



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

April 27, 2007

Mr. Nathaniel K. Brown, Principal Planner  
Office of Harbor Development  
Maryland Port Administration  
2310 Broening Highway  
Baltimore, MD 21224

RE: Timber Debris Removal at Masonville Cove

Dear Mr. Brown:

This office is in receipt of the plans and specifications for the removal and disposal of timber debris from the shoreline along the eastern shoreline of Masonville Cove. Based on the specifications, it is our understanding that the currently proposed work is limited to the timber removal and any necessary stabilization. Further, as specified in the conditions placed on the approval of the mitigation plan for the Masonville DMCF, we understand that specific planting plans for these areas are being developed and will be submitted to the Commission for review and approval prior to implementation. In addition, once the timbers are removed, the areas will be surveyed to provide more accurate acreage figures for the mitigation "balance sheet."

Provided the above understanding of the current proposal is consistent with the Port's intent, it will not be necessary to bring this preliminary work proposal to the full Critical Area Commission for review and approval. Please forward the formal plan and schedule for planting these areas to the Commission for review and approval as soon as they are finalized.

If you have any questions, or if our understanding of the current request is incorrect, please contact me at (410) 260-3477. Thank you for continued cooperation.

Sincerely,

Lee Anne Chandler  
Science Advisor

cc: Meg Andrews, (MDOT)  
Michael W. Bozman, PE (MPA)  
Pete Kotulak, PE (Moffatt & Nichol)





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March 29, 2007

Ms. Helen Spinelli  
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 Ms. Spinelli:

Thank you for providing the revised 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 and is 0.18 acres in size.

The applicant proposes to address the 10% pollutant reduction requirement via payment of a fee-in-lieu. While on-site treatment or offsets (such as extra plantings) are preferable, we defer to the local stormwater authority in deciding to accept a fee or not. If the County does accept a fee, it must be kept in a fund specific to Critical Area stormwater projects.

Please note however, that the adjacent wetland along the northern boundary of the property is mapped as tidal rather than non-tidal. If the wetland is tidal, a 100-foot Buffer must be measured from its landward edge and the proposal may need a Buffer variance. This must be resolved prior to concept plan approval.

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: QC3-06





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March 29, 2007

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

RE: Major Site Plan, Maryland General Land Co., LLC  
MASP# 04-06-11-0008-C – FINAL SITE PLAN, Revision #3

Dear Ms. Spinelli:

This office is in receipt of Revision #3 of the final site plan for the above referenced project. I have reviewed the information provided. The applicant proposes 6 commercial buildings with associated parking, access and stormwater management on an IDA site that is partially within the Critical Area. The subject lot is Lot 2 of a commercial subdivision.

The 10% calculations provided, including the attached hand-written pages, indicate compliance with the 10% pollutant reduction requirement. In addition, the landscape plan meets the condition included in the Commission's approval of the growth allocation. This office has no further concerns regarding this project.

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

Sincerely,

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

LeeAnne Chandler  
Science Advisor

cc: QC498-05





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March 29, 2007

Ms. Jean Fabi  
Queen Anne's County Planning & Zoning  
160 Coursevall Drive  
Centreville, MD 21617

RE: Corsica River Sailing Center – Revision #1

Dear Ms. Fabi:

This office is in receipt of revised plans for the proposed access road and turn-around on County land that is leased by the Corsica River Yacht Club. Commission staff also visited the site with the applicants, Nancy Scozzari of Recreation and Parks, and Lee Schnappinger of McCrone, Inc. We understand that the applicants are requesting a public service exemption under Chapter 18. However, Critical Area requirements will still apply even if an exemption is granted.

The project can be handled in one of two ways, depending upon a determination of consistency with the County's Critical Area ordinance. If the project is determined by the Planning Department to be consistent with Chapter 14:1, then documentation of that consistency determination must be provided to the Commission for verification (see enclosed COMAR 27.02.02 ). If the project is not found to be consistent with all applicable provisions, the applicant may seek a conditional approval from the Critical Area Commission (see enclosed COMAR 27.02.06).

With the understanding that necessary MDE permits are pending, Commission staff has reviewed the most recent information and we have the following comments:

1. The project must meet all of the provisions of Chapter 14:1-39, Development Standards in Resource Conservation Areas. This includes the 15% impervious surface limit, protection of steep slopes, limits on forest/woodland clearing and protection of Habitat Protection Areas. Habitat Protection Areas include the Buffer as well as any other habitats that may be identified by the Heritage Program with the Department of Natural Resources. Documentation from the Department of Natural Resources has not been provided.

Ms. Jean Fabi  
March 29, 2007  
Page 2 of 2

2. In addition, the project, as a "public beach or other water-oriented recreation or education area", must be consistent with Chapter 14:1-46. Such facilities may be permitted in the Buffer in the RCA provided that adequate sanitary facilities exist (among other things). It is not clear if sanitary facilities exist or are proposed in the vicinity of this site. This should be verified.
3. In order to qualify as a public water-oriented recreation area, the County should document how the proposed facility meets the legal definition of "public" given the lease and operation of the site by the Corsica River Yacht Club.
4. Impacts to the Buffer must be minimized and any permitted impacts mitigated on a minimum 2 to 1 ratio for the footprint of disturbance. A Buffer mitigation plan must be provided.
5. As we discussed in the field, a restoration plan for the area of *Phragmites* control should be provided.
6. We have concerns about the long-term viability of the gravel surface with the sand substrate. A significant storm event could easily inundate much of the access road. Waves hitting along the hardened outer edge of the circle could cause significant scouring and create an erosion problem when one does not currently exist.
7. Lastly, a Buffer violation occurred on this property in 2005 and mitigation at a 3:1 ratio was required. During our site visit, it was apparent that many of the trees planted were dead or dying. Before permitting additional development, we strongly recommend that dead or dying trees be replaced at the cost of the Yacht Club.

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

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: Tressa Ellis, MDE  
Nancy Scozzari  
QC721-06

# Title 27

## CHESAPEAKE BAY CRITICAL AREA COMMISSION

### Subtitle 02 DEVELOPMENT IN THE CRITICAL AREA RESULTING FROM STATE AND LOCAL AGENCY PROGRAMS

#### Chapter 02 State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions

Authority: Natural Resources Article, § 8-1814, Annotated Code of Maryland Definition.

##### **.01 Definition.**

"Local significance" means development of a minor scale which:

- A. Causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which the development is located;
- B. Does not substantially affect the Critical Area Program of the local jurisdiction; and
- C. Is not considered by the Commission as major development as defined in COMAR 27.02.04.

##### **.02 Criteria.**

A. Development of local significance on private land or lands owned by local jurisdictions, which is caused by State or local agency actions, shall be consistent with the provisions and requirements of the Critical Area Program of the local jurisdiction within which the development is proposed.

B. Before initiating or approving these actions, the State or local agency shall obtain certification from the appropriate agency within the local jurisdiction that the actions are consistent with the local Critical Area Program. A description of the proposed development and the request for local certification shall be submitted to the Commission.

C. If the Commission determines that the proposed development is major development as defined in COMAR 27.02.04, then the Commission will review, and may give approval to, the projects according to the provisions of that chapter. The Commission shall notify a local jurisdiction within 15 days of receipt of the request for local certification if it determines that the project is a major development.

D. Copies of the local jurisdiction's approval or denial of certification shall be filed with the Commission.

E. If a local jurisdiction denies certification, then the proposed development may not occur. However, State agencies may appeal denials to the Commission according to the procedures set forth in COMAR 27.02.08.

#### Administrative History

Effective date: June 11, 1988 (15:7 Md. R. 852), COMAR 14.19.02 recodified to COMAR 27.02.02 in August, 1992

# **Title 27 CHESAPEAKE BAY CRITICAL AREA COMMISSION**

## **Subtitle 02 DEVELOPMENT IN THE CRITICAL AREA RESULTING FROM STATE AND LOCAL AGENCY PROGRAMS**

### **Chapter 06 Conditional Approval of State or Local Agency Programs in the Critical Area**

**Authority: Natural Resources Article, § 8-1814,  
Annotated Code of Maryland**

#### **.01 Criteria.**

A. If development is proposed to be undertaken or caused in the Critical Area by State or local agency actions and this development is prohibited from occurring by the criteria in this subtitle, the agency proposing the development may seek conditional approval for the project or program from the Commission.

B. In order to qualify for consideration by the Commission for conditional approval, it shall be shown by the proposing or sponsoring agency that the project or program has the following characteristics:

(1) That there exist special features of a site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;

(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program; and

(3) That the project or program is otherwise in conformance with this subtitle.

C. The conditional approval request shall, at a minimum, contain the following:

(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;

(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; and

(3) Measures proposed to mitigate any adverse effects of the project or program on an approved local Critical Area Program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05.

D. The Commission shall hold a public hearing on any request for conditional approval in accordance with the requirements of COMAR 27.02.07.02 and .03.

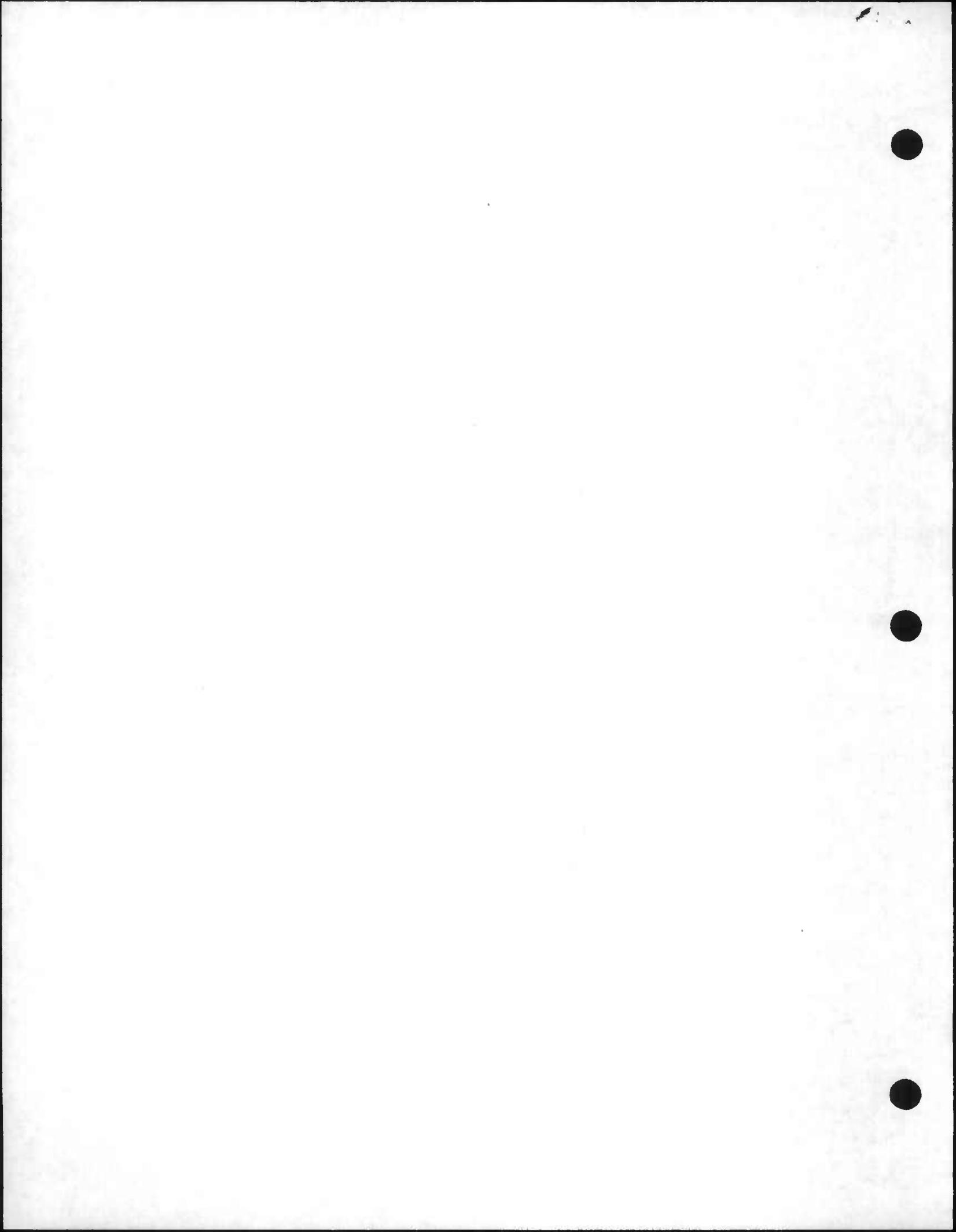
E. The Commission shall approve, deny, or request modifications to the request for conditional approval based on the following factors:

(1) The extent to which the project or program is in compliance with the requirements of the relevant chapters of this subtitle;

(2) The adequacy of any mitigation measures proposed to address the requirements of this subtitle that cannot be met by the project or program; and

(3) The extent to which the project or program, including any mitigation measures, provides substantial public benefits to the overall Chesapeake Bay Critical Area Program.

F. Appeal of the Commission's decision may be made according to the procedures set forth in COMAR 27.02.08.





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March 15, 2007

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

RE: Delmarva Discovery Center Restaurant

Dear Mr. Blake:

Our office is in receipt of the proposed plans for the Delmarva Discovery Center Restaurant to be located at 6 Market Street in downtown Pocomoke City. While the project is located in the area of the City excluded from the requirement to adopt a Program under the Critical Area Law, Resolution No. 174 of the Mayor and Council (enclosed) requires the City government and its agencies to follow the Critical Area Criteria insofar as possible whenever redevelopment projects are located within 1,000 feet of the Pocomoke River. We have a number of concerns regarding the proposed project as outlined below:

1. If the project site were located in the Critical Area, it would likely be considered an Intensely Developed Area or IDA. The primary Critical Area requirement in the IDA is the requirement to provide a 10% improvement over existing conditions from a water quality standpoint. In most instances, compliance with the Maryland Department of the Environment's stormwater regulations will also achieve compliance with the 10% requirement. It is our understanding that there is no stormwater management proposal for this project. This is inconsistent with the Critical Area Criteria and other state regulations.
2. The other primary requirement in the IDA is the protection of the 100-foot Buffer and other Habitat Protection Areas. Given the existing roadway that runs parallel to the Pocomoke River in the vicinity of the site, the site could possibly qualify as a Buffer Exemption Area. The requirements in Buffer Exemption Areas typically are more flexible as an acknowledgement of existing conditions. Setbacks from the water are typically modified but any impacts within 100 feet of the water are mitigated in some way. The proposal does not appear to minimize the impacts to the Buffer. The

Mr. Russell Blake  
March 15, 2007  
Page 2 of 2

building and attached decks are proposed up to the edge of the existing dock along the water without leaving any green space whatsoever.

3. The proposal is clearly inconsistent with the Critical Area criteria and mitigation is needed to address its shortcomings. Given the public nature of the proposed "Discovery Center," there appear to be ideal opportunities to educate the public about protecting the water quality and habitats of the Pocomoke River and its watershed. Stormwater management and Buffer mitigation can be used as demonstration projects to show that everyone can do their part in restoring the Bay and its tributaries. We recommend that a significant mitigation component be added to the proposal.

If you have any questions or concerns regarding the contents of this letter or if you would like to set up a meeting to discuss alternatives for addressing the issues raised in this letter, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: Bruce A. Morrison, Worcester Commission Representative  
Bob Shockley, Worcester SWM Review  
Lisa Challenger, Worcester County Tourism  
Charles W. Bowen, ALA  
PC12-07

RESOLUTION NO. 174

A RESOLUTION OF THE MAYOR AND COUNCIL OF POCOMOKE CITY, MARYLAND  
CONCERNING WATER QUALITY AND RE-DEVELOPMENT ALONG THE  
POCOMOKE RIVER.

WHEREAS, the City has taken many positive steps over the past several years to enhance and protect water quality of the Pocomoke River which may be affected by activities near its banks; and

WHEREAS, the Mayor and Council are in full agreement with the objectives and goals of the Maryland Chesapeake Bay Critical Areas legislation and related Criteria;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF POCOMOKE CITY, MARYLAND that the City government and its agencies will follow the Chesapeake Bay Critical Areas Criteria, insofar as possible whenever redevelopment occurs in the future within one thousand feet (1000') of the Pocomoke River or its wetlands; and

BE IT FURTHER RESOLVED that this resolution be attached to the City's Zoning Code and that property owners be provided copies of same when redevelopment is proposed in that area.

January 4, 1988  
Date Introduced

January 4, 1988  
Date Passed

K.P. Wickham  
Council Vice President

APPROVED BY ME THIS 11th DAY  
OF January, 1988.

ATTEST:

James K. Stewart  
City Clerk

Constance L. Stewart  
Mayor

Passed as an Emergency Resolution.





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March 9, 2007

Ms. Sharon Alderton  
State Highway Administration  
707 North Calvert Street  
Baltimore, MD 21202

RE: MD 16 from MD 335 to Brannocks Neck Road, Dorchester County

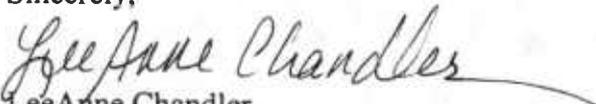
Dear Ms. Alderton:

This office is in receipt of the hydraulics report for the above referenced project in the town of Church Creek in Dorchester County. As you may recall, I had requested the information to confirm that the project qualified for General Approval under the Memorandum of Understanding between the Department of Transportation and the Critical Area Commission.

Based on a review of the information provided, Commission staff's concerns as stated in my e-mail of February 6, 2007 have been allayed. The hydraulics report demonstrates that stormwater runoff quantity will not be changed by the proposed drainage improvements. We appreciate SHA's prompt, comprehensive response to our questions. We concur that the proposal qualifies for General Approval as a minor project under the MOU.

Thank you for your assistance.

Sincerely,

  
LeeAnne Chandler  
Science Advisor

cc: Daniel Reagle  
DOT18-06





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March 9, 2007

Ms. Patricia J. Gaynor, PE  
Maryland Port Administration  
2310 Broening Highway  
Baltimore, MD 21224

RE: Mitigation Proposal for Masonville Cell 5 Expansion

Dear Ms. Gaynor:

Commission staff is in receipt of the final planting plan for the mitigation associated with the completed work on Cell 5 at Masonville Marine Terminal. The proposed planting will occur at Hawkins Point Marine Terminal on MPA-owned property.

We have reviewed the information provided including the planting plan and schedule. The proposed species are native to Maryland and stocking size and rate are consistent with the Commission's guidance. The plan is acceptable and we will include the plan in the Cell 5 project file. Please notify us when planting is complete. We will schedule an inspection after the first and second growing seasons to confirm survival.

Thank you for your prompt response to our concerns regarding outstanding mitigation. If you have any questions, or if there are changes to the mitigation proposal as submitted, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: Michael W. Bozman, PE (MPA)  
Rob Filippi, WBCM





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March 8, 2007

Mr. Nathaniel K. Brown, Principal Planner  
Office of Harbor Development  
Maryland Port Administration  
2310 Broening Highway  
Baltimore, MD 21224

RE: Masonville Dredged Material Containment Facility – Mitigation Package

Dear Mr. Brown:

At its meeting on March 7, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed mitigation package for the Masonville Dredged Material Containment Facility with the following three (3) conditions:

1. Specific details for the Buffer mitigation projects, including exact acreages, planting plans and schedules will be finalized and submitted to the Critical Area Commission for review and approval on a contract by contract basis.
2. Any aquatic mitigation project that involves development activity on uplands within the Critical Area will be submitted to the Critical Area Commission for review and approval.
3. The MPA will provide an updated mitigation “balance sheet” for Masonville DMCF if acreages of impact or mitigation change when designs of each stage of construction and mitigation are finalized.

We appreciate the assistance of Port staff and consultants in providing information to facilitate Commission review. If you have any questions or concerns regarding the Commission’s approval or the next steps, please contact me at (410) 260-3477.

Sincerely,

Lee Anne Chandler  
Science Advisor

cc: Meg Andrews, (MDOT)  
Stephen E. Storms, Ph.D (MPA).  
Michael W. Bozman, PE (MPA)  
Mark C. Kreafler, Sr., PE (MPA)  
Kristen Gaumer, PE (Moffatt & Nichol)





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March 8, 2007

Ms. Patricia J. Gaynor, PE  
Maryland Port Administration  
2310 Broening Highway  
Baltimore, MD 21224

RE: Waterline Relocation Phase 1 (Masonville DMCF Preparation)

Dear Ms. Gaynor:

At its meeting on March 7, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed relocation of the existing 48" waterline in preparation for the Masonville Dredged Material Containment Facility. This approval was granted without conditions.

Please note that a debit of 0.04 lbs should be noted on the Port's Institutional Plan for Stormwater for this project.

We appreciate the assistance of Jesse Lindsay and Rob Filippi of Whitney, Bailey, Cox & Magnani, LLC in providing timely information to facilitate Commission review. If you have any questions or concerns regarding the Commission's approval, or if changes are made to the project as approved, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: Meg Andrews, (MDOT)  
Stephen E. Storms, Ph.D (MPA).  
Michael W. Bozman, PE (MPA)  
Mark C. Kreamle, Sr., PE (MPA)  
Jesse Lindsay, PE (WBCM)  
Phil Lee, PE (Moffatt & Nichol)





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March 8, 2007

Ms. Patricia J. Gaynor, PE  
Maryland Port Administration  
2310 Broening Highway  
Baltimore, MD 21224

RE: Fairfield Bulkhead Demolition

Dear Ms. Gaynor:

At its meeting on March 7, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed demolition of the existing concrete bulkhead at the Fairfield Marine Terminal with subsequent stabilization of the area with a revetment. This approval included one condition as follows:

**“Prior to commencement of construction, the Maryland Port Administration shall obtain all necessary authorizations from the Maryland Department of the Environment.”**

When received, please provide a copy of the MDE authorizations for our files. Also, a debit of 0.21 pounds should be noted on the MPA’s Institutional Plan for Stormwater for this project.

We appreciate the assistance of Jesse Lindsay and Rob Filippi of Whitney, Bailey, Cox & Magnani, LLC in providing timely information to facilitate Commission review. If you have any questions or concerns regarding the Commission’s approval, or if changes are made to the project as approved, please contact me at (410) 260-3477.

Sincerely,

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

LeeAnne Chandler  
Science Advisor

cc: Meg Andrews, (MDOT)  
Stephen E. Storms, Ph.D (MPA).  
Michael W. Bozman, PE (MPA)  
Mark C. Kreamle, Sr., PE (MPA)  
Jesse Lindsay, WBCM  
Phil Lee, PE (Moffat & Nichol)





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March 6, 2007

Mr. Duncan Stuart  
Department of Planning  
417 E. Fayette St. 8th Floor  
Baltimore, MD 21202-3416

RE: Inner Harbor Marina, 400 Key Highway

Dear Mr. Stuart:

Thank you for providing the above referenced site plan and supporting documentation to our office for review. The site is within the Critical Area with an IDA designation. All of the proposed work is over water as the project is reconstruction of an existing marina. Commission staff reviewed the information provided.

The 10% calculations indicate a removal requirement of 0.38 pounds. Since it is impractical to construct a best management practice on the site, we agree that payment of a fee-in-lieu is appropriate. Provided that payment is provided and that all work is done in a manner consistent with the approved MDE permit, the project appears consistent with the City's Critical Area Program.

Thank you for providing the consistency report for our review. If the project changes or if you have any questions, feel free to contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: BA103-07





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March 5, 2007

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

RE: Major Site Plan, Maryland General Land Co., LLC  
MASP# 04-06-11-0008-C – FINAL SITE PLAN, Revision #2 – REVISED COMMENTS

Dear Ms. Spinelli:

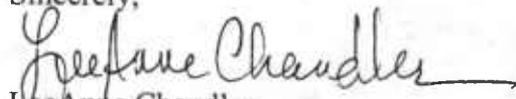
This office is in receipt of Revision #2 of the final site plan for the above referenced project. I have reviewed the information provided. The applicant proposes 6 commercial buildings with associated parking, access and stormwater management on an IDA site that is partially within the Critical Area. The subject lot is Lot 2 of a commercial subdivision.

Today, Mr. Tom Davis of DMS & Associates provided revised 10% calculations addressing our 10% concerns in our letter of March 2, 2007. The site area is based on the entirety of the Maryland General Land Company commercial subdivision that has received growth allocation (5.6 acres). The calculations indicate that the applicant has adequately addressed the 10% pollutant reduction requirement.

The site plan indicates some removal of trees within the Critical Area along Route 50/301. Please verify that the landscape plan addresses replacement of these trees. Please also note that the landscape schedule includes the botanical names of species twice instead of providing the common name.

