons for their denial. The Town shall not take final action on the growth allocation request or send it to the Critical Area Commission for approval until the Cecil County Commissioners have approved the Town's request.**

8. Page 161 Section 143. Shore Erosion Protection Works

Add the following language, as subparagraph (3) to Section 143.2.g, specifying that impacted areas within the Buffer associated with shore erosion control project must be replanted.

- (3) For shore erosion control projects that involve clearing of natural vegetation within the Buffer, applicants shall be required to reestablish the impacted areas of the Buffer.**

9. Page 162 Section 144. Forest and Woodland Protection

Add the following language to Section 144.4 regarding the process for addressing development projects in forested areas utilized as breeding areas by forest interior dwelling birds.

... into the development plan. **When proposing development activities within riparian forests or forests utilized as breeding bird areas by forest interior dwelling birds, applicants are required to use the guidance found in the Critical Area Commission publication entitled, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, dated June 2000, and as may be subsequently amended. In addition, the Department of Natural Resources ...**

10. Page 165 Section 145. Commercial Timber Harvesting

Replace Section 145.5.a with the following language regarding standards for timber harvesting within the Buffer.

- a. **Cutting or clearing of trees within the Buffer is prohibited except for the following: commercial harvesting by selection or clearcutting of loblolly pine or tulip poplar is permitted to within 50 feet of the landward edge of the Mean High Water Line of tidal rivers, perennial tributary streams or the edge of wetlands, provided that the cutting is conducted in conformity the Habitat Protection Area provisions of this ordinance and with a Buffer Management Plan that is prepared by a registered professional forester and is approved by the Department of Natural Resources. The Plan shall be required for all commercial harvests within the Buffer, regardless of the size of the area to be cut, and shall comply with the following requirements:**

11. Page 173 Section 150. The 100-foot Buffer

Add the following paragraphs regarding implementation of the 100-foot Buffer protection and management provisions.

5. **Buffer Management Plans. When the Buffer is required to be established on a development site, when a proposed development activity will impact the Buffer, or when the removal of trees or vegetation in the Buffer is proposed, the Town will require that the applicant prepare a Buffer Management Plan. The Plan will show existing vegetation within the Buffer, any vegetation that is proposed to be removed, and the proposed planting in the Buffer required to "establish" the Buffer or as mitigation for impacts. The planting plan will include the size, species, and location of all plantings.**

6. **Planting Agreements.** For all projects that require establishment of the Buffer or mitigation plantings that exceed 2,000 square feet or ten trees, the applicant shall execute a "Planting Agreement" with the Town. The Planting Agreement shall include provisions for the collection of a surety or bond that will permit the Town to accomplish the required planting on the applicant's property or another location selected by the Town should the applicant fail to meet the requirements of the Agreement.

12. Page 177 Section 150. The 100-foot Buffer

In Section 150.8.a.(10)(c) regarding commercial, industrial, institutional, recreational and multi-family residential development and redevelopment in Special Buffer Areas, clarify the mitigation language as follows:

- (11) Applicants who cannot comply with either the planting or offset requirements in ~~a or b~~ (9)(a) or (9)(b) or (10)(a) or (10)(b) above shall pay into a fee-in-lieu program as follows:
 - (i) Applicants shall submit to the Planning Commission two planting proposal cost estimates from qualified landscape businesses for planting the equivalent of a Buffer yard ~~for the disturbed area in the BEA and/or~~ **planting an area twice the extent of the disturbed area within the 100-foot Buffer.** The estimate shall include the cost of stock, planting, staking, mulching and a one-year guarantee.

13. Page 179 Section 150. The 100-foot Buffer

In Section 150.8.b regarding single family detached residential development and redevelopment in Special Buffer Areas, add the following language after paragraph (3)(b):

- (4) **Variances to other local setback requirements shall have been considered before additional intrusion into the Buffer.**
- (5) **Development may not impact any Habitat Protection Areas other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.**
- (6) **No natural vegetation may be removed in the Buffer except that required by the proposed construction. The applicant will be required to maintain any other existing natural vegetation in the Buffer.**

- (7) Special Buffer Area designation shall not be used to facilitate the filling of nontidal wetlands that are contiguous to the Buffer to create additional buildable land for new development or redevelopment.**
- (8) Mitigation for development or redevelopment in the Special 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 follows:**

 - i) Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the equivalent of an area twice the extent of the footprint of the development activity within the 100-foot Buffer. The estimate shall include the cost of stock, planting, staking, mulching and a two- year survival guarantee.**
 - ii) The Planning Commission shall determine the amount of the fee-in-lieu based on the average of the two estimates.**
 - 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.**

14. Page 179 Section 150. The 100-foot Buffer

In Section 150.8.d regarding mapping standards for Special Buffer Areas, add the following language after paragraph (4):

- (5) If only part of a parcel or lot meets the criteria for designation as a Special Buffer Area, then only those portions of the parcel or lot shall be designated as a Special Buffer Area. The portion of the parcel designated as a Special Buffer Area will be subject to the Special Buffer Area requirements. Portions of the property that are not designated as a Special Buffer Area shall comply fully with the 100-foot Buffer restrictions.**

15. Page 182 Section 151. Threatened and Endangered Species and Species in Need of Conservation

In Section 151.4. regarding the standards for protection of the habitats of threatened and endangered species and species in need of conservation, add the following language:

... the applicant shall develop a Habitat Protection Plan to protect and conserve the habitats identified. **The Plan shall be submitted to the Planning Commission for review. As part of their review, the Planning Commission will request comments from the Department of Natural Resources and the Critical Area Commission. Upon receiving these comments, and if appropriate, seeking the advice of expert consultants, the Planning Commission shall approve or deny the application for the development activity. The Planning Commission may make recommendations for changing the development proposal or the Plan and may ask the applicant to resubmit revised materials. The initial review by the Planning Commission, the Department of Natural Resources, and the Critical Area Commission should be completed within 60 days of the submittal of the Plan.**

16. Page 183 Section 151. Threatened and Endangered Species and Species in Need of Conservation

In Section 151.7. regarding the public notice process for protection of the habitats of threatened and endangered species and species in need of conservation, replace the existing provisions with the following language:

- 7. Public notice. The determination of the existence and extent of these habitats and protection areas shall result from a cooperative effort between the Town and public agencies or private organizations. If the Secretary of the Department of Natural Resources designates additional species by regulation in the future, public hearings, as appropriate, shall be held to consider comments on these areas and**

the protection measures proposed for these species. The protection measures shall be adopted within 12 months of the date of the Secretary's designation.

- (1) The establishment of Habitat Protection Areas shall not be intended to restrict or affect, beyond any existing local, State or Federal laws or regulations on private land, any private restrictions or such activities as non-commercial passive recreation (for example, hiking and nature photography), educational pursuits, scientific observation, or non-commercial hunting, trapping or fishing.
- (2) Development activities in areas of threatened or endangered species, or species in need of conservation, may be subject to other provisions and requirements of this program.

17. Page 185 Section 152. Plant and Wildlife Habitats and Nontidal Wetlands Protection
In Section 152.4. regarding the standards for protection of plant and wildlife habitats and nontidal wetlands, add the following language:

- c. When proposing development activities within riparian forest or forest areas utilized as breeding areas by forest interior dwelling birds, applicants are required to use the guidance found in the Critical Area Commission publication entitled, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, dated June 2000, and as may be subsequently amended. In addition, the Department of Natural Resources may make specific recommendations based on an evaluation of the site and the proposed development.

18. Page 188 Section 152. Plant and Wildlife Habitats and Nontidal Wetlands Protection
Add the following language regarding the public notice process for protection of plant and wildlife habitats and nontidal wetlands:

6. Public notice. The determination of the existence and extent of these habitats and protection areas shall result from a cooperative effort between the Town and public agencies or private organizations. If the Secretary of the Department of Natural Resources designates additional species by regulation in the future, public hearings, as appropriate, shall be held to consider comments on these areas and the protection measures proposed for these species. The protection measures shall be adopted within 12 months of the date of the Secretary's designation.

- (1) The establishment of Habitat Protection Areas shall not be intended to restrict or affect, beyond any existing local, State or Federal laws or regulations on private land, any private restrictions or such activities as non-commercial passive recreation (for example, hiking and nature photography), educational pursuits, scientific observation, or non-commercial hunting, trapping or fishing.**
- (2) Development activities in designated plant and wildlife habitats and nontidal wetlands may be subject to other provisions and requirements of this program and other laws and regulations.**

In addition to these specific changes to the text of the Town's Critical Area Ordinance, the Commission's approval also included the condition that the Town report back to the Commission on the collection and use of stormwater offset fees collected under the provisions of Section 133.4.e two years from the date of this approval. After two years, pursuant to the Town's reporting, the Commission may decide to extend the evaluation period.

The new ordinance sections with the revisions set forth above and the new maps shall be officially incorporated into the Town's Critical Area Program within 120 days of the date of this letter. In accordance with the conditions set forth above, please provide the revised ordinance sections and the final signed maps when they are available. If you have any questions, please feel free to contact me at (410) 260-3480.

On behalf of the Commission, I want to thank you, the Mayor, and the Town Council for all of your hard work and assistance during the comprehensive review process. As you know, the commitment of local government staff and officials is essential to the success of the Critical Area Program.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

cc: Mary Ann Skilling

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/

February 8, 2006

Mr. Stanley Hearne
Town Commissioners of Charlestown
P.O. Box 154
Charlestown, Maryland 21914

RE: Correction of Mapping Mistake

Dear Mr. Hearne:

Thank you for providing information regarding an amendment to the Town of Charlestown's Critical Area Maps. It is my understanding that the Town Commissioners voted to approve a change in the Critical Area designation of two areas within the municipal limits of the Town of Charlestown in order to correct a mistake made at the time of the original Critical Area mapping. The correction will involve changing the Critical Area designation of 16.841 acres of land from Limited Development Area (LDA) to Intensely Developed Area (IDA).

In order for the Commission to accept this amendment as a complete submittal for processing, the following additional information is needed:

1. A map showing the parcels listed on Exhibit A and Exhibit B and the Critical Area designation of surrounding lands.
2. A copy of the 1972 Tidal Wetlands Map(s) used by the Town in their analysis.

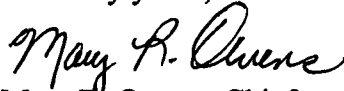
Upon receipt of this additional information, the Critical Area Commission will notify you that the submittal is complete and is accepted for processing. The Chairman will make an amendment or refinement determination within 30 days of the date the submittal is accepted for processing. Commission staff will then notify you of his determination and the procedures for review by the Commission.

In order to facilitate the preparation of materials for review of this amendment by the Commission, please provide the following information:

1. Additional information that supports the Town's finding that these areas had similar characteristics as areas mapped IDA, but were mapped LDA.
2. Any historical documentation that demonstrates that these areas were not mapped in a manner that was consistent with the methodology used in the rest of the Town.

Thank you for your cooperation. If you have any questions, please telephone me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Mary Ann Skilling, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 8, 2006

Mr. Stanley Hearne
Town Commissioners of Charlestown
P.O. Box 154
Charlestown, Maryland 21914

RE: Correction of Mapping Mistake

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In order for the Commission to accept this amendment as a complete submittal for processing, the following additional information is needed:

1. A map showing the parcels listed on Exhibit A and Exhibit B and the Critical Area designation of surrounding lands.
2. A copy of the 1972 Tidal Wetlands Map(s) used by the Town in their analysis.

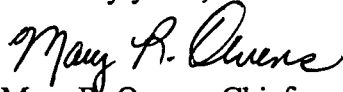
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In order to facilitate the preparation of materials for review of this amendment by the Commission, please provide the following information:

1. Additional information that supports the Town's finding that these areas had similar characteristics as areas mapped IDA, but were mapped LDA.
2. Any historical documentation that demonstrates that these areas were not mapped in a manner that was consistent with the methodology used in the rest of the Town.

Thank you for your cooperation. If you have any questions, please telephone me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief
Program Implementation Division

cc: Ms. Mary Ann Skilling, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



May Reader

Martin G. Madden
Chairman

Ren Serey
Executive Director

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February 3, 2006

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: St. Mary's County Tidal Wetlands Projects

Dear Mr. Tabisz:

I am writing to provide comments on two projects in St. Mary's County that we have discussed recently. In general, my concerns have to do with the type and extent of disturbance to the 100-foot Buffer associated with the installation of erosion control measures. I have reviewed the Joint Public Notice that includes information about these projects, and I have contacted the Department of Land Use and Growth Management regarding my concerns. As you know, a local permit is required from the County for these types of projects, and the County may have additional comments. I have the following comments:

200566201/ 06-WL-0472 M ARSHED JAVAID

It is my understanding that this project will involve extensive grading of a 540 linear feet of a high bluff at the northern end of the site and disturbance to 320 linear feet of a mixed tidal and nontidal wetland system at the southern end of the site. It appears that the 100-foot Buffer on the site is naturally vegetated and is functioning to provide the water quality and habitat functions set out in the Critical Area Criteria and the St. Mary's County Comprehensive Zoning Ordinance.

On sites like this one, when a shore erosion control measure is determined to be warranted, every effort must be made to minimize disturbance of the 100-foot Buffer and impacts to existing natural habitat. The proposed bank grading and creation of a bench area appears excessive considering the existing site conditions. While some grading may be necessary, it is not clear that efforts have been made to minimize disturbance.

The applicant should also be advised that any disturbance to the 100-foot Buffer will require mitigation, and the re-graded bank will need to be re-established in forest cover. The applicant has not included any information about mitigation.

Mr. Tabisz

February 3, 2006

Page 2

It is not clear from the plans submitted how much disturbance, if any, to the 100-foot Buffer is proposed as part of the 320 linear feet of revegetation. It is also not clear how the revegetation portion of the project will be tied into the graded cliff portion of the project. A review of the County's topographic data indicates a significant area of steep slopes between the two parts of the project. It is not clear if this area of steep slopes is a ravine or drainage area and whether this has been considered in the design.

I have discussed this project with the staff of the St. Mary's County Department of Land Use and Growth Management, and we would like the opportunity to meet on-site to discuss the project details prior to your issuance of a wetlands license.

200566163/ 06-WL-0460 WILLIAM AND PATRICIA BAILEY

It is not clear from the information submitted whether there will be any impacts to the 100-foot Buffer associated with access to the shoreline, material storage, or the construction of the structures. It appears that there may be some grading of the bank and possibly removal or disturbance of natural vegetation. If so, it is likely that these activities will require mitigation.

As you know, St. Mary's County requires that applicants for shoreline erosion control projects obtain a local permit from the Department of Land Use and Growth Management, and the County staff may have additional comments on the project. Because it is likely that mitigation for Buffer impacts will be required, the applicant is advised to contact Ms. Staci Merriman at (301) 475-4200 X1525 for guidance regarding any mitigation requirements. I am aware that a public hearing on the project has been scheduled for Monday, February 13, 2006, and I plan to attend.

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

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

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

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. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

**RE: SM 738-05 Wilson Property Variance
St. Mary's County Project 05-1304**

Dear Ms. Chaillet:

Thank you for providing additional information on the referenced project and discussing it with me on January 13, 2006. This office has no comments on the applicant's variance request. If the variance is approved, the Commission recommends that the applicant implement appropriate stormwater management measures, so that concentrated run-off is not directed onto steep slopes in a manner that may contribute to erosion of the slope. The Commission also recommends that mitigation be provided in accordance with Section 24.4.2.b of the St. Mary's County Comprehensive Zoning Ordinance.

If you have any questions, please call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 19, 2006

Mr. Ryan Doran
State Highway Administration
Highway Hydraulics Division
707 North Calvert Street
Baltimore, Maryland 21202

RE: MD 234 at MD 238 Geometric Improvements

Dear Mr. Doran:

Thank you for providing the current set of plans for the referenced MD 234 at MD 238 Geometric Improvements Project. I have reviewed the landscape plans that specify the mitigation proposed for the clearing of 0.18 acres of forest. The plans specify the appropriate quantities and species to satisfy this mitigation requirement and are acceptable.

If you have any questions about the Commission's review of this project, please call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

cc: Angela Willis, SHA

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



May - Reader

Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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January 17, 2006

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

**RE: Fortier Variance
CB 574 - 03 Lot 31**

Dear Mr. Watson:

Thank you for providing revised information pertaining to the referenced variance application. It is my understanding that the variance applications for Lots 27, 28, and 29 have been withdrawn, and the current variance request is for development on Lot 31 only. I have reviewed the information submitted and relevant information in the file, and I have the following comments:

1. The site plan indicates that steep slopes are present on most of Lot 31, and the entire lot is within the 100-foot Buffer and the expanded Buffer. It appears that the applicant has attempted to minimize disturbance to steep slopes within the Buffer by locating the dwelling (1,200 square feet) close to the building restrictions lines (west and front) and limiting disturbance to within 5-10 feet of the dwelling.
2. Because the property is designated IDA, water quality improvements should be provided on the site. Pollutant reductions from runoff can be achieved through the implementation of best management practices or with plantings. Because the lots are mostly forested, we recommend that the applicant consider a best management practice appropriate for the steeply sloping conditions on the building sites.
3. The variance application for Lot 31 indicates that the area of disturbance within the Buffer is 4,104 square feet. Mitigation, at a ratio of 3:1 for disturbance within the Buffer is 12,312 square feet. The mitigation plan submitted does not show the appropriate square footage credit for the plantings proposed. Individual trees planted on a developed lot receive a square footage credit of 100 square feet. Individual shrubs planted on a developed lot that will be allowed to reach a mature height of 10 feet or greater receive a

square footage credit of 50 square feet. Individual shrubs planted on a developed lot that will reach a mature height, or be pruned to a height, of 10 feet or less receive a square footage credit of 25 square feet.