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

Sincerely,

  
LeeAnne Chandler  
Science Advisor

cc: QC498-05





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March 2, 2007

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

RE: Major Site Plan, Maryland General Land Co., LLC  
MASP# 04-06-11-0008-C – FINAL SITE PLAN, Revision #2

Dear Ms. Spinelli:

This office is in receipt of Revision #2 of the final site plan for the above referenced project. I have reviewed the information provided. The applicant proposes 6 commercial buildings with associated parking, access and stormwater management on an IDA site that is partially within the Critical Area. The subject lot is Lot 2 of a commercial subdivision.

Commission staff reviewed the 10% calculations provided. While they do show compliance with the 10% requirement for the subject site and the Kay Wilson site, they do not properly include Lot 7 of the commercial subdivision. The 10% calculations should be based upon a new development scenario for the Critical Area portion of the Maryland General Land Company commercial subdivision that has received growth allocation. Based upon Commission files, the three growth allocation petitions add up to 5.585 acres. Please resubmit 10% calculations based upon this acreage.

The site plan indicates some removal of trees within the Critical Area along Route 50/301. Please verify that the landscape plan addresses replacement of these trees. Please also note that the landscape schedule includes the botanical names of species twice instead of providing the common name.

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

Sincerely,

  
LeeAnne Chandler  
Science Advisor

cc: QC498-05





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

February 23, 2007

Mr. Gary Letteron  
Department of Planning  
417 E. Fayette St. 8th Floor  
Baltimore, MD 21202-3416

RE: Site Plan, Tulkoff Food Products, Holabird Industrial Park

Dear Mr. Letteron:

Thank you for providing information on the above referenced site plan. The applicant proposes to redevelop an existing parcel with a food processing facility. The site is 5.88 acres in size, with 3.965 acres in the Critical Area. It is not waterfront. Commission staff has reviewed the information provided and we have the following comments:

1. The 10% calculations provided indicate a removal requirement of 2.826 lbs/year that is proposed to be addressed via removal of impervious surface, a surface sand filter that will treat on and off-site areas, and a fee-in-lieu for the remaining requirement. We have several concerns about the method of calculations as follows:

Credit for Removal of Impervious Surfaces There are two ways to calculate the credit for removing impervious surfaces. First, the amount of impervious being removed can be subtracted from the proposed impervious area in column b of Step 1 in the calculations. A reduced  $I_{post}$  will result in a reduced  $L_{post}$ , lowering the Removal Requirement (RR). (See the enclosed 10% worksheet marked "Method 1".) The second method of calculating credit for removal of impervious is to use Worksheet A with an  $I_{pre}$  of 100 and an  $I_{post}$  of 0 (zero). This is how the applicant calculated the credit in the worksheets submitted (and is how I previously advised it to be done). However, the load from an area after impervious is removed does not go down to zero. Instead, there is a benchmark load for undeveloped areas of 0.5 lbs/acre. (This is used in the new development option of calculating  $L_{pre}$ .) So instead of providing 1.228 lbs of credit, removal of 0.528 acres of impervious will provide 0.964 lbs, i.e.,  $1.228 - (0.5 \text{ lbs/ac})(0.528 \text{ ac})$ .

Mr. Gary Letteron  
February 23, 2007  
Page 2 of 2

Calculating Removal from Off-site Drainage Areas The site plan does not show the proposed surface sand filter or the drainage areas that reach it. This credit should be given only if the areas are truly existing off-site, rather than on-site but outside of the Critical Area. The off-site drainage should be shown and confirmed.

2. Notwithstanding the above issues, it appears that there is available space on site to treat additional stormwater. The sand filter is treating just 15% of the site and it seems that there is room for an additional BMP along the eastern boundary of the property (between the proposed building and Oak Avenue) or along the western boundary of the property. We recommend that additional treatment on site be explored before accepting a fee-in-lieu.
3. We recommend replacing the proposed Japanese Black Pine with a native evergreen such as Virginia, Loblolly or White pine, American Holly, or Atlantic White Cedar.

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

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: BA88-07



STATE OF MARYLAND  
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**MEMORANDUM**

**TO:** James W. Price, Program Open Space  
**FROM:** LeeAnne Chandler  
**DATE:** February 20, 2007  
**RE:** POS# 4988-17-140, Matapeake Terminal, Queen Anne's County

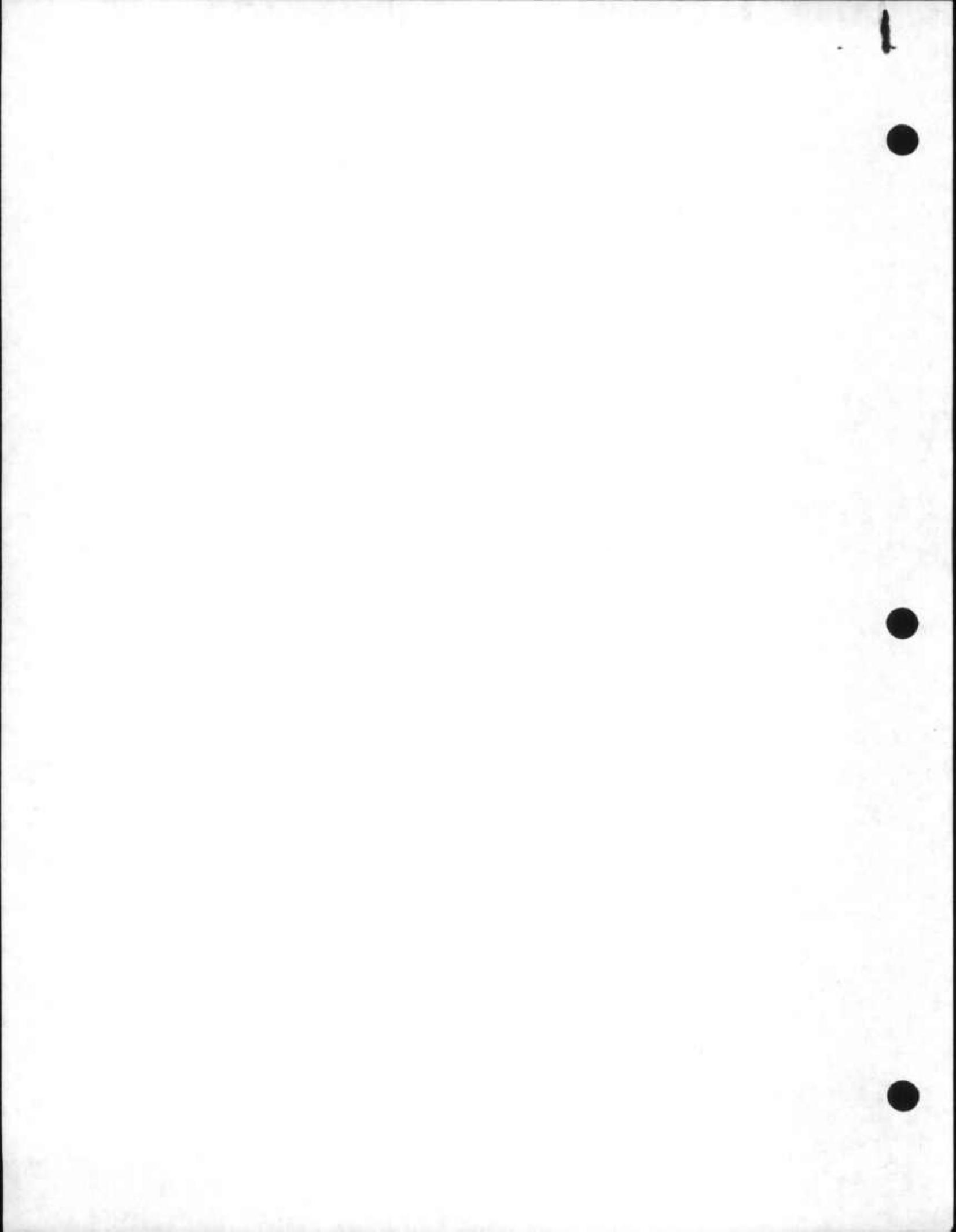
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Thank you for providing information on the above referenced proposal to renovate the Mateapeake Clubhouse, including installation of a water and sewer system. While we do not oppose the use of POS funds for this purpose, we do want to ensure the project goes through the appropriate review channels as described below.

- If the County is leasing the land from the State, the proposal for any exterior work (i.e., water and sewer line installation) must be submitted to the Critical Area Commission for review and approval by Resource Planning after it goes through an inter-agency review. The submittal must include a site plan and supporting documentation. (Work on the interior of the building that does not change the development footprint does not require Commission review or approval.)
- If the County owns the land, the project should be submitted to the County Department of Planning and Zoning to check for consistency with the local Critical Area Program. It should subsequently be sent to the Critical Area Commission with a consistency report in accordance with COMAR 27.02.02.

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

cc: Nancy Scozzari, QAC Parks & Recreation (via e-mail)  
Steve Cohoon, QAC Planning & Zoning (via e-mail)  
Raj Williams, DNR, Resource Planning (via e-mail)



# CLEARINGHOUSE REVIEW

January 23, 2007

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

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

SUBJ : POS # 4988-17-140

Matapeake Terminal, Queen Anne's County

This project proposes to renovate the Matapeake Clubhouse that includes the installation of a water and sewer system. Matapeake Clubhouse is a historic structure from the time ferry boats crossed the Chesapeake Bay and is being restored by the county for public use.

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

CHECK ONE AND INITIAL

CHECK

INITIAL

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

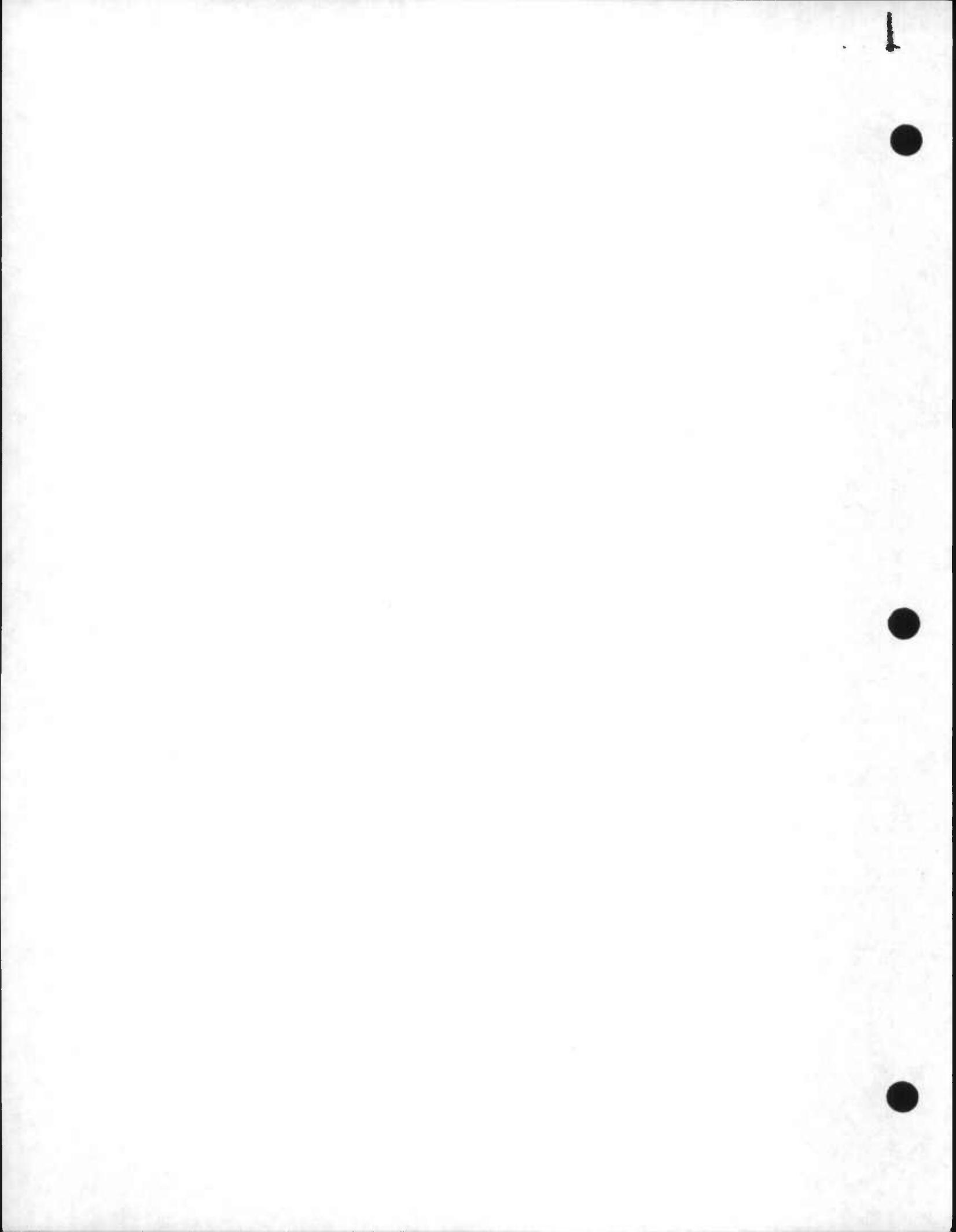
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✓	LAC
_____	_____

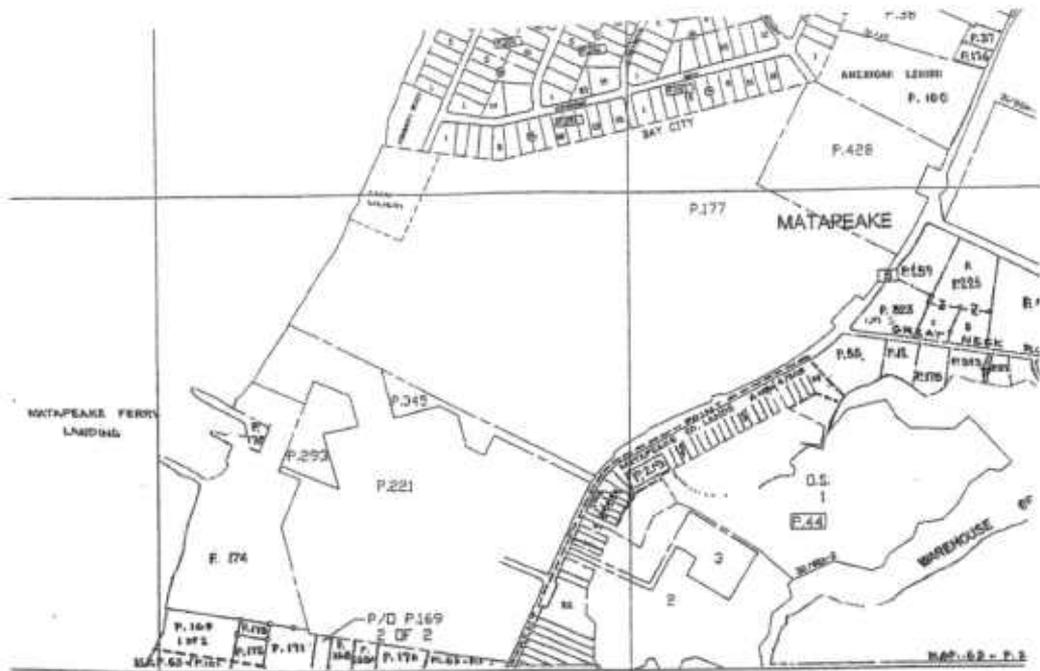
Upon completion of review, please return to Marti Sullivan or Mary Tolodziecki, Program Open Space, Tawes State Office Building - 580 Taylor Ave., (E-4) - Annapolis, MD. 21401

**RECEIVED**

JAN 25 2007

CRITICAL AREA COMMISSION





THE  
3.

THESE MAPS ARE PROTECTED BY COPYRIGHT. THEY MAY NOT BE COPIED OR REPRODUCED IN ANY FORM INCLUDING ELECTRONIC MEANS SUCH AS: DIGITIZING, SCANNING, VECTORIZING, OR IMAGE PROCESSING, OR BY ANY SYSTEM NOW KNOWN OR TO BE INVENTED WITHOUT PERMISSION IN WRITING FROM THE MARYLAND DEPARTMENT OF PLANNING.

SCALE IN FEET



983

986



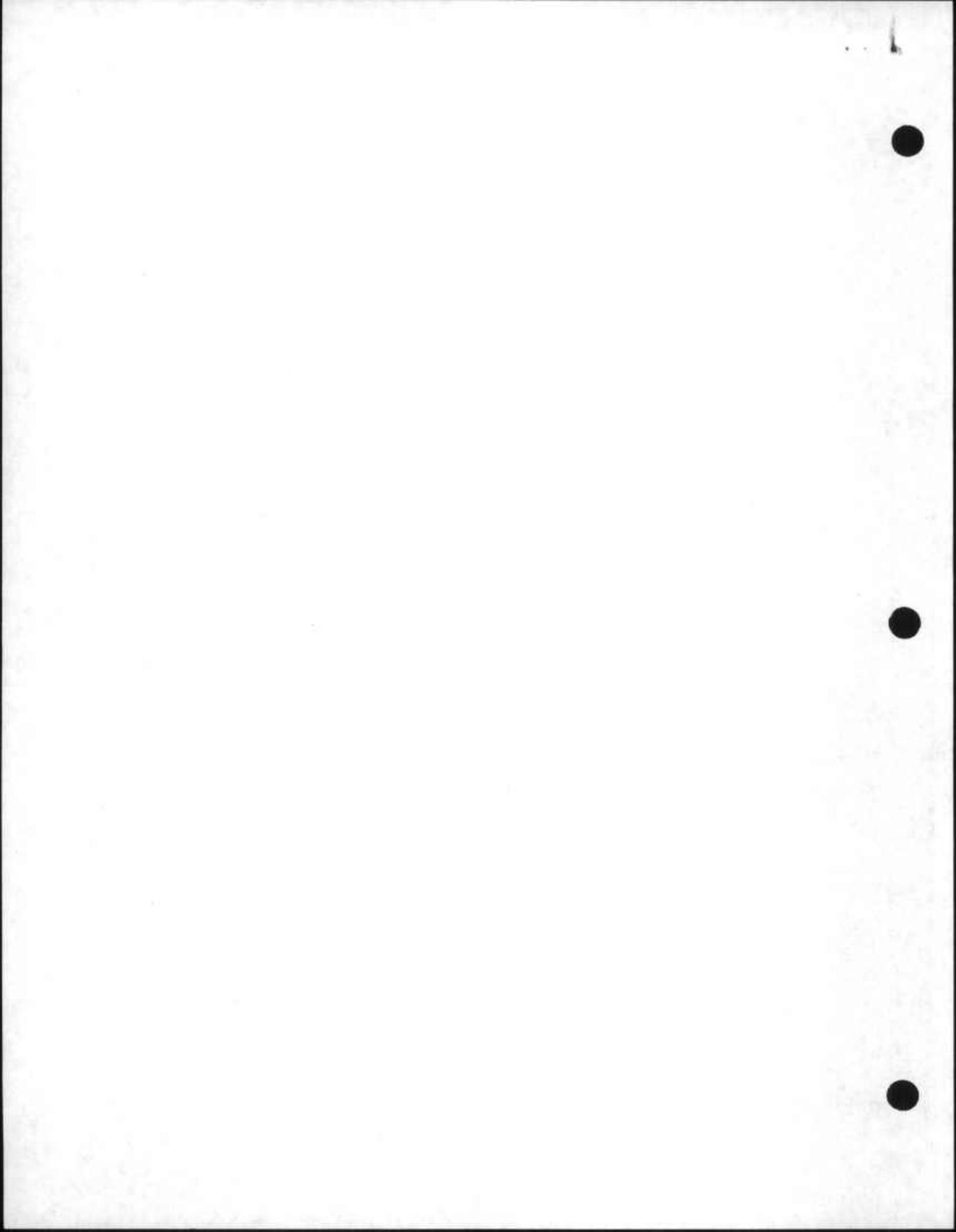
Queen Anne's County



*Matapeake Terminal*

MD Department of Natural Resources  
Program Open Space

SPM 56 Parcel 174  
Acres





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February 16, 2007

Mr. Chris Clark  
Town of Centreville  
101 Lawyers Row  
PO Box 100  
Centreville, MD 21617

RE: Route 213 Stormwater Retrofit for Gravel Run South

Dear Mr. Clark:

Thank you for providing the preliminary plans for the stormwater retrofit for Gravel Run South. We understand that it is part of the Watershed Restoration Action Strategy (WRAS) for the Corsica River and is the first of several potential projects within the municipal boundaries of Centreville. Commission staff has reviewed the information provided.

The retrofit project will be located on a town-owned parcel directly adjacent to Gravel Run. Due to the project's location within the Critical Area Buffer, it will require Commission review and approval. However, due to the lack of any stormwater treatment (quality or quantity control) under existing conditions, Commission staff feel that the proposal's benefits to water quality far exceed the negative impacts to the Buffer. In addition, because the proposed best management practice (BMP) is a created wetland, the habitat potential of the wetland appears to be an obvious improvement over the existing open field. The Critical Area regulations allow for conditional approval of local projects that provide benefits to the Critical Area Program but cannot meet every provision of the regulations. This is a great example of such a project that clearly qualifies for a conditional approval from the Critical Area Commission.

In addition, it is our understanding that the Town must provide a cash match for the grant funding. The Town maintains a fee-in-lieu fund from various projects that could not address all Critical Area stormwater requirements on site. Commission staff supports the use of the fee-in-lieu money as match for this project. Not only will the project exceed the necessary pollutant removal, it will demonstrate the Town's commitment to the WRAS and the Critical Area goals of protection of water quality and conservation of fish, wildlife and plant habitat.

Mr. Clark  
February 16, 2007  
Page 2

Thank you for the opportunity to review and comment on these plans in the preliminary stage. Please keep us informed as the project moves forward. If you would like to discuss anything in more detail, please contact me at (410) 260-3477.

Sincerely,

  
LeeAnne Chandler  
Science Advisor

cc: Centreville file



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February 15, 2007

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

Re: Robert J. Beasely  
V-010010

Dear Ms. Maxwell:

Thank you for forwarding the above-referenced variance request to this office for review and comment. The site is located in the Limited Development Area (LDA) and is improved with a single family dwelling, driveway and several accessory structures. The application states the applicant is seeking a variance to the 15% impervious surface limitations afforded to this lot. I have provided our comments and recommendations below.

It appears the lot already exceeds the 15% allowable impervious surface limit by 633 square feet, which equates to 17% of the site. The request is to permit an additional 926 square feet of impervious area for a garage, which would equate to 19% of the site. This office cannot support a variance to exceed the impervious surface limits on this site. While the lot may be grandfathered, the lot was not improved until 2003. Therefore, it is unclear why the existing impervious area on the lot already exceeds the 15% impervious surface limitation well after the adoption and subsequent implementation of the Queen Anne's County Critical Area Program.

We understand the applicant's desire for additional storage and covered parking, however, due to the extensive paved driveway and accessory structures, it is not permitted. We recommend that the applicant utilize a portion of the paved driveway to place the new garage. Ideally, the site would be brought into compliance with the County's Critical Area ordinance through removal of some existing impervious surface. As requested, the applicant does not meet the burden of having an unwarranted hardship which is defined as being denied any reasonable use of the entire parcel or lot. Since the property already supports a new dwelling and accessory structures, this standard cannot be met and this variance should be denied.

Ms. Maxwell  
February 15, 2007  
Page Two

The applicant can easily avoid the need for a variance for the desired garage by moving its proposed location and removing some existing impervious cover. There is no reason development on this parcel should be in violation of the County's Critical Area Program.

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. If you have any questions, please telephone me at (410) 260-3477.

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 from the end of the name.

LeeAnne Chandler  
Science Advisor

cc: QC 43-07



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February 15, 2007

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

Re: Rita C. Dowling  
V-010014

Dear Ms. Maxwell:

Thank you for forwarding the above-referenced variance request to this office for review and comment. The site is located in the Resource Conservation Area (RCA) and is improved with a single family dwelling, driveway and several accessory structures. The application states the applicant is seeking a variance to the County's Floodplain Ordinance since the proposed replacement garage is larger than 900 square feet. This office has no comment regarding this variance request.

However, in reviewing the site plan, it appears the replacement garage is within the 100-foot Buffer to Middle Quarter Cove. Therefore, the County may need to require a second variance to site the structure within the 100-foot Buffer. This office would not oppose a variance, provided the applicant can demonstrate that an alternative location outside the 100-foot Buffer would create an unwarranted hardship, and that special conditions or circumstances prevent the garage from being sited outside the Buffer.

It appears there is an area on the parcel that is outside the Buffer; however, the site plan does not show where other development activities on this parcel are located. For example, if the septic system is located in the area identified outside the 100-foot Buffer, this may be a special condition that exists that prevents the replacement garage from being sited outside the Buffer.

Ms. Maxwell  
February 15, 2007  
Page Two

In addition to the 100-foot Buffer issue, the RCA designation limits the density of this parcel. The application indicates the second floor of the replacement garage will include a bathroom. Absent other approvals that may be required by the Health Department, the County must ensure that this space will not be converted to a dwelling unit as defined in Natural Resources Article 8-1802, otherwise the parcel will not be in compliance with the RCA density limitations since the site already supports a single family dwelling.

If the County determines a variance can be granted as proposed on the site plan, we recommend the following conditions:

1. Mitigation in the form of native Buffer plantings be performed at a 3:1 ratio equal to the footprint.
2. Mitigation plantings be installed inside the 100-foot Buffer.
3. Stormwater management measures be required to treat the quality and quantity of runoff from the garage. These measures can include plantings provided these plantings are in addition to those required for Buffer impacts.
4. No additions to this structure, or the location of future structures be permitted with the 100-foot Buffer.

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. If you have any questions, please telephone me at (410) 260-3477.

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: QC 65-07



**STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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February 15, 2007

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

RE: Conditional Use # CU-0004, Mar-Lin, LLC – COMMENTS on Plan rec'd February 6, 2007

Dear Ms. Maxwell:

Thank you for providing the revised plans for the above referenced request to our office for review. The applicant is requesting conditional use approval by the Board of Appeals for a pier of greater length than allowed. As indicated previously, this office defers to the Maryland Department of the Environment and the County on pier length issues. The revised plan shows a new location for the pier which helps minimize impacts to the Buffer for access to the pier. This is consistent with our previous recommendations. We do recommend mitigation for any disturbance through the Buffer for pier access at a 2:1 ratio. Ideally, the plantings should be provided between the pathway and the adjacent wetlands as indicated on the sketch previously provided.

Thank you for the opportunity to review and comment on the revised plans. Please include this letter and the previously provided sketch in the record for this case. Also, please notify the Commission in writing of the decision of the Board. If you have any questions, please contact me at (410) 260-3477.

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: QC828-06





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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February 15, 2007

Mr. Kenneth Hranicky  
Department of Planning  
417 E. Fayette St. 8th Floor  
Baltimore, MD 21202-3416

RE: Chesapeake Wiper and Supply, Inc., 6601 Tributary Street

Dear Mr. Hranicky:

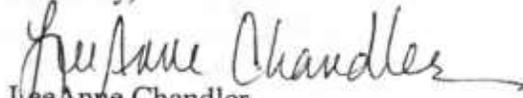
Thank you for providing the above referenced site plan to our office for review. The site is 2.156 acres in size with an IDA designation. The proposal is an addition to an existing warehouse/office. Commission staff has reviewed the information provided and we have the following comments:

1. The Critical Area 10% requirement should be based on the entirety of the site within the Critical Area. They were completed using only the small drainage area containing the addition. This is not consistent with the Commission's 10% Guidance Manual.
2. We recommend that the applicant re-calculate the 10% requirement and resubmit the calculations.

The proposal otherwise appears to be in compliance with the City's Critical Area Program.

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

Sincerely,

  
LeeAnne Chandler  
Science Advisor

cc: BA816-06





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January 29, 2007

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

RE: Major Site Plan, Maryland General Land Co., LLC  
MASP# 04-06-11-0008-C – FINAL SITE PLAN, Revision #1

Dear Ms. Spinelli:

This office is in receipt of Revision #1 of the final site plan for the above referenced project. I have reviewed the information provided. The applicant proposes 6 commercial buildings with associated parking, access and stormwater management on an IDA site that is partially within the Critical Area. The subject lot is Lot 2 of a commercial subdivision.

As indicated in Mr. Chris Clark's comments of December 13, 2006, since the site has been reconfigured after the conceptual plan was submitted, the Commission requires that the engineer submit new calculations to determine conformance with the 10% Pollutant Reduction requirement for the site. The stormwater report submitted on November 15, 2006 did not include the 10% calculations. The current submittal also did not include any 10% calculations. Please keep in mind that compliance with the 10% requirement for the entire Critical Area portion of the commercial subdivision should be demonstrated, not just Lot 2. Piecemeal compliance is not acceptable.

The other condition placed on the growth allocation by the Critical Area Commission was a requirement that at least 400 trees and shrubs be planted on the site. It appears that this condition has been satisfied. However, it is not clear that the landscape plan includes replacement of the additional trees to be removed as indicated on this site plan. This should be clarified.

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

Sincerely,

  
LeeAnne Chandler

Science Advisor





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January 29, 2007

Ms. Janet Davis  
Worcester Development Review & Permitting  
One West Market St., Room 1201  
Snow Hill, MD 21863

RE: Site Plan – Rite Aid, 12525 Ocean Gateway

Dear Ms. Davis:

Thank you for providing information on the above referenced site plan. The applicants propose to construct a new drug store, associated parking and stormwater management on two existing parcels, partially within the Critical Area. The site is designated IDA and is not waterfront.

Critical Area requirements include stormwater (10% pollutant reduction) and the 15% afforestation requirement. In regard to afforestation, the landscape plan quantifies proposed planting for the entire site, rather than just the Critical Area portion. At least 15% of the Critical Area portion should be vegetated with trees and shrubs. It is unclear if the applicant is meeting this requirement as just 12 trees and numerous “dwarf fountain grass” are proposed in the Critical Area (though there does not appear to be a symbol provided for the swamp rose).

In regard to the 10% requirement, the calculations should be based on the Critical Area portion of the site. The proposed best management practices (BMPs) must be in the MDE manual or an approved proprietary practice. For the latter, the removal efficiency must be documented by an independent source and approved by MDE. Depending upon the decision of MDE, credit for the proposed inlet filters may not be appropriate. Also, if BMPs in a series are used, the BMP that runoff enters first should be first in the calculations for a BMP in a series. See question 27 in the Frequently Asked Questions section of the CAC 10% Guidance Manual for the correct way to calculate the load removed. The 10% calculations need to be revised.

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

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: WC711-06





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January 29, 2007

Mr. Lloyd Schmeusser  
103 Water Street  
Newport, DE 19804

RE: Pier at 3015 Bennett Point Road, Queenstown, MD 21658

Dear Mr. Schmeusser:

This letter is a follow-up to our recent telephone conversation regarding your conditional use application before the Queen Anne's County Board of Appeals. Specifically, you have indicated that the most recent plans, which moved the pier approximately 30 feet south of its originally proposed location, created a problem in terms of water depths at the end of the pier. On the telephone, you indicated that you would like to move the pier 15 feet northward, essential the mid-point between the original and revised locations of the pier.

I would like to clarify our concerns on the original proposal. The pocket of wetlands on your original plan is actually a tidal wetland and not nontidal as it was labeled. Since the area of wetlands is tidal, there is a 100-foot Buffer required from its landward edge. In addition, there is a 100-foot Buffer from the Wye River. Our comments regarding the pier were meant to point out the tidal wetlands and recommend that the pier be located to minimize its impact on the Buffer and the wetlands. Generally, activities in the Buffer (whether the Buffer is wooded or not) are prohibited, except for access to a pier. Optimally, the pier would be located at a point along the shoreline where a perpendicular path through the Buffer (i.e., the shortest route possible) would work. If a perpendicular path is not possible, the shortest alternative route should be designated.

The enclosed sketch is meant to illustrate my recommendation. If the pier is moved northward again, I recommend that plantings be provided to protect the small pocket of wetlands. A "no-mow" zone would also be helpful. For your use, I have enclosed a publication containing a useful list of native plants for landscaping within the Chesapeake Bay watershed.

I hope this clarifies our original concerns on your conditional use application. We defer to the County and the Maryland Department of the Environment on the length of the pier but we

Mr. Lloyd Schmeusser  
January 29, 2007  
Page 2 of 2

recommend that access to the pier be located to minimize impacts on the Buffer. If you have any questions, please feel free to contact me at (410) 260-3477.

Sincerely,

  
LeeAnne Chandler  
Science Advisor

Enclosures: 8 ½" by 14" sketch  
"Native Plants for Wildlife Habitat and Conservation Landscaping," US FWS

cc: Cathy Maxwell, QAC (w/sketch only)  
Barry Griffith, Lane Engineering (w/sketch only)

# ANNETT'S POINT

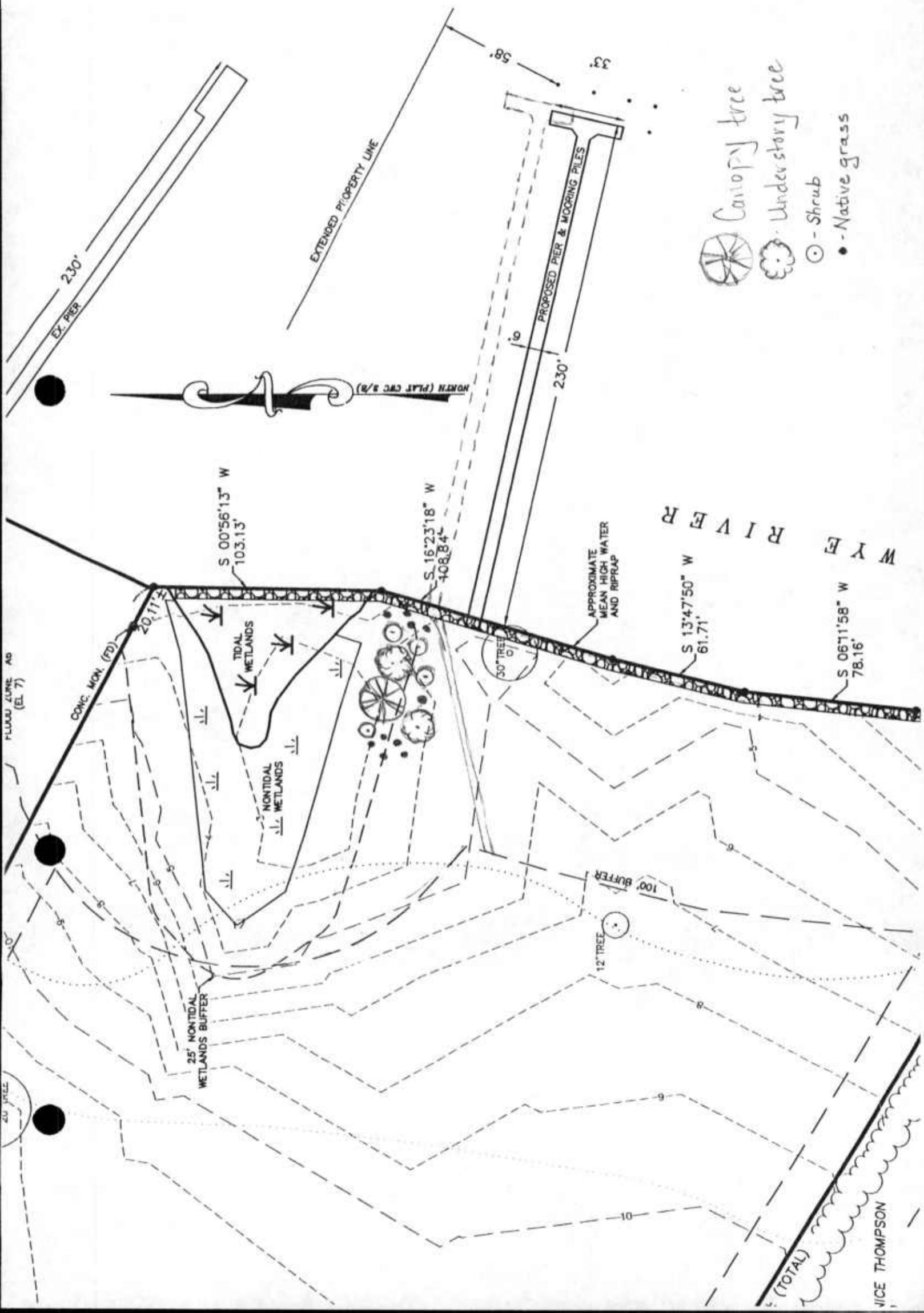
LOT 10, SECTION 2, PLAT 1

PROPOSED PIER EXHIBIT

DATE	1-11-07
SCALE	1" = 50'
JOB NO.	060100
DRAWN BY	L.W.M.

Civil Engineers - Land

## Lane Engi



JICE THOMPSON

(TOTAL)





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January 29, 2007

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

RE: Conditional Use # CU-0004, Mar-Lin, LLC – ADDITIONAL COMMENTS

Dear Ms. Maxwell:

Mr. Lloyd Schmeusser, the applicant in the above case, contacted me regarding the revised plans submitted in his case. He indicated that the revised location of the pier caused problems regarding water depth at the end of the pier. I made several suggestions to him regarding alternatives including angling the pier to reach the same area from a different point on the shoreline. He suggested "splitting the difference" between the original and revised plans provided.

I have explained through a letter (copy enclosed) our concerns regarding the original application. Our position on the application has not changed, we defer to the County and MDE regarding the pier length but recommend that access through the Buffer be the minimum necessary and as far from the pocket of wetlands as possible.

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: Lloyd Schmeusser  
Barry Griffith, Lane Engineering  
QC828-06

TTY for the Deaf

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





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January 29, 2007

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

RE: Site Plan – Miramar Hotel and Condos

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a hotel, condominiums and associated parking on two existing parcels. I have commented on the proposed work separately below:

**Parcel 4186 (Parking lot parcel) –**

The subject parcel is 14,584 square feet in size and is proposed to be a parking lot for the condo across the street. The parcel is completely in the Critical Area and is subject to the 15% afforestation and the 10% pollutant reduction requirement. The 10% requirement is adequately addressed by the proposed reduction in impervious surface. The 15% afforestation is also adequately addressed through plantings. However, please note that the site plan shows pervious pavers in the same areas as the landscaping along 15<sup>th</sup> Street. We recommend that the birch trees in these areas be moved to ensure long term survival.

**Parcel 3006 (Hotel parcel) –**

The subject parcel is 40,999 square feet in size and is proposed to be redeveloped with a hotel/condominium building. The property has 18,311 square feet within the Critical Area. The Critical Area portion of the site is subject to 15% afforestation and the 10% pollutant reduction. First, the landscaping provided in the Critical Area is incorrectly stated in the project application. Just 16 birch trees are in the Critical Area portion of the site, not 32 as indicated. Second, the 10% worksheets incorrectly use the entire site in the pre-development calculations. The post development calculations correctly use just the Critical Area portion of the site. Corrected 10% calculations, based only on the Critical Area acreage, must be provided.

Mr. Blaine Smith  
January 29, 2007  
Page 2 of 2

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". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right from the end of the name.

LeeAnne Chandler  
Science Advisor

cc: OC722-05



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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January 29, 2007

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

RE: Orlo Reed Property  
G 02012261, C 06-0054

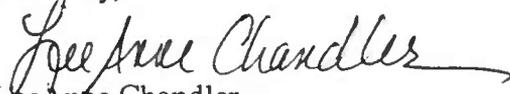
Dear Mr. Love:

Thank you for providing the most recent plans to our office for review. I have reviewed the applicant's response to our previous comments.

While we ultimately defer to the County's Development Review Engineer in approving the proposed stormwater management, we remain concerned about the proposal. The required separation between the bottom of an infiltration trench and the groundwater table is four (4) feet to help prevent potential pollutants from impacting on groundwater quality. While the perched water table in Soil Boring B-3 may dissipate with excavation of the trench, the water table in B-6 is still just 2.5 feet below the trench. This is not consistent with the MDE Stormwater Manual and therefore not consistent with the County's Stormwater ordinance (notwithstanding some unknown ability to grant a "waiver" from the required separation from groundwater). The removal efficiencies of the stormwater best management practices are based on compliance with the specifications.

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: Stew Comstock, MDE Stormwater Program  
AA410-06





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January 26, 2007

Mr. Gary Letteron  
Department of Planning  
417 E. Fayette St. 8th Floor  
Baltimore, MD 21202-3416

RE: Site Plan, 1219 Hull Street

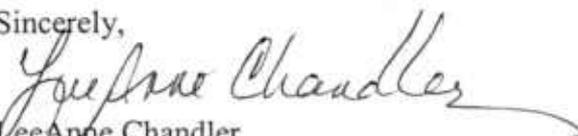
Dear Mr. Letteron:

Thank you for providing information on the above referenced site plan. The applicant proposes to redevelop an existing, developed property into a 10 lot townhome community. The site is 0.343 acres in size and is not waterfront. Commission staff has review the information provided and we have the following comments:

1. The 10% calculations indicate that the proposed underground filter will meet the pollutant reduction requirement. However, this is dependent upon the filter treating the entire site. There appear to be no downspouts on the front side of the townhomes. Does this indicate a flat roof with just one downspout or are there gutter and downspouts that are not shown? This should be verified to ensure stormwater treatment for the entire site.
2. We concur with the City's change in species on the site plan from an ornamental pear to native species.

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

Sincerely,

  
LeeAnne Chandler  
Science Advisor

cc: BA46-07





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January 26, 2007

Ms. Jean Fabi  
Queen Anne's County Planning & Zoning  
160 Coursevall Drive  
Centreville, MD 21617

RE: Temple & Patricia Rhodes Subdivision  
File # 03-07-01-0006-C (Creation of Lot 4)

Dear Ms. Fabi:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to subdivide an existing lot into two lots. The existing lot (Lot 3) was created in 2002 and is partially within the Critical Area.

Because the newly created lot (Lot 4) is entirely outside of the Critical Area, this office has no comment on the subject request.

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: QC37-07





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January 26, 2007

Ms. Jean Fabi  
Queen Anne's County Planning & Zoning  
160 Coursevall Drive  
Centreville, MD 21617

RE: Temple & Patricia Rhodes Subdivision  
File # 03-07-01-0007-C (Creation of Lot 5)

Dear Ms. Fabi:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to subdivide an existing lot into two lots. The existing lot (Lot 1) was created in 2002 and is partially within the Critical Area.

Because the newly created lot (Lot 5) is entirely outside of the Critical Area, this office has no comment on the subject request.

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: QC38-07





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January 25, 2007

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

RE: Caccamo Violation/Buffer Management Plan, TM 8, P 167, Lot 8

Dear Ms. Moredock:

This office has been made aware of the unauthorized Buffer disturbance which occurred on the above referenced property. Thank you for providing the Buffer Management Plan for our review. Our understanding is that approximately one (1) acre of vegetation (hardwood trees and understory) was removed from the Critical Area Buffer without authorization. The required mitigation is three times the area removed.

We have reviewed the Buffer Management Plan submitted by the applicant. It is entirely appropriate to require full restoration (through installation of as many plants as necessary) of the area of disturbance to provide immediate stabilization and we understand that 1150 understory plants have been installed in this area. However, the remainder of the plan proposes an additional 1110 shrubs and ornamental trees in scattered patches around the property. This does not mitigate the unauthorized activities in the Buffer. Buffer mitigation should restore or enhance the two main functions of the Buffer: protecting water quality and protecting riparian habitat (see COMAR 27.01.09.01(B) for a complete list of Buffer functions). Isolated patches or strips of ornamental vegetation do not benefit water quality or riparian habitat.

While some ornamental plantings can be credited toward the mitigation requirement, we recommend that the majority of the required mitigation plantings be installed to expand the existing Buffer on the property. There is ample opportunity to accommodate these plantings without interfering with the use and enjoyment of the property. Specifically, the areas to the right of the existing pond (where 300 Abelias are proposed) and to the left of the existing pond where there is expanded Buffer without tree cover should be targeted for afforestation with native species that are common in the vicinity of the site. Non-native Abelias are not appropriate. [In addition, please note that the proposed Winged Euonymous has been identified

Ms. Amy Moredock  
January 25, 2007  
Page 2 of 2

by the U.S. Fish and Wildlife Service as an invasive exotic that should not be planted within the Mid-Atlantic Region.] We recommend removal of the turf (eliminating future fertilizer or pesticide applications and weekly maintenance) followed by planting of a mix of native canopy trees, understory trees, and shrubs. Areas between the plantings should be mulched for moisture retention and soil stabilization. This will increase the width of the existing riparian forest habitat and enhance water quality through increased nutrient uptake. The latter benefit is especially important in areas contiguous to steep slopes where velocity of runoff can cause significant erosion.

While we defer to the County in deciding the final number and types of plantings to be installed, we cannot recommend approval of the Buffer Management as proposed. Buffer mitigation must be used to restore and enhance the Buffer that was harmed by the violation.

Please contact me at 410-260-3477 if you have any questions or concerns regarding these comments and recommendations.

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: Kent County file



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January 22, 2007

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

RE: Pier Variance request, Beach Homes Development Corp., TM 15, P 90, L 8B

Dear Ms. Davis:

Thank you for providing the revised plans for the above referenced pier request. The applicant is requesting a variance to permit a pier over vegetated wetlands for a greater length than permitted under the County's Critical Area ordinance. The revision to plan shifted the pier to the east approximately 42 feet.

In order to minimize the request, we recommend that the pier be shifted a few more feet to the east such that the impacted length of marsh is the minimum possible. In addition, please note that the landward end of the pier seems to end at the tidal wetlands line. There are approximately 8 feet of nontidal wetland between the end of the pier and the upland. The application should include these impacts to nontidal wetlands. As commonly recommended by MDE and the Corps of Engineers, the pier should be a maximum of 3 feet over vegetated wetlands and a minimum of 3 feet above the vegetation to minimize impacts. Finally, the platform section of the pier has an odd configuration (rather than a "T" or an "L", the platform is angled at about 30 degrees). Using the landward side of the platform would bring boats closer to the marsh in shallower water. We recommend redesigning the platform to minimize impacts, perhaps by having the platform be just a straight, slightly wider section at the end of the pier.

Thank you for the opportunity to comment. Please notify the Commission in writing of the decision made in this case. Please contact me at (410) 260-3477 if you have any questions or concerns.

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: WC764-06





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January 22, 2007

Mr. Nathaniel K. Brown  
Office of Harbor Development  
Maryland Port Administration  
2310 Broening Highway  
Baltimore, MD 21224

RE: Mitigation Package Submittal of January 18, 2007 for the Masonville DMCF

Dear Mr. Brown:

This office is in receipt of the proposed Critical Area mitigation package for the Masonville Dredged Material Containment Facility (DMCF). Commission staff has reviewed the information submitted and we have the following comments and concerns:

1. The Critical Area includes the land under the Bay and its tributaries. Therefore, the aquatic impacts and associated mitigation are subject to Commission review and approval. An aquatic mitigation package which provides concise descriptions of each mitigation option must be part of the submittal. The package should be similar to the example from the Woodrow Wilson Bridge project provided to your office in early January. While the Environmental Impact Statement and supporting documents associated with Federal and State permitting requirements contain this information, there is no clear summary providing basic details such as a map of project locations, photographs, and a description of work involved under each option. I suggest that the package discuss the Tier One options and provide only a list of potential Tier Two options. Please refer to the example provided for a suggested format.
2. Please be aware that individual components of the aquatic mitigation package may require formal Commission approval. For example, the tidal and nontidal wetland creation projects at Masonville Cove will involve excavation and grading, necessitating Commission review and approval.
3. The mitigation package for upland Critical Area impacts should separate the mitigation due for proposed impacts to the existing Critical Area Buffer from the establishment of the future Buffer along the shoreline of the proposed DMCF. Specifically, impacts to the existing Buffer total 10.51 acres. Mitigation at a 3:1 ratio

equals 31.53 acres. At a minimum, the mitigation package should identify sites to accommodate this mitigation.

4. Based on Table 1 on page 6 of the submittal, the acreage of the Buffer around the DMCF will be 14.09 acres. The Commission's December 2006 concurrence with the concept plans for the DMCF included a condition that stated: "Future development of the site must include a properly vegetated 100-foot Buffer or mitigation at a 3:1 ratio for areas where establishment of the Buffer is not possible." Buffer establishment and mitigation for those areas that cannot be established along the DMCF in the future should be addressed in the mitigation package with the understanding that the plans are conceptual given the uncertainty of the future use of the DMCF. In addition, due to the uncertainty, planting on areas of the DMCF should not be used to address the mitigation due for the impacts to the existing Buffer.
5. Staff reviewed the proposed planting locations identified on Sheet C-4. We have concerns about a number of them as identified in the table below.

Acreage	Question/Concern
Open Space	
.91	These areas are on a portion of the Port property developed as "Masonville Phase II." The CAC's conditional approval for the project indicated that all areas not covered in impervious surface would be fully established in vegetation.
.42	
.48	
.99	This portion of Masonville Phase II is supposed to be a grassed swale leading to a stormwater BMP.
2.01	This area is a berm of the former dredge spoil site that is now Masonville Phase II. It appears to be already partially vegetated.
1.69	This area may be associated with stormwater management for Masonville Terminal.
2.02	This area is on a portion of the property developed as "ATC Expansion at Cell 5." The CAC's conditional approval for the project indicated that all areas not covered in impervious surface would be fully established in vegetation.
1.06	These areas may be associated with an existing stormwater facility. Planting woody vegetation on the berm may not be permitted by MDE.
.07	
.42	These areas are in the vicinity of the future education center. Establishing multi-layered forest vegetation may not be feasible in high-traffic public use areas.
.09	
.31	
.28	
.65	This area appears to be already forested on 2005 aerial photographs.
Shoreline Stabilization	
5.21 (all)	Shoreline stabilization is captured in the Aquatic mitigation as SWH substrate improvement. It cannot be credited again as Buffer mitigation.