4. The mitigation plan indicates that 4,800 square feet of mitigation credit will be achieved through off-site plantings on undeveloped lots. These plantings consist of a combination of one canopy tree and either three shrubs or two understory trees and each combination receives a credit of 400 square feet. This credit can only be used if these lots are not proposed for development in the future because the higher square footage credit is allowed because the plantings will be supplemented by natural regeneration. In general natural regeneration does not take place when plantings are located on developed lots with lawns.
5. When the combination planting credit is used, the plantings must include both shrubs and understory trees.
6. The plan indicates that all of the shrubs will reach a mature height of 10 feet or more. It seems likely that the shrubs planted close to the dwelling will be pruned to allow access to the dwelling. Clarification is needed.
7. Note 5 indicates that a Declaration of Covenants, Conditions, and Restrictions will be placed on Lots 26 – 29, Block C, and on Lot 40, Block B prohibiting any forest clearing on these lots and that the total square footage to be protected is 16,204 square feet. The draft document indicates that the Town will be given the right to enforce the covenants; however, it is not clear if the Town has formally agreed to this arrangement. In order to obtain mitigation credit for protection of existing forested lands within the IDA, the property owner must grant an easement to the Town or some other protective entity with enforcement capability (i.e. a land trust, conservation group, etc.) and this responsibility must be accepted by that entity. In addition, the property owner must provide a metes and bounds description of the land and a plat of the land, and the Declaration of Covenants, Conditions, and Restrictions must be executed.
8. I have reviewed the draft Declaration of Covenants, Conditions, and Restrictions and some changes are necessary to clarify the purpose of the Declaration, describe the existing site conditions, clarify permitted maintenance and protection, explain the process for altering the Declaration, and detail how the Declaration will be enforced. Commission staff can provide additional guidance and draft language to the Town.
9. The mitigation plan indicates that Lot 40 will be protected as “forested land” and will also receive 800 square feet of planted mitigation credit. Lot 40 cannot be used in these two different ways to satisfy mitigation requirements.

Because we believe that the application requires further revisions in order for the Board to make the required findings under the variance standards, this office recommends that the Board defer action on the request until the outstanding issues can be addressed.

If the Board is compelled to make a decision on the application as submitted, the Commission opposes the variance request. In 2002 and 2004, the Maryland General Assembly reiterated its commitment to protection of the Chesapeake Bay Critical Area's water quality and wildlife habitat values, by strengthening the Critical Area law. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. I have discussed each one of the Town'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.*** Because the site is constrained by steep slopes and the Buffer, it appears that a house could not be accommodated on Lot 31 without disturbance to the Buffer. The applicant provided sufficient information to justify the need for a variance to construct a residence. However, the applicant must demonstrate that impacts have been minimized and the variance is the minimum necessary to provide relief. We recognize that a smaller dwelling or driveway on the lot would result in less impact to steep slopes within the Buffer.
2. ***That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.*** Rights commonly enjoyed must be compared to the rights of other persons under the Critical Area Program. The applicant requests a variance to permit construction of a dwelling and driveway, comparable to other dwellings in the neighborhood on steep slopes within the Buffer. Given that Lot 31 could not be developed absent a variance, a literal interpretation of this subtitle or the local Critical Area Program and related ordinances would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.
3. ***The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*** The applicant requests a variance to permit construction of a dwelling and driveway on steep slopes within the Buffer on a grandfathered lot. If the lot is legally buildable under the local zoning code and the variance is the minimum necessary, the granting of the variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.
4. ***The variance request is not based upon conditions or circumstances which are the result of the actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*** The applicant meets this standard.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.* The applicant bears the burden to prove this factor, along with the others discussed above. In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. Based on information provided to this office on January 3 2006, the applicant proposes to mitigate for the proposed impacts to the Buffer (approximately 4,104 square feet) by providing 12,312 square feet of planted mitigation on-site, planted mitigation off-site, and permanent protection of forested areas on undeveloped, grandfathered lots. Unfortunately, the mitigation plan proposed needs several revisions in order to satisfactorily provide this mitigation.

I believe that with the revisions outlined in this letter that the mitigation proposal could support the water quality and habitat goals of the Chesapeake Beach Critical Area Program and the State Criteria. However, absent a revised mitigation proposal, we believe the application does not demonstrate that the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area. Rather, granting this variance may contribute to the decline of water quality in the Critical Area of Chesapeake Beach. Decline in water quality contributes to declines in aquatic habitat, ultimately affecting the viability of local fisheries and the local economies that depend on them.

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 call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

January 12, 2006

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: St. Mary's County Tidal Wetlands Projects

Dear Mr. Tabisz:

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

200566163/ 06-WL-0460 WILLIAM AND PATRICIA BAILEY

It is not clear from the information submitted whether there will be any impacts to the 100-foot Buffer associated with access to the shoreline, material storage, or the construction of the structure. It appears that there may be some grading of the bank and possibly removal or disturbance of natural vegetation. These activities would require mitigation. St. Mary's County requires that applicants for shoreline erosion control projects obtain a local permit from the Department of Land Use and Growth Management, and the County staff can provide additional guidance regarding any mitigation requirements. Additional information can be obtained from Ms. Staci Merriman at (301) 475-4200 X1525.

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

Sincerely,

Mary R. Owens, Chief
Program Implementation Division

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Mary Leade
Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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January 12, 2006

Mr. Mark Kalmus
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

**RE: SM 482-05 Howar Family Boundary Line Adjustment Plat
St. Mary's County Project # 05-141-049**

Dear Mr. Kalmus:

This office has received additional information on the referenced project from the project consultant, Neal Offenbacher. At this time, it appears that the final plat submitted electronically on December 29, 2006 satisfactorily addresses all of the comments by the Critical Area Commission.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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January 5, 2006

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

**RE: SM 764-05 Wittenberg Property
Local Case No. 05-2540**

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting approval of an after-the-fact variance to authorize the construction of a mound septic system. The variance application also includes the construction of a second floor addition. Based on map resources used by the County, the septic system and a portion of the proposed second floor expansion is located in a non-tidal wetland that is contiguous with the 100-foot Buffer; therefore the Buffer would be expanded to include the nontidal wetland. It is my understanding that the property is an existing grandfathered lot that is developed with a single-family dwelling.

The Commission does not oppose the proposed variance for the septic system and a portion of the dwelling in the expanded Buffer because it appears that most of the property is constrained by tidal wetlands, the Buffer, and the expanded Buffer. The project will also require State and federal permits associated with disturbance to the nontidal wetland.

If the variance request is approved, the Commission recommends that mitigation be provided for the variance in accordance with Section 24.4.2.b of the County's comprehensive zoning ordinance, and that the applicant be required to obtain the necessary State and federal permits prior to issuance of a local building permit. Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480.

Sincerely yours,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief
Program Implementation Division

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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June 30, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
PO Box 2150
La Plata, Maryland 20646

Re: Docket #1174 – Thomas Bastain

Dear Ms. Dailey:

Thank you for providing information on the above referenced after-the-fact variance. The applicant is requesting a variance in order to permit the continuation of retaining wall within the 100-foot Buffer of the Critical Area. The property lies within a Resource Conservation Zone (RCZ) and is currently undeveloped.

It appears that the applicant has installed approximately 2100 square feet of retaining wall within the 100-foot Buffer in order to stabilize an area of steep slope that was damaged by the high water event during Hurricane Isabel. Given the after-the fact nature of the request, we are not requesting the slope stabilization measure be removed. However, we note that the applicant took actions without the proper County permits. In addition, this measure, while intended to stabilize a steep slope area, is largely outside of the scope of the acceptable measures within the 100-foot Buffer. Therefore, given that the proposed construction was undertaken in violation of the Critical Area regulations and that the variance request is after-the-fact, we recommend that the applicant be required to provide mitigation at a 3:1 ratio as described in Section 298-135 of the Charles County Zoning Ordinance.

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 410-260-3475. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CA 226-06

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 29, 2006

Mr. Stuart Stone
Bolton & Associates, LLC
P.O. Box 2470
La Plata, MD 20646

RE: Henderson Property Site Visit

Dear Mr. Stone:

This letter is to summarize the results of the site visit to the Henderson Property (TM 11 Parcel 117 & 649) that took place on June 15th, 2006. The Henderson property, located in the Town of Indian Head is within the Critical Area and currently designated Limited Development Area (LDA). The purpose of the site visit was to establish the status of the tributary stream found on Parcel 649.

We walked the unnamed tributary stream from where it empties into the Potomac River up to where it meets Dogwood Street and crosses under a driveway accessing a town-owned utility shed (see attached drawing). Based on our observations in field, including several soil cores taken by Army Corps of Engineers field staff, the presence of standing pools of water, and the lack of evidence of significant growth of vegetation within the stream channel, we have determined that the stream is intermittent or perennial in nature throughout the above extent and thus meets the classification of a tributary stream for Critical Area regulations. Therefore, the tributary stream will require a 100-foot Buffer, which must be expanded for steep slopes. In areas where the 100-foot Buffer boundary is adjacent to steep slopes (15% or greater), the Buffer must be must be expanded four feet for every one percent of slope or to the top of the slope, whichever is greater.

Thank you for providing the on-site meeting. Please contact this office at any time if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

cc: Mr. Benjamin J. Maldonado

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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June 26, 2006

Mr. James Fike, P.E.
Whitman, Requardt and Associates
801 South Caroline Street
Baltimore, Maryland 21231

RE: MDTA #NB-879-000-002
MDE #06-SF-0290
Nice Bridge Approach Improvements

Dear Mr. Fike:

I am in receipt of the above referenced Maryland Transportation Authority (MDTA) project submitted for Critical Area Commission approval. The applicant is proposing a series of roadway improvements to the Nice Bridge Toll Booth approach, in the Critical Area. The project is located in a designated Intense Development Zone (IDZ) and will meet the 10% pollutant reduction requirement.

At this time however, the application is incomplete. The site plan should include the Critical Area Boundary line and the location of the 100 foot Buffer to tidal waters and tributary streams. I have attached a checklist for you to utilize in providing a complete application to this office. Please note, the 100-foot Buffer includes tributary streams, which are defined as intermittent or perennial. The 100-foot Buffer is a Habitat Protection Area, any impacts to HPA's will trigger a 'conditional approval' by the Critical Area Commission. If a conditional approval is required, the applicant must demonstrate the following characteristics. Please carefully read the information below and provide the requested responses.

The following are the responses of the applicant:

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

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

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

The conditional approval request shall, at a minimum, contain the following:

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

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

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

Finally, please submit a copy of this submittal to the Charles County Division of Planning and Growth Management for any additional comments they may have. Thank you for providing the requested information. If you have any questions please do not hesitate to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a horizontal line extending from the end of the name.

Kate Schmidt
Natural Resource Planner
28-06DOT

cc: Aimee Dailey, Charles County

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

June 23, 2006

Ms. Joan Kean
Director
Department of Technical and Community Services
11916 Somerset Avenue, Room 102
Princess Anne, MD 21853

Re: Growth Allocation for Glen Eby, GA04-25
Tax Map 51, Parcel 37

Dear Ms. Kean:

Thank you for providing the additional information requested by Kerrie Gallo on July 11, 2005 regarding the proposed Glen Eby/Russell Shaner to amend the local Somerset County Critical Area Program and maps.

The following summarizes the status of each previously requested item:

1. A request was made to field delineate the 100-foot Buffer from Mean High Water (MHW) and across the entire parcel so that it is shown on both proposed lots. Based on the small site plan submitted with the Forest Management Plan, it would appear that this has been addressed. If possible, please provide an updated full size copy of the site plan for our records.
2. Under the Somerset County Critical Area Program Section 9.3 Threatened and Endangered Species, guidelines for "protection of species of concern" if DTCS determines either from mapped habitat information or from comments that species of concern may be affected by the proposed project the applicant must include species protection measures in the project design or explain why such measures are not necessary; the applicant may refute such information by conducting a site survey. Based upon the comments received by Department of Natural Resources (DNR) Heritage Division which indicate a record for Narrow-leaved Bluecurls, the applicant will need to address protection of this species. According to Heritage, this is an upland species found in sandy pine/mixed woods edges and even along dirt roads.
3. A request was made to submit a Buffer Planting plan to present to the Commission as a component of the growth allocation request. The submitted Forest Management Plan for the 100-foot Buffer appears sufficient to maintain this riparian area. However, I would recommend the proposed planting plan for the additional 60-feet of Buffer be revised to be more reflective of the existing native species currently found in the Buffer. This could be accomplished

TTY for the Deaf

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through a greater diversity of plantings, such as tree species like the oaks or sycamore and the use of currently present understory species such as American Holly. In addition, the applicant should examine whether the existing Buffer or expanded Buffer would provide habitat for the above listed state-rare species and adjust their plan accordingly.

This growth allocation request cannot be accepted for processing as a complete submittal because comment #2 has not been satisfactorily addressed. In accordance with Chapter 55 of the 2006 Laws of Maryland and COMAR 27.01.02.06B(4), a local government should locate new IDAs and LDAs to minimize impacts on Habitat Protection Areas. In order for the Commission to make a decision on this growth allocation request, additional information is needed.

Upon receipt of this additional information, Commission staff will notify you in writing that the submittal is complete. Within 30 days of this notification, Senator Madden will make a determination as to whether the request will be handled as an amendment or refinement. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in black ink that reads "Kate Schmidt". The signature is written in a cursive style with a long horizontal stroke at the end.

Kate Schmidt
Natural Resource Planner
SO31-05

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. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: ORD60041
Bowles, TM86 Lot 10 Parcel 18

Dear Ms. Dailey:

Thank you for providing information regarding the above referenced site plan. The applicant is requesting to repair a shoreline bulkhead on their property and back-fill immediately adjacent to the bulkhead. The property is 0.79 acres, lies within a designated Limited Development Area (LDA) and is currently developed with a single-family dwelling.

Based on the information provided I have the following comments:

- The fill proposed in the Buffer is associated with the shoreline stabilization project. The applicant should fully plant the Buffer once the work is complete with a mix of native trees, shrubs, and grasses.
- Images provided by the applicant to demonstrate damage to the bulkhead also show evidence of tree cutting at the shoreline. Please investigate and determine if a violation has occurred. The area disturbed should be replanted at a ratio of 3:1 with a mix of native shrubs and trees.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is followed by a horizontal line.

Kate Schmidt
Natural Resource Planner
CS379-06

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

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

Re: Reese Condominium, Seventh Street, Crisfield

Dear Mr. Lackie:

Thank you for providing information regarding the above-referenced site plan. The applicant is requesting to construct a 90-unit condominium project. The property is 1.56 acres in size and is designated Intense Development Area (IDA) and Buffer Exemption Area (BEA). Based on further discussions with you, I have learned that this project has not been formally submitted to the City of Crisfield. Based on that information, I would like to offer the following guidance to the City as to the current design:

1. Buffer:

The project should conform in so far as possible to the BEA standards for commercial/multi-family residential development as provided in the (a) the Crisfield Code, (b), the model ordinance (soon to be adopted) and (c) Commission policy. The following is recommended under these standards:

- The Crisfield Zoning Code Section 112-108.B(3)(c) states that new development shall minimize the shoreward extent of impervious surfaces insofar as possible.
- Development and redevelopment should be located as far as possible from mean high tide. *A setback of 25' is provided, which is appropriate for this site.*
- Variances to other local setback requirements should be considered before additional intrusion into the Buffer. *The front yard setback for the existing zoning is 20', the applicant shows a 37' setback, thus there is room to move the project closer to the road if additional space is needed to meet other requirements, such as stormwater.*
- Convenience or expense should not be considered factors in evaluating the extent of allowable impacts to the Buffer.
- **Redevelopment** shall minimize the extent of intrusion into the Buffer and not be located closer to the water than 25 feet. Existing structures/impervious structures may remain. However, opportunities to establish a 25' setback should be maximized. *In this instance, the applicant has provided a 25' setback, however they are showing the bio-retention area in the Buffer and a wooden walkway the entire length of the property on*

the shoreline. Stormwater facilities, as described below, are not appropriate in the Buffer.

2. Mitigation:

The following mitigation measures shall be implemented for all development and redevelopment projects:

- A forested or landscaped bufferyard of 25' shall be established between the development and the water. Densely planted with trees and shrubs. *The landscaping plan is not sufficiently dense – most likely due to bio-retention being placed in the Buffer.*
- 2:1 mitigation in the form of planting for development activity within the Buffer shall be planted – preferably on-site. OR provision of off-sets OR fee-in-lieu. *The applicant has not offered mitigation at this time.*
- Any required mitigation must be protected through easement, development agreement, plat notes, etc.