Mr. Nathaniel K. Brown

January 22, 2007

Page 3 of 3

Total Reduction:	
16.6 acres	

6. Given the issues described in Comment 5 and subtracting out the future planting area on the DMCF, our estimates of available mitigation acreage for the impacts to the existing Buffer totals only approximately 11 acres. Previous alternative suggestions have included providing riparian Buffer restoration in those reaches of streams identified for restoration in the aquatic mitigation package and exploring additional restoration on the stream on the Masonville Cove property.
7. Once planting areas have been identified, the mitigation package must include more detailed information on proposed planting (species selection, stock size, etc.) as well as long term maintenance and monitoring.

Given the insufficiency of the submittal, placement on the February agenda is not feasible. Commission staff is available to meet with you to discuss these issues in greater detail. Earliest available dates are January 29<sup>th</sup> (afternoon), February 1<sup>st</sup> or February 2<sup>nd</sup>. Please contact me at (410) 260-3477 to schedule a meeting.

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: Meg Andrews, MDOT  
Steve Storms, MPA  
Michael Bozman, MPA  
Ren Serey, CAC





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January 18, 2007

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

RE: Conditional Use # CU-0004, Mar-Lin, LLC

Dear Ms. Maxwell:

This office has received revised plans for the above referenced conditional use application. The revised plans show a tidal wetland and its Buffer in one corner of the subject property. To avoid the Tidal wetland Buffer, the pier has been shifted approximately 29 feet south along the shoreline. Provided that the applicant receives an amended approval from the Maryland Department of the Environment (for the new location), this office has no Critical Area concerns regarding this conditional use application.

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

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: Barry Griffith, Lane Engineering  
QC828-06





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January 18, 2007

Mr. Duncan Stuart  
Department of Planning  
417 E. Fayette St. 8th Floor  
Baltimore, MD 21202-3416

RE: The Moorings, 2701 Boston Street

Dear Mr. Stuart:

Thank you for providing the as-built site plan and revised landscaping plans for the above referenced project to our office for review. It is our understanding that the as-built impervious surface area is 85 square feet below the previously proposed amount. In addition, a comparison of the previously approved landscaping plans and the revised plans, it appears that far fewer plantings were installed than previously presented.

While this office ultimately defers to the City in determining compliance with the minimum standards, we recommend that the applicant provide plantings as close as possible to the originally approved plans. The project was approved with a certain understanding in terms of appearance, minimization of impacts and what could or could not fit on site. For example, while substantial plantings may be preferred over a marginal best management practice for stormwater management, areas of turf would not. The revised plans are an improvement over what was installed but there are additional opportunities for enhancement.

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

Sincerely,

LeeAnne Chandler  
Science Advisor

cc: BA168-02



Robert L. Ehrlich, Jr.  
Governor

Michael S. Steele  
Lt. Governor



Martin G. Madden  
Chairman

Ren Serey  
Executive Director

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January 16, 2007

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

RE: Creekside at Public Landing, Tax Map 65, Parcel 48

Dear Ms. Davis:

Thank you for providing the most recent information on the above referenced subdivision. I have reviewed the December 11, 2006 revision of the preliminary plat as well as the most recent Critical Area plan. I apologize for not providing timely comments prior to the Planning Commission meeting. After review of the submitted documents, we have the following comments:

1. We recommend an additional plat note be added to the final plat that clearly indicates that any further development within the Critical Area portion of the property (i.e., on Outlot A) will require the use of growth allocation.
2. While we recognize that the proposed impervious area within the Critical Area portion of the property is under the allowable limit, the extraneous circular driveways are contrary to the intent of the Critical Area Law to minimize impacts within 1000-feet of tidal waters. The circular portions of the driveways are 20 feet wide and the straight areas are 16 feet wide. We recommend minimal widths to provide access to the properties.
3. The Critical Area plan shows a stormwater management basin within the Critical Area adjacent to the cul-de-sac of Willow Oak Court. The Critical Area RCA cannot be used to support development outside of the Critical Area. Modifications should be made as engineering plans are finalized.

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

Sincerely,

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

LeeAnne Chandler  
Science Advisor

cc: WC139-06

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

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January 11, 2007

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

RE: Minor Site Plan, Houck Property  
MISP# 04-07-01-0001-C

Dear Ms. Spinelli:

Thank you for providing information on the above referenced minor site plan. The applicant proposes a building with office space on the first floor and two apartments on the second floor with associated parking on a 0.359 acre site. The site is designated IDA and is not waterfront. It is currently developed with a single-family dwelling and associated structures. Commission staff has reviewed the information provided and we have the following comments:

1. The site plan drawings and the project application form indicate that the site is 0.359 acres in size while the stormwater management calculations (including the 10% calculations) indicate the total site area to be 0.34 acres. The site acreage should be verified and the documents revised as necessary.
2. The 10% calculations were completed using outdated variables. Specifically, the "C-factor" used in the calculations should always be 0.3 mg/l under the most recent 10% guidance published by Commission in the fall of 2003. The calculations should be revised.
3. Please provide cross- and longitudinal- sections of the dry swale and bioretention area. In order to claim the pollutant removal efficiency for these best management practices, they must be designed in accordance with the specifications in the MDE manual.

Ms. Helen Spinelli  
January 11, 2007  
Page 2 of 2

4. We recommend the use of only native species in landscaping the site. Also, while *Spartina patens* is native, it grows best in salty or brackish environments. There are ample alternatives for vegetating the bioretention area. Grass-like groundcovers include red fescue, switchgrass, and tussock sedge. There are also a wide range of perennials and shrubs that are recommended for bioretention areas. See page A.16 of the MDE Stormwater manual for a list of commonly used species that will enhance the function of the bioretention facility while providing aesthetic benefits as well.

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

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: QC5-07



Martin G. Madden  
Chairman

Ren Serey  
Executive Director

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MEMORANDUM

E-MAILED  
1/10/07

To: Tressa Ellis, MDE

From: LeeAnne Chandler, Critical Area Commission *LAC*

Date: January 9, 2007

RE: Tidal Wetlands Permit Application 200663278/06-WL-1525, Scott Williams

Commission staff has reviewed the above-referenced permit application as advertised in the public notice of January 1, 2007. The applicant proposes to install 290 feet of low profile stone edging along an existing marsh and also construct a sill along an additional 269 feet of shoreline. The shoreline faces northwest.

We recommend that MDE require evidence of erosion on this site prior to any approval. Based on the position of the property, the depth and width of Emory Creek, and the existing marsh, it seems doubtful that there is a significant erosion problem. In addition, the plan includes a large stockpile area immediately landward of the 100-foot Buffer and a note that indicates that existing mature trees will be limbed up to allow sunlight to reach the marsh. Due to the direction the shoreline faces, it seems that limbing up the trees around the perimeter of the marsh will not significantly increase the amount of sunlight reaching the vegetation.

The plan includes a limit of disturbance and access through the Buffer to construct the sill. If possible, we recommend that the structure (if approved) be constructed from the water to minimize disturbance to the existing mature trees on this site. We recommend that any permit for shore erosion control be conditioned upon local approval of a Buffer Management Plan which provides for a minimum 1:1 replacement of any vegetation removed. (Please note that a more detailed plan may be necessary to ensure the Buffer is expanded for steep slopes as required under the County's Critical Area Program.) In addition, local sediment and erosion control permits should be acquired prior to any site disturbance.

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

cc: Jim Barton, Zoning Administrator, Queen Anne's County



Robert L. Ehrlich, Jr.  
Governor



Martin G. Madden  
Chairman

Michael S. Steele  
Lt. Governor

Ren Serey  
Executive Director

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January 8, 2007

Mr. Duncan Stuart  
Department of Planning  
417 E. Fayette St. 8th Floor  
Baltimore, MD 21202-3416

RE: CSX – Chesapeake Bay Piers, 1910 Benhill Ave & 1501 Patapsco Ave

Dear Mr. Stuart:

Thank you for providing the above referenced site plan and supporting documentation to our office for review. The site is partially within the Critical Area with an IDA designation. It is our understanding that an area of the site was paved without proper approvals. In addition, three new small best management practices are proposed for the site. Information on the existing best management practice (BMP) on the site was not provided.

Based on the existing and proposed conditions on site, the 10% calculations indicate a pollutant removal requirement of 19.5 lbs. If the existing BMP was constructed and continues to operate in accordance with current stormwater management requirements, it can be used to meet the 10% requirement. The facility should be inspected to ensure it remains viable. If this can be confirmed, the proposed BMPs will bring the site into compliance with the City's Critical Area Program. If the BMP for Area D is not consistent with current regulations, the applicant can upgrade it to conform to current standards or could revise the calculations to subtract out Area D. If the latter option is chosen, it may be difficult to meet the 10% requirement due to the small drainage areas served by the new BMPs.

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

Sincerely,

  
LeeAnne Chandler  
Science Advisor

cc: BA2-07



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**

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

January 8, 2007

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

RE: Major Site Plan, Ruby Tuesdays  
MASP# 04-06-07-0007-C, Revision #1

Dear Ms. Spinelli:

Thank you for providing information on the above referenced major site plan. The applicant proposes a new restaurant, associated parking and stormwater management on a site that is currently developed with a retail business. It is our understanding that the existing business will remain, but the remainder of the site will be disturbed during redevelopment. The site is designated IDA and is not waterfront.

As indicated in previous comments submitted by the Commission, the primary Critical Area concerns are habitat protection and stormwater management. The letter from the Heritage Division of DNR indicated that there were no concerns regarding sensitive species and there are no Buffer concerns. However, we do have the following comments regarding stormwater management:

1. The stormwater report narrative indicates the size of the site is 1.92 acres, yet the 10% calculations are based on 1.828 acres. The 10% calculations must be based on the area of IDA on the site.
2. Similarly, the areas of impervious cover used in the 10% calculations do not match those listed in the narrative. These should be checked and revised as necessary.
3. The 10% calculations indicate that a dry swale is proposed yet the narrative discusses a grass swale, a detention pond and underground storage pipe. The grass channel (as a credit) is supposed to be used in lieu of curb and gutter (i.e., parallel to a road) not as a stand-alone BMP. If it is meant to be a dry swale, it must be designed in accordance with the MDE specifications for a dry swale. A cross- and longitudinal- section should be provided for all stormwater facilities.

TTY for the Deaf

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

Ms. Helen Spinelli  
January 8, 2007  
Page 2 of 2

4. The percentage of drainage area served by the swale should be reviewed and corrected if necessary. Drainage from the parking lot which enters only the detention facility is not being treated by the swale.
5. We recommend the use of native species in landscaping the site.

Due to the above outstanding comments, we cannot recommend site plan approval before we receive additional or revised information on the proposed stormwater management.

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

Sincerely,



LeeAnne Chandler  
Science Advisor

cc: QC508-06

Robert L. Ehrlich, Jr.  
Governor



Martin G. Madden  
Chairman

Michael S. Steele  
Lt. Governor

Ren Serey  
Executive Director

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January 2, 2007

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

RE: Administrative Subdivision, Thomas & Kathleen Saylor  
File #04-06-12-0007-C

Dear Ms. Rhodes:

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

Provided that LDA development standards are addressed if there is any further development on the resulting lots, this office has no comments on the proposed subdivision.

Thank you for the opportunity to review 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  
Science Advisor

cc: QC839-06



Robert L. Ehrlich, Jr.  
Governor

Michael S. Steele  
Lt. Governor



Martin G. Madden  
Chairman

Ren Serey  
Executive Director

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January 2, 2007

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

RE: Conditional Use # CU-0004, Mar-Lin, LLC

Dear Ms. Maxwell:

Thank you for providing information on the above referenced conditional use application. The applicant is requesting approval for a 230-foot pier as a conditional use under the County's Land Use Code. The associated lot is currently undeveloped, though it appears a building permit for a dwelling is pending.

While this office typically defers to the Maryland Department of the Environment on pier issues, an issue of concern was discovered in reviewing the proposal. The pier is proposed to be located in a pocket of what is shown as nontidal wetlands on the site plan. These non-tidal wetlands are shown as TIDAL wetlands on resource inventory maps. (Enclosed with this letter is an aerial photo of the property with a tidal wetland overlay; the proposed pier location is approximate.) In addition, as shown on applicant's exhibit C, the pier is located such that clearing of a portion of the only wooded area of the property would be necessary. The pier should be relocated to a point along the shoreline outside of the 100' Buffer to these tidal wetlands (so the access to the pier does not impact this Buffer) and that minimizes impacts to existing vegetation. As proposed, we do not recommend approval of this conditional use request.

Thank you for the opportunity to review and comment on this conditional use request. If you have any questions or concerns 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: Rick Ayella, MDE (Authorization #07-PR-0184)  
Gene Palmatary, Zoning Inspector  
QC828-06

Enclosure

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

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January 2, 2007

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

RE: Declaration of Administrative Subdivision, Kenneth & Celesta Gettle  
File #07-06-12-0003-C

Dear Ms. Rhodes:

Thank you for providing information on the above referenced administrative subdivision. The applicants propose to combine one and a half (1 ½) existing, undeveloped lots into one. The lots are designated LDA and are not waterfront.

Provided that all LDA development standards are met during development of the resulting lot, this office has no comments on the proposed subdivision.

Thank you for the opportunity to review 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  
Science Advisor

cc: QC827-06



DOUGLAS F. GANSLER  
Attorney General

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



MARIANNE E. DISE  
Assistant Attorney General  
Principal Counsel

SAUNDRA K. CANEDO  
Assistant Attorney General

STATE OF MARYLAND  
OFFICE OF THE ATTORNEY GENERAL  
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CHESAPEAKE AND ATLANTIC COASTAL BAYS

FAX NO. (410) 974-5338

WRITER'S DIRECT DIAL NO. (410) 260-3466  
mdise@oag.state.md.us

June 18, 2007

Mr. and Mrs. Diego Mera  
1855 Robin Court  
Lusby, Maryland 20657

RE: Rousby Hall Woods

Dear Mr. and Mrs. Mera,

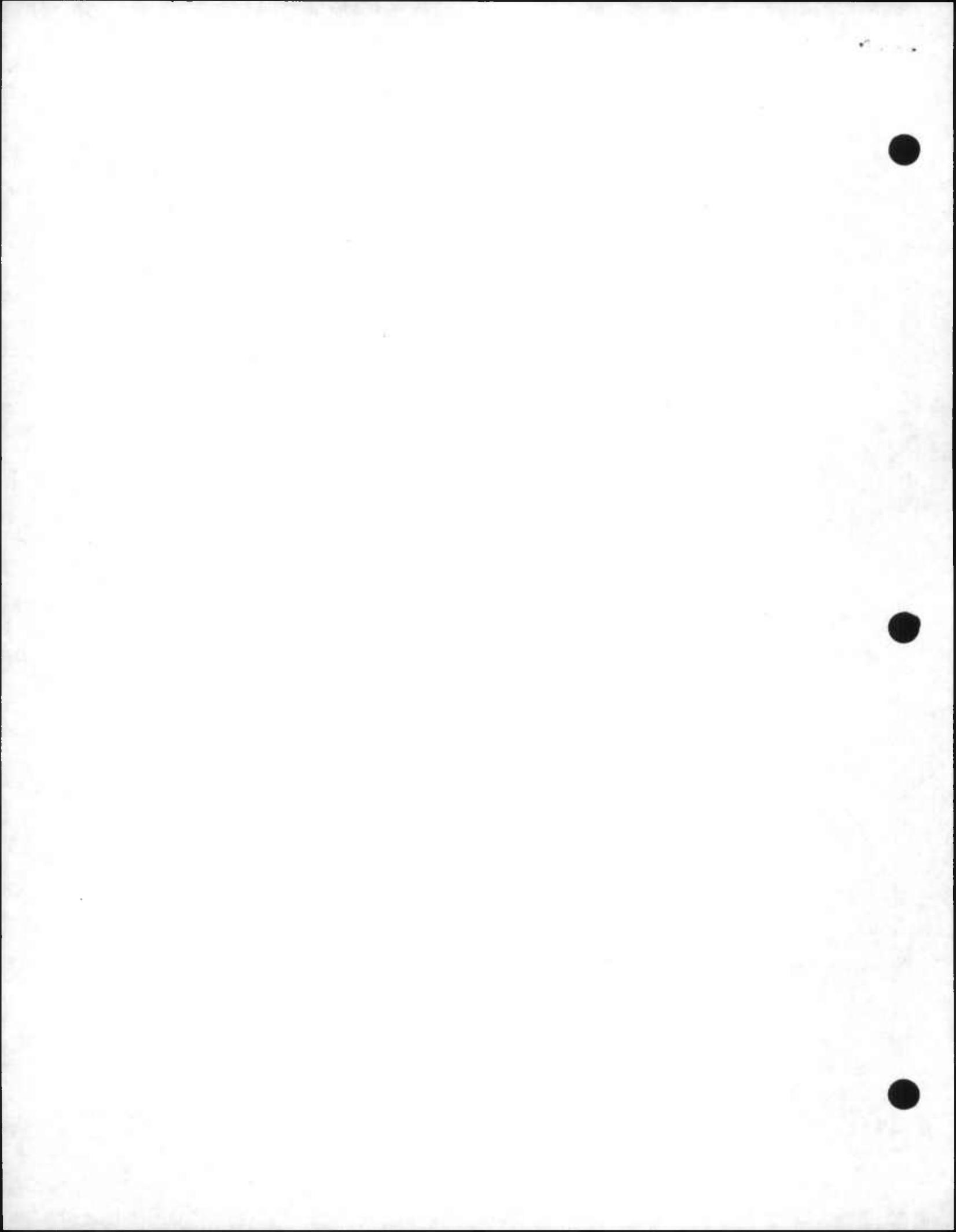
Attorney General Gansler has asked me to respond to your recent letter to Senator Cardin, which was forwarded to this office.

As counsel to the Critical Area Commission, I have looked into the issues you described regarding your home in Lusby, Calvert County. As you know, the developer restricted your lot to allow development (building) on only the portion of the lot outside of the Critical Area Resource Conservation Area. Although I certainly understand your concern about the building limit restrictions on your lot, my research disclosed that the recorded subdivision plat for Rousby Hall Woods, dated October 20, 2000, clearly shows the questioned building limit line on your lot. Thus, at the time that you purchased your property in 2003, the building limit line was a matter of public record.

Apparently, the developer chose to subdivide the parcel for Rousby Hall Woods in a way that used the allowed Critical Area density of the entire parcel elsewhere, leaving your lot and several other lots, with a rather small area for construction of homes and other amenities. Because your home was constructed up to the edge of the building limit line, there is no room for expansion at the rear of your dwelling. At the time of subdivision, this practice was permitted by Calvert County.

You have correctly stated that the Calvert County zoning and subdivision ordinance has been changed, so that this practice is no longer allowed, but this does not retroactively change

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Annapolis, Maryland 21401



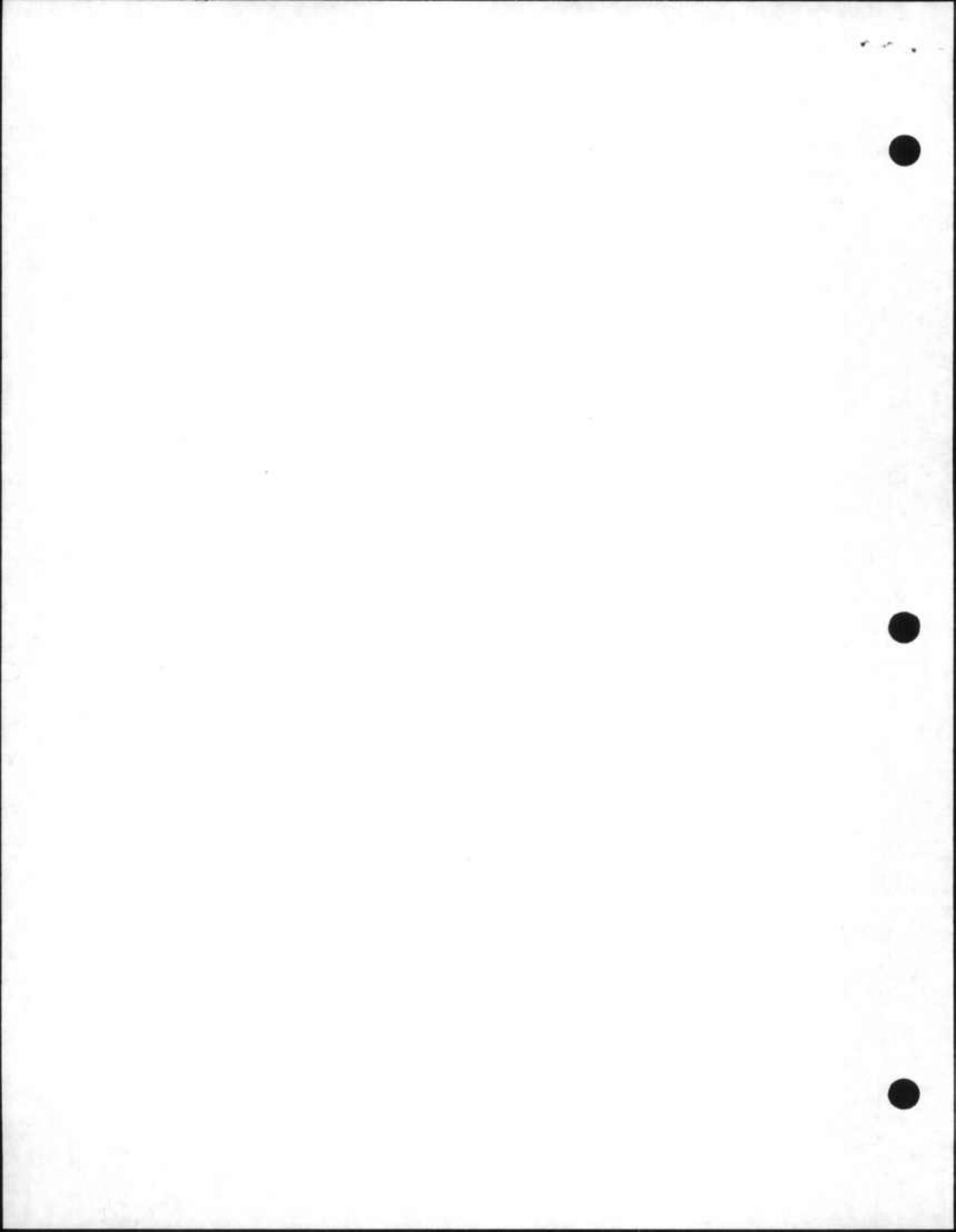
your situation. Because I have found no violation of the Critical Area law, I must reluctantly inform you that your remedy does not lie with the State government.

This letter contains the views of Counsel to the Critical Area Commission, but it is not a formal Opinion of the Attorney General. If you would like to discuss this letter with me, please call me directly at (410) 260-3466.

Sincerely,

A handwritten signature in cursive script that reads "Marianne E. Dise".

Marianne E. Dise  
Assistant Attorney General



DOUGLAS F. GANSLER  
Attorney General

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



MARIANNE E. DISE  
Assistant Attorney General  
Principal Counsel

SAUNDRA K. CANEDO  
Assistant Attorney General

STATE OF MARYLAND  
OFFICE OF THE ATTORNEY GENERAL  
CRITICAL AREA COMMISSION FOR THE  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

FAX NO. (410) 974-5338

WRITER'S DIRECT DIAL NO. (410) 260-3466  
mdisc@oag.state.md.us

June 18, 2007

VIA FACSIMILE AND FIRST-CLASS MAIL

Mark Gabler, Esquire  
Rich and Henderson, P.C.  
36 South Washington Street  
Easton, Maryland 21601

RE: Eric and Tanja Roes Property - 11672 Greensboro Road, Caroline County

Dear Mr. Gabler,

Thank you for your letter of June 13, 2007, regarding the above-described property. As we discussed during the site visit on May 30, 2007, the property is not now in compliance with the Critical Area law. The unauthorized clearing of over 40,000 square feet of trees in the Critical Area, along with the placement of impervious surface in the 100-foot Buffer, are serious matters. It is undisputed that Mr. Roes undertook these actions without valid permits or approvals.

Although I appreciate your clients' stated intention to retain a consultant to assist them, Mr. and Mrs. Roes have been aware of the clearing violation since May of 2005, and to date, have taken no action to comply with the Critical Area law. The August 8, 2006 letter to Mr. Roes from the Critical Area Commission constituted additional notice of the clearing violation, and identified the mitigation planting that would be required. That letter stated that "no effort has been made to replant the area of disturbance associated with the violation." Moreover, the Department of Natural Resources notified Mr. Roes' former consultant (Stark McLaughlin) in 2005 that the Roes property contains Forest Interior Dwelling Bird habitat within the Critical Area. Mr. Roes was advised not to undertake cutting of trees without a FIDS mitigation plan. As of today, the property remains in violation, and no replanting of the disturbed area has been undertaken.

The Caroline County Critical Area Program requires that the Buffer shall be "maintained

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as an area of natural vegetation, supplemented and maintained with planted vegetation as necessary to protect and stabilize the shoreline.” The placement of a gravel and stone driveway/parking area in the Buffer is clearly a violation of the County’s Critical Area Program. Because the property remains in a state of non-compliance due to the unauthorized forest clearing (including clearing in FIDS habitat) and the Buffer violation, I cannot agree to advise Caroline County to authorize any clearing, grading, or development activity on the site.

As I mentioned during our recent phone conversation, the violations on the Roes property have been referred to the Attorney General for enforcement. In the spirit of cooperation, and in response to your request for additional time to respond, I am willing to allow Mr. Roes an additional three weeks, that is, until the close of business on July 12, 2007, to take the following actions:

1. Submit to Caroline County and to the Critical Area Commission a mitigation plan for the clearing violation, including mitigation for the affected FIDS habitat. This plan should be prepared by Milt McCarthy or another credentialed consultant, for replanting 129,120 square feet of trees, and any additional forest that is determined to have been cleared without compliance with FIDS conservation guidelines.

2. Remove all vehicles, structures, tires, and impervious surfaces (including gravel and stone) from the 100-foot Buffer.

3. Submit to Caroline County and to the Critical Area Commission a Buffer Management Plan for replanting the Buffer, and for the mitigation planting required for the Buffer violation. Within 30 days after removal of the impervious surfaces from the Buffer, Mr. Roes shall restore and replant the Buffer in accordance with a Buffer Management Plan approved by Caroline County and Critical Area Commission staff.

Should your clients take the above actions by July 12, 2007, this Office would view the cooperation evidenced by these actions as a very positive step toward resolving the outstanding violations without the necessity of involving the courts in this matter. I appreciate your willingness to continue working toward a satisfactory resolution of these issues.

Sincerely,



Marianne E. Dise  
Assistant Attorney General

cc: Margaret McHale  
Kevin Clark  
Marshall Johnson

OFFICE OF THE ATTORNEY GENERAL  
for the  
Critical Area Commission for the Chesapeake and Atlantic Coastal Bays  
1804 West Street Suite 100  
Annapolis, Maryland 21401  
(410) 260-3466  
(410) 974-5338 (Fax)

June 5, 2007

MEMORANDUM

TO: James J. Doyle, III

FROM: Marianne E. Dise *Marianne E. Dise*

RE: St. Mary's County Request for Program Amendment - Mapping Mistake -  
St. Mary's Rykien High School

This memorandum responds to your request of June 4, 2007 for information regarding the Critical Area Commission's process for consideration of the above request from St. Mary's County on June 6, 2007. As you correctly noted, the Commission Panel for the St. Mary's Program Amendment will meet at 10:00 on June 6<sup>th</sup>. That meeting is not, however, an "agency hearing" within the meaning of the Administrative Procedures Act, Code, SG § 10-202(d). Rather, the Panel's meeting, which is open to public observation as a matter of courtesy, will be limited to discussion among Panel members, with participation from Commission staff and counsel, as requested by the Panel. At the conclusion of discussion, the Panel will vote on a recommended action for the full Commission's consideration. The record of the proceedings before the Panel is closed, and no additional testimony or other submissions will be accepted.

At the afternoon meeting of the full Commission, the Panel will report to the Commission on the Panel's recommendation for Commission action. Following discussion, the Commission will vote.

I trust that this letter answers any question you may have about the anticipated process for Commission consideration of this request for amendment to the St. Mary's County Critical Area Program. Please call me at 410-260-3466 if you need further information.

cc: Margaret McHale, Commission Chair  
Mary Owens, Chief, Program Implementation  
Dennis Canavan, St. Mary's County



DOUGLAS F. GANSLER  
Attorney General

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



MARIANNE E. DISE  
Assistant Attorney General  
Principal Counsel

SAUNDRA K. CANEDO  
Assistant Attorney General

STATE OF MARYLAND  
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MDise@dnr.state.md.us

March 13, 2007

HAND-DELIVERED

Mr. Robert P. Duckworth, Clerk of the Court  
Circuit Court for Anne Arundel County  
7 Church Circle  
Annapolis, MD 21401

Re: *Petition of James and Victoria Parkin for Administrative Mandamus*  
Civil No. C-07-120084

Dear Mr. Duckworth:

Enclosed please find for filing in the above-referenced case the State of Maryland's Motion to Dismiss and Memorandum of Law. Thank you very much for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Marianne Dise" followed by a small monogram "SM".

Marianne E. Dise  
Assistant Attorney General

Enclosure

cc: Kathryn J. Dahl, Esquire  
Kathleen E. Byrne, Esquire



DOUGLAS F. GANSLER  
Attorney General

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



MARIANNE E. DISE  
Assistant Attorney General  
Principal Counsel

SAUNDRA K. CANEDO  
Assistant Attorney General

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OFFICE OF THE ATTORNEY GENERAL  
CRITICAL AREA COMMISSION FOR THE  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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MDise@dnr.state.md.us

March 22, 2007

HAND DELIVERED

Alexander L. Cummings, Clerk  
Court of Appeals of Maryland  
Robert C. Murphy Courts of Appeals Building  
361 Rowe Boulevard  
Annapolis, Maryland 21401

Re: *Lewis v. Department of Natural Resources, Sept. Term 2007,*  
Petition Docket No. 21

Dear Mr. Cummings:

Pursuant to Rule 8-303(d), please accept for filing in the above-captioned case the Respondent Department of Natural Resources' Answer to Petition.

Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "M E DISE".

Marianne E. DISE  
Assistant Attorney General

MED/jjd

Enclosure

cc: Raymond S. Smethurst, Jr., w/encl.



DOUGLAS F. GANSLER  
Attorney General

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



MARIANNE E. DISE  
Assistant Attorney General  
Principal Counsel

SAUNDRA K. CANEDO  
Assistant Attorney General

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CRITICAL AREA COMMISSION FOR THE  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

FAX NO. (410) 974-5338

WRITER'S DIRECT DIAL NO. (410) 260-3466  
MDise@dnr.state.md.us

March 22, 2007

HAND DELIVERED  
Alexander L. Cummings, Clerk  
Court of Appeals of Maryland  
Robert C. Murphy Courts of Appeals Building  
361 Rowe Boulevard  
Annapolis, Maryland 21401

Re: *Lewis v. Department of Natural Resources, Sept. Term 2007,*  
Petition Docket No. 21

Dear Mr. Cummings:

Pursuant to Rule 8-303(d), please accept for filing in the above-captioned case the Respondent Department of Natural Resources' Answer to Petition.

Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Marianne E. Dise".

Marianne E. Dise  
Assistant Attorney General

MED/jjd

Enclosure

cc: Raymond S. Smethurst, Jr., w/encl.



OFFICE OF THE ATTORNEY GENERAL  
Critical Area Commission for the  
Chesapeake and Atlantic Coastal Bays  
1804 West Street Suite 100  
Annapolis, Maryland 21401  
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(410) 974-5338 (Fax)

February 15, 2007

MEMORANDUM

TO: Shelly Mekiliesky

FROM: Marianne E. Dize *MED*

RE: Record Extract and Appellant's Brief  
*Talbot County v. Town of Oxford* No. 01509, Sept. Term 2006 Ct. of Special App.

Enclosed please find the record extract and appellant's brief in the above-captioned case. My brief is due on Monday, March 5, but I would like to file on Friday, March 2. As per my phone conversation with your office today, I will email a copy of my draft brief by COB on Friday, February 16<sup>th</sup> to K. Parker and Bonnie Ranaudo. Please let me know who is reviewing the brief, and ask that person to contact me directly with comments/changes. Thanks!



DOUGLAS F. GANSLER  
Attorney General

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



MARIANNE E. DISE  
Assistant Attorney General  
Principal Counsel

SAUNDRA K. CANEDO  
Assistant Attorney General

STATE OF MARYLAND  
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CRITICAL AREA COMMISSION FOR THE  
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MDise@dnr.state.md.us

February 6, 2007

Anthony F. Christhilf, Esquire  
150 South Street  
P.O. Box 1524  
Annapolis, Maryland 21404

RE: Mike's Crab House/Piera Family Ltd. Partnership

Dear Tony:

This letter responds to your letter of January 24, 2007 regarding the above-captioned matters. As you know, the Critical Area Commission voted on December 6, 2006 to take action pursuant to Code, Natural Resources Article 8-1809 to declare certain provisions of the Anne Arundel County Critical Area Program to be in conflict with the State law and criteria. The Commission voted to find that

there is a clear conflict, mistake, or omission in Anne Arundel County's Critical Area Program relative to the County's Critical Area maps, and the amendment of those maps on the basis of mistake in accordance with the mapping standards in the County's Critical Area Program document.

In my view, the language of the motion, approved by a vote of 21-0, covers any Anne Arundel County Critical Area map amendments based on mistake. Until the deficiency is corrected, in a manner chosen by the County, the Commission requested the County not to submit "any further map amendments on the basis of mistake."

As you noted in your letter, the map amendment request for your clients' property was forwarded by the County to the Commission last year, but at that time, the County had already reached its limit of four submittals allowed per year under Code, Nat. Res. 8-1809(h). Although

Letter to Anthony F. Christhilf  
February 6, 2007  
Page 2

your clients' map amendment was approved by the County prior to the Commission's December 6, 2006 action, I believe that the Commission would consider it to be encompassed in the scope of the Commission's request that the County not submit further map amendments on the basis of mistake, until the County corrects the deficiencies in the County's Critical Area program.

I trust that this letter responds to your inquiry. Please call me if you have any questions about this matter.

Very truly yours,



Marianne E. Dise  
Assistant Attorney General

cc: Ren Serey  
Mary Owens  
Lisa Hoerger

DOUGLAS F. GANSLER  
Attorney General

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



MARIANNE E. DISE  
Assistant Attorney General  
Principal Counsel

SAUNDRA K. CANEDO  
Assistant Attorney General

STATE OF MARYLAND  
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CRITICAL AREA COMMISSION FOR THE  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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WRITER'S DIRECT DIAL NO.  
(410) 260-3466

[mdise@dnr.state.md.us](mailto:mdise@dnr.state.md.us)

January 19, 2007

**VIA FASCIMILE**

Honorable John W. Sause, Jr.  
Chief Judge (Ret)  
Circuit Court for Queen Anne's County  
Courthouse  
100 Court House Square  
Centreville, Maryland 21617

Re: *Bedford v. Madden*, No. 20-C-06-005699,  
Cir. Ct. Talbot County

Dear Judge Sause:

Yesterday, I became aware that a motions hearing is scheduled for Monday, January 22, 2007, in *Petition of Bedford et al*, No. 20-C-06-005654, (Circuit Court for Talbot County). This case involves the Miles Point III Critical Area growth allocation. The State of Maryland Critical Area Commission is not a party to this case, and accordingly, I do not plan to attend Monday's motions hearing. However, because the question of scheduling may arise in a related case, *Bedford v. Madden*, to which the State is a party, I write to request a ruling from you on my pending motions to dismiss in *Bedford v. Madden*.

As you recall, on two occasions (October 23, 2006 and December 13, 2006), when all counsel in *Bedford v. Madden* have appeared before you, the question of scheduling the future proceedings in that case has been discussed. At those hearings, I expressed my opposition to establishing a briefing schedule for the *Madden* case, because, without rulings from the Court on my pending motions, I cannot know the scope of the issues, if any, that will need to be briefed.

Letter to Hon. John W. Sause, Jr.  
January 19, 2007  
Page 2

At the December 13, 2006, status conference, in an effort to assist with moving the case forward, I agreed to file the documents which the Critical Area Commission Chairman considered in reaching the decision which the plaintiffs have challenged in *Bedford v. Madden*. I filed those documents on December 30, 2006. I respectfully request that further proceedings, including scheduling, in *Madden* be conducted only after the Court's rulings on the pending motions.

Counsel for Plaintiffs have consented to my sending this letter to Your Honor. Thank you for your consideration.

Sincerely,



Marianne E. Dise  
Counsel to the Critical Area Commission

cc: Thomas A. Deming, Esquire  
Thomas Alspach, Esquire  
Richard A. DeTar, Esquire

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 20, 2007

Ms. Jennifer Jackson-Rhodes  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 05-07-06-0002-C, Melvin  
Tax Map 58-A, Parcel 122**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced subdivision proposal. The subject site is a single lot currently developed with a dwelling and multiple accessory structures, located in the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The applicant proposes to divide the lot into two new lots. Please see my comments below.

1. The site plan shows one shed to be removed but does not indicate that any other structures will be removed. However, the applicant's Environmental Assessment narrative states that all structures and related impervious structures will be removed. Please have the applicant clarify the proposal in regard to the LDA standards for impervious surface limits of Queen Anne's County Code § 14:1-38.D(8).
2. The site plan submitted includes an Impervious Area Table in which the area numbers do not match proposed activities shown on the plan. For example, the 284 square feet proposed to be removed in the table would not result in remaining impervious area of 79 square feet on proposed Lot 1. Please have the applicant clarify what is proposed, and explain how LDA standards for impervious surface limits will be met.
3. The method used on the plan to calculate forest cover is not adequate to show compliance with Queen Anne's County Code § 14:1-38.D(6)(a) for forest cover requirements in the LDA. When forest cover on the site totals less than 15% of the site area, additional forested areas shall be established so that at least 15% of the site area is in forest cover.

Ms. Jackson-Rhodes  
June 20, 2007  
Page 2 of 2

To calculate the forest cover for this site, the aerial extent of canopy coverage should be calculated. If this amount is less than 15% of the site area, the applicant must show that afforestation will be provided to achieve 15%.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 345-07

Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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

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**MEMORANDUM**

To: Marti Sullivan, Program Open Space  
From: Marshall Johnson  
Date: June 20, 2007  
RE: **POS # 5169-12-257 Byrd Park Enhancements, Worcester County**

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to construct stormwater management for the park and request plans for a bandstand/amphitheater. While specific plans may not yet be available, the following factors should be considered.

It appears that the site is within the jurisdictional limits of the Town of Snow Hill. While it is difficult to determine the extent of impacts proposed within the Critical Area based solely on the information provided, any new development activities, including stormwater management facilities, will be required to comply with the local requirements for development within the RCA. Projects on property owned by local jurisdictions require confirmation of consistency with local Critical Area Programs, or will require Conditional Approval from the Critical Area Commission.

We recommend that the Town of Snow Hill and/or Worcester County, if appropriate, work closely with Critical Area Commission staff as early as possible in the planning process. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3479.

cc: Karen Houtman, Town of Snow Hill  
Janet Davis, Worcester County



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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June 18, 2007

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

**Re: 04-05-09-0015-C; 107 Windward Court, Stevensville; Daniel Callahan**

Dear Ms. Tompkins:

Thank you for providing resubmitted plans and information on the above referenced project. The applicant's letter dated May 31, 2007 states that the proposed new undeveloped lot (lot 83-C) will lose Buffer Exempted status, which is correct. However; the letter also comments incorrectly that the proposed new lot with the existing house (proposed lot 83-B) will remain Buffer Exempt. The Queen Anne's County Critical Area Program does not contain provisions for Buffer Exemption when creating new lots through a subdivision. This was explained in my previous letter regarding this proposal, dated May 10, 2007. Please see my comments below for the resubmitted material.

1. As stated in the previous letter from the Critical Area Commission staff, Queen Anne's County Title 14:53 explains that the Buffer Exempt provisions only apply to lots of record as of December 1, 1985. Thus, the current County Critical Area Program does not include provisions for retaining Buffer Exempted status when creating new lots in Buffer Exempted Areas. The applicant is proposing to create two new lots. By this action, both lots will lose Buffer exempt status, and any new development on either of the proposed lots will be required to meet all applicable requirements of the Critical Area LDA, including the 100-foot Buffer. Please have the applicant remove the note stating that lot 83-B has Buffer exempt status and show the 100-foot Critical Area Buffer line on the lot with the existing house.
2. The 100-foot Buffer line is not shown accurately for the undeveloped lot on the resubmitted site plans. The tidal wetlands on this site extend to the location of the stone revetment/rip rap on that lot. The 100-foot Critical Area Buffer line shown on the submitted plan must be drawn 100 feet landward from the edge of this tidal wetland area. Please have the applicant revise the plans to reflect the correct location of the Buffer line.

3. The submitted Buffer Management Plan is not adequate to meet the definition of the Buffer as stated in the Maryland Natural Resources Article § 8-1802 and the definition and purpose of the Buffer stated in COMAR 27.01.09, both of which define the Buffer as an area established in natural vegetation. Please have the applicant revise the Buffer Management Plan to include the following:
- Show the correct location of the 100-foot Buffer (see comment 2 above)
  - Calculate the number of plants required based on this revised Buffer area, and using 1 tree and 3 shrubs per 400 square feet as the ratio to establish the Buffer in natural vegetation
  - State the plant numbers by species, spacing and stock size/type
  - Only native plants should be used
  - The Buffer area plantings should be in clusters of 1 tree and 3 shrubs per 400 square foot area, using an irregular pattern to provide structural variety amenable to wildlife habitat

Prior to final plat approval, the County should require that the applicant subdividing the property provide assurance for installing the Buffer plantings. Please note that the 15% afforestation requirement can also be met by these Buffer plantings.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 652-05

Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 18, 2007

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Tressa Ellis  
MDE Water Management Administration  
1800 Washington Blvd.  
Baltimore MD 21230

**RE: 200760259/07-WL-0935  
Puglisi Living Shoreline Project**

Dear Ms. Ellis:

Thank you for the opportunity to comment on the above referenced project. The Critical Area Commission staff has the following comments regarding the proposed living shoreline project. The site is within the LDA (Limited Development Area) of the Chesapeake Bay Critical Area.

This project will be required to meet the standards of Queen Anne's County Code § 14:1-38 (Development standards in limited development areas) and COMAR 27.01.02.04, including policies and criteria for habitat protection areas, mitigation for 100-foot Buffer impacts and shoreline erosion protection works standards of COMAR 27.01.04.01.

The use of nonstructural shore protection measures for protection of rapidly eroding portions of the shoreline in the Critical Area is encouraged. Any disturbance, including any clearing or grading, within the 100-foot Critical Area Buffer must be mitigated at a 1:1 ratio. Please coordinate with the Queen Anne's County Planning office to provide a mitigation plan that meets these requirements.

Please contact me at 410-260-3479 if you have questions about this information.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Critical Area Commission, Natural Resources Planner

CC: Sandra Carter, Queen Anne's County Planning/Zoning (FAX)



Martin O'Malley  
Governor



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Chair

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Executive Director

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June 18, 2007

James W. Price, Director  
C/O Marti Sullivan  
Program Openspace  
Tawes State Office Building  
580 Taylor Avenue, E-4  
Annapolis, MD 21401

**RE: POS # 5172-17-145**

Dear Mr. Price:

Thank you for providing information on the above referenced project. The Critical Area Commission staff does not object to the proposed property acquisition. However, please be aware that a portion of the subject site appears to be within the RCA (Resource Conservation Area) of the Chesapeake Bay Critical Area. Active recreation is not a use that is generally permitted in the RCA due to the impacts typically associated with such use. The RCA is characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). In addition, land use management practices in the RCA shall be consistent with the policies and criteria for habitat protection areas in COMAR 27.01.09, the policies and criteria for agriculture in COMAR 27.01.06, and the policies and criteria on forestry in COMAR 27.01.05. Therefore, any future proposed activities in the RCA portion of this parcel shall be passive in nature, and may not include uses inconsistent with the RCA.

If you have any questions about this information, please contact me at 410-260-3479.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Critical Area Commission, Natural Resources Planner



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

STATE OF MARYLAND  
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CHESAPEAKE AND ATLANTIC COASTAL BAYS

June 15, 2007

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Ms. Jennifer Jackson-Rhodes  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 04-06-11-0015-C, Grollman Subdivision**

Dear Ms. Jackson-Rhodes:

Thank you for providing resubmitted information on the above referenced subdivision. The applicant proposes to divide an existing lot that is partially in the Resource Conservation Area (RCA) into two lots. Please see my comments below.

1. The lot line proposed shows that the majority of the RCA is within Lot 2 while a small portion of the RCA lies within Lot 1. This is acceptable only because the portion of RCA on Lot 1 is too small to be developed, because the area of RCA on this site only allows density of one dwelling. Ideally, the entire RCA area of the site would be placed within Lot 2.
2. As stated in the previous letter from this office dated December 14, 2006, the afforestation requirement for this proposal is 1.9 acres. COMAR 27.01.09.01C(6) requires that the entire 100-foot Buffer of the site be established in natural vegetation (when the use changes from agriculture to another use), which should occur before planting elsewhere on the site. Therefore, the 100-foot Buffer on Lot 2 must be completely planted. Any remaining afforestation may be placed along the property boundary as depicted. Please have the applicant revise the plan to show the Buffer plantings as described above.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: QC 766-06



Martin O'Malley  
*Governor*

Anthony G. Brown  
*Lt. Governor*



Margaret G. McHale  
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Ren Serey  
*Executive Director*

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MEMORANDUM

**To:** Butch Norden, Director, Public Lands, Policy and Planning

**From:** Marshall Johnson, Natural Resources Planner, Critical Area Commission

**Date:** June 12, 2007

**Subject:** Bush Declaration NRMA, Lower Bynum Run Parallel Interceptor  
(2007-DNR-010)

Thank you for forwarding the plans for the above-referenced project for review. The Critical Area Commission staff has the following comments in regard to the proposal. Please contact me at (410) 260-3479 if you have any questions.

1. Those portions of the project which cross DNR lands will require approval by the Critical Area Commission.
2. Please confirm whether all MDE wetland and waterway permits have been acquired, and submit copies of the approvals. The MDE permits for this project should be finalized before the Critical Area Commission can approve consistency with the local Critical Area Program.
3. The letter for this project on file at our office from the DNR Wildlife and Heritage Service is dated June 10, 2003. An updated Wildlife and Heritage response to the proposal is needed. Please request an updated response and submit a copy to the Critical Area Commission office.
4. The proposed disturbance should be located outside of the 100-foot Critical Area Buffer; however, it is recognized that the sewer line location has been chosen for many logistical reasons. That said, it appears that there are aspects of the proposal, such as staging/stockpiling areas, that could be altered to reduce impacts to the Buffer. Where there is no possible alternative location for the disturbance outside of the Buffer, the applicant should minimize the impact by locating the disturbance away from wetlands and significant native vegetation and trees wherever possible. For example, on Sheet 8, the staging/stockpile area should be

moved out of the Buffer and wetland and placed in the Successional edge area where there is no wetland and no significant tree removal is required.

5. Proposed impact to forested wetland will not be temporary because, although the mitigation plan states that natural regeneration will be allowed to occur, trees will not be allowed to regrow. Thus, the impact of removing those trees is a permanent impact. Where impacts to the Buffer are unavoidable, mitigation should be provided at a 3:1 ratio. The mitigation reforestation area should include the disturbed area that is plantable, plus a single contiguous afforestation site to accommodate the remainder of the 3:1 plantings. If a single contiguous site is not possible, the afforestation area should be appropriate non-forested areas that are adjacent to existing forest. Please adjust the proposal to include the amount of Buffer area disturbance, and propose 3:1 mitigation for this amount, located as described above.
  
6. The Buffer Management Plan submitted states on Page 2 that "*The sewer easement area will be allowed to naturally regenerate. However trees will be kept clear in the easement to allow maintenance of the system.*" Since the Buffer is meant to be a naturally vegetated area that has specific functions, largely accomplished by the vegetation, vegetation removed for this project should be replaced. It is likely that invasive non-native weeds will prosper in areas of disturbed existing vegetation and soil, if left unplanted. Non-native invasive weeds are detrimental to the health of forests, and can fail to provide the benefits of natural vegetation, in this case potentially posing a threat to the adjacent FIDS habitat, water quality and riparian vegetation along the stream in the Critical Area Buffer. For this reason, replanting the areas of vegetation removal (for trenching, stockpile/staging, etc) with appropriate native shrubs and groundcover plants is highly recommended. This can be accomplished as part of the 3:1 Buffer disturbance mitigation requirement for this project.

cc: Michele Bynum, Thomas C. Hilton

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 12, 2007

Crystal Porter  
Office of Planning  
403 S. Seventh Street, Suite 210  
Denton, Maryland 21629

**RE: 07-038; Frazier Neck Road  
Jay F. Pratt**

Dear Ms. Porter:

Thank you for providing information on the above referenced proposal for locating a sewage reserve area. This property is almost entirely within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The plan submitted shows potential septic reserve area appropriately located outside of the 100-foot Critical Area Buffer. Please see my comments below.