Submission: Development in BEA for commercial, industrial, multi-family residential projects shall be submitted to the Commission in accordance with COMAR 27.03.01.03. Mitigation plans shall be included as part of the project submission.

3. Proposed Bio-Retention BMP – Stormwater treatment facilities are generally not acceptable in the Buffer. Comments provided by Mr. Dale Pussey, also state that the proposed bioretention is not an acceptable stormwater management BMP for this site. The applicant should revise their proposal to meet both of these directives.

4. Landscaping Plan – The landscaping provided in the Buffer should consist of dense vegetation that is a mix of shrubs and trees. At this time, the proposed planting plan is not sufficiently dense.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
CF335-06

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

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-192V; 5905 Deale Beach Road
Griffith

Dear Mr. Konowal:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow an extension in time for the implementation and completion of a variance previously approved on May 26, 2005. The applicant had previously received a variance to permit a right-of-way with less Buffer than required. The property consists of three grandfathered parcels totaling 11.125 acres and is designated a Resource Conservation Area (RCA). Parcel 1 is currently developed with a single-family dwelling and detached garage. Parcel 2 and Parcel 3 are currently undeveloped.

Provided the variance extension is subject to the same conditions, we do not oppose 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,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA286-05

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

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

Re: Seamark Marina Property, Redevelopment project

Dear Mr. Lackie:

Thank you for providing information regarding the above-referenced site plan. The applicant is requesting to redevelop the property. The property is 1.42 acres in size and is designated Intense Development Area (IDA) and Buffer Exemption Area (BEA). Based on further discussions with you, I have learned that this project has not been formally submitted to the City of Crisfield. Based on that information, I would like to offer the following guidance to the City as to the current design:

1. Buffer:

The project should conform in so far as possible to the BEA standards for commercial/multi-family residential development as provided in the (a) the Crisfield Code, (b), the model ordinance (soon to be adopted) and (c) Commission policy. The following is recommended under these standards:

- The Crisfield Zoning Code Section 112-108.B(3)(c) states that new development shall minimize the shoreward extent of impervious surfaces insofar as possible.
- Development and redevelopment should be located as far as possible from mean high tide. *The current plan shows a setback that ranges from 5-10 feet from the edge of shoreline. As stated below, at least 50% of the linear shoreline of the project should meet 25' setback for redevelopment multi-family projects.*
- Variances to other local setback requirements should be considered before additional intrusion into the Buffer. *It is difficult to determine the relationship of proposed structures to property line on landward boundaries. If room is available to move the structures out of the Buffer, this option should be pursued.*
- Convenience or expense should not be considered factors in evaluating the extent of allowable impacts to the Buffer
- **Redevelopment** shall minimize the extent of intrusion into the Buffer and not be located closer to the water than 25 feet. Existing structures/impervious structures may remain. However, opportunities to establish a 25' setback should be maximized. *In this*

instance, given the entire site is to be redeveloped and despite the extent of impervious surface across the entire site to the bulkhead, the applicant must still provide a 25' setback where possible. Again, at least 50% of the linear shoreline of the project should have a 25' setback.

2. Mitigation:

The following mitigation measures shall be implemented for all development and redevelopment projects:

- A forested or landscaped bufferyard of 25' shall be established between the development and the water. Densely planted with trees and shrubs. *The 25' Setback is not provided and the landscaping plan is not sufficiently dense.*
- 2:1 mitigation in the form of planting for development activity within the Buffer shall be planted – preferably on-site. OR provision of off-sets OR fee-in-lieu *The applicant has not offered mitigation at this time.*
- Any required mitigation must be protected through easement, development agreement, plat notes, etc.

Submission: Development in BEA for commercial, industrial, ..., multi-family residential projects shall be submitted to the Commission in accordance with COMAR 27.03.01.03. Mitigation plans shall be included as part of the project submission.

3. Proposed Bio-Retention BMP – Stormwater treatment facilities are generally not acceptable in the Buffer. Based on comments provided by Mr. Dale Pussey in regards to the Reese Condominium project, I believe the proposed bioretention is most likely not an acceptable stormwater management BMP for this site.

4. Landscaping Plan – The landscaping provided in the Buffer should consist of dense vegetation that is a mix of shrubs and trees. At this time, the proposed planting plan is not sufficiently dense.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
CF353-06

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

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-0175V; 1715 Vineyard Trail
Simmons

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct an accessory structure with less setbacks than required. The property is designated a Limited Development Area (LDA) is currently developed with a single family residence.

Based on the information provided, we have no comments regarding the setback 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,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA369-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 20, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: SFD60505
Adams, TM43 Lot 2 Parcel 101

Dear Ms. Dailey:

Thank you for providing information regarding the above referenced site plan. The applicant is requesting to construct a new single-family dwelling. The property is 1.76 acres in size, lies within a designated Limited Development Area (LDA) and is currently undeveloped.

Based on the information provided I have the following comments:

- The tributary stream shown on the site plan is also shown on the USGS topographic map and on the Department of Natural Resources MERLIN website. Therefore, the applicant will need to provide a 100-foot Buffer as per Charles County Zoning Code Section 297-131. Development activities, including clearing, septic fields, and driveways are restricted from occurring within the 100 foot Buffer without a variance.
- The applicant will need to provide a planting plan to meet the required mitigation. It would appear the applicant is proposing to clear more than 30% of the lot which would require mitigation at a 3:1 ratio. I am concerned that the applicant may not be able to achieve all of the planting required on-site. I would recommend the applicant consider reducing the amount cleared to minimize mitigation and provide an adequate on-site planting plan. Seedlings should be spaced at 7' from center and shrubs should be spaced at 3-7' from center. This is in order to ensure long-term survivability.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CS378-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 20, 2006

Mr. David Black
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Cecil County Airport Runway Expansion

Dear Mr. Black:

Thank you for providing the revised information regarding the proposed runway expansion at the Cecil County Airport. The applicant is proposing to move an existing taxiway and accessway, which would result in a net increase of 2,453 square feet of impervious surface. The site is designated partially Intensely Developed Area (IDA) and Resource Conservation Area (RCA) with the portion containing all existing development as IDA.

Based on the information provided I have the following comments:

- The site plan continues to show the grading and stormwater treatment to occur within the Resource Conservation Area (RCA). If the applicant is unable to adjust the plan to remove the grading based on other site restrictions, the grading may remain. However, all stormwater treatment must occur on the IDA portion of the site.
- The submittal did not include updated calculations regarding the 10% pollutant reduction rule. The increase in impervious surface on the site and the change in drainage characteristics could affect the previous calculations. Please provide an updated set of calculations and method of treatment to demonstrate that the applicant meets the 10% rule.

Thank you for the opportunity to provide comments. I look forward to receiving the updated information. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE509-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 20, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Candland Subdivision Habitat Protection Plan [XRS 04-0062]

Dear Ms. Dailey:

This letter is provided in response to the revised Habitat Protection Plan (HPP) received in conjunction with the above referenced subdivision. Based on the info provided, I have the following comments.

I recommend that the applicant prepare a separate plat that will clearly document the Habitat Protection Plan, including the addition of notes, the 300' FIDS interior habitat line, the 100' Buffer, and non-tidal wetland boundary. The notes should address each item in the Habitat Protection Plan, including suggested revisions I've provided below.

Rare, Threatened, or Endangered Species

The habitat protection measures described for *Ludwigia decurrens* should be more specific in detail in order to provide clear guidance to the eventual owners of the two lots. One way to provide clearer guidance is to develop a Buffer Management Plan that addresses all of the goals for the 100-foot Buffer including protection of *Ludwigia decurrens* and the planting plan for the 100-foot Buffer. Each project should be specifically described. For instance, the applicant states they will control Phragmites within the wetlands and buffer. They should describe in the Buffer Management Plan which areas of phragmites will be controlled, a treatment protocol including frequency of application and how long control will be necessary. The plan should also provide a list of recommended seed sources or native plantings in order to revegetate the areas once Phragmites control has been accomplished.

The Habitat Protection Plan should also be more specific about how the additional measures of protection it mentions will be accomplished, including the following:

- *Restrict limits of disturbance to the area needed for access and construction.* Steps to accomplish this goal would include a species survey prior to commencement of development to flag the limits of disturbance and avoid impacts to *Ludwigia decurrens*.

- *Install sediment and erosion control measures before initiating any clearing, grading or construction and inspect measures daily.* I recommend the use of super-silt fence and orange fencing to provide improved sediment and erosion control and clearly depict limit of disturbance.
- *Avoid use of invasive species in landscaping and avoid use of fertilizers within the wetland and Buffer.* The plan should include a list of acceptable native species that may be used for landscaping and clear guidance on appropriate fertilizer usage. The Buffer and wetland boundaries can be flagged to help visually identify these areas.

FIDS

It is still unclear how the applicant proposes to follow the site design guidelines for FIDS. As stated previously, 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. The Habitat Protection Plan should list the site design guidelines found within the Commission's guidance paper, A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area and address whether and how they will be accomplished during site development.

The applicant should also provide a FIDS mitigation worksheet (Appendix D) as part of the submitted Habitat Protection Plan. The 300' interior FIDS habitat boundary and limits of forest should be shown on the site plan. Once the FIDS worksheet is completed, the applicant will then be able to sufficiently provide a mitigation site development plan as part of their HPP as described in Appendix G. I recommend the applicant provide for FIDS mitigation at this time rather than putting the burden on the eventual purchasers of the subdivided lots. However, if the burden is to be on the lot-owners, than those items which will be their responsibility such as location of mitigation areas if they are to occur off-site must be clearly listed. While the 100-foot Buffer in a FIDS area is an appropriate location for FIDS mitigation, if the site is already forested it is not acceptable as replacement habitat.

Finally, the HPP made no mention of whether there will be impacts to non-tidal wetlands. If they have not already been obtained, 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. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
CS324-03

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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June 16, 2006

Ms. Amanda Gordon
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Add-on: Bauer – 1691 Town Pt. Road, Chesapeake City
TM 46 Block 18 Parcel 205/56

Dear Ms. Gordon:

Thank you for providing information regarding the above referenced add-on. The applicant is seeking to add 0.0401 acres, which contains an existing 520 square foot driveway, to an existing parcel for a total size of 0.249 acres. The lot is currently developed with a single family home, concrete pad, shed, and dock. It lies within a designated Limited Development Area (LDA).

Provided the lot is properly grandfathered, it would appear the proposed add-on would maintain conformity with Critical Area provisions for LDA. The impervious surface limit for grandfathered lots of this size is 31.25%. This lot would contain approximately 16% impervious surface.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE 367-06

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: SFD 60354
Boarman; Banks O'Dee Road

Dear Ms. Dailey:

Thank you for providing revised information regarding the above-referenced site plan. The applicant is requesting to construct a new single-family dwelling. The property is 69.17 acres in size of which 34.42 acres are located in the Critical Area. The Critical Area portion of the property is designated as Resource Conservation Area (RCA).

Based on the information provided I have the following comments:

- I understand the applicant is still awaiting review by DNR Wildlife and Heritage as regards potential FIDS habitat. If FIDS habitat is determined, the applicant will need to provide information to you, including a copy of the FIDS Conservation Worksheet (Attachment), to document FIDS impacts and determine mitigation. The applicant may use "A Guide to the Conservation of Forest Interior Dwelling Birds in the Critical Area" as a reference.
- Should FIDS mitigation be required, the applicant should provide a mitigation site development plan similar to "Appendix G" from the FIDS guidance document (Attachment).
- I also understand the applicant is considering an agricultural conservation easement to restrict further development on the property. In addition, based on the RCA designation, the applicant has no remaining development rights on the Critical Area portion of the property. If the easement is not in place prior to plat approval, please add a note to the plat stating no development rights remain.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
CS283-06

FIDS CONSERVATION WORKSHEET

Parcel size _____ total acreage
 _____ Critical Area acreage

Existing

Forest cover _____ total contiguous acreage
 Forest cover _____ total acres CA
 FIDS habitat* _____ total acres CA
 FIDS interior _____ acres CA

Calculate interior by subtracting out a 300 ft. edge.**

If available: _____ acreage of contiguous forest area both in
 and out of the CA within a 3-mile
 radius.

Post development

Forest cover _____ total acres CA
 FIDS habitat _____ total acres CA
 Interior habitat remaining _____ acres CA
 Interior acreage

***How to Identify FIDS Habitat**

Assume FIDS habitat is present if a forest meets either of the following minimum conditions:

Forests at least 50 acres in size with 10 or more acres of forest interior (see below to calculate interior) habitat. The majority of the forest tracts should be dominated by pole-sized or larger trees (5 inches or more in diameter at breast height), or have a closed canopy; or

Riparian forests at least 50 acres in size with an average total width of at least 300 feet. The stream within the riparian forest should be perennial, based on field surveys or as indicated on the most recent 7.5 minute USGS topographic maps. The majority of the forest tracts should be dominated by pole-sized or larger trees, or have a closed canopy.

In lieu of using the above criteria for determining if FIDS habitat is present, a FIDS survey may be done by a qualified FIDS observer. See page 12 of the Guidance Document for the procedures to be followed. You may contact the Maryland Department

of Natural Resources, Forest Wildlife Divisions or the Critical Area Commission for a list of qualified observers.

****How to Measure the amount of forest interior and forest edge**

To determine the amount of interior in a forest, the edge of 300 feet is subtracted from the total contiguous forest. The area left is forest interior provided it is at least ten acres in size.

When measuring forest edge, do not include natural forest edges such as those adjacent to open water, nonforested wetlands and streams. Riparian forests of 300 feet or greater are considered interior habitat when calculating FIDS habitat in the Critical Area provided that they have a minimum of 50 contiguous acres or are connected to a forest that has been determined to be FIDS habitat.

Please answer the following questions regarding the FIDS Site Design Guidelines and how they were applied to the project.

1. Has development (e.g., house, septic reserve areas, driveway) been restricted to nonforested areas? Yes ___ No ___

If no, explain

2. If development has not been restricted to nonforested areas, has development been restricted to:

- a. perimeter of the forest within 300 feet of the forest edge? Yes ___ No ___
b. thin strips of upland forest less than 300 feet wide? Yes ___ No ___
c. isolated forests less than 50 acres in size? Yes ___ No ___
d. portions of the forest with low quality FIDS habitat,
(e.g., areas that are heavily fragmented, relatively young,
exhibit low structural diversity, etc.)? Yes ___ No ___

3. Have new lots been restricted to existing nonforested areas and/or forests as described in #2 above? Yes ___ No ___

If no, please explain how property owners will be prevented

from clearing in the FIDS habitat on their property (i.e., protective covenants/easements)?

4. Will forest removal be limited to the footprint of the house and that which will be necessary for the placement of roads and driveways? Yes____ No____

5. Have the number and lengths of roads been minimized? Yes____ No____

6. Have the width of roads and driveways been reduced to 25 feet and 15 feet respectively? Yes____ No____

If no, explain

7. Will the forest canopy be maintained over roads and driveways? Yes____ No____

8. Will the forest canopy be maintained up to the edge of roads and driveways? Yes____ No____

9. Will at least 80% of the forest interior be maintained after development? Yes____ No____

If no, indicate percentage of forest interior that will be maintained? _____%

10. Are there special conditions on the site that limit where houses and other development activities may be located such as wetlands, steep slopes, etc.? If so, please identify and explain.

11. Do you believe that the *Site Design Guidelines* have been followed and that FIDS habitat has been conserved on this site? Yes____ No____

MITIGATION REQUIREMENTS

If the *Site Design Guidelines* have been followed the required mitigation will be the creation of FIDS habitat equal to the acreage being directly cut or disturbed. (See pages 27 - 28 for specific mitigation options and criteria.)

Enter acreage of FIDS habitat that is being directly impacted _____ acres.

THIS IS YOUR MITIGATION REQUIREMENT WHEN THE SITE DESIGN GUIDELINES ARE FOLLOWED.

If the *Site Design Guidelines* have not been followed complete the following.

- A. Pre-development FIDS habitat _____ acres.
- B. Post development FIDS habitat _____ acres.
- C. Pre-development FIDS habitat interior _____ acres.
- D. Post development FIDS habitat interior _____ acres.
- E. FIDS habitat being directly impacted _____ acres.
(Subtract B from A)
- F. Interior lost due to development _____ acres.
(Subtract D from C)
- G. Multiply F. times two (2) _____ acres and add to E. = _____ acres.

THIS IS YOUR MITIGATION REQUIREMENT WHEN THE DEVELOPMENT GUIDELINES HAVE NOT BEEN MET.

INFORMATION REQUIRED FOR MITIGATION SITE DEVELOPMENT PLAN

1. A brief description of mitigation requirements based on the associated development project and how the mitigation plan will meet these requirements.
2. A brief description of the FIDS habitat that is being impacted including acreage, amount of interior lost, dominant tree and shrub species and aquatic and/or other features that help define habitat characteristics.
3. Include a site location map depicting the geographic relationship between the impact site and proposed mitigation site and a vicinity map with enough detail to locate the site for monitoring purposes.
4. Describe the existing land use and ownership, adjacent land use and position in the landscape in relation to other forest tracts.
5. Describe the proposed plant communities that will be created/protected. If creating FIDS habitat, indicate if natural regeneration or plantings will be used.
6. If natural regeneration is proposed, describe the likely seed source, any site or soil preparation that will be undertaken, control measures for invasive species, measures to protect from wildlife grazers, etc.
7. If planting, provide a list of trees and shrubs to be planted, planting densities, control measures for invasive species, measures to protect from wildlife grazers and soil and/or site preparations, watering regime, etc.
8. Provide assurance of the legal right to use the proposed property for mitigation (e.g., letter of intent, option to purchase, etc.).
9. Indicate who will be responsible for monitoring and a description of information that will be provided in the monitoring reports.

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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

June 16, 2006

Ms. Joan Kean
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: Somerset County Detention Center Addition

Dear Ms Kean:

This letter is in response for your request to provide preliminary comments regarding the above referenced project. The project is an addition to the Somerset County Detention Center. The project site is 6.169 acres and is located within a Resource Conservation Area (RCA). The site is currently developed with a facility, parking lots and access roads totaling 65,400 square feet of impervious surface. The proposed addition is 5,520 square feet for a total impervious surface of 70,920 square feet.

Development on sites designated RCA is limited to 15% impervious surface coverage. Currently the site has 24% impervious surface coverage. The proposal will increase impervious surface coverage to 26.4%. Given that the property is owned by Somerset County, the County may seek a conditional approval from the Critical Area Commission for approval of this project under Critical Area Criteria, COMAR 27.02.06 'Conditional Approval of State or Local Agency Programs in the Critical Area'. Under this section, if development proposed by a State or local agency located in the Critical Area is prohibited from occurring than the agency proposing the development may seek conditional approval for the project.

In order for the Critical Area Commission to process this request as a conditional approval the following information will be required:

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

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

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

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

The conditional approval request shall, at a minimum, contain the following:

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

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

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

Please feel free to contact me at 410-260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and includes a long horizontal flourish extending to the right.

Kate Schmidt
Natural Resource Planner
SO273-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 13, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P.O. Box 2150
La Plata, MD 20646

**RE: SFD 06-0080 Burley Residence Site Plan
TM 20, Parcel 16, Lot 1**

Dear Ms. Dailey:

Thank you for providing the revised information on the above referenced site plan. The applicant is seeking to construct a single-family dwelling on a 3.0002 acre parcel. The property lies within a designated Limited Development Area (LDA), is designated as Forest Interior Dwelling Birds (FIDS) habitat and is currently undeveloped.

Based on our site visit and the revised information I have the following comments:

- Under Critical Area Notes, an additional note should be added regarding the FIDS impact and the required mitigation. The note should state that the plan will impact 26,061 square feet of FIDS habitat. Mitigation will take place at a ratio of 1:1 and will function as FIDS habitat as specified in the Critical Area Commission's guidance document for FIDS conservation. Square footage may be calculated at the rate of one tree at 2" caliper or three shrubs for every 100 square feet.
- As previously agreed the applicant is unable to provide FIDS mitigation on-site and will either need to provide the mitigation off-site in an appropriate location or provide a fee-in-lieu to Charles County. We understand that the occupancy permit for this property will be contingent upon satisfying this requirement. Please notify us regarding the final resolution of this issue.

Thank you for the opportunity to provide comments for this building permit request. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CS 55-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 13, 2006

Mr. Tom Lawton
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: CA VAR 06-832
Patricia Campbell; TM 65, Block 12, Parcel 377

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a single-family home and garage in the 100' Buffer. The property is 4.25 acres in size and is designated as Resource Conservation Area (RCA). It is currently undeveloped.

Provided this lot is properly grandfathered, this office does not oppose a variance to establish a dwelling on it; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

- I recognize that nearly the entire property is located in the Buffer. However, it is not clear if other configurations have been considered. For instance, there appears to be a portion of the property that is not within the 100' Buffer near the septic disposal area, although this may be nontidal wetland (see comment below). Additionally, it would appear that the garage and house could be pulled closer towards Williams Drive in order to maximize the Buffer on the western side of the property. Consideration should be given to these two areas if impacts could be further minimized.
- The nontidal wetland delineation shown on the site plan is confusing. I am unable to determine if the nontidal wetland area extends onto the peninsula where the house is currently shown. I recommend the applicant contact MDE to verify the delineation.

- The property is located in a sensitive species review area and a Habitat Protection Area (HPA) designated by Maryland Department of Natural Resources (DNR). The applicant will need to contact DNR to determine what, if any, restrictions may be placed on the project.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in black ink that reads "Kate Schmidt". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Kate Schmidt
Natural Resource Planner
SO 355-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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June 13, 2006

Mr. Tom Lawton
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: SE 06-2334
Bayside Assisted Living, Hewitt Ford Road; TM 47, Block 6, Lot 1, Parcel 9

Dear Mr. Lawton:

Thank you for providing information on the above referenced special exception request. The applicant is requesting a special exception to a personal care facility. The property is 2.36 acres and is designated as Limited Development Area (LDA). It is currently developed with an existing structure and driveway. The applicant proposes additions to the structure in the form of a porch and ramp totaling 410 square feet and a parking lot with 8 spaces.

Based on the information provided, we do not oppose the special exception. However, any proposed development will need to conform to LDA development standards including a limit of impervious surface to 15%.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SO 354-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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June 12, 2006

Mr. Tom Lawton
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: CA VAR 06-830
D. Kuebler; 5010 Canal Drive

Dear Mr. Lawton:

Thank you for providing the additional information on the above referenced variance application. The applicant is requesting a variance to the 100-foot Buffer to construct a deck. The property is 11.7 acres in total size and is designated as Resource Conservation Area (RCA). It is currently developed with a single family home, enclosed porch, patio, and dock. The property has Buffer on three sides and the applicant has previously received variances that allowed construction to within 29.03' to the west, 81.41' to the north, and 51.22' to the east of Mean High Water (MHW). The deck would further encroach into the Buffer and would be located 35 feet from MHW to the west and approximately 55 feet from MHW to the north.

In order to obtain a variance, the applicant must meet several standards, including that of unwarranted hardship. The General Assembly has defined "unwarranted hardship" to mean that without the variance the applicant would be denied reasonable and significant use of the entire parcel or lot. Here, the applicant enjoys reasonable and significant use of his parcel through an existing patio and porch. In addition to the unwarranted hardship standard, the applicant has the burden of proving that he meets all of the other variance standards.

If the Board approves this variance, it should be the minimum necessary to provide relief and as a condition of approval we recommend the applicant be required to provide mitigation at a ratio of 3:1 for the disturbance to the Buffer. While it is our understanding that the current Somerset County Code only requires 2:1 mitigation for impervious surface created in the Buffer, aerial imagery from 2004 provided by the applicant show that the vegetation in the Buffer has been substantially cleared. Somerset County Code 6.14.j.4(c)(3) states that the extent of the lot shoreward of new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation.

In 2002 and 2004, the General Assembly re-enacted its findings regarding the importance of maintaining the water quality of the Chesapeake Bay and its contributing tidal watersheds. The General Assembly also reiterated the importance of the minimum 100-foot Buffer to promote the water quality and habitat goals of the legislation. Therefore, while the deck will be constructed to be pervious, given that the Buffer was significantly impacted during construction of the primary structure and has not been sufficiently re-established, mitigation for the area disturbed at a rate of 3:1 is appropriate.

The applicant should provide a Buffer Management Plan to Somerset County, and the County staff should forward the plan to the Commission for review and comment prior to the issuance of any construction permits. Plantings should consist of a mix of native trees and shrubs. The applicant may receive credit for 100 square feet with 1 tree of 2-inch caliper or 3 shrubs. Any areas disturbed during construction or stockpiling should be replanted with native plants.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Kate Schmidt". The signature is written in a cursive, flowing style.

Kate Schmidt
Natural Resource Planner
SO 300-06

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. Patricia Garrett
Town Administrator
Town of Chesapeake City
PO Box 205
Chesapeake City, MD 21915

Re: Underground Storage Tank and Marine Fuel Station
Chesapeake Inn & Marina

Dear Ms. Garrett:

I have received the above referenced application to install underground storage tanks and a marine fuel station at the Chesapeake Inn & Marina. The property is currently developed with a restaurant, marina, concrete and board walkways and parking area. The property is designated Intense Development Area (IDA) and a Buffer Exemption Area (BEA). No new impervious surface is proposed.

Since the site is designated BEA, the applicant should provide mitigation plantings at a ratio of 2:1 for the area disturbed in the Buffer. Plantings should consist of native species and be a mix of shrubs and trees. This mitigation may be incorporated with the mitigation required for the expansion of the restaurant.

Thank you for the opportunity to provide comments. If you have any questions please feel free to call me at 410-260-3475.

Sincerely,

Kate Schmidt
Natural Resource Planner
CY266-06

cc: Mr. John B. O'Connell Jr., O'Connell Engineering
Mary Ann Skilling, MDP

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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June 12, 2006

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

Re: Chesapeake Inn Banquet Facility Mitigation

Dear Ms. Skilling:

I have received the above referenced information regarding the proposed mitigation and 10% Rule requirements for constructing a banquet room addition within the 100-foot Critical Area Buffer. The property is currently developed with a restaurant, marina, concrete and board walkways and parking area. The property is designated Intense Development Area (IDA) and a Buffer Exemption Area (BEA). No new impervious surface is proposed.

Based upon the submitted worksheet to calculate the pollutant reduction requirements on the site, I have found that the applicant is meeting the 10% Rule. The applicant proposes to maintain an existing 900 GPD stormceptor to treat 9,832 square feet or 21% of the site and to install a 1200 GPD stormceptor to treat 20,805 square feet or 45.5% of the site. Together, these treatments will remove 0.713 lbs/year of phosphorous. The pollutant removal required is 0.204 lbs/year.

The applicant is also required to provide 2:1 mitigation for the square footage of area redeveloped in the Buffer. The footprint of the proposed banquet building is 3,000 square feet. The plan submitted by the applicant to meet this requirement is insufficient. In order to receive credit for mitigation, the applicant needs to provide a planting plan that consists of a mix of native trees and shrubs. One tree (of 2-inch caliper) or three shrubs may be planted for every 100 square feet, or part thereof, of mitigation required. I recommend the applicant also include the mitigation that will be required for the installation of the underground storage fuel tanks.

Thank you for the opportunity to provide comments. If you have any questions please feel free to call me at 410-260-3475.

Sincerely,

Kate Schmidt
Natural Resource Planner
CY266-06

cc: Ms. Patricia Garrett, Chesapeake City

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

Mr. Joseph Johnson
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Rezoning; FRON-DSW Limited Partnership – Carpenters Point Road
TM 35 Block 16 Parcels 200, 586, & p/o 488

Dear Mr. Johnson:

Thank you for providing information regarding the above referenced project. The applicant is requesting to permit rezoning of Parcel 200, Parcel 586, and part of Parcel 488 from Mobil Home (Manufactured Home) to Suburban Residential (25.46 acres) and Maritime Business (2.79 acres). The properties are designated a Limited Development Area (LDA) and are currently developed with a mobile home park.

Based on the information provided, this office does not oppose the applicant's request for a special exception. We understand that this request for rezoning remains the same as it was in 2004, in that the applicant will create a Planned Unit Development (PUD) as part of a redevelopment plan for the Chestnut Point Marina. The development density for Parcels 200, 586, and 488 will be dictated by the underlying County zoning. Development of these parcels must comply with provisions for the Critical Area District (Cecil County Zoning Ordinance Article XI, Part I).

Thank you for the opportunity to provide comments. 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,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE 641-04

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

Mr. David Black
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Cecil County Airport Runway Expansion

Dear Mr. Black:

Thank you for providing the revised information regarding the proposed runway expansion at the Cecil County Airport. The applicant is proposing to move an existing taxiway and accessway, which would result in a net increase of 2,453 square feet of impervious surface. The site is designated partially Intensely Developed Area (IDA) and Resource Conservation Area (RCA) with the portion containing all existing development as IDA.

Based on the information provided I have the following comments:

- (1) As stated previously, the airport use can not take place within the Resource Conservation Area (RCA), which includes all associated development activity. The site plan shows that the grading associated with the driveway relocation continues to intrude into the RCA. Please have the applicant adjust the plan to remove the grading from the RCA portion of the property. Alternatively, the applicant may request the use of additional growth allocation.
- (2) The submittal did not include updated calculations regarding the 10% pollutant reduction rule. The increase in impervious surface on the site and the change in drainage characteristics could affect the previous calculations. Please provide an updated set of calculations and method of treatment to demonstrate that the applicant meets the 10% rule.

Thank you for the opportunity to provide comments. I look forward to receiving the updated information. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CE509-00

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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June 6, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P.O. Box 2150
La Plata, MD 20646

Re: Buffer Exemption Area (BEA) at Aqualand

Dear Ms. Dailey:

I am writing in reference to your questions regarding the Buffer Exemption Area (BEA) designation on Tax Map 79, Parcel 41, 120, & 126 (also referred to as Aqualand). Based upon review of Tax Map 79, I have found that the BEA is shown on the Potomac River shoreline portion of the Critical Area only. When mapped in this way, only the Buffer as determined from the river shoreline would be considered BEA. Therefore, Parcel 41 would be considered BEA since it only fronts the Potomac River; Parcel 120, which fronts both the Potomac River and a tidal gut, would only be considered BEA on the river side of the property; and Parcel 126, which only fronts the tidal gut would not have any BEA designation.

BEA's are designated by request by local jurisdictions where it can be sufficiently demonstrated that the existing pattern of residential, industrial, commercial, or recreational development in the Critical Area prevents the Buffer from fulfilling its functions. The Critical Area Commission must review and approve the designation of new BEA's as a Critical Area Map amendment. It is possible, that if portions of the Buffer adjacent to the tidal gut were characterized by a pattern of development similar to that along the Potomac River shoreline, the County could request to designate these areas as BEA's as well. The Commission would need to approve this change. Under the BEA designation, an applicant would need to follow the guidelines established for development and redevelopment provided in Charles County Zoning Code Section 297.131(c)3.

I hope this answers your questions as regards to this site. Please feel free to contact me at any time with any further questions.

Sincerely,

A handwritten signature in black ink that reads "Kate Schmidt". The signature is written in a cursive style with a long, sweeping horizontal line at the end.

Kate Schmidt
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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June 5, 2006

Ms. Amanda Gordon
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Subdivision: Joan T. Morgan; Carolina Ave. Earleville, MD
TM 56 Block 1 Parcel 91 Lots 96, 97, 98

Dear Ms. Gordon:

Thank you for providing information regarding the above referenced subdivision. The applicant is seeking to adjust lot lines to increase the parcel size of Lots 97 & 98 from 0.103 acres to 0.128 acres and reduce Lot 96 to 0 acres. The parcels are designated Intense Development Area (IDA).

Based on the information provided I have no comments.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE 342-06

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 5, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: SFD60429
Hardesty, 9420 Fendall Lane

Dear Ms. Dailey:

Thank you for providing information regarding the above referenced site plan. The applicant is requesting to construct a new single-family dwelling. The property is 0.42 acres in size and lies within a designated Limited Development Area (LDA), Habitat Protection Area (HPA), and is currently undeveloped.

Based on the information provided I have the following comments:

- The applicant will need to contact DNR Wildlife and Heritage to determine whether the proposed project will impact any sensitive species or Habitat Protection Area (HPA). Recommended measures should be incorporated into the site plan prior to issuance of any building permit.
- The applicant will need to provide information in regards to proposed impervious surface, existing forest cover and vegetation, amount of clearing proposed, and remaining forest cover and vegetation.
- The applicant will need to provide a planting plan to meet the required mitigation. It would appear the applicant is proposing to clear more than 30% of the lot which would require mitigation at a 3:1 ratio. I am concerned that the applicant may not be able to achieve all of the planting required on-site. I would recommend the applicant consider reducing the amount cleared to minimize mitigation and provide an adequate on-site planting plan. In order to obtain credit of 100 square feet 2" caliper trees should be spaced at 10' from center. Seedlings should be

spaced at 7' from center and shrubs should be spaced at 3-7' from center. This is in order to ensure long-term survivability.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
CS344-06

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/

June 2, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: ORD60049
J. Gregg, 11940 Limestone Court

Dear Ms. Dailey:

I am writing in regards to the revised information for the above referenced property. The applicant is no longer planning to grade the Buffer to install a shoreline erosion control project.

Based on this new information I have the following comment:

- The applicant must replant at a 1:1 ratio any disturbance created by equipment needed to access the shoreline.

Thank you for providing the revised information. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CS265-06

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. Amanda Gordon
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Subdivision: Edwin B Fockler; Greenback Road
TM 35 Block 10 Parcel 130

Dear Ms. Gordon:

Thank you for providing information regarding the above referenced subdivision. The applicant is seeking to create a single lot of 2.23 acres located in the Resource Conservation Area (RCA) to convey as an intra-family transfer. The original parcel is 19.7 acres in size, of which 13.2 acres is in the RCA.