1. The plan states incorrectly that the site is within the LDA. Please correct the plan to reflect that the site is within the RCA.
2. Any future development on this property will be required to meet all of the applicable development standards for the RCA.

Thank you for the opportunity to comment on this proposal. If you have any questions, please contact me at (410) 260-3479.

Sincerely,

  
Marshall Johnson  
Natural Resources Planner

cc: CR 321-07



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 11, 2007

Holly Tompkins  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: Minor Site Plan, Houck Property  
04-07-01-0001-C**

Dear Ms. Tompkins:

Thank you for providing resubmitted plans and information on the above referenced proposal. The site is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with a new building and associated facilities. The 10% pollutant removal requirements for this project are not met by the proposal, as explained in the following comments.

1. The proposed Infiltration Facility must be designed to the specifications of the MDE stormwater manual in order to claim pollutant removal credit for the site to meet the 10% pollutant reduction requirement of the IDA. Infiltration basin facilities are restricted to sites with permeable soils such as Hydrologic Soil Groups A and B. The submitted Stormwater Management Report states that the soils on the site are of Group C. The Infiltration facility is not appropriate for this type of soil. Please have the applicant address this issue. The design of Infiltration Basin in the submitted plans does not match the MDE diagram for this facility. See Appendix E, page E-34 and E-35 of the Critical Area 10% Rule Guidance Manual.
2. No revised 10% Pollutant reduction Worksheet A has been received at this office. The current Worksheet A does not match the resubmitted plans. The total site area does not match the area shown on the plan set, and the BMPs shown on the plans are different than those listed in the Worksheet A. Please have the applicant submit an updated Worksheet A.

Holly Tompkins  
June 11, 2007  
Page 2 of 2

3. The re-submitted plan sheet 5 of 7 shows a block for bioretention concrete outlet detail. There is not a bioretention facility on the plans. Bioretention is a filtering practice, whereas the Dry swale is an open channel practice. Please address this discrepancy on the plans and in the 10% calculations. The Dry Swale should be shown in the plan details to be comparable to the Maryland Stormwater Design Manual diagram, which can also be found on page E-49 of the 10% Manual.

Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at (410) 260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 5-07

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chairman

Ren Serey  
Executive Director

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June 6, 2007

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

**Re: Snow Hill Christian Nursery School; Tax Map 55, Parcel 23**

Dear Ms. Davis:

Thank you for submitting information regarding the above mentioned proposal. The property is partially located in the LDA (Limited Developed Area) and partially within the RCA (Resource Conservation Area) of the Chesapeake Bay Critical Area. The applicant proposes to construct additions to an existing school building and associated facilities. This site received a growth allocation in 1990 to convert 2.7 acres of the approximately 10 acre site from RCA to LDA. The existing development is located entirely within the LDA portion. The Critical Area Commission staff has the following comments.

1. The submitted plans do not show the location of the Critical Area designations. Please have the applicant submit plans showing the correct location of the LDA and RCA boundaries on this site. This information is necessary to confirm that the proposal meets the Worcester County standards because the proposed development is an expansion of an institutional use, which is not allowed in the RCA. The stormwater facilities for this project should not be located in the RCA.
2. The proposal shows a parking lot and building in an area that appears to be forested. There is an area on the opposite side of the existing building that is not forested, which appears to be adequate to accommodate the proposed expansions. Worcester County Code § NR 3-205(c)(2)B requires that the applicant "design and implement development activities to minimize the destruction of woodland vegetation." The applicant must show that this standard and standards in § NR 3-205(c)(3) have been met by the proposal.

Janet Davis  
June 6, 2007  
Page 2

3. County Code § NR 3-205(c)(3) requires that additional forest at a minimum of equal aerial extent must be created to replace any cleared forest. The forest replacement must be conducted as described in the Worcester County Code § NR 3-205(c)(5)G. This Code section requires that the applicant designate a new forest area on a part of the site not already forested, subject to the approval of the County. Please have the applicant address this requirement.
4. The submitted Critical Areas Report mentions that the treatment of stormwater quantity is affected by a "10% waiver provision." Please explain this provision and how it affects the proposal in regard to the design of stormwater management facilities on the site.

Thank you for the opportunity to provide comments on this application. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WO 304-07

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chairman

Ren Serey  
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June 5, 2007

Ms. Michele Bynum  
Harford County Department of Planning and Zoning  
220 South Main Street  
Bel Air, MD 21014

**RE: Harborside III Site Plan  
07-096; 520-528 Jenna Way**

Dear Ms. Bynum:

Thank you for providing information on the above referenced proposal. The site is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to develop the site with apartment buildings and associated facilities. I have provided Commission Staff comments below.

1. Development in the IDA must meet Critical Area Program standards, including the 10% rule for stormwater management (see Harford County Code § 267-41.1.F(3)(a)[1]). The applicant must submit the 10% calculations (Worksheet A of the Critical Area 10% Rule Guidance Manual) for this proposal. Please forward a copy of the Worksheet to the Critical Area Commission office.
2. The applicant should address Harford County Code § 267-41.1.F(3)(a)[3] which states that unless determined to be technically infeasible by the Zoning Administrator in consultation with the Director of the Department of Public Works and the Harford County Soil Conservation District, permeable areas shall be established and maintained in vegetation in accordance with a landscaping plan approved by the Department of Planning and Zoning.

Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: HC 324-07

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



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chairman

Ren Serey  
Executive Director

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June 4, 2007

Ms. Jean Fabi  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 03-07-05-0012-C, John Leekley  
Tax Map 35, Parcel 9 – 725 Spaniards Neck Road, Centerville**

Dear Ms. Fabi:

Thank you for providing information on the above referenced administrative subdivision. The applicant proposes to reconfigure existing lots partially located in the Resource Conservation Area (RCA). Please see my comments below.

1. Our records do not show that two parcels currently exist at this site. The County should confirm that there is a legally recorded deed or plat showing two separate parcels prior to approving this administrative subdivision.
2. Our records indicate that this site is partially within a sensitive species project review area. If development is proposed at this site in the future, please have the applicant consult Lori Byrne with DNR, at (410)260-8573 to determine how to proceed with development proposed in a sensitive species project review area.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: QC 303-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

May 30, 2007

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Ms. Jean Fabe  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 04-07-05-0007-C, 04-07-05-0008-C, and 04-07-05-0009-C; Neil Byrne  
Tax Map 76, Parcel 49**

Dear Ms. Fabi:

Thank you for providing information on the three above referenced administrative subdivisions. The applicant proposes to reconfigure multiple existing lots located in the Limited Development Area (LDA) in to three lots. There is one existing dwelling on the site. The site is in a Buffer Exempt Area. The applicant has submitted three separate applications for this purpose, and this letter is meant to respond to all three of the applications referenced above. The Code of Maryland Regulations (27.01.02.07) supports the consolidation of lots in common ownership when it results in greater conformance with regulations. In this case, five existing lots that represent individual development rights are within the Critical Area Buffer. The proposed consolidation results in lots that will have developable area outside of the Buffer, which would be in greater conformance. This office has the following comments.

1. The LDA impervious surface limit requirements of County Code § 14:1-38E (5) must be met by development on each of the proposed lots.
2. The "doctrine of merger" concept, established by *Friends of the Ridge v. BG&E* [352 Md. 645 1999], may effect this site because it was determined that contiguous lots used in the service of a single structure are considered a single lot for land use purposes. If the lot line beneath the existing house has been previously eliminated due to the "doctrine of merger," then the current proposal (Application # 1 and #2 in the applicant's narrative) would results in creation of a new lot line. Under the current County Code, Buffer Exempt Status would be lost on these lots, and any new development would have to meet all of the standards for LDA, including a 100-foot Critical Area Buffer. Please address the situation of the existing house crossing the proposed lot line.
3. The site appears to be partially Whitemarsh (Wh) hydric soils. County Code Section 14:1-52 requires expanding the Buffer for sensitive areas, including areas with hydric

Letter to Jean Fabi  
May 30, 2007  
Page 2 of 2

soils, where development may adversely affect aquatic environments. Please have the applicant address Section 14:1-52 and where necessary, show the expanded Buffer on the plans as part of the Critical Area Buffer.

4. The application forms submitted by the applicant state that the site has both Buffer Exempt Area and a 100-foot shoreline Buffer. The Buffer locations should be identified and effectively denoted so that they are correctly applied to the three proposed lots.
5. The applicant should meet the afforestation requirement of Queen Anne's County Code § 14:1-38.D(6) and § 14:1-54 for each of the lots created by Applications 04-07-05-0007-C, 04-07-05-0008-C and 04-07-05-0009-C.
6. Please contact Lori Byrne with the Maryland DNR Natural Heritage Division, at (410) 260-8573 to determine if there is protected habitat that may be located on this site, and whether additional protection measures are required. Once this information has been received from DNR, please forward a copy to our office.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 296-07  
QC 297-07  
QC 298-07



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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May 25, 2007

Janet Davis, Critical Area Planner  
Development Review & Permitting  
One W Market Street, Room 1201  
Snow Hill, Maryland 21863

**RE: Tax Map 80, Parcel 54, Lot 2; Scott's Landing Road  
Hugh Cropper -Variance Request**

Dear Ms. Davis:

Thank you for providing information pertaining to the proposal for a variance on the above referenced property. The site is located within the Resource Conservation Area (RCA) of the Atlantic Coastal Bays Critical Area. The applicant proposes to construct a single family dwelling, deck and paved driveway, clearing vegetation from approximately 29,187 square feet of Critical Area RCA. The applicant requests a variance to allow impact of 1,130 square feet to the expanded Critical Area Buffer, for a driveway. This impact to the Buffer is prohibited by the Worcester County Atlantic Coastal Bays Critical Area Program, unless the applicant provides evidence acceptable to the County that all of the standards of Worcester County Code § NR 3-111 (Variances) are met.

The Code of Maryland Regulations (COMAR) Title 27.01.09.01(C)(7) and the Worcester County Code § NR 3-219(c)(2) state that local jurisdictions shall expand the Critical Area Buffer beyond 100 feet to include contiguous, sensitive areas whose development or disturbance may impact wetlands. In compliance with these regulations, Worcester County requires expansion of the 100-foot Critical Area Buffer to include a 25-foot nontidal wetland Buffer on the subject site because it is a contiguous sensitive area whose development or disturbance may impact those wetlands. The Critical Area Commission staff therefore also recognizes this area as Critical Area Buffer, subject to COMAR 27.01.09.01(C)(2) and Worcester County Code § NR 3-219(c)(4) and (5) which state that new development activities, including structures, roads, parking areas and other impervious surfaces, are not permitted in the Buffer and that the Buffer shall be maintained in natural vegetation. The proposal as submitted by the applicant would require approval of a variance to COMAR 27.01.09.01 (Buffer) and Worcester County Code § NR 3-219 (The One-hundred-foot Buffer) because the proposed driveway does not meet the standards of that section as described above.

The site includes a developable upland area adjacent to Scott's Landing Road which would eliminate the need to create a driveway through the Critical Area Buffer. This area appears to be suitable and more than adequately sized for construction of a dwelling with all of the proposed amenities in the applicant's narrative and site plan. Code § NR 3-111 states that "the provisions for granting such a

variance shall include evidence submitted by the applicant that the following standards are met.” Standard number one of this section requires that “special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship.” If prohibiting the driveway through the Buffer meant the applicant could not build the proposed house on the property, this standard could potentially be met; however, because there is adequate area on the property to build the a house of the same size with the deck and a driveway, in a location where the impact to Buffer and wetland is not necessary, this standard cannot be met by the applicant.

Standard number two states that “a literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area.” Standard number three states that “the granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area.” Other properties in the vicinity have built dwellings on the upland adjacent to the road. As a result, the applicant cannot meet standards number two or three.

Clearing the vegetation and building a driveway through the sensitive area directly adjacent to the wetlands on this site would result in adverse affects to water quality, wildlife and plant habitat within the Atlantic Coastal Bays Critical Area, so that granting this variance would most certainly not be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Area Program, a requirement of standard number five. Standard number five cannot be met by the applicant's proposal. Additionally, standard number six requires that the County consider the reasonable use of the entire parcel or lot for which the variance is requested. Since there is adequate area on the site to place all of the development proposed by the applicant without granting a variance that would result in impact to the wetlands on the site, standard number six can not be met. The Critical Area Commission staff cannot support this request for a variance because the variance standards are not met by the proposal. This office has the following additional comments.

1. Wetlands on the site in the vicinity of proposed development should be professionally delineated. Please have the applicant submit a site plan showing professionally delineated wetland locations and, where applicable, information explaining how wetlands were delineated as tidal versus non-tidal. This information is needed to confirm that the Critical Area Buffer has been properly located, and to assess the impacts to the Buffer associated with the proposal.
2. Please have the applicant correct the site plan to reflect the expanded Critical Area Buffer located as required by Worcester County. The Critical Area 100-foot Buffer line and expanded Buffer should be labeled as a single continuous line as “Critical Area Buffer” on the Site Plan and any other relevant plan sheets. In order to ensure that the Buffer location is clear for all project related activities, the applicant should correctly label the Critical Area Buffer line on all sheets of plan sets for building and related permits.
3. Please have the applicant submit information about the types of soils on site, and address the Buffer expansion requirement of Worcester County Code § NR 3-104(c)(2) wherein it states that “the buffer shall be expanded beyond one hundred feet to include contiguous sensitive

areas such as steep slopes, hydric soils or highly erodible soils whose development or disturbance may impact streams, wetlands or other aquatic environments...”

4. Our records indicate that this site is within a sensitive species project review area. Please contact Lori Byrne with DNR, at (410)260-8573 to determine the type of habitat that may be located on this site prior to issuing any permits or issuing any variances, since this may affect how this lot may be developed.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 298-07





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May 24, 2007

Ms. Jean Fabi  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: 04-07-02-0003-c; 200 Elementary Way**  
Board of Education for Queen Anne's County

Dear Ms. Fabi:

Thank you for providing resubmitted plans and information for the above referenced proposal. The site is located within the Limited Development Area (LDA) and Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with additions to an existing school. The redevelopment will result in an overall decrease in impervious surface by 2.2%. After the redevelopment, the LDA portion of the site is proposed to have 27.6% impervious surfaces. I have provided updated comments below.

1. The applicant has now proposed to meet the afforestation requirement without planting any trees, but via natural regeneration for five years before determining if trees need to be planted. The Queen Anne's County §14:1-54 (Woodland reforestation and afforestation standards in Critical Area District) states that for "developments within the Critical area which require greater than five acres of afforestation, natural regeneration within a deed restricted shore buffer may be permitted in lieu of the afforestation requirement of Subsection B(1) of this section." The afforestation requirement for the Kent Island Elementary School site is less than five acres; therefore, the current proposal does not meet this standard. A proposal that does not meet this standard would require Conditional Approval from the Critical Area Commission. Otherwise, Queen Anne's County Code requires that the applicant meet the afforestation requirement by planting the following at a minimum: "Seventy native trees with a minimum height of four to six feet, or an equivalent alternative afforestation or reforestation planting standard as approved by the Department of Planning and Zoning, shall be planted for each acre of land

required to be reforested or afforested. Bare root seedlings will not be considered an acceptable alternative.” If the applicant proposed to place five contiguous acres within a deed restricted shore buffer in lieu of afforestation planting, then regeneration would be acceptable.

2. If the Kent Island and Bayside Elementary School sites function as one site, as stated in the 5/14/07 letter from the applicant’s representative, then all of the information submitted to show compliance with the County Critical Area Program regulations should be based on that designated site area.
3. The newly submitted plans show a greater amount of allowable impervious surface for the LDA portion of the site than the previous plan set. Please explain whether the current plans are incorrect, or if the former plan set was incorrect, and ensure that the current plans show the correct amount of allowed impervious surface.

Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 97-07



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May 24, 2007

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

Re: Salt Grass Point Farms Subdivision

Dear Ms. Davis:

Thank you for submitting the revised site plans for the above referenced project. The applicant proposes to create twelve lots, five of which are in the Critical Area Resource Conservation Area (RCA). I have reviewed the resubmitted information and have the following comments:

1. The Critical Area Density note on the Critical Area Site Plan should include a figure for the upland area of the Outlot A Openspace, which is being used to achieve the required eight acres of upland per dwelling. Please have the applicant include this figure on the Critical Area Site Plan to confirm that density requirements of Worcester Code § NR 3-108(c)(3) and § NR 3-108(c)(9) are met.
2. The applicant should add a note to the plat indicating that density requirements of the Critical Area RCA are met by this subdivision using the provisions of Natural Resources Article Title 8-1808.1(e)(ii) and Worcester Code section NR 3-108(c)(9) and that for these purposes only, non-tidal wetlands may be used to meet density requirements.
3. Worcester County Code § NR 3-104 (c)(2) states that the Buffer shall be expanded beyond one hundred feet to include contiguous sensitive areas including hydric soils or highly erodible soils whose development or disturbance may impact streams, wetlands or other aquatic environments. There appear to be significant areas of hydric Falsington (Fa) soils on the proposed lots in the RCA that are contiguous with the Buffer. Please have the applicant revise the expanded buffer on the Critical Area Site Plan and plat to meet this requirement, or otherwise address how § NR 3-104(c)(2) is met.

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4. Worcester County Code § NR 3-104(c)(3) states that the Buffer shall also be required along both sides of all drainage ditches if adjacent agricultural lands do not have in place best management practices cited and approved under the agricultural protection section of this Subtitle. The submitted plans show "agricultural ditches" on Outlot A and between Lots 8 and 9. Please have the applicant address § NR 3-104(c)(3).
5. The Critical Area 100-foot Buffer line and Expanded Buffer should be labeled as a single continuous line as "Critical Area Buffer" on the Critical Area Site Plan and plat. In order to ensure that the Buffer location is clear for all of the project related activities, please have the applicant correctly label the line on all sheets of the plat where it occurs.
6. The applicant has stated that impervious area will be limited to 15% for the development on the lots in the Critical Area. The plat should include a note that development on the lots in the RCA will be limited to 15% impervious surfaces, referring to the lot numbers as designated on the final plat.
7. To help ensure that future property owners are aware of pier restrictions for this site, please have the applicant add a note to the plat stating that Worcester Code NR 3-125(b) limits private piers or docks to no more than 100 feet in length over State or private wetlands. Given the extensive tidal wetlands along the shorelines of the proposed lots, we recommend that if a pier is created, the applicant provide a single community pier with 5 slips (in which case this office would not support variances for additional private piers at this site).

Thank you for the opportunity to provide comments. Please contact me with any questions at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 171-07



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May 22, 2007

Daniel Reagle, Environmental Analyst  
State Highway Administration  
Office of Planning and Preliminary Engineering  
707 North Calvert Street  
Baltimore, MD 21202

Dear Mr. Reagle,

Notification of a proposed culvert replacement project by SHA has been received. The information submitted indicates that there will be an increase in impervious surface associated with the project. According to the MOU between MDOT and the Critical Area Commission, Exhibit B1, Section C.2, the project must result in an area of impervious surface no greater than the original culvert in order to be consistent with the MOU. The proposed increase in impervious surface results in a project that is not consistent with the MOU, therefore Commission review and approval is required. Please submit the project application materials as explained in Exhibit A of the MOU.

Thank you for submitting information on this project. If you have any question, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner  
Phone: (410)260-3479  
Email: [Mjohnson@dnr.state.md.us](mailto:Mjohnson@dnr.state.md.us)





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May 21, 2007

Ms. Jean Fabi  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: File # 05-06-11-0009-C; Waterman Realty Subdivision**

Dear Ms. Fabi:

Thank you for providing resubmitted plans and information for the above referenced proposal. The site is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to subdivide the site for residential development. The Critical Area Commission staff has the following comments.

1. The applicant has submitted a conceptual diagram of development on the lots showing 1,000 square feet for driveways/sidewalks, 1,500 square feet for houses, and pervious decks and patios. The development on each lot will not be allowed to exceed the amount for which the 10% stormwater pollutant reduction calculations are provided. The maximum impervious surface allowed for each lot should be shown on the plat and deed, based on the submitted 10% calculations.
2. Sheet 2 of 8 shows proposed parking lot spaces. If this is part of the project, the parking spaces should be included as part of the project site and included in the 10% calculations and forest mitigation requirements should be met.
3. Landscaping provided to meet any other requirements (including County buffering requirements) cannot also be used to meet separate mitigation planting requirements. The applicant must show that there will be adequate landscaping to meet the Critical Area planting requirements, separate from the other required landscaping. The Sheet 2 of 8 shows 19 trees > 4" diameter to be removed, but only 18 required. The County Code requires one to one replacement. Please adjust the plans to reflect this.

4. Queen Anne's County Code Section 14:1-37.D.3 states that all development and redevelopment projects shall maintain the existing vegetation or establish new vegetation in the areas on the site that are not covered by impervious surfaces. Those site areas not covered by impervious surfaces should be maintained or established in vegetation by the applicant.
5. The applicant proposes to use raingardens and rainbarrels to meet the requirements for 10% stormwater pollutant reduction for the development that will occur on the five lots. In order for this to be acceptable, the applicant would need to provide a mechanism, coordinated with the County, which would ensure the long term maintenance and effectiveness of the rain gardens and barrels. The Critical Area 10% Rule Guideline Manual explains that rain gardens require "strong owner and community buy in" and rain barrels "require strong homeowner maintenance." The applicant must propose a method to ensure that the raingardens and rainbarrels will function adequately to meet the 10% pollution reduction requirement on a long term basis. Plat notes are typically not adequate to ensure that future property owners comply with this type of ongoing maintenance. In light of the deficiencies listed in comments below and the fact that this is a new five lot subdivision, a more substantial and permanent Stormwater BMP is recommended for the long term stormwater needs of this project. Until this is resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete.
6. The stormwater report shows that to meet the 10% pollutant removal requirement, non-rooftop disconnect credit for 1,000 square foot areas (driveways and walkways) will be used on each lot. These areas are directed into raingardens. Referring to the MDE Stormwater Design Manual (page 5.9), the compensation allowance does not apply to the maximum contributing impervious flow path length restriction of 75 feet. If the stormwater from the driveways and walkways is discharged to the raingardens, there is a concentration of discharge to the raingarden, which is also accepting stormwater from the roof. The non-rooftop disconnect discharge should be included in the capacity calculation for the raingarden sizing. Based on the conceptual lot plan and the typical raingarden location shown on the plans, the distance from the driveway and walkway to the location of the raingarden would most likely be less than the contributing length. Of particular concern is the presence of a hydric soil at the disconnect location, which is not recommended because low permeability will result in standing water or rapid sheetflow off the site during a storm. Please have the applicant submit a plan showing what the applicant wishes to establish as the maximum potential square footage of each of the impervious areas proposed for disconnect, and the direction of flow from each of those areas. For the disconnections to be accepted, this plan must show that it meets all of the restrictions of the MDE Stormwater Design Manual. Until this is resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete.

7. The stormwater report proposes that to meet the 10% pollution reduction rule, rooftop disconnects will flow over the lawn. Lawn does not meet the restriction on Page 5.6 of the MDE Stormwater Design Manual, requiring continuous drainage of the disconnected stormwater through a "vegetated channel, swale, or through a filter strip to the property line or BMP." To use the rooftop disconnect, these elements must be proposed in each yard. Approximately 25 square foot surface area of raingarden is necessary to treat 500 square feet of rooftop, however only 500 square feet of contributing area may be sent to one discharge. If the entire roof of 1,500 square feet is claimed for disconnect credit, there must be three separate discharge locations that meet all of the restrictions on Page 5.6. These concerns have not been adequately addressed to accept all impervious areas on the lots as disconnected. Until this is resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete.
8. County Code §14:1-52 should be addressed to determine whether the 100-foot Buffer must be expanded for the hydric soils on this site.