Based on the information provided I have the following comments:

- Information regarding the percent of existing forest and the amount of proposed forest clearing was not provided. The applicant must follow the guidelines found in Cecil County Zoning Code Section 200.6 to create or protect forest and developed woodlands. A site with less than 15% forest cover shall be afforested to meet 15% forest cover. Proposed clearing of existing forest vegetation must be replaced at the appropriate ratio based on amount cleared. I recommend a note be added to the plat addressing this issue.
- A note should be added to the plat regarding the following Critical Area guidelines; no disturbance will take place in the Buffer without a variance, impervious surface coverage is limited to 15% of the site.
- Is there an existing dwelling unit in the Critical Area on the remaining parcel? Based upon Somerset Zoning Code Section 193.4(b) the applicant is allowed 3 lots under intra-family transfer, which may contain 1 dwelling unit each. A note should be added to the plat stating the remaining number of development rights allowed under intra-family transfer.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish at the end of the last name.

Kate Schmidt
Natural Resource Planner
CE 321-06

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

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-138-V; 1020 Nabbs Creek Road
Clifton Galloway

Dear Mr. Konowal:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling with less setbacks and Buffer than required and with disturbance to steep slopes. The property is designated a Limited Development Area (LDA) and a Buffer Modification Area (BMA). The property is currently undeveloped.

This request is the same as was made in February of 2005. Our position remains the same in that provided this lot is properly grandfathered, we do not oppose this variance. Based upon the record of findings from April 4th, 2005, it would appear the applicant has requested the minimum variance necessary. Mitigation at a ratio of 2:1 for disturbance within the Buffer, should be required. Plantings should be accommodated on site to the extent possible, particularly between the dwelling and shoreline to attenuate storm water runoff and provide additional water quality benefits.

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,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA64-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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May 25, 2006

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

Re: POS# 4833-16-645
Piscataway Creek Stream Valley Park (Simmons Property), Prince George's County

Dear Mr. Price:

Thank you for forwarding this project to our office for review and comment. According to the Critical Area maps, it appears that the 18.91 acre parcel to be acquired is partially within the Chesapeake Bay Critical Area and is designated a Resource Conservation Area (RCA). Therefore, any future development activities proposed by the state may be subject to the Critical Area requirements for Resource Conservation Areas as required by COMAR 27.02.05.

Thank you again for the opportunity to comment on this project. If you have any questions, please telephone me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
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 25, 2006

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-0155-V; 1258 Fenwick Garth
Cyril & Pauline Hardy

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling addition with less setbacks and Buffer than required. The property is designated a Limited Development Area (LDA). It is currently undeveloped.

Provided this lot is properly grandfathered, we would not oppose this variance. We understand the dwelling addition will take place in the same location as an existing close-in porch with no net increase in impervious surface. Mitigation at a ratio of 3:1 for disturbance within the Buffer, should be required. Plantings should be directed first to nonforested areas within the Buffer, and consist of a mix of native species of trees, shrubs and ground cover.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA338-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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May 25, 2006

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-132V; 1594 South Shore Parkway
Barrie & Rosemary Cowden

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling addition (deck) with less setbacks and Buffer than required. The property is designated a Limited Development Area (LDA) and a Buffer Modification Area (BMA) and is currently being re-developed with a single family residence destroyed by Hurricane Isabel.

Provided this lot is properly grandfathered, we would not oppose this variance. We understand an existing patio located closer to the shoreline will be removed. The deck should be constructed to be and remain pervious, with a gravel substrate and vegetative stabilization at the perimeter. Mitigation, at a ratio of 2:1 for disturbance within the Buffer, should be required. Plantings should be directed first to nonforested areas within the Buffer, and consist of a mix of native species of trees, shrubs and ground cover.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA339-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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May 25, 2006

Ms. Pam Cotter
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: Variance 2006-0151; 1090 Magothy Circle
Ellen M. Hocking

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling addition (living room) with less Buffer than required. The property is designated a Limited Development Area (LDA) and a Buffer Modification Area (BMA) and is currently developed with a house, covered porch and driveway.

Provided this lot is properly grandfathered, we would not oppose this variance. We understand the proposed addition will be located in the same footprint as an existing patio. Mitigation, at a ratio of 2:1 for disturbance within the Buffer, should be required. It appears that mitigation plantings can be accommodated on the property. Plantings should be directed first to nonforested areas within the Buffer, and consist of a mix of native species of trees, shrubs and ground cover.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA331-06

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

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-187V; 314 South Riverside Drive
Mark & Laurie Donze

Dear Mr. Konowal:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to redevelop an existing deck with less setbacks than required, and increase impervious surface in the Buffer. The property is designated a Limited Development Area (LDA) and a Buffer Modification Area (BEA) and is currently developed with a house, driveway and deck.

Provided this lot is properly grandfathered, we would not oppose these variances. Mitigation, at a ratio of 2:1 for new impervious surface within the Buffer (new concrete steps) should be required. Plantings should be directed first to nonforested areas within the Buffer, and consist of a mix of native species of trees, shrubs and ground cover.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA337-06

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

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21404

Re: 2006-0141V; 221 Edgewater Drive
Hong Chen

Dear Mr. Konowal:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a dwelling addition (deck) with less Buffer than required. The property is designated a Limited Development Area (LDA) and a Buffer Modification Area (BMA) and is currently developed with a house, deck, garage, and driveway.

Provided this lot is properly grandfathered, we would not oppose this variance. The deck should be constructed to be and remain pervious, with a gravel substrate and vegetative stabilization at the perimeter. Mitigation, at a ratio of 2:1 for disturbance within the Buffer, should be required. It appears that mitigation plantings can be accommodated on the property. Plantings should be directed first to nonforested areas within the Buffer, and consist of a mix of native species of trees, shrubs and ground cover.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
cc: AA336-06

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

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

Re: POS# 4839-19-68
Ruritan Ball Field, Princess Anne, Somerset County

Dear Mr. Price:

Thank you for forwarding this project to our office for review and comment. According to the Critical Area maps, it appears that W. Glenn Ward Memorial park is within the Chesapeake Bay Critical Area for the Town of Princess Anne and is designated a Limited Development Area (LDA). Therefore, any future development activities on this parcel are subject to the Critical Area requirements for Limited Development Areas as required by COMAR 27.01.02.04. Generally, these requirements include limits on impervious surface coverage and development density, identification of Habitat Protection Areas, mitigation for removal of vegetation, and minimization of disturbance within the Critical Area. The Town is required to submit a consistency letter for the project or request conditional approval by the Commission, if the project was not consistent with the Town's Critical Area program.

Thank you again for the opportunity to comment on this project. If you have any questions, please telephone me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

cc: Keith Lackie, MDP
Mr. Robbie Wink, 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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May 25, 2006

Mr. Eric Shertz
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Subdivision: Lands of David E. & Barbara A. Meck
TM 52 Block 10 Parcel 18

Dear Mr. Schertz:

I have received additional information regarding the above referenced subdivision from the applicant. The applicant is seeking to create a single lot 1.27 acres in size. Two other lots have already been created, and all three lots are located completely in the Resource Conservation Area (RCA). The portion of lands remaining is 225.3 acres, located mostly in the RCA.

Based on the information provided I have the following comments:

- The applicant provided information indicating the original Parcel 18 was 230.62 acres in size, of which 179.52 acres was in the RCA. Based upon 1 dwelling unit per 20 acres and the fact that this subdivision will create a fourth dwelling unit in the Critical Area, the applicant has four remaining development rights in the RCA portion of the site.
- Plantings to meet the 15% afforestation requirement should be located either on site to reinforce protection to habitat or off site to provide connections between forested areas when they are present on adjacent sites as found in Cecil County Zoning Code Section 20.6.a.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish at the end.

Kate Schmidt
Natural Resource Planner
CE 258-06

cc: Michael Paraskewich, Sr., PELSA

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

May 24, 2006

Mr. Steve Sager
Town Manager
Town of Indian Head
4195 Indian Head Hwy.
Indian Head, MD 20640

RE: Mr. Saber Helal 2004 Variance Request
14 Poplar Lane

Dear Steve:

I am writing in response to your communication on Tuesday, May 16th 2006 regarding the above referenced variance approval. You were asking for full records of the variance request here at the Critical Area Commission. I would like to summarize for you the information in our files and our understanding of the variances approved by the Town for this property.

In 2004 Mr. Helal made application to the Town of Indian Head for a variance to the Buffer for 14 Poplar Lane, Lot 88. Upon referral to the Critical Area Commission it was noted that a number of adjustments would have to be made in order for the variance to meet the Town's Critical Area regulations. The Town worked closely with staff from the Commission to make the necessary changes in order to recommend approval. Based upon two letters sent to the Town, which are attached for your record, I have outlined below what I believe to be required:

- Mr. Helal owns three lots, Lots 86, 87, and 88 which he will maintain as separate lots for the purposes of development. This variance request is to develop Lot 88 with a single-family dwelling and driveway. His driveway will impact Lots 86 and 87 to the extent that impervious surface on these lots will be included in any calculations for further development of these lots.
- Due to their size and grandfathered status, Lots 87 and 88 are limited to 25% + 500 square feet impervious surface cover (per Town Code Section 955(c)(vii)E.3). Lot 86 is limited to 5,445 square feet (per Town Code Section 955(c)(vii)E.2).

I hope this information clarifies some of the issues for you. Please feel free to contact me at any time if you have questions at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is fluid and includes a long horizontal flourish at the end.

Kate Schmidt
Natural Resource Planner

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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May 19, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: Swan Point Trail Improvement Project
ORD#50212

Dear Ms. Dailey:

Thank you for providing the revised information regarding the above referenced site plan. The applicant is requesting a series of improvements to the Swan Point Walking Trail System including; redevelopment of 3,670 square feet of trail pavers and boardwalk, a pavilion in Goodpastor Park, and a proposed gazebo and fire ring which are shown in the Buffer. Based on the submitted material and our conversations I have the following comments:

- The submission of mitigation for the new improvements at a 2:1 basis and the replacement at a 1:1 basis of the removed 23 dead or dying trees is acceptable.
- I agree with your comment that the proposed fire ring and gazebo if located within the Buffer will require a variance.
- The proposed grasses should be native species and 1-3 gallon size buckets.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CS844-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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May 19, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: ORD60049
J. Gregg, 11940 Limestone Court

Dear Ms. Dailey:

I am writing in regards to our site visit to the above referenced property. The applicant is requesting to disturb the Buffer through the construction of a pier, revetment for shore erosion control, and grading of 1,000 square feet. The property is 0.39 acres in size and is designated Limited Development Area (LDA) and Buffer Exemption Area (BEA) for Swan Point.

Based on our site visit with Mr. Bob Tabisz (MDE) I understand that the grading to occur is limited and necessary as a part of the shoreline erosion project. The applicant should provide a Buffer Mitigation Plan and 1:1 mitigation for the area disturbed.

Thank you for organizing the site visit. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CS265-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

May 18, 2006

Mr. Tom Lawton
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: CA VAR 06-830
D. Kuebler; 5010 Canal Drive

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to the 100-foot Buffer of 65 feet. The property is 11.7 acres in total size and is designated as Resource Conservation Area (RCA). It is currently developed with a single family home, enclosed porch, patio, and dock. The property has Buffer on three sides and the applicant has previously received variances of 29.03' to the west, 81.41' to the north, and 51.22' to the east in order to construct the dwelling.

It is also our understanding that the single family home is located 26.6' from Mean High Water (MHW) and is not in compliance with the Buffer variance of 29.03' to the west. In addition, it would appear that there also exists a patio and an enclosed porch (or similar structure) located waterward of the existing structure that is also not in compliance with the Buffer variance to the north. This area is not included in the present variance application.

As a part of the process to consider a variance, the applicant must prove unwarranted hardship. While the requested deck is not located closer to MHW on the west side, it is located closer to MHW on the north side than any existing structure. Given the currently existing amenities of patio and porch that allow the applicant use and enjoyment of his property we believe this will be a difficult standard to achieve. Please note, the Board must evaluate whether the applicant has sufficiently overcome the burden to prove that each of the County's variance standards has been met.

Should the Board approve this variance, we recommend that at a minimum, the applicant provide 3:1 mitigation for new development in the Buffer and that this mitigation include the impacts of the porch and patio.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
SO 300-06

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 17, 2006

Ms. Patricia Garrett
Town Administrator
Town of Chesapeake City
PO Box 205
Chesapeake City, MD 21915

Re: Chesapeake Inn Banquet Facility Buffer Variance

Dear Ms. Garrett:

I have received the above referenced application to construct a banquet room addition within the 100-foot Critical Area Buffer. The property is currently developed with a restaurant, marina, concrete and board walkways and parking area. The property is designated Intense Development Area (IDA) and a Buffer Exemption Area (BEA). No new impervious surface is proposed.

Based on the information provided, we do not oppose this variance. However, I would like to bring some concerns to your attention. It was difficult to assess from the site plan whether the proposed structure was the minimum necessary and whether alternative locations that meet the BEA setback requirements are possible. It is the applicant's responsibility to overcome the burden of proof and demonstrate they can meet each one of the Town's variance standards. This includes whether the proposal results in the minimum variance necessary to afford relief of an unwarranted hardship.

Should the Town approve this variance, the applicant must treat the area for stormwater to meet the 10% pollutant reduction requirement. We also recommend the require planting at a ratio of 2:1 for the area of redevelopment in the Buffer. Plantings should consist of native species and be a mix of shrubs and trees.

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. If you have any questions please feel free to call me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish at the end.

Kate Schmidt
Natural Resource Planner
CY266-06

cc: Mary Ann Skilling, 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/

May 16, 2006

Mr. Tom Lawton
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: SE 06-2331
Glen Airs Manufactured Home Park; TM 39, Block 19, Parcel 45

Dear Mr. Lawton:

Thank you for providing information on the above referenced special exception request. The applicant is requesting a special exception to allow a manufactured home park on this site. The property is 10.26 acres in total size of which approximately 1 acre is in the Critical Area, designated as Limited Development Area (LDA). It is currently undeveloped.

Based on the information provided, we do not oppose the special exception. However, any new development that may occur in the Critical Area portion of the property will need to conform to LDA development standards including a limit of impervious surface to 15% and afforestation of the site to 15%.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SO 301-06

Robert L. Ehrlich, Jr.
Governor



Michael S. Steele
Lt. Governor

Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 12, 2006

Mary Ann Skilling
Upper Eastern Shore Regional Office
Maryland Department of Planning
120 Broadway, Suite 10
Centreville, MD 21617-1000

Re: Town of Charlestown Shore Erosion Project

Dear Ms. Skilling:

Thank you for providing information regarding the proposed shoreline erosion project located in the Town of Charlestown. As stated in your letter dated April 24, 2006, the proposed activity requires review by the Critical Area Commission as detailed within COMAR, Title 27.02.02.

It is my understanding that the Town of Charlestown is proposing to place a revetment along the shoreline from Tasker Lane to an existing stream approximately 600 feet in length. Additionally, 0.78 acres of land above MHW (Buffer) will be impacted by fill that will be placed behind the revetment in order to protect existing and exposed sanitary and water lines. Shoreward of the revetment, sandy fill will be placed and planted with marsh grass. Two temporary access points for contractors will be stabilized after the project is complete. No tree removal is proposed as part of this project. Sediment erosion control will be performed on site. There are no impacts to habitat protection areas proposed and the property is currently designated as an Intensely Developed Area (IDA).

Based on the information you have provided, I agree with your determination that the proposed development project is consistent with the Charlestown Critical Area Program and Ordinance for projects located within IDAs. Thank you for your efforts in coordinating the review of this project. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
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 12, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: SFD 60354
Boarman; Banks O'Dee Road

Dear Ms. Dailey:

Thank you for providing information regarding the above-referenced site plan. The applicant is requesting to construct a new single-family dwelling. The property is 69.17 acres in size and is designated Resource Conservation Area (RCA).

Based on the information provided I have the following comments:

- It would appear from aerial images that there is significant forest habitat on this site. The applicant will need to contact DNR Wildlife and Heritage Division to determine if the site is considered FIDS habitat or if there are any other issues related to rare, endangered, or threatened species.
- I was unable to determine if this parcel had been the subject of any prior subdivision. As you are aware, RCA guidelines limit residential density to 1 dwelling unit per 20 acres. If this parcel has not been the subject of a prior subdivision, then 2 development rights remain on this parcel. Please include the appropriate information on the site plan.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CS283-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 12, 2006

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

Re: POS# 4834-16-646
Patuxent River Park (Swanson Road Property), Prince George's County

Dear Mr. Price:

Thank you for forwarding this project to our office for review and comment. According to the Critical Area maps, it appears that the 318 acre parcel to be acquired is partially within the Chesapeake Bay Critical Area and is designated a Resource Conservation Area (RCA). Therefore, any future development activities proposed by the state may be subject to the Critical Area requirements for Resource Conservation Areas as required by COMAR 27.02.05.

Thank you again for the opportunity to comment on this project. If you have any questions, please telephone me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
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 9, 2006

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2006-0107
William E. Martin

Dear Mr. Konowal:

Thank you for providing information on the above referenced variance request. The applicant is requesting an after-the-fact variance to allow a dwelling addition (patio) with less setbacks and Buffer than required. The property is designated as Limited Development Area (LDA) and a Buffer Exemption Area (BEA). The property is currently developed with a single family home, driveway and deck.

Anne Arundel County Code Section 26-8-702(b) restricts the placement of new impervious surface placed nearer to the shoreline including patios. We also understand that in order to construct the patio at this location the applicant is requesting to grade the entire area behind the house to the waters' edge. We believe that this action would disturb the Buffer greater than necessary to provide an outdoor living space attached to the house. Disturbance in the Critical Area should be the minimum necessary to gain relief. Based on this information we would oppose this variance request.

Typically, provided this lot is properly grandfathered, we would not oppose a variance for an attached deck. Had the applicant requested a variance prior to construction we would have recommended a pervious deck to be constructed rather than the patio.

Mitigation, at a ratio of 3:1 for disturbance within the Buffer, should be required. We recommend that plantings consist of a mix of native species of trees, shrubs and ground cover.

Ms. Rob Konowal

May 9, 2006

Page 2 of 2

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,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt

Natural Resource Planner

AA288-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 9, 2006

Mr. Eric Shertz
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Subdivision: Lands of David E. & Barbara A. Meck
TM 52 Block 10 Parcel 18

Dear Mr. Schertz:

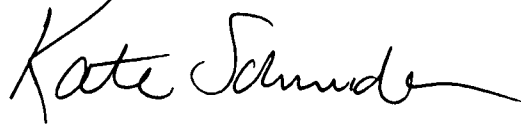
Thank you for providing information regarding the above referenced subdivision. The applicant is seeking to create a single lot 1.27 acres in size. Two other lots have already been created, and all three lots are located completely in the Resource Conservation Area (RCA). The portion of lands remaining is 225.3 acres, located mostly in the RCA.

Based on the information provided I have the following comments:

- What was the size of the original parcel prior to any subdivision (including lot 1, lot 2, and current lot)? How much of the original lot is located in the RCA? We do not have notice of prior subdivision on file, but based on real property tax records it would appear that Lot 1 and Lot 2 were originally subdivided from the remaining parcel owned by Mr. Meck. This calculation is important in order to determine the number of development rights remaining. Under RCA development guidelines, development is limited to 1 dwelling unit per 20 acres. I recommend the applicant provide the original acreage in RCA. This information and the total number of development rights allowed should be included on the existing plat.
- Given that the new lot will convert from agriculture to residential use, 15% (8,298 square feet) afforestation is required. I would suggest a note be included on the plat. Plantings should consist of a mix of native shrubs and trees.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is fluid and elegant, with a long horizontal flourish extending from the end of the name.

Kate Schmidt
Natural Resource Planner
CE 258-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 9, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: ORD60049
J. Gregg, 11940 Limestone Court

Dear Ms. Dailey:

Thank you for providing information regarding the above-referenced site plan. The applicant is requesting to disturb the Buffer through the construction of a pier, revetment for shore erosion control, and grading of 1,000 square feet. The property is 0.39 acres in size and is designated Limited Development Area (LDA) and Buffer Exemption Area (BEA) for Swan Point.

Based on the information provided I have the following comments:

- It is difficult to discern from the information provided whether the amount of grading proposed is necessary to prevent shoreline erosion and therefore be included as a part of the proposed project. Grading of the Buffer other than the minimum amount necessary will require a variance. I recommend that the applicant provide further information, in consultation with Maryland Department of the Environment (MDE) as to the need for the grading to control shoreline erosion beyond the proposed revetment.
- A Buffer Management Plan with 1:1 mitigation should be included with the application prior to project approval.
- All State/Federal permits should be obtained prior to project approval.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is fluid and includes a long horizontal flourish at the end.

Kate Schmidt
Natural Resource Planner
CS265-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 9, 2006

Ms. Jeanne Minner
Director of Planning
Town of Elkton
PO Box 157
100 Railroad Avenue
Elkton, MD 21922-0157

Re: Town of Elkton Wastewater Treatment Plant Upgrade Conditional Approval

Dear Ms. Minner:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On May 3, 2006, the Critical Area Commission unanimously approved the Town's proposal and site plan to expand the City's wastewater treatment plant located off Route 40, in the Town of Elkton. This approval included the following condition:

The Town of Elkton shall obtain a response from DNR Wildlife and Heritage regarding potential habitat impacts. If any potential impacts are noted the Town will develop an appropriate mitigation plan and seek approval from Commission staff prior to commencement of construction activities.

In fulfillment of the above conditions, please provide Commission staff with a copy of the response from DNR when 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. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
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 9, 2006

Mr. Joseph Johnson
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Case #3232 – Variance
William V. & Irina Freidel

Dear Mr. Johnson:

Thank you for providing information regarding the above referenced variance request. The applicant is seeking to create a height variance to construct a single family dwelling. The lot is 0.824 acres in size and designated both Resource Conservation Area (RCA) and Limited Development Area (LDA).

Based on the information provided I do not oppose this variance request.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE 251-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 8, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: SFD 50773
Walter Development, 9429 Fendall Lane

Dear Ms. Dailey:

Thank you for providing the revised information regarding the above referenced site plan. The applicant is requesting to construct a new single-family dwelling. The property is 0.42 acres in size and lies within a designated Limited Development Area (LDA), Habitat Protection Area (HPA), and is currently undeveloped.

Based on the information provided I have the following comments:

- DNR Heritage Review states that there are no records for rare, threatened, or endangered species on the project site. However, as indicated on the site plan, a bald eagle's nest is located within ¼ mile of the project site. The applicant has properly noted the Zone 3 restrictions which prohibit construction and timber harvesting activities from December 15th through June 15th.
- It is my understanding that the applicant is proposing to clear 10,478 square feet (57%) of the property and provide mitigation at 3:1. However, the planting plan proposed to meet this mitigation does not appear to be feasible. In order to obtain credit of 100 square feet 2" caliper trees should be spaced at 10' from center. Seedlings should be spaced at 7' from center and shrubs should be spaced at 3-7' from center. This is in order to ensure long-term survivability. If the County decides to allow this planting plan, please provide me with information related to size of proposed plantings, exact spacing and location, and a strategy to ensure long-term survivability.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is fluid and includes a long horizontal flourish extending to the right.

Kate Schmidt
Natural Resource Planner
CS841-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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May 8, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: SFD 50772
Walter Development, 9430 Overlook Circle

Dear Ms. Dailey:

Thank you for providing the revised information regarding the above referenced site plan. The applicant is requesting to construct a new single-family dwelling. The property is 0.34 acres in size and lies within a designated Limited Development Area (LDA), Habitat Sensitive Species Project Review Area and Protection Area (HPA), and is currently undeveloped.

Based on the information provided I have the following comments:

- DNR Heritage Review states that there are no records for rare, threatened, or endangered species on the project site. However, as indicated on the site plan, a bald eagle's nest is located within ¼ mile of the project site. The applicant has properly noted the Zone 3 restrictions which prohibit construction and timber harvesting activities from December 15th through June 15th.
- It is my understanding that the applicant is proposing to clear 8,724 square feet (58%) of the property and provide mitigation at 3:1. However, the planting plan proposed to meet this mitigation does not appear to be feasible. In order to obtain credit of 100 square feet 2" caliper trees should be spaced at 10' from center. Seedlings should be spaced at 7' from center and shrubs should be spaced at 3-7' from center. This is in order to ensure long-term survivability. If the County decides to allow this planting plan, please provide me with information related to size of proposed plantings, exact spacing and location, and a strategy to ensure long-term survivability.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
CS793-05

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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May 2, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: SFD 60279
T. Bastain, 3725 McClain Road

Dear Ms. Dailey:

This letter is to review the site visit we made to Mr. Bastain's property on May 1, 2006 to examine a potential violation. The property in question is within a designated Rural Conservation Zone (RCZ) and is approximately 0.61 acres in size. The applicant is seeking to construct a new single family dwelling. From Mid-Maryland Aerial Data 2002 and 2004 we had questions as to whether the applicant (1) improperly cleared the Buffer and (2) constructed in the Buffer without a permit.

Concerning the first question I have the following comment:

- Based upon photos provided by the applicant and the site visit we determined that one tree (with two trunks) was lost during Hurricane Isabel. A second tree was removed by the applicant by his own admission. The applicant also admitted to clearing understory vegetation in the area near the trees. From the site plan we agreed that this area of clearing was approximately 4,750 square feet (width of property x length from top of rip-rap to buffer). Mitigation for this area should be required at a ratio of 3:1. Given the nature of the vegetation removed, plantings should be a mix of trees and shrubs.

Concerning the second item:

- The applicant installed a rip-rap type of structure at the base of a steep slope approximately 65' shoreward of Mean High Water (MHW) without a permit and within the Buffer. As agreed, Charles County will pursue this issue as an after-the-fact variance request. We will recommend 3:1 mitigation for disturbance in the Buffer.

Thank you for the opportunity to attend the site with you yesterday. If you have any further questions, please contact me at 410-260-3482.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned above the printed name and title.

Kate Schmidt
Natural Resource Planner
CS226-06

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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(410) 260-3460 Fax: (410) 974-5338
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May 2, 2006

Mr. James Lee Henderson
Somerset County Detention Center
30474 Revells Neck Road
Westover, Maryland 21817

RE: Proposed Work Release Addition Consistency Report

Dear Mr. Henderson:

This letter is in response for your request to review the above referenced project. The project is an addition to the Somerset County Detention Center. The project site is 6.169 acres and is located within a Resource Conservation Area (RCA). The site is currently developed with a facility, parking lots and access roads totaling 65,400 square feet of impervious surface. The proposed addition is 5,520 square feet for a total impervious surface of 70,920 square feet.

Based upon the information you have provided I have determined that you will need to seek a conditional approval from the Critical Area Commission for approval of this project. Under Critical Area Criteria, COMAR 27.02.06 'Conditional Approval of State or Local Agency Programs in the Critical Area', if development proposed by a State or local agency located in the Critical Area is prohibited from occurring then the agency proposing the development may seek conditional approval for the project. As referenced by Ms. Joan Kean in her letter to you on February 22, 2006 development in RCA's are limited to 15% or 40,308 square feet on this site.

In order for the Critical Area Commission to process this request as a conditional approval you will need to work with the Somerset County Critical Area Program to make the request. The following information will be required:

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

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

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

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

The conditional approval request shall, at a minimum, contain the following:

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

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

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

Please feel free to contact me at 410-260-3475 if you have any questions. The Somerset County Department of Technical and Community Services can advise you further on how to proceed.

Sincerely,



Kate Schmidt
Natural Resource Planner
SO273-06

cc: Joan Kean, Somerset County Technical and Community Services

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 28, 2006

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

RE: Variance 2006-0124
Liam P. Sarsfield

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a dwelling addition (deck) with less setbacks and Buffer than required. The property is designated as Limited Development Area (LDA) and a Buffer Exemption Area (BEA). The property is currently being redeveloped with a single family home, garage and driveway.

Provided this lot is properly grandfathered, we do not oppose a variance for an attached deck. However, impacts must be minimized and the variance the minimum necessary to provide relief. Based on the information provided, I have the following comments regarding the current development proposal and variance request.

1. This office cannot support a deck of this size in the Buffer as the minimum necessary. Disturbance within the Critical Area should be minimized to the extent possible to gain relief, which is not obtained by a deck that is 965 square feet or 37% of the size of the re-developed house.
2. If a smaller deck is approved, it should be constructed to be and remain pervious, with a gravel substrate and vegetative stabilization at the perimeter.
3. Mitigation, at a ratio of 2:1 for disturbance within the Buffer, should be required. It appears that mitigation plantings could be accommodated on the property. We recommend that plantings consist of a mix of native species of trees, shrubs and ground cover.

Ms. Ramona Plociennik
April 28, 2006
Page 2 of 2

4. The limits of disturbance for all proposed construction should be shown clearly on the site plan. This information is needed in order to determine the required mitigation

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,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
AA271-06

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/

April 28, 2006

Ms. Joan Kean
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: REZ 06-161
Kellam; TM 57, Grid 15, Parcel 460

Dear Ms. Kean:

Thank you for providing information on the above referenced change in zoning. The applicant is requesting a change in zoning from Residential-One to Commercial-Two citing a mistake in the current zoning. The property is designated as Limited Development Area (LDA). The property is currently developed with a closed convenience store and a residence, with remainder of the property open field.

Based on the information provided, we would not oppose the requested change in zoning. Any new redevelopment that may occur on the property will need to conform to LDA development standards include a limit of impervious surface to 15% and afforestation of the site to 15%.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SO 270-06

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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April 27, 2006

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

RE: Variance 2006-0105
Gene Brink

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a dwelling with less setbacks and Buffer than required. According to our records, the property is designated as Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA). The property is currently undeveloped.

Provided this lot is properly grandfathered, we do not oppose this variance, however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, I have the following comments regarding the current development proposal and variance request.

1. The 100' Buffer should be shown on the site plan.
2. It does not appear that the applicant has minimized the distance between the shoreline and the structure to the extent possible.
3. Mitigation, at a ratio of 2:1 for disturbance within the Buffer and 1:1 for disturbance outside the Buffer, should be required. Because the property is not forested, mitigation plantings should be accommodated on the site to the extent possible and directed first to non-forested areas within the Buffer. Plantings should consist of densely grouped native trees and shrubs.
4. Because the property is designated an IDA, water quality improvements must be provided on the site. Pollutant reductions from runoff can be achieved through the implementation of a best management practice or with plantings. Stormwater should be directed to a stable vegetated outfall or to a best management practice.

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,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Kate Schmidt
Natural Resource Planner
AA257-06

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/

April 27, 2006

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

RE: Variance 2006-0092
Morris Shulmister

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a dwelling with less setbacks and Buffer than required. The property is designated as Intensely Developed Area (IDA) and Resource Conservation Area (RCA). The property is currently undeveloped.

Provided this lot is properly grandfathered, we do not oppose this variance. Based on the information provided, I have the following comments regarding the current development proposal and variance request:

1. Is the extended access drive shown on the site plan required by the county and is it privately or publicly owned? If the extended access drive will be owned and maintained by the applicant, then the applicant will need to include this area of disturbance in the mitigation calculations. If the extended access drive will be owned by someone other than the applicant, then that entity will need to submit this portion as a separate action for approval.
2. Because the improvements are located on the portion of the property designated an IDA, water quality improvements must be provided to offset the proposed development. Stormwater should be directed away from the nontidal wetlands to a stable vegetated outfall to provide water quality benefits on the site. Water quality improvements may be satisfied in the form of mitigation plantings at a ratio of 3:1, a minimum of three (3) trees or nine (9) shrubs for every 100 square feet of the proposed development activity. The proposed development activity is considered as the entire area of disturbance, 5,750 square feet, not just the

impervious surface area. The applicant will need to increase the number of proposed mitigation plantings or provide appropriate offsets to meet this requirement.

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,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish at the end.

Kate Schmidt
Natural Resource Planner
AA255-06

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

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Major Subdivision – Quails Crossing: Concept Sketch

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above referenced subdivision. The two parcels to be subdivided total 66.03 acres. Parcel 455, which is 56.03 acres in size, falls within the Critical Area on the northeast and northwest corners. The two portions of Critical Area are designated Resource Conservation Area (RCA) and total 6.81 acres in size. The applicant is not proposing any residential lots within the RCA and has included this portion within the common open space areas.

Based on the information provided it would appear that the proposal is consistent with the Cecil County Critical Area Program. I would like to make the comment that while the applicant would be allowed 1 dwelling unit within the RCA portion of the site; it would appear that development would be severely restricted on the northeast corner of the property due to the presence of the Habitat Protection Area for streams, wetlands, and steep slopes and the potential for impacts to Forest Interior Dwelling Species (FIDS) habitat.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE 253-06

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

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Major Subdivision - Canal View Estates, Preliminary Plat
(Tax Map 43, Parcel 3)

Dear Mr. DiGiacomo:

Thank you for providing revised information regarding the above referenced subdivision. The preliminary plat indicates the area in question is 213.97 acres, of which 105.73 acres are in the Critical Area. The property has a split Critical Area designation of Limited Development Area (46.2 acres) and Resource Conservation Area (59.53 acres). Currently, the site is developed with a single-family dwelling and several farm buildings, and is primarily used for agricultural purposes. The applicant is proposing to create one (1) lot and common areas within the RCA and three (3) lots and common areas in the LDA.

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

1. The Critical Area acreage calculations have changed from the concept sketch submitted in January, 2005. Previously LDA acreage calculations excluded that portion within the corporate boundaries. The preliminary plat should indicate the acreage of Critical Area outside the corporate boundaries. Also, please note that the amount of RCA and LDA acreage indicated on the preliminary plat is not consistent. The acreages listed under density calculations are different from those provided in the notes section.
2. Density in the RCA is restricted to one dwelling unit per twenty acres. Please note that the applicant retains the right to a second dwelling unit within the RCA. I recommend that a note clarifying this issue and related zoning and/or deed restrictions be added to the subdivision plat.