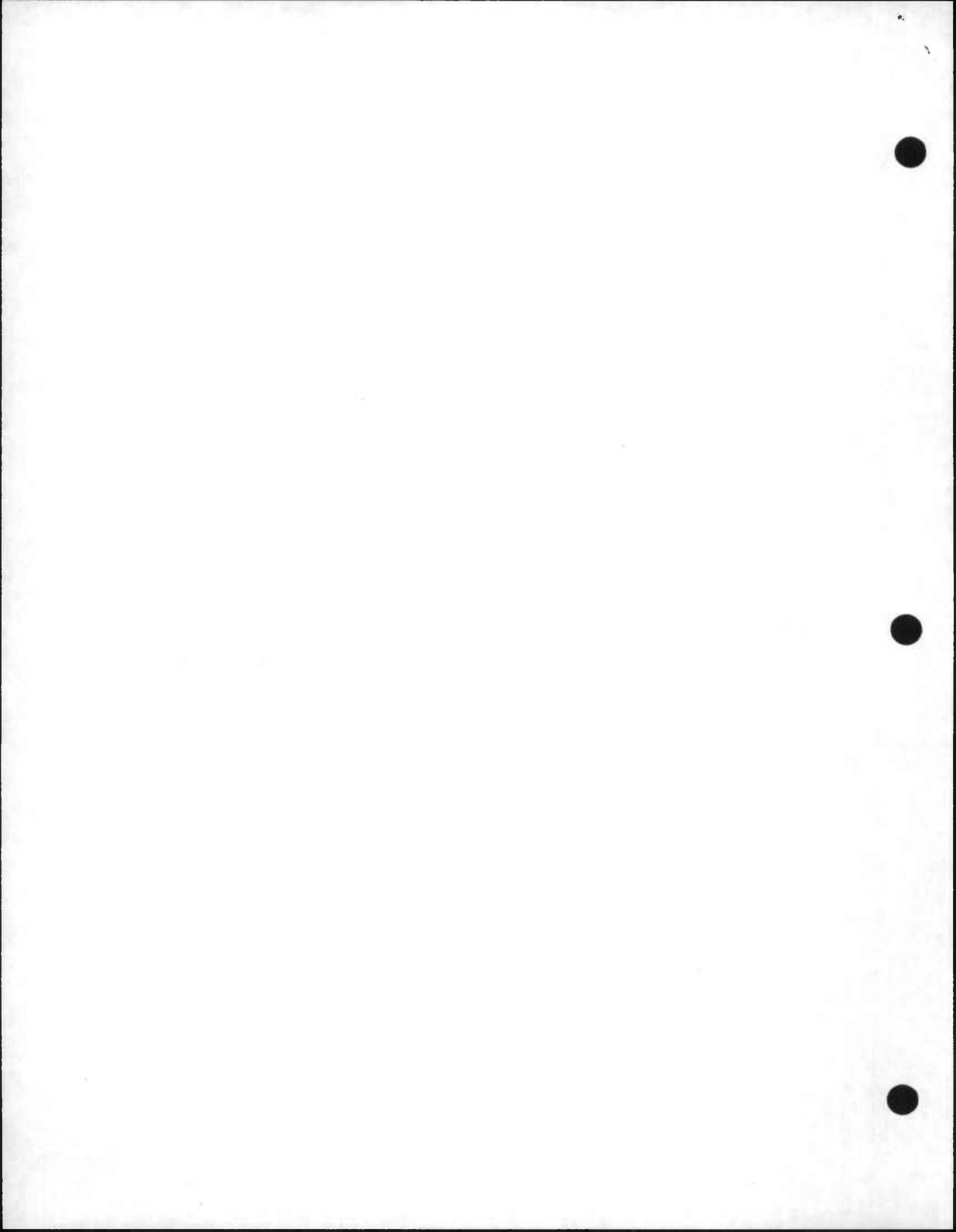
Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 758-06





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May 15, 2007

Mary Anne Skilling  
Critical Area Circuit Rider  
301 West Preston Street, Suite 1101  
Baltimore, MD 21201-2305

**RE: Church Hill Fire Company Growth Allocation**

Dear Town Commissioners,

This letter from the Critical Area Commission staff is in response to a request from the Town of Church Hill to use growth allocation to change the Critical Area Designation of 0.843 acres from LDA (Limited Development Area) to IDA (Intensely Developed Area). The purpose of the request is to allow for improvements and expansion of the existing Church Hill Volunteer Fire Department located at Tax Map 22, Parcel 83. The Town of Church Hill Critical Area Program currently does not include provisions addressing development in IDAs. The Program amendment process to add the necessary provisions must be completed before the Commission is able to accept this growth allocation for processing. In addition, the following information is needed in order for the Critical Area Commission to begin formal review of the request.

1. The Commission received site plans for a variance project on this site in 2005, however updated plans reflecting the current proposal for growth allocation and building improvement/expansion proposal have not been received. Please submit plans showing the site existing conditions (soils, vegetation, topography, structures, calculated impervious surface areas), and currently proposed development (structures, new impervious surface areas, stormwater management measures, landscaping). The plans should show how the development on the site will meet the regulations for development in the IDA, and the submittal should include preliminary 10% pollutant removal calculations.
2. The growth allocation request is to convert LDA to IDA. The IDA classification does not include specific afforestation or reforestation standards. However, permeable areas in the IDA shall be established in vegetation if practicable, and development activities shall be designed and implemented to minimize destruction of forest and woodland

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vegetation. Additional information should be provided regarding any proposed clearing of existing vegetation and plantings to vegetate permeable portions of the project site.

3. As you are aware, the locational guidelines relating to growth allocations were clarified in 2006 by the General Assembly. When a jurisdiction submits a request for the Commission to review and approve the use of growth allocation, the request shall state how the local government has applied the locational guidelines as set forth in Chapter 55 of the 2006 Laws of Maryland. The Commission shall ensure that these guidelines have been applied in a manner that is consistent with the purpose, policies, goals and provisions of the Critical Area Law and all Criteria of the Commission.
4. Subdivision history of the parcels/lots should be submitted to clarify whether this configuration existed at the time the local Critical Area Program was adopted. This information is necessary to determine if the proposed growth allocation acreage is accurate.

The preceding comments represent the review and evaluation by Commission staff of the submitted concept plan. I look forward to working with you to address these comments. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal. When additional information has been received, Commission staff will notify you as to whether the submittal is complete. In the interim, please contact me at (410) 260-3479 if you have any questions.

Sincerely,



Marshall Johnson  
Natural Resource Planner

cc: Town of Church Hill  
CAC file



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May 15, 2007

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

**Re: Major Site Plan - Sigtex, Inc (William Hegarty)  
MASP #05-04-11-0012-C - Revision #3**

Dear Ms. Tompkins:

Thank you for providing information on the above referenced project. The applicant proposes amendments to the previously submitted plan to construct an addition to an existing building in the Intensely Development Area (IDA). This office has the following comments.

1. The revised site plan indicates an increase in parking spaces by one, and a reconfiguration of the parking lot that may be increasing the proposed impervious surface. However, the notes on the plan do not indicate any change in impervious surface. Please update the impervious surface calculations, and submit revised 10% pollutant removal calculations. This information is necessary to determine whether the revised proposal meets the IDA 10% pollutant removal requirement.
2. The revised site plan indicates that the parking lot would be extended further into the existing tree line. However, the woodland clearing figures reflect that the amount of clearing has decreased from the previous plans. Please have the applicant recalculate woodland clearing area to reflect the proposed increase in clearing shown on this revision.

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

Sincerely,

Marshall Johnson  
Natural Resources Planner

cc: QC 328-04





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May 15, 2007

Pearse O'Doherty  
O'Doherty Group Landscape Architecture  
91 Cathedral Street  
Annapolis, MD 21401

**RE: Shipyard Alley Growth Allocation, Snow Hill**

Dear Mr. O'Doherty,

I am writing to follow up on our recent telephone conversation regarding the development of a Buffer Management Plan for the Shipyard Alley Project. As we discussed, establishment of the 100-foot Buffer is required for development projects that involve significant land use changes and growth allocation. The Critical Area law was recently amended to clarify the Commission's role in the review of growth allocation requests. The clarifying language includes provisions that directly relate to the 100-foot Buffer requirements. In general, the most effective way to address the requirements to establish and protect the 100-foot Buffer is through submittal of a conceptual Buffer Management Plan with the growth allocation request. The following provisions from the Snow Hill Code and COMAR Title 27 address the functions of the Buffer and Buffer management and should assist you in developing a Buffer Management Plan:

The Buffer Management Plan should address the relevant regulations set out in Snow Hill Code § 72-18 (available online at <http://www.generalcode.com/Webcode2.html#mary>), as well as COMAR 27 ([http://www.dsd.state.md.us/comar/subtitle\\_chapters/27\\_Chapters.htm](http://www.dsd.state.md.us/comar/subtitle_chapters/27_Chapters.htm)).

The Commission will be reviewing the Growth Allocation request to determine if the project adequately addresses these regulations. The Buffer Management Plan should focus on how the following will be established by what the applicant proposes to do with the Buffer area of the subject site:

§ 72-18.B

The Buffer is defined as a naturally vegetated area or vegetated area established or managed to protect aquatic, wetland, shoreline and terrestrial environments from man-made

disturbances. The following policies shall be used by the Planning Commission in reviewing Critical Area permit applications involving the buffer:

- 1) Sediments, nutrients and potentially harmful or toxic substances shall be removed or reduced prior to any runoff entering into the bay and its tributaries.
- 2) The adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters and aquatic resources shall be minimized.
- 3) An area of transitional habitat between aquatic and upland communities shall be maintained.
- 4) The natural environment of streams shall be maintained.
- 5) Riparian wildlife habitat shall be protected.

#### § 72-18.C

Under this section, C.5 states that The buffer shall be managed to achieve or enhance the functions stated in Subsection B(1) through (4) above.

#### §72-8.E

The Planning Commission, as appropriate, may require that the following conditions be met in obtaining a Critical Area development and use permit: (1) Where practicable, permeable areas shall be established in vegetation, and whenever possible, redevelopment shall reduce existing levels of pollution.

#### COMAR 27.01.02.06

The Buffer Management Plan should also be part of how the proposal addresses the "Location and Extent of Future Intensely Developed and Limited Development Areas," specifically B(4): "New intensely developed areas and limited development areas should be located in order to minimize impacts to habitat protection areas as specified in COMAR 27.01.09 and in an area and in a manner that optimizes benefits to water quality;"

In general a Buffer Management Plan consists of an Existing Conditions Plan, a Buffer Landscape Plan, a report or manual with provisions for short term maintenance (1 to 2 years), long term maintenance (annual maintenance requirements after the initial grow-in period), and provisions for permanent protection of the Buffer such as plat notes, deed restrictions, easements, etc. The table below provides some guidance regarding minimum plant stocking for the 100-foot Buffer. Every effort should be made to establish the Buffer in a manner that would be typical of a naturally vegetated shoreline with an appropriate mixture of canopy trees, understory trees, large shrubs, small shrubs, and herbaceous plants. Native grasses and groundcovers may be used; but the use of turf grass is strongly discouraged. The Critical Area Criteria do not include provisions for view corridors; however, reasonable perpendicular access to the water is permitted and a creative approach to the design can generally accommodate the desires of the property owner for both water views, access, and ease of maintenance.

**TABLE B: How to Convert Square Feet to Number of Trees**

Square Feet Credit	Tree Planting Option	Plant Spacing
100 sq ft	1 tree (2-inch caliper)	10 foot centers
400 sq ft	1 tree (minimum: 2-inch caliper and either balled & burlapped or container grown) <u>and</u> understory vegetation (minimum: 2 small trees or 3 shrubs)	tree - 20 foot centers understory - 10 foot centers
50 sq ft	1 tree (bare root or hardwood whip)	7 foot centers
50 sq ft	1 shrub (mature height greater than 3 feet)	3-7 foot centers
25 sq ft	1 shrub (mature height less than 3 feet)	3 foot centers

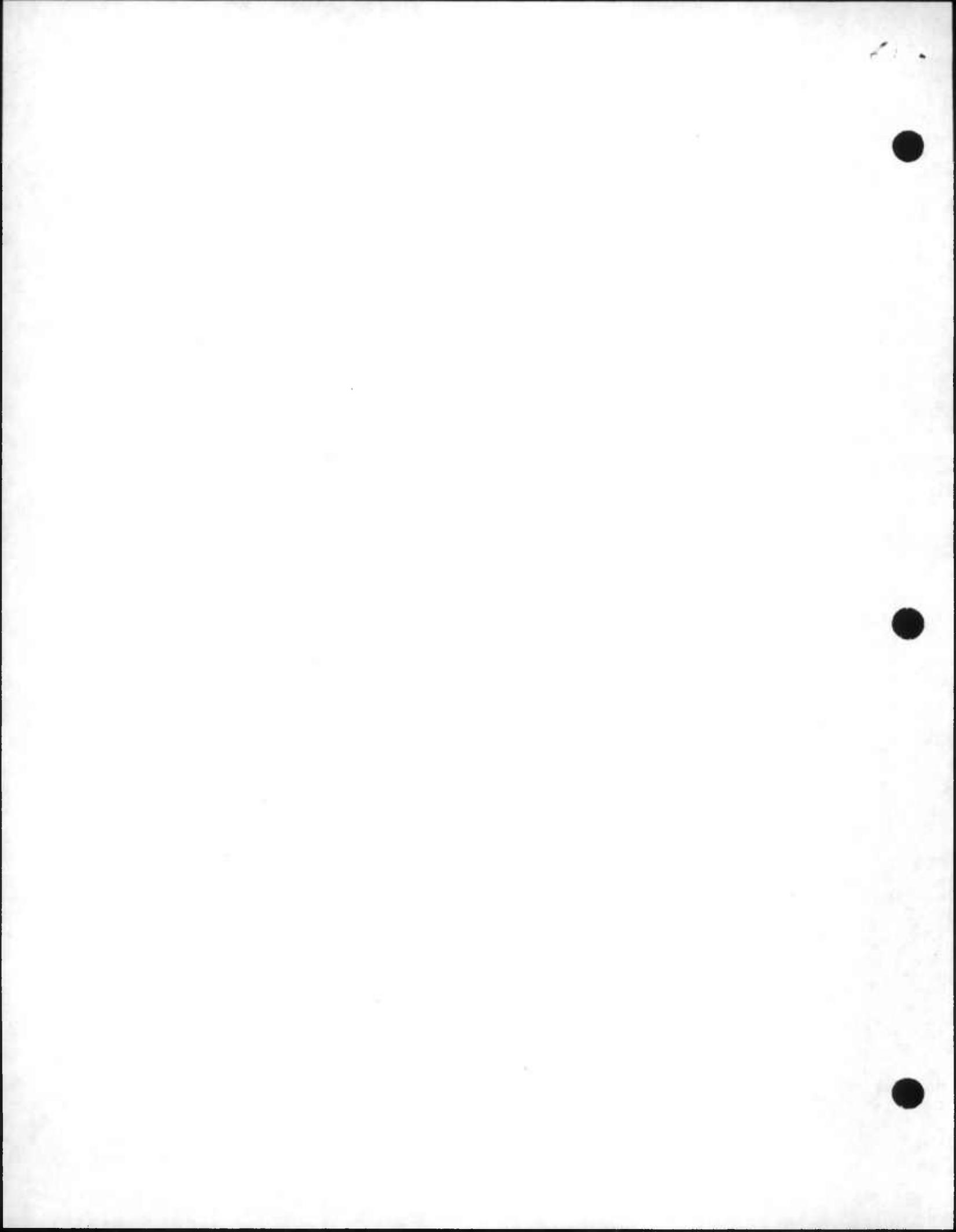
I hope this information is helpful. Please contact me at (410) 260-3479 or via email at [mjohnson@dnr.state.md.us](mailto:mjohnson@dnr.state.md.us) if you have any further questions.

Sincerely,



Marshall Johnson  
Natural Resource Planner

cc: Karen Houtman,  
SN 140-07





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Memorandum

Date: May 11, 2007  
To: Ray C. Dintaman, Jr., Director, Environmental Review Unit  
From: Marshall Johnson, Critical Area Commission Natural Resources Planner

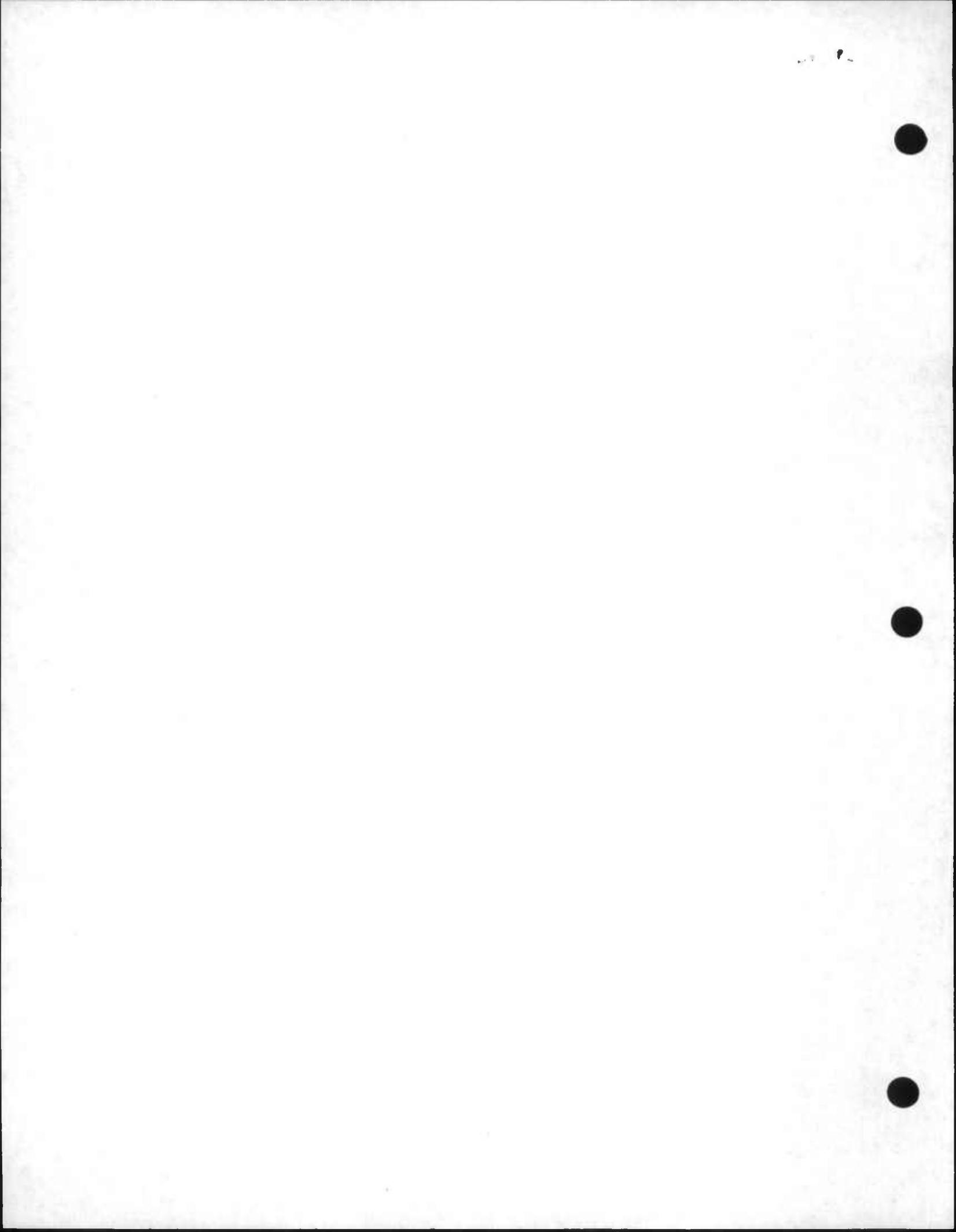
**RE: Town of Federalsburg – Marina Park Drainage Project**

Dear Mr. Dintaman:

This office has received notice of the proposed correction of a drainage problem at Marina Park in Federalsburg. Thank you for submitting the information.

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), the project can be handled in one of two ways, depending upon a determination of consistency with the Federalsburg Critical Area ordinance. If the project is determined by Federalsburg to be consistent with the Town's Critical Area Program, then documentation of that consistency determination must be provided to the Commission for verification (please see COMAR 27.02.02). Alternatively, if the project is not found to be consistent with all applicable provisions, the applicant may seek a conditional approval from the Critical Area Commission (please see COMAR 27.02.06).

The project must meet all of the provisions of the Town of Federalsburg Critical Area Code §45-30, Development Standards in Resource Conservation Areas. This includes an impervious surface limit, protection of steep slopes, limits on forest/woodland clearing and protection of Habitat Protection Areas. Habitat Protection Areas include the 100-foot Buffer as well as any other habitats that may be identified by the Heritage Program with the Department of Natural Resources. Documentation from the Department of Natural Resources has not been provided. Impacts to the Buffer must be minimized and permitted impacts mitigated. The existing conditions plan, Buffer Management plan, site development plan and other information



Memo to Mr. Dintaman  
May 11, 2007  
Page 2 of 2

necessary to review the proposal for consistency with the Federalsburg program or conditional approval must be submitted to the Critical Area Commission for additional review.

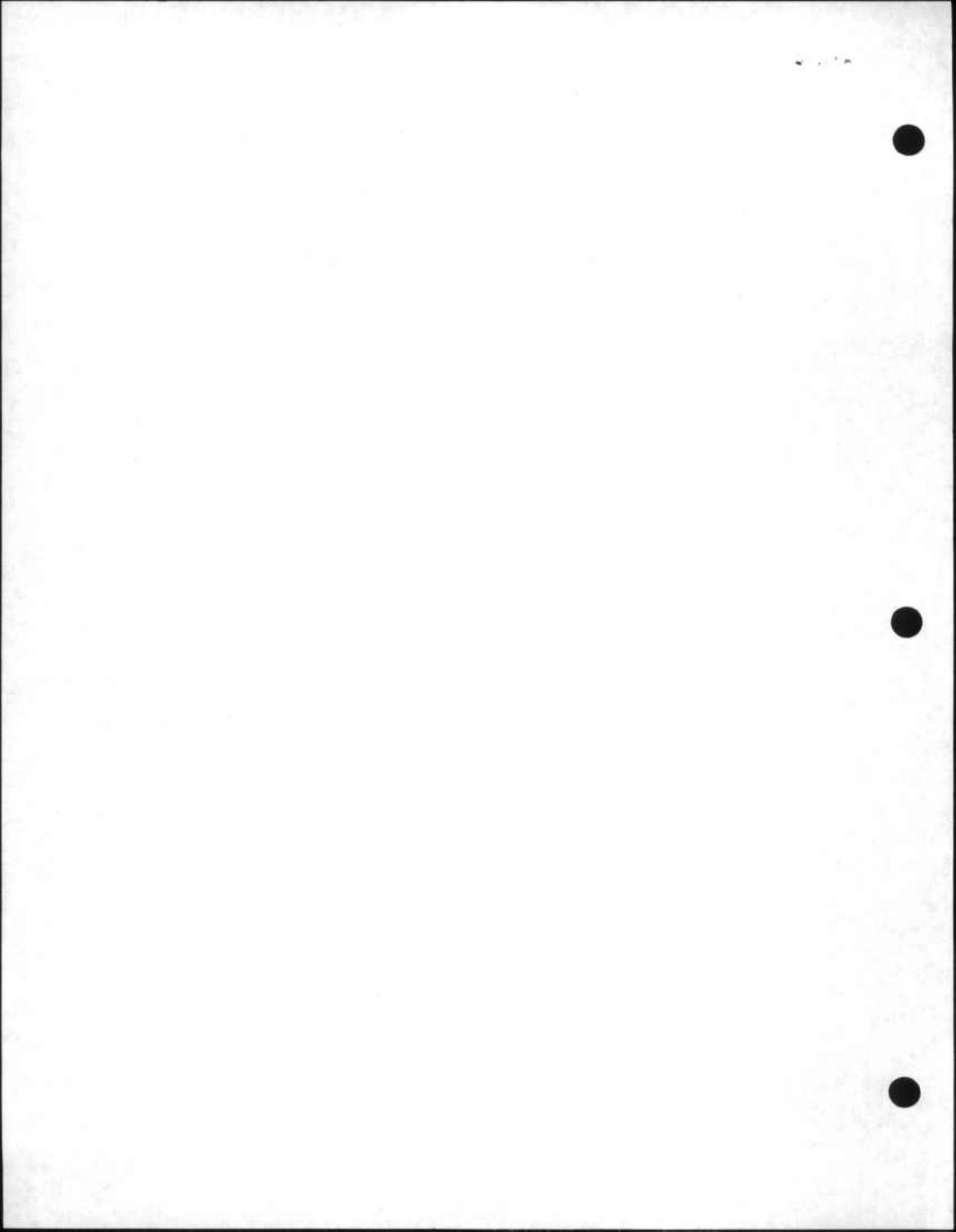
Thank you for the opportunity to comment on this submittal. If you have any questions or concerns, please contact me at (410) 260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: George E. Mayer, Jr., Town of Federalsburg





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

May 10, 2007

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

**Re: 04-05-09-0015-C; 107 Windward Court, Stevensville; Daniel Callahan**

Dear Ms. Tompkins:

Thank you for providing information on the above referenced project. The applicant proposes to subdivide an existing lot located in the Limited Developed Area (LDA) into two lots. Please see my comments below.

1. Although this site previously consisted of two separate lots, the County records show that the lots were combined through a Deed and revised plat of Cove Creek Club in 1983. The two lots, 82-A and 83-A became 83-B.
2. Queen Anne's County Title 14:53.C (Specific Provisions for Buffer Exempted Areas. Applicability) states: "This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of December 1, 1985, and located in mapped Buffer Exemption Areas as shown on the critical area maps." The current County Critical Area Program does not include provisions for subdividing lots or parcels in Buffer Exempted Areas. The proposed subdivision will create two new lots as of the date the plat is recorded and will no longer comply with the date for grandfathered lots of record. As a result, under the current County Critical Area Program, the Buffer Exempted Areas section will no longer apply to either of the lots. The lot with existing structures is non-conforming because there are structures within the 100-foot Buffer. This subdivision is allowable because it will not result in an increase in nonconformance. However, both lots will lose Buffer exempt status, and any new development on either of the proposed lots will be required to meet all applicable requirements of the Critical Area LDA, including the 100-foot Buffer.
3. On the easternmost lot the 100-foot Buffer line must be established landward from the mean high water line of tidal waters, tributary streams and tidal wetlands. As stated in the submitted Chesapeake Bay Critical Area Environmental Site Assessment, Shoreline & Wetlands section, there is a tidal wetland on the subject property. This wetland must be professionally delineated and mapped on the subdivision proposal plans. The "100' Critical Area Buffer" line shown on the submitted plan must be drawn 100 feet landward

TTY for the Deaf

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

of the mean high water line, or where one exists, from the edge of the tidal wetland. This is necessary to confirm, among other things, whether the proposed land division will result in developable lots.

4. Application materials submitted indicate that there are hydric soils on the site. County Land Use and Development Code Section 18-1-64 (Site Development Standards, Wetlands), requires that a wetlands jurisdictional determination shall be made when there are hydric soils present. If there are hydric soils present on the subject site, please coordinate with the Army Corps of Engineers to provide the jurisdictional determination. This information is also necessary to confirm whether the proposed land division will result in developable lots.
5. County Code §14:1-38.D (6) (Development standards in limited development areas) must be met for the subdivision. This section requires creation or protection of forest or developed woodlands on the site. The applicant must submit plans showing that there will be compliance with this section of the County Program.
6. As stated in County Code Section 14:1-52 (Expanding the Buffer, Sensitive areas), the Buffer shall be expanded to include sensitive areas on the site of proposed development activities or other land disturbing activities whose development or disturbance will or may adversely affect streams, wetlands or other aquatic environments. Sensitive areas into which the Buffer may be expanded include hydric soils and soils with hydric properties as designated by the Soil Conservation District. Once the extent of hydric soils on the site is determined, the County will determine whether the 100-foot Buffer must be expanded.
7. The applicant should state on the plat that 15% impervious surface limit requirements must be met for each of the lots. The application indicates that the proposed lot with existing house to remain has 7,024 square feet of impervious surface. Although the large gravel drive on the lot is probably partially or completely impervious, the County does not count it as an impervious surface. Paving of the gravel drive is not allowed because it will result in impervious surface on that lot in excess of the County Critical Area Program limit.
8. The note stating that the site has Buffer exempt status should be removed.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner  
cc: QC 652-05



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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May 8, 2007

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

**RE: V-040011 - Setback Variance - 7 Monroe Court**

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance. The lot is located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The property is currently developed with a single family dwelling. The applicant proposes to construct a new garage and sun room on the site and is requesting a variance allow the garage to extend partially into the rear building setback of the site. The Critical Area Commission staff has the following comments regarding the proposed variance.

1. The applicant must meet the impervious surface requirements of Queen Anne's County Code §14:1-38.D(8). Please have the applicant show the existing and proposed impervious surface areas on the plans, and address how the proposal meets §14:1-38.D(8).
2. Queen Anne's County Code §14:1-38.D(6) (Development standards in limited development areas) requires that when forest on the site totals less than 15% of the site area, additional forested areas shall be established so that at least 15% of the site area is in forest cover. Please have the applicant survey or otherwise show the tree coverage on the site. If it is below 15%, the difference must be provided.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson  
Natural Resources Planner

QC 229-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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May 8, 2007

Ms. Jennifer Jackson-Rhodes  
Queen Anne's County Planning and Zoning  
160 Coursevall Drive  
Centreville, MD 21617

**Re: File # 02-06-09-0006-C; Relocation of lot lines and subdivide into two (2) lots**

Dear Ms. Jackson-Rhodes:

Thank you for the information related to the above referenced application. The proposed Administrative Subdivision and Minor Subdivision include no new construction and have shown that impervious surface limits and forest cover requirements will be met. This office has no further comments.

Thank you for the opportunity to review this project. If you have any questions or concerns please contact me directly at 410-260-3479.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: QC 610-06





STATE OF MARYLAND  
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May 7, 2007

Ms. Jean Fabi  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 03-07-04-0013-C, Edwards, James & Mary  
Tax Map 34, Parcels 57, 59 and 24**

Dear Ms. Fabi:

Thank you for providing information on the above referenced project. The applicant proposes to reconfigure three existing lots located in the Resource Conservation Area (RCA). Please see my comments below.

1. Note 8 on the plat contains an error. The date of Corsica River Estates should be "dated Feb. 2004..." instead of 1994.
2. The site plan submitted includes and Impervious Area Table in which the Parcel numbers do not match proposed areas. It appears that the parcel numbers for 24 and 59 are reversed. This should be corrected to clarify what is proposed.

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

Sincerely,

  
Marshall Johnson  
Natural Resources Planner

cc: QC 241-07





STATE OF MARYLAND  
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May 7, 2007

Ms. Susan Simmons  
Caroline County Recreation and Parks  
403 South 7<sup>th</sup> Street, Suite 226  
Denton, MD 21641

**Re: Hillsboro Boat Ramp and Shoreline Improvement Project**

Dear Ms. Simmons:

Thank you for submitting the above referenced proposal to this office per the requirements of COMAR 27.02.02 (State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions). After reviewing your consistency determination and the accompanying site plan, this office agrees that the project is consistent with the Hillsboro Critical Area Program.

Since the project is consistent with the local program, it will not require formal approval by the Critical Area Commission, notwithstanding any other required resource agency approvals. Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410)260-3479.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: HI 71-07





STATE OF MARYLAND  
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May 7, 2007

Ms. Jennifer Rhodes  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 04-07-04-0012-C, 208 Barren Ridge Rd, Chester  
Henrietta Brown**

Dear Ms. Rhodes:

Thank you for providing information on the above referenced project. The applicant proposes to subdivide an existing lot located in the Limited Developed Area (LDA) into two lots. Please see my comments below.

1. Queen Anne's County Title 14:53.C (Specific Provisions for Buffer Exempted Areas. Applicability) states: "This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of December 1, 1985, and located in mapped Buffer Exemption Areas as shown on the critical area maps." The proposed subdivision will create new lots of record as of the date the plat is recorded and will no longer comply with the date for grandfathered lots of record. Under the current County Critical Area Program, the Buffer Exemption section will no longer apply to these lots. As a result, any proposed development on the lots will be required to meet all applicable requirements of the Critical Area LDA, including the 100' Buffer.
2. Queen Anne's County Code §14:1-38.D(2) (Site Development Standards) states that site development shall be designed to assure that Habitat Protection Areas are not adversely affected. The site is within the Protection Zone of a Great Blue Heron waterbird colony. The area surrounding this protected colony is a Habitat Protection Area, as designated on State maps. The applicant should meet the requirements of the DNR Wildlife and Heritage Service concerning any development activity on the subject site. In addition, the permanent disturbance of extending another pier from this site, and the associated ongoing human activity out into the creek would likely adversely affect this Habitat

Jennifer Rhodes  
May 7, 2007  
Page 2 of 2

Protection Area. To meet §14:1-38.D(2), the plat could include an access easement and statement on the plat allowing joint use of the existing pier by both lots, and restricting this subdivision to a single shared pier.

3. Queen Anne's County Code § 14:1-38.D (6)(a) states that the location of the afforested area shall be designed to protect habitats or to provide continuity with forested areas on adjacent sites. The plantings shown on the landscaping plan should be relocated to provide continuity between planted areas on the two new lots. In this case the habitats to be protected are located in the creek and wetland. In order to comply with this regulation, the afforestation plantings must be located across the width of the lots to promote a vegetated buffer between the development envelopes and the wetland. It is acceptable to locate the new trees near the outer property lines, and the other plantings across the center of the lots, as long as the plantings meet in the center to provide continuity.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 240-07



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May 4, 2007

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

**RE: Gum Point Road Growth Allocation Proposal  
Steen Associates**

Dear Ms. Davis,

Thank you for forwarding additional information from the applicant regarding the above referenced growth allocation. Some issues have been addressed with this new information; however, Critical Area Commission staff still has some outstanding concerns about the proposal. As you are aware the General Assembly amended the Critical Area law in 2006 and clarified the locational guidelines. Based on this legislation, the Commission's analysis of growth allocation requests has changed. We would like to meet with you, the developer and his consultants to discuss the changes to the law and how they may affect the Commission's review of this proposal. We will contact you next week to schedule a meeting.

During the review of the George Mount growth allocation request in 2004, the need to determine the acreage of growth allocation used during the program development process, and to verify the remaining amount of growth allocation, was identified. In the April 7, 2004 letter by Keith Lackie of Worcester County, the County provided an Initial Report on the status of the County's growth allocation acreage (please see the attached letter). This Initial Report stated that 247.18 acres remained, and provided estimated acreage for two interim projects and two Residential Planned Communities that were provided with specific dedication methodology in the Coastal Bays legislation. In order to review the current growth allocation request, the Commission needs a final accounting of the remaining growth allocation. This accounting should include the final acreage used for the George Mount subdivision, as the acreage had not been finalized when the Commission reviewed it. Please provide the final results of the growth allocation account assessment. To my knowledge, updated Critical Area designation maps reflecting the current designations, including approved growth allocation projects, have not been sent to the Commission. Please provide copies of the relevant maps.

The Commission staff has the following comments regarding the current submittal for growth allocation:

1. Significant portions of 20 residential lots are located within the 100-foot Buffer. Because most of the lots are approximately one half acre in size, and the site is to be intensely developed, it is likely that the Commission will have significant concerns about the Buffer being used as a rear yard on these lots. It is strongly recommended that the subdivision be reconfigured to avoid lots located within stream buffers.
2. The Heritage Division of the Department of Natural Resources has confirmed that Forest Interior Dwelling Bird habitat exists on this site; therefore, the applicant must address protection and conservation of this habitat. Protection and conservation can be accomplished by showing compliance with the publication: "A Guide to the Conservation of Forest Internal Dwelling Birds in the Chesapeake Bay Critical Area" dated June 2000. This guide can be accessed online:  
[http://www.dnr.state.md.us/criticalarea/tweetyjune\\_2000.pdf](http://www.dnr.state.md.us/criticalarea/tweetyjune_2000.pdf).
3. A Buffer Management Plan for the 100-foot Buffer from tidal wetlands, tidal waters, and tributary streams will need to be prepared and submitted for this project in accordance with the provisions in the Critical Area law that require establishment of the 100-foot Buffer. A conceptual plan should be submitted to the Critical Area Commission as part of the growth allocation review process.
4. Additional information about the area of State and private tidal wetlands should be included in the environmental report. State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area. If portions of the project site have been determined to be private tidal wetlands, documentation regarding how this determination was made must be submitted, so that the Maryland Department of the Environment and the Board of Public Works can verify the methodology used. It is possible that they may want to verify the delineation and supporting information in the field, so appropriate detail should be provided. The acreage of State and private tidal wetlands affects all of the calculations based on the acreage of the property, including those relating to growth allocation, stormwater management, and the area of the 100-foot Buffer; therefore, this information is necessary to properly review the project.
5. In Section D of the Critical Area Report submitted, "Site Topography and Soil Conditions," it is stated that the soils on site range from poorly drained to well drained. There appear to be significant areas of hydric soils adjacent to the 100-foot Buffer or tidal waters, tidal wetlands, and tributary streams; however, expansion of the 100-foot Buffer for all of these features has not been addressed. The Buffer is required to be expanded to include contiguous sensitive areas, such as hydric soils, whose development or disturbance may impact streams, wetlands, or other aquatic

environments. In the case where nontidal wetlands are contiguous to the 100-foot Buffer, expansion of the Buffer is required. The assessment does not indicate that there has been any analysis to determine whether expansion of the Buffer may be necessary. More detailed information is needed.

The preceding comments represent the review and evaluation of the project plans and documents by Commission staff. I look forward to working with you to address these comments as the project progresses through the local approval process. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal at this stage in the design. Please contact me if you have any questions at (410) 260-3479.

Sincerely,



Marshall Johnson  
Natural Resource Planner

*enclosure: Lackie Letter*

cc: WC 136-07



DEPARTMENT OF  
DEVELOPMENT REVIEW AND PERMITTING

## Worcester County

GOVERNMENT CENTER

ONE WEST MARKET STREET, ROOM 1201

SNOW HILL, MARYLAND 21863

TEL: 410-632-1200 / FAX: 410-632-3008

BOARD OF APPEALS  
PLANNING COMMISSION  
AGRICULTURAL PRESERVATION  
ENVIRONMENTAL PROGRAMS

ELECTRICAL BOARD  
SHORELINE COMMISSION  
LICENSE COMMISSIONERS

April 7, 2004

MD Critical Area Commission for the Chesapeake and Atlantic Coastal Bays  
ATTN: Lee Anne Chandler, Natural Resources Planner  
1804 West Street, Suite 100  
Annapolis, MD 21401

Subject: Initial Report - Accounting of Growth Allocation for "Interim Projects" and  
"Residential Planned Communities"

Dear Ms. Chandler:

Please accept the following information in response to your request that the Worcester County Department of Development Review and Permitting account for the amount of Growth Allocation needed to provide for those "interim period" project approvals and Residential Planned Communities (RPC's). In accordance with § NR 3-112 of the Worcester County Code of Public Local Laws (County Code) the initial balance of Growth Allocation is 819 acres. Having submitted this information (at least on a preliminary basis) this Department respectfully requests that the Commission Staff schedule the Growth Allocation (8.3 acres) request for the "George Mount" property located within Public Landing (Tax Map 73, Parcels 28 and 42) to be heard at the May 5, 2004 meeting of the Critical Area Commission.

### **SECTION I – INTERIM PROJECTS:**

As you are aware, § NR 3-101(H) [applicability of pending approvals] of the County Code provides a table indicating project approval dates during the interim period with certain "limitations". The following analysis is provided regarding projects under the provisions of § NR 3-101(H), and therefore, *not contained within an RPC*:

**SITE PLAN APPROVALS:** There were no Site Plan approvals requiring the deduction of Growth Allocation. All site plans approved on or before the effective date of the Atlantic Coastal Bays Critical Area Law (Critical Area Law)

were located within areas which already were classified as an Intensely Developed Area (IDA).

**SPECIAL EXCEPTION BY THE BOARD OF ZONING APPEALS:** There were no special exceptions granted by the Board of Zoning Appeals within the Critical Area (for which approval was granted prior to the effective date of the Critical Area Law) which were not already constructed at the time that Land Use Classification was determined.

**PRELIMINARY PLAT:** There were two subdivisions which received Preliminary Plat approval prior to June 1, 2002 and were recorded by November 19, 2003 ("within one year from the date of adoption of this law").

Equestrian Shores Subdivision: (Tax Map 73, Parcels 123, 124 and 125) – Recorded on November 19, 2003. The entire tract area is 143.80 acres, however, only a portion of the property is located within the Critical Area. The portion of the site located within a Resource Conservation Area (RCA) totals 100.54 acres. Further clarification is needed regarding the amount of acreage to be used under Growth Allocation. You will note on the Critical Area Maps that this property is comprised of two distinct areas of RCA separated by a 'peninsula' of land outside of the Critical Area. The portion of the property within the Critical Area that is within the Southeast corner of the parent tract (shaped as a ¼ pie) is 20.69 acres in size. This entire Critical Area portion of the site is contained within "Outlot A" which has been permanently reserved as required open space for the project, and furthermore, approximately 50% of this area is within a Forest Conservation Easement as forested Non-tidal Wetland. Therefore, as the portion of the site within the Critical Area to the Southeast of the property is 20.69 acres in size and is permanently preserved and maintains the character of an RCA, Worcester County submits that this area should not be deducted from our Growth Allocation and remain mapped as RCA. Total acreage to be deducted from Growth Allocation = 79.85 acres

Coves at Isle of Wight Subdivision: (Tax Map 22, Parcel 410, Lots 3 and 4) – Recorded on November 19, 2003. The entire tract is located within the Critical Area and is 32.74 acres in size. While a major portion of the site has been permanently preserved within a Forest Conservation Easement Area, the largest contiguous tract of Forest Conservation Easement is only 8.827 acres. Therefore, the entire tract is to be deducted from Growth Allocation. Total acreage to be deducted from Growth Allocation = 32.74 acres

**SECTION II – RESIDENTIAL PLANNED COMMUNITIES:**

“Section 2(a)(i)1(2)” of the State Atlantic Coastal Bays Protection Act requires that, for those RPC’s receiving Step III approval and three of four State permits prior to June 1, 2002 (and which will be subdivided and legally buildable lots – with no specific date), 25% of the land area within the Critical Area be deducted from the initial Growth Allocation pool.

**The Landings RPC:** The only RPC to fall under this section of the State Law is The Landings RPC. This property is split by the 1,000 Critical Area Boundary and 47.43 acres of the site is located within the Critical Area. Within the Critical Area portion of the site there are no contiguous tracts larger than 20 acres in size which are to remain undeveloped; therefore, 25% of the 47.43 acres is to be deducted from the Growth Allocation pool. Total acreage to be deducted from Growth Allocation = 11.86 acres.

“Section 2(b)(1)” of the State Atlantic Coastal Bays Protection Act requires that, for those RPC’s *which include an inland marina* receiving Step III approval and three of four State permits prior to June 1, 2002 (and which will be subdivided and legally buildable lots – with no specific date), 25% of the land area within the Critical Area be deducted from the initial Growth Allocation pool. This section also requires that at least 85% of the dwelling units comply with the 100 foot buffer requirements and the remaining 15% have at least a 50 foot buffer.

**Glenn Riddle RPC (formerly Riddle Farm):** The only RPC to fall under this section of the State Law is Glenn Riddle RPC (formerly Riddle Farm). The Glenn Riddle RPC has met the buffer requirements outlined above, and indeed, even though not required by State Law the Multifamily units directly adjacent to tidal waters in the inland marina have kept the 50 foot buffer. As you are aware the Glenn Riddle RPC is approximately 970 acres in size, however, only 490.91 acres are within the Critical Area.

Prior to accounting the Growth Allocation deduction required for the Glenn Riddle RPC, I would like to draw your attention to “Section 2(a)(i)1(2)” of the State Atlantic Coastal Bays Protection Act. This Section states in part that the Growth Allocation “shall be reduced by an amount equal to the total acreage exempted under this subsection *that is or would be located in a resource conservation area* multiplied by 25%” [emphasis added]. Mr. Edward Tudor, Director of this Department specifically remembers that Mr. Rich Hall of the Maryland Department of Planning (MDP) determined that the portion of the Riddle Farm which constituted the Barns, Stables, Lad Housing, Tenant Housing and perhaps the tracks already met the requirements for mapping at a Limited Development Area (LDA) or even perhaps an Intensely Developed Area (IDA). Mr. Tudor is currently looking for the map that he recalls as being provided by MDP. Worcester County respectfully requests that we be able to discuss this

issue with the Commission Staff at a later date, with perhaps an adjustment to the Growth Allocation pool.

Considering a "worst case scenario" of not accounting for the area of Glenn Riddle which MDP proposed mapping as LDA or IDA the total acreage to be deducted from Growth Allocation for Glenn Riddle RPC = 122.73 acres.

**SECTION III – SUMMARY:**

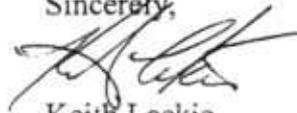
<u>Equestrian Shores :</u>	79.85 acres deducted from Growth Allocation
<u>Coves at Isle of Wight :</u>	32.74 acres deducted from Growth Allocation
<u>The Landings RPC:</u>	11.86 acres deducted from Growth Allocation
<u>Glenn Riddle RPC:</u>	122.73 acres deducted from Growth Allocation (pending MDP mapping issue)

**TOTAL DEDUCTION: 247.18 acres deducted from Growth Allocation**

**REMAINING GROWTH ALLOCATION TOTAL = 571.82 ACRES**

Once again, this Department requests that the Commission Staff schedule the 8.3 acre Growth Allocation request for the George Mount Property. Even considering a "worst case" scenario (not considering that a portion of the Glenn Riddle RPC could have been mapped as LDA or IDA) it is clear that the 571.82 acres of Growth Allocation can easily accommodate the request for 8.3 acres to reclassify the Mount property as LDA. Thank you for your attention in this matter. As always, should you have any questions please feel free to contact me at 410-632-1200, extension 1140.

Sincerely,



Keith Lackie

Natural Resources Administrator

Cc: Edward Tudor, Director DRP  
Stacey Weisner, Planner II





April 30, 2007

STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

Betsy Walk  
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**Re: 07-025, Jenson and Carrol Addition Plat**

Dear Ms. Walk:

Thank you for providing information on the above referenced project. The applicant proposes to recombine portions of two existing adjacent lots located in the Resource Conservation Area (RCA). Land division in the RCA can not result in new lots smaller than 20 acres. Also, density requirements of the RCA restrict density to one dwelling per 20 acres (COMAR 27.01.02.05). The applicant is not proposing any new lots or new development, only reconfiguration of two existing lots. As long as the dwelling on Tax Parcel 348 is a grandfathered non-conforming development, the Critical Area Commission staff does not object to this project, but has the following comments.

1. As shown on the submitted plan, Tax Parcel 348 is less than 20 acres and is developed with one dwelling. The note on the plan states that Tax Parcel 348 is gaining 0.012 acres. Conversely, the site plan shows that Tax Parcel 348 is losing a 7,072 square foot area and gaining 6,515 square foot area, resulting in an overall loss in area. If the proposed lot reconfiguration results in loss of area from Tax Parcel 348, it is becoming less conforming under the Critical Area Law density requirements. This would not be allowed under the Critical Area Law. The applicant should confirm whether the site plan or the note is correct and address this issue.
2. Any future development on these lots is required to meet all applicable Critical Area requirements.

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

Sincerely,

Marshall Johnson  
Natural Resources Planner

cc: CR 236-07





**STATE OF 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 30, 2007

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

**RE: Rezoning Case No. 388; Gum Point Road Zone Change Proposal  
Steen Associates**

Dear Ms. Davis,

The Critical Area Commission staff has received notification of the proposed rezoning. As you know, the property currently has a Critical Area overlay classification of RCA; therefore any development that exceeds the allowable density of the RCA will require the use of growth allocation.

Thank you for the opportunity to provide comments on this proposal. Please contact me if you have any questions at (410) 260-3479.

Sincerely,

Marshall Johnson  
Natural Resource Planner

cc: WC 136-07





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April 26, 2007

Holly Tompkins  
Queen Anne's Co. Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: File #MODP #05-06-06-0010-C Project: William and Jacquelyn Sanders**

Dear Ms. Tompkins:

Thank you for providing information on the above referenced proposal. The lot is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with a new commercial building. This office has the following comments.

As stated in Queen Anne's Code Section 14:1-37.D (3), all development and redevelopment projects shall delineate those site areas not covered by impervious surfaces to be maintained or established in vegetation. Where vegetation is not proposed, the developer shall demonstrate why plantings for such portions of the site are impracticable. The letter from this office dated October 30, 2006 requested that the applicant address this requirement. However, it does not appear that the requirement has been addressed. Please ensure this requirement is addressed prior to final approval.

Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson  
Natural Resources Planner

cc: QC 708-05





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April 25, 2007

Janet Davis, Critical Area Planner  
Development Review & Permitting  
One W Market Street, Room 1201  
Snow Hill, Maryland 21863

**RE: Lot 74, Lighthouse Sound, 12316 Savannah Ct., Bishopville  
Heiderman Variance Request**

Dear Ms. Davis:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a patio, hot tub and fence in the Critical Area Buffer. These improvements have already been illegally constructed, in violation of Worcester County Critical Area Program: Code § NR 3-104 (The one-hundred-foot buffer) which states that new structures are not allowed in the Buffer. A summary of the activity on this property has previously been submitted to Worcester County in the letter by Chris Clark of this office dated December 14, 2006, including description of variance requests for exceeding impervious surface limits and structures in the Buffer. The applicant has already been granted an after the fact variance to construct