3. In the Critical Area, each lot is limited to 15 percent impervious coverage as well as the entire Critical Area portion of the subdivision, including roads, stormwater management facilities, and other impervious infrastructure (Cecil County Zoning Ordinance Article XI, Part 1, Sections 200 and 201.) Critical Area notes for LDA and RCA should include total impervious surface calculations for each section. In addition, I recommend a note be added to each plat indicating the limitation on impervious surface coverage for Lots 4, 5, 106, and 95.
4. Section 196.1.b of the Cecil County Zoning Ordinance states that expansion of the 100' Buffer for steep slopes (15% or greater) is 4 feet for every 1% increase in slope or to the top of slope, whichever is greater. It would appear in some areas that the Buffer will need to be revised to extend to the top of the slope.
5. When agricultural uses cease and the land is converted to another use, the Buffer must be established in forested vegetation under Cecil County Critical Area Program, Habitat Protection Program Elements 9.1-6. It would appear from the site plan that the Buffer on the common open space area is only partially forested and will need to be fully established.
6. Development standards in the LDA and the RCA require 15 percent of a site to be afforested if it does not currently exist (Cecil County Zoning Ordinance Article XI, Part 1, Sections 200 (6) and 201.) The applicant should provide calculations of the existing forest cover on all Critical Area lots and common open spaces in order to determine areas that will require afforestation.
7. As noted in a letter sent by Julie LaBranche (February 4, 2005) Map 32 of the Cecil County Soil Survey shows several intermittent streams on the south side of the property bordering MD 285. The plat indicates these are swales but does not provide information as to how this determination was made. Intermittent streams within the Critical Area are considered a Habitat Protection Area under the Cecil County Zoning Ordinance and would be protected by a 100' Buffer.
8. The applicant will need to communicate with the Department of Natural Resources to determine the presence of rare, threatened, or endangered species prior to any project approval. If present on site, any development proposed as part of the subdivision must comply with the HPA provisions of the Cecil County Zoning Ordinance and Critical Area Program.

Mr. Anthony DiGiacomo

April 26, 2006

Page 3 of 3

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Kate Schmidt

Natural Resource Planner

CE 55-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
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April 25, 2006

Mr. Cabbie Dize
City Manager
City of Crisfield
P.O. Box 270
Crisfield, Maryland 21817

Re: Crisfield Water Pipeline Amendment - Jersey Island Pump Station

Dear Mr. Dize:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On April 5, 2006, the Project Subcommittee of the Critical Area Commission approved the City's proposal to amend the water pipeline project approved on November 2, 2005 in order to add the renovations of the Jersey Island Pump Station located on Norris Harbor Drive. The project will temporarily disturb 250 square feet and will be re-established in vegetation post-construction. This approval included the following condition:

The City of Crisfield will provide additional mitigation in the form of 15 additional Bayberry Bush shrubs, to bring the total number of shrubs for both projects to 431.

Please note that should any changes to the site plan be proposed for rehabilitation of the pump station, additional review and approval by the full Commission would be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
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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April 25, 2006

Ms. Joan Kean
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: REZ06-160

Dear Ms. Kean:

Thank you for providing information on the above referenced zoning change proposal. The applicant is requesting a change in zoning from Conservation (CO) to Agricultural Residential (AR) to allow for subdivision at 1-acre lot size versus 5-acre lot size. The property is 7.4 acres in size and designated as Limited Development Area (LDA). The property is currently developed with two single-family dwellings.

Based on the information provided, I do not oppose the change in underlying zoning.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SO 242-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

April 21, 2006

Mr. Tom Lawton
Somerset County
Department of Technical & Community Services
11916 Somerset Avenue
Princess Anne, Maryland 21853

RE: INT 06-163 Administrative Review
Michael & Dawn Greco

Dear Mr. Lawton:

Thank you for providing information on the above referenced administrative review. The applicant is requesting a variance of 90' in the 100' Buffer to permit the construction of a shed. The property is designated as Limited Development Area (LDA) and a Buffer Exemption Area (BEA). The property is currently developed with a single-family dwelling.

Based on the information provided, I concur with county staff that the applicant does not meet the standards for new development in the Buffer Exemption Area as identified under Somerset County Code 6.13.j.3.c.1.&2. Standard #1 indicates that an applicant must demonstrate there is no feasible alternative to the request. There appears to be space outside of the BEA on the northwest corner of the property for the storage shed. Standard #2 indicates that new development shall not exceed the shoreward extent of adjacent structures located on the property. There are no other adjacent structures intruding in the BEA on this property.

If under the administrative review process the decision is overturned, the applicant will need to apply for a variance. A variance will require notification to the Critical Area Commission for review and staff would most likely not support the request, given the information provided to date. Under the State of Maryland Natural Resources Article 8-1808(d), local jurisdictions are provided a set of strict standards to follow in the granting of a variance. This includes the standard that denial of a variance would result in "unwarranted hardship" to the applicant; in other words they would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested. I do not

believe the applicant can meet the standard of unwarranted hardship given that the storage shed may be moved to other areas on the lot outside of the BEA.

Thank you for the opportunity to provide comments. As always, if you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a horizontal line extending from the end of the name.

Kate Schmidt
Natural Resource Planner
SO 246-06

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. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: SFD 60279
T. Bastain, 3725 McClain Road

Dear Ms. Dailey:

Thank you for providing information regarding the above referenced site plan. The applicant is requesting a new single family dwelling with proposed impervious surface of 2,057 square feet. The property is within a designated Rural Conservation Zone (RCZ) and is approximately 0.61 acres in size.

I have the following comments:

- 1) Upon retrieving aerial imagery from Mid-Maryland Aerial Data 2002 and 2004, I have found that the site had a fully forested mature Buffer in 2002. All forested vegetation was cleared from the site by 2004. I have roughly estimated 13,000 square feet of forested vegetation was removed. No information was included in the submittal concerning prior permits issued on the site, nor has the Critical Area Commission previously received an application for a Buffer variance. It would appear that the property in question may have violated the Charles County Critical Area Program through unauthorized clearing of the Buffer.
- 2) The Critical Area Notes indicated there is 4,400 square feet of forest coverage but this was not shown on the site plan. The location of any existing vegetation should be shown. Please note that percent calculations for items like forest coverage or impervious surface must be based on lot size, landward of Mean High Water (MHW).
- 3) It is difficult to tell the boundary of the expanded Buffer. The applicant needs to show Buffer boundary, location of MHW, and shade the area of steep slope to help verify the Buffer expansion was correctly made.

4) As noted above, only lot area located above MHW may be included in calculations for items like impervious coverage. Please adjust the lot size accordingly and include in the Critical Area notes.

5) Please provide a scale.

Given the serious nature of Item #1, I would expect your office will follow up on this and appraise this office of whether a violation has occurred, and if so, how the violation will be handled. If a violation has occurred, we strongly recommend that no other approvals be granted until the violation has been appropriately rectified.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CS179-06

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
(410) 260-3460 Fax: (410) 974-5338
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April 6, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P.O. Box 2150
La Plata, MD 20646

**RE: RAD#60032; 11260 Keokee Ct.
TM 86, Parcel 6, Lot 186**

Dear Ms. Dailey:

Thank you for providing the revised information on the above referenced site plan. The applicant is requesting a building permit to construct an addition to an existing single family dwelling. The property is within a designated Limited Development Area (LDA) and Buffer Exemption Area (BEA) for Swan Point. The proposed construction activity would take place within the 100-foot Critical Area Buffer.

Based on the materials provided we have the following comments:

- We understand the applicant has reduced the size of the proposed addition in order to meet the guidelines for impervious coverage and expansion of existing structures described in Appendix B, Charles County Critical Area Program, regarding Buffer Exemption Areas within Swan Point.
- The Commission has received a copy of the letter from the Wildlife and Heritage Service stating that no records of Federal or State rare, threatened, or endangered plants or animals exist for this project site.

Thank you for the opportunity to provide comments for this building permit request. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CS 136-06

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
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April 4, 2006

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2006-0067
Gerard Walterhoefer

Dear Mr Konowal:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit a new single family dwelling with less setbacks and Buffer then required. The property is designated as Limited Development Area (LDA) and Buffer Modification Area. The property is currently developed with a garage.

Provided this property is properly grandfathered, we do not oppose variances to permit development of the property with a residence. However, impacts must be minimized and the variance the minimum necessary to provide relief. Based on the information provided, we have the following comments regarding the current development proposal and variance request.

- 1) Based upon the County's Buffer Modification criteria (Article 17-8-702(b)) it would appear that the impact to the Buffer has not been minimized to the extent possible. Given the space available on the west end of the site, it does not appear that the applicant has met the standard of unwarranted hardship to justify the extent of proposed intrusion into the Buffer.
- 2) Mitigation should be provided consistent with the County's Buffer criteria, and at a ratio of 1:1 for clearing outside the Buffer and 2:1 for clearing inside the Buffer. This office recommends that plantings be accommodated on site to extent possible, preferably within the BEA. Plantings of one tree (2-inch caliper) or three shrubs for every 100 square feet (or portion thereof) of the proposed development activity should be required.

Mr. Rob Konowal

April 4, 2006

Page 2

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,

Kate Schmidt

Kate Schmidt

Natural Resource Planner

AA200-06

Robert L. Ehrlich, Jr.
Governor



Martin G. Madden
Chairman

Michael S. Steele
Lt. Governor

Ren Serey
Executive Director

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

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

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April 4, 2006

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

RE: Bracebridge Estates, Preliminary Plat

Dear Mr. DiGiacomo:

Thank you for providing information regarding the preliminary plat for Bracebridge Estates. The applicant is requesting to subdivide Tax Map 61 Parcel 12, which contains 303.3 acres of Critical Area designated a Resource Conservation Area (RCA). The site is currently developed as a farm site with multiple structures and driveway system. Based on the information provided, I have the following comments regarding the subdivision proposal.

- The subdivision plan indicates areas of tidal wetlands on the site; however it is not clear if the wetlands are State or private tidal wetlands and how the wetlands were identified and delineated. A field delineation may be required to distinguish between State and private tidal wetlands. Documentation of the field delineation should be submitted with the plan and should describe the methodology used to determine the wetland boundary and to determine if the wetlands are State or private. State tidal wetlands cannot be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area.
- The total area of Critical Area currently shown is 303 acres. Based on this number the applicant is allowed 15 dwelling units in order to meet the density requirements of one dwelling unit per 20 acres. The applicant proposes to create three lots (49, 50, and 55) which are only partially within the Critical Area. Because septic systems and septic reserve areas are facilities necessary to support a dwelling unit, and these are located within the Critical Area, these dwellings must be included in the calculations. Therefore, in its current configuration it would appear that the applicant proposes 15 dwelling units for the following lots in the Critical Area; Lots 22-29 and Lots 49-55. However, it appears there is at

TTY for the Deaf

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

Mr. Anthony DiGiacomo

April 4, 2006

Page 2

- least one existing dwelling unit on Lot 41. If so, then the applicant needs to count those dwelling units and reduce the overall number accordingly or request growth allocation.
- No information was provided as to rare, threatened, or endangered species. A copy of the Department of Natural Resources Wildlife and Heritage division letter must be received before final subdivision to ensure there are no adverse impacts to any such species.
- Mitigation for forest clearing within the Critical Area should be provided at a ratio of 1:1 for clearing less than 20 percent of existing forest, 1.5:1 for clearing greater than 20 percent and less than 30 percent of existing forest, and 3:1 for clearing greater than 30 percent of existing forest (Cecil County Zoning Ordinance Article XI, Part I, Section 200). Mitigation can be provided on site or in combination with off-site forest planting. The applicant should provide a mitigation plan as part of the subdivision proposal.
- As shown on the site plan, many of the lots have minimal forest cover. The applicant should provide calculations for existing forest cover for each lot. If less than 15 percent forest cover exists, afforestation should be provided to establish 15 percent forest cover on each lot (Cecil County Zoning Ordinance Article XI, Part I, sections 201 and 200(6)). Mitigation plantings can be used for this purpose.
- If land use in lots with Buffer will be converted from agricultural to residential, then the Buffer must be established in vegetation (COMAR 27.01.09.01.C/6). Vegetation may be planted or allowed to naturally regenerate if feasible.
- Lots of less than one acre within the Critical Area can be permitted a maximum of 25 percent impervious surface coverage, providing the entire subdivision does not exceed 15 percent impervious surface coverage. Lots that are greater than 1 acre will be limited to 15 percent impervious surface coverage (Cecil County Zoning Ordinance Article XI, Part I, Sections 200 and 201). We recommend that a note be added to plat stating the limitation on impervious surface coverage for all lots within the Critical Area.

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

Sincerely,



Kate Schmidt

Natural Resource Planner

CE202-06

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/

March 30, 2006

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

RE: Variance 2006-0065
Richard Duvall

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow dwellings on lots with less width, less area, and less setbacks than required. The property is designated as Limited Development Area (LDA) and currently developed with a two (2) single family homes.

This request appears to be the same as that made in August, 1999. Our position of that time still stands. Please refer to the attached communication dated August 26th, 1999.

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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA425-99

Enclosure

John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 260-7516 Fax: (410) 974-5338

August 26, 1999

Kevin Dooley, Chief, Zoning
Anne Arundel County Department of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

RE: Variance 1999-0322-V, Richard Duvall

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit dwellings on lots with less width at the front building line, less lot area and less setback than required. The property is designated LDA and is currently developed with two (2) single family dwellings and a driveway.

Because two dwellings already exist on this property, this office does not oppose the variances requested. Please note that the impervious surface limit has already been exceeded on this parcel as a whole. It appears that any future development on the proposed lot 19A will require a variance from the impervious surface limits.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA425-99

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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(410) 260-3460 Fax: (410) 974-5338
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March 29, 2006

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

RE: Variance 2006-0069
James Lighthizer

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a dwelling addition with less setbacks than required. The site is IDA and is currently developed with a dwelling, deck, and driveway.

Provided this lot is properly grandfathered, we do not oppose 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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA533-02

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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March 29, 2006

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

RE: Variance 2006-0070
Zohrab & Darlene Marashlian

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow reconstruction of a dwelling in a similar footprint with less setbacks and Buffer than required. The building footprint will increase by 347 square feet. A carport, shed and above ground pool totaling 847 square feet will be removed. The site is LDA and is currently developed with a dwelling, deck, pool, shed, and carport.

Provided this lot is properly grandfathered, we do not oppose this variance. Mitigation at a ratio of 3:1 for disturbance within the Buffer should be provided. Plantings should be accommodated on site to the extent possible. Please note the site plan should indicate the carport will be removed.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA0021-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 29, 2006

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

RE: Variance 2006-0064
C. Glen & Lucy Peacock

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow mooring pilings with less setbacks than required. The site is designated Limited Development Area (LDA) and a Buffer Exemption Area (BEA) and is currently developed with a dwelling, in-ground pool, detached deck, and detached garage.

Provided this lot is properly grandfathered, we do not oppose this variance. The applicant must secure the necessary authorizations from the Department of the Environment for construction of the pier extension and mooring pilings. We have no further comments regarding 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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA309-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 28, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: XRS60030; Land of Gray & Faunce; Budd's Creek Road

Dear Ms. Dailey:

Thank you for providing revised information regarding the subdivision of Gray & Faunce to create 2 lots outside the Critical Area. Each lot will carry an outparcel that contains land within the Critical Area. I have the following comments:

- No information was provided as to rare, threatened, or endangered species. A copy of the Department of Natural Resources Wildlife and Heritage division letter must be received before final subdivision to ensure there are no adverse impacts to any such species.
- As noted on the site plan, any proposed forest clearing in the Critical Area between 20-30% requires 1.5:1 mitigation for the entire area cleared.
- The subdivision plan indicates areas of tidal wetlands on the site; however it is not clear if the wetlands are State or private tidal wetlands and how the wetlands were identified and delineated. A field delineation may be required to distinguish between State and private tidal wetlands. Documentation of the field delineation should be submitted with the plan and should describe the methodology used to determine the wetland boundary and to determine if the wetlands are State or private. State tidal wetlands cannot be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area. If development activities are proposed at a later time within the outparcels the site may not extend to the boundaries shown here.

Ms. Aimee Dailey

March 28, 2006

Page 2

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

Sincerely,

Kate Schmidt

Kate Schmidt

Natural Resource Planner

CS134-06

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

Ms. Karen Wigger
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

RE: Special Exception – Docket #1163 – Facchina Development, LLC – Mill Run Creek

Dear Ms. Wigger:

Thank you for providing revised information regarding the above referenced site plan. The applicant is requesting a special exception for surface mining approximately 138 acres for sand and gravel of a 212 acre parcel. The parcel lies partially within the Critical Area and is designated Resource Conservation Zone (RCZ).

Based on the information provided, the Critical Area Commission does not oppose the application. The Critical Area is excluded from the gravel mining operations and will not be impacted. However, the applicant must ensure that all appropriate measures are taken to ensure the Critical Area is excluded from activities. The Critical Area Boundary should be clearly marked to indicate the limit of disturbance. The nearby proposed stockpiles should be stabilized and erosion control measures in place to prevent incursion into the Critical Area.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CS179-06

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

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

RE: Variance 2006-0062-V, Deborah & Michael Fay – 7654 Berry Drive

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a dwelling addition with less setbacks and Buffer than required. The property is designated as Intensely Developed Area (IDA). The property is currently developed with a single family home and nearly entirely located within the 100-foot Critical Area Buffer. Because the property is designated an IDA, a variance for impervious surface is not necessary.

Providing this lot is properly grandfathered, we would not oppose this variance. Because this property is designated an IDA, water quality improvements must be provided to offset the proposed development. Pollutant reductions can be achieved by the utilization of stormwater best management practices or with plantings. Mitigation plantings can be used for this purpose. Plantings at a minimum of three trees or nine shrubs for every 100 square feet of the proposed development activity inside the Buffer, should be required. Stormwater should be directed to a stable vegetated outfall on the property, to provide additional water quality benefits on the site.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA174-06

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

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

RE: Variance 2006-0056-V, Nancy Hubble – Old Highlands Avenue

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a dwelling, driveway, and associate facilities with less Buffer then required. The property is designated as Resource Conservation Area (REA). The property is currently undeveloped and nearly entirely located within the 100-foot Critical Area Buffer.

This office does not oppose a variance to establish a dwelling here; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

- 1) As a matter of clarification, tidal wetlands can not be included in calculations for impervious coverage or lot clearing.
- 2) Mitigation of 1:1 should be required for disturbance outside the Buffer and 3:1 for any disturbance inside the Buffer. Because the site is fully forested, mitigation alternatives will need to be addressed. This office recommends that some plantings be used to manage and treat storm water on the site. Plantings should consist of species similar to the existing natural vegetation in the wetland.
- 3) The letter of jurisdictional determination included in the application packet was dated January 24, 2000. Jurisdictional determinations are only valid for five years.

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.

Ms. Ramona Plociennik
Variance 2006-0056
March 21, 2006
Page 2

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA0173-06

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

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

RE: Variance 2006-0053, John Shetrone – 285 Eagle Hill Road

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a single-family dwelling with disturbance to steep slopes and in the expanded Buffer. The property is currently developed with a single-family dwelling and has a split designation of Resource Conservation Area (RCA) and Limited Development Area (LDA).

Based upon the information provided, we have the following comments regarding the development proposal and variance request.

- 1) The existing structure and septic field need to be more clearly shown on the site plan. While this lot is grandfathered and has the right to develop it currently has a single-family dwelling and necessary improvements. The applicant has not provided information as to why the new septic field is necessary to be developed in the expanded Buffer.
- 2) Where is the existing well? The well shown on the site plan will disturb additional forest area. Again, the applicant needs to provide information as to why this disturbance is necessary if there is already an existing well.
- 3) Mitigation of 1.5:1 will be required for disturbance outside the Buffer and 3:1 for any disturbance inside the Buffer.
- 4) A review on MERLIN indicates the project site is located in a sensitive species project review area and a natural heritage area is nearby. There may be additional restrictions on development due to these issues. We recommend the applicant contact DNR Wildlife and Heritage.

Ms. Ramona Plociennik
Variance 2006-0053
March 17, 2006
Page 2

Without the information requested, this office is unable to complete a review of the variance request. If the information requested is provided, this office may have additional comments regarding the variance. Please contact me at (410) 260-3475 if you have any questions about my comments.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA 172-06

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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March 17, 2006

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

RE: Variance 2006-0029-V, Michell & Joan Hall

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a dwelling and deck and the construction of driveway, walks, and well with less Buffer then required. The property is designated as Limited Development Area (LDA) and a Buffer Modification Area (BMA). The property is currently undeveloped and entirely located within the 100-foot Critical Area Buffer.

We received a copy of the revised site plan from Bay Engineering on March 17th, 2006 addressing concerns outlined in our letter from March 2nd 2006. Based upon the proposed revisions and provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and associated improvements.

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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

AA0121-06

cc: Gary Evans, Bay Engineering

TTY for the Deaf

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 17, 2006

Ms. Amy Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: XRS 60019; Serenity Farms, Prince Frederick Road

Dear Ms. Dailey:

Thank you for the information regarding the subdivision of Serenity Farms to create parcels D, E, F, and G. Only Parcel F is within the Critical Area. Based upon review of the information provided, we do not oppose this subdivision. I have the following comments regarding Resource Conservation Area requirements that should be applied in this instance.

If Parcel F is to be used for residential development 15% afforestation will be necessary since there is no forest within the Critical Area. The portion of Critical Area remaining in agricultural use should have a Water Quality and Soil Conservation plan. The Commission has received a copy of the letter from the Wildlife and Heritage Service stating that no records of Federal or State rare, threatened, or endangered plants or animals exist for this project site.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CS893-03

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

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

RE: Variance 2006-0052, Pierre Filipowicz – 1254 Hillside Road

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow an addition to an existing accessory structure with less setback than required. The property is designated Limited Development Area (LDA). The property is currently developed with a single-family dwelling and garage.

Based on the information provided, we have no comments regarding the setback 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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

AA 171-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 16, 2006

Joseph Johnson
Zoning Administrator
Office of Planning and Zoning
129 E. Main St., Room 300
Elkton, MD 21921

RE: Local Case #3210, Mark and Jodie Gray (Variance)

Dear Mr. Johnson:

I have received the above-referenced variance request to construct a single-family dwelling with greater impervious coverage than is allowed. The property is 17,727 square feet in size, is designated as an LDA, and is currently undeveloped. Based on this information, I have outlined our comments below.

As a preliminary note, the Commission would like to bring to your attention the need for the applicant to apply for a separate variance to construct the deck. The established setback should be determined based upon the closest waterward portion of the entire structure. As it is currently proposed, the deck does not meet the minimum 42 foot setback requirement because on the site plan it is 37 feet from tidal wetlands.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this case, the applicant is proposing develop the property to 35% impervious coverage, with a single family dwelling and attached screened-in porch. Under the law as established by the General Assembly, parcels or lots one-half acre in size or less that existed on or before December 1, 1985 are limited to impervious surface coverage of 25% of the lot size, however limits may increased by an additional 25% up to 31.25% if applicants can demonstrate minimized impacts and on-site mitigation. The variance to this coverage cannot be granted unless the applicant proves, and the Board finds, that without the variance, the applicant would suffer an unwarranted hardship, that is "denial of reasonable and significant use of the entire parcel or lot." We do not believe that the standard above is met in this case, and accordingly the variance should be denied. I have discussed each one of the County's variance standards below as it pertains to this site:

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.* This is a .40 acre lot, with opportunity to construct a reasonable sized-dwelling, enclosed porch, and driveway that would meet the 31.25% impervious surface requirement. Enclosed porches are impervious. Given the information on the site plan, the applicant is asking for an additional 750 square feet of impervious surface. In contrast, if he can meet the provisions of the Cecil County Zoning ordinance regarding Article XI, §200.9, he is allowed 5,540 square feet of impervious coverage. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor.
2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.* The applicants have a reasonable use of this property for residential purposes, and therefore, they would not be denied a right commonly enjoyed by their neighbors. From a review of the application we believe that there is opportunity to construct the dwelling in a manner that meets the 31.25% impervious surface limit and remains consistent with the Cecil County Critical Area Regulations. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.
3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.* If the variance is granted, it would confer upon the applicant a special privilege that would be

denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to increase impervious surface limits beyond what has been established as law by the General Assembly would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

4. *The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.* According to the application submitted by the applicant and supplemental information from County staff, it is our understanding this variance request is not based upon conditions or circumstances that area result of actions by the applicant, or arise from any neighboring conforming condition.
5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.* In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in impervious surface from 0 to 35% and consequential disturbance to the land results in increased stormwater and sediment runoff with the Buffer and the loss of essential infiltration opportunities. In addition, a significant portion of the proposed project will occur within the 100-foot Critical Area Buffer. While the lot is grandfathered and Buffer Exempt, the County zoning regulations under Article XI, §200.9 are clear that the impervious surface coverage limit in this situation is 31.25% and site design must still minimize water quality impacts and provide on-site mitigation to offset potential adverse water quality impacts from the new impervious surfaces. Given that there is ample opportunity to meet the above standard, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny this application.

Mr. Joseph Johnson
Variance Local Case #3210
March 16, 2006
Page 4

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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CE106-06

cc: Marianne Mason, Assistant Attorney General

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 16, 2006

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

Re: Raynor Property – 06-002

Dear Ms Stauss:

I have received the above-referenced variance request to permit a deck approximately 590 square feet in size in the 100-foot Buffer. Provided the lot is properly grandfathered, this office does not oppose this request. If the County finds this variance can be granted, we recommend mitigation be performed as prescribed by County staff for the area disturbed in the Buffer. The deck should be constructed to be pervious with a gravel substrate and vegetative stabilization around the perimeter.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
BC153-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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March 16, 2006

Ms. Elsa Ault
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: SFD 60133 Clifton on the Potomac, Lot 11

Dear Ms. Ault:

Thank you for providing revised information regarding the above referenced site plan. The applicant is requesting a building permit to construct a single-family dwelling. The property lies within a designated Limited Development Area (LDA), Habitat Protection Area (HPA), and is currently undeveloped.

Based on the information provided, it is my understanding that the proposed development activities will occur approximately 750 feet from the location of an existing Bald Eagle's Nest. As such, the property lies within Zone 3 of the Bald Eagle protection zones. In accordance with the recommendations of the Department of Natural Resources (DNR), and those found within the County's zoning ordinance, the applicant has agreed to limit construction activities to the non-breeding season for Bald Eagles. Based on this information we do not oppose the granting of a building permit.

However, we note that approximately 75% of the existing forest cover will be removed. It would appear from the site plan that this amount may be reduced and still accommodate the septic field. The amount of forest cleared should be minimized to reduce impacts. Additionally, the amount of forest to be mitigated indicated on the site plan is incorrect. Given the lot is 100% forested all of the proposed 11,626 square feet of disturbance must be replaced at the 3:1 ratio. 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,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CS149-06

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

March 8, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: SFD 60133 Clifton on the Potomac, Lot 11

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 single-family dwelling. The property lies within a designated Limited Development Area (LDA), Habitat Protection Area (HPA), and is currently undeveloped.

Based on the information provided, it is my understanding that the proposed development activities will occur approximately 750 feet from the location of an existing Bald Eagle's Nest. As such, the property lies within Zone 3 of the Bald Eagle protection zones. In accordance with the recommendations of the Department of Natural Resources (DNR), and those found within the County's zoning ordinance, the applicant has agreed to limit construction activities to the non-breeding season for Bald Eagles. Based on this information we do not oppose the granting of a building permit.

However, we note that approximately 75% of the existing forest cover will be removed. It would appear from the site plan that this amount may be reduced and still accommodate the septic field. The amount of forest cleared should be minimized to reduce impacts. Additionally, the amount of forest to be mitigated indicated on the site plan is incorrect. Given the lot is 100% forested all of the proposed 11,626 square feet of disturbance must be replaced at the 3:1 ratio. 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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CS149-06

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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1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

March 7, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P.O. Box 2150
La Plata, MD 20646

**RE: RAD#60032; 11260 Keokee Ct.
TM 86, Parcel 6, Lot 186**

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting a building permit to construct an addition to an existing single family dwelling. The property is within a designated Limited Development Area (LDA) and Buffer Exemption Area (BEA) for Swan Point. The proposed construction activity would take place within the 100-foot Critical Area Buffer.

Based on the materials provided we have the following comments:

- We recommend the applicant reduce the size of the proposed addition in order to meet the guidelines for impervious coverage and expansion of existing structures described in Appendix B, Charles County Critical Area Program, regarding Buffer Exemption Areas within Swan Point.
- Based on regulations set forth in the Charles 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 recommendations for the protection of these species. Please have the applicant coordinate further with DNR to determine the type of species present. If a Habitat Protection Plan (HPP) is required, this must be addressed prior to granting a building permit.

Thank you for the opportunity to provide comments for this building permit request. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CS 136-06

TTY for the Deaf

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

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

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

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March 7, 2006

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

RE: Variance 2006-0031-V, M. Vernon

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling with less setbacks than required and with disturbance to steep slopes. The property is designated Limited Development Area (LDA). The property is currently undeveloped.

Provided this lot is properly grandfathered, this office does not oppose a variance to establish a dwelling on it; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

1. As indicated on the site plan, most of the lot contains steep slopes. We recognize that a variance is necessary to permit development of the property.
2. As stated in Anne Arundel County Code § 17-8-601 (b), clearing on lots in the LDA of one-half acre or less in existence before December 1, 1985 may not exceed 20% of the lot, except that the Office of Planning and Zoning may approve clearing up to 30%. The proposed site plan indicates 26% of the entirely forested lot will be cleared. To any further extent possible, we recommend that the applicant minimize the proposed amount of clearing. Off-site mitigation should be provided at a ratio of 1.5 to 1.

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

Ms. Ramona Plociennik
Variance 2006-0031-V
March 7, 2006
Page 2

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
AA 122-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
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Ren Serey
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March 2, 2006

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

RE: Variance 2006-0033-V, William MacQuilliam

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow pilings with less setbacks than required. The property is designated Limited Development Area (LDA). The property is currently developed with a single-family dwelling and garage.

Based on the information provided, we have no comments regarding the setback 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,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

AA 123-06

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. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2006-0029-V, Michell & Joan Hall

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to permit the construction of a dwelling and deck and the construction of driveway, walks, and well with less Buffer than required. The property is designated as Limited Development Area (LDA) and a Buffer Modification Area (BMA). The property is currently undeveloped and entirely located within the 100-foot Critical Area Buffer.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and associated improvements. However, several issues should be addressed regarding the current development proposal.

- 1) The site plan shown on Sheet 2 does not match the site plan shown on Sheet 3. This makes it difficult to determine the proposed limits of disturbance and the proposed impervious coverage. If a deck is to be included in the proposal it should be constructed of pervious materials, with a gravel substrate and vegetative stabilization. Disturbance should be minimized to the extent practicable; the applicant may want to develop only 1 driveway as opposed to 2.
- 2) The site plan shows a portion of the lot as below mean high water. Any land below mean high water is considered to be part of waters of the State, and cannot be included in lot acreage for impervious surface limits and forest clearing limits. The allowable impervious surface is correct on the grading plan and incorrect on the cover sheet. The afforestation requirement is 1778 square feet, not 1953 square feet as noted on the variance plan.

Ms. Ramona Plociennik
Variance 2006-00299-V Jerome and Patrina Clark
February 28, 2006
Page 2

- 3) The current proposed Buffer mitigation plan is insufficient. Given the limited existing vegetation, plantings should be first directed waterward of the dwelling and consist of multi-story vegetation of trees, shrubs, and ground cover.
- 4) Stormwater from dwelling and driveway should be directed to stable vegetated outfalls to provide water quality benefits on the site.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
cc: AA0121-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

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March 1, 2006

Ms. Angela Willis
State Highway Administration
PO Box 717
707 North Calvert Street
Baltimore, MD 21202

**Re: General Approval for Bridge No. 8037, MD 234 – Allens Fresh Run
DOT 7-06**

Thank you for providing the project information and maps for the above referenced project. State Highway Administration will be conducting in-kind replacement of the existing deck and minor repair of the substructure.

While the proposed project may qualify under the Conditions for General Approval of SHA projects, we are uncertain from the information provided if habitat protection concerns could be an issue. We advise you to contact the Natural Heritage Program and provide us with that information for our review.

If you have any questions please contact me at (41) 260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner
DOT 7-06

TTY for the Deaf

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March 1, 2006

Ms. Angela Willis
State Highway Administration
PO Box 717
707 North Calvert Street
Baltimore, MD 21202

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If you have any questions please contact me at (41) 260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner
DOT 7-06



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February 24, 2006

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P.O. Box 2150
La Plata, MD 20646

**RE: SFD 06-0080 Burley Residence Site Plan
TM 20, Parcel 16, Lot 1**

Dear Ms. Dailey:

Thank you for providing information on the above referenced site plan. The applicant is requesting approval of a building permit to construct a single-family dwelling. The property lies within a designated Limited Development Area (LDA) and is currently undeveloped.

Based on the materials provided I have the following requests for additional information:

1. Per your comments #1 and #3 we concur that the site plan and site calculations will need to be amended appropriately. In addition, we would like to mention that the Critical Area Buffer should be shown accurately on the site plan and that if any changes in topography have occurred on site after subdivision approval the Buffer line should be updated accordingly.
2. As stated in comment #8 and #9, the site plan should accurately show the existing forested area and the proposed limits of disturbance. These should match the information provided in the Critical Area notes in order for the Commission to make an accurate assessment. It would be useful to have additional information provided in note #7 in order to determine the appropriate replanting regime.

Additionally, as noted in comment #4, the construction or placement of a driveway within the Critical Area Buffer is not a permitted use and would require a variance. The Critical Area Commission would not support the granting of a variance and concur that the driveway should be re-located outside of the Buffer.

Thank you for the opportunity to provide comments for this building permit request. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
CS 55-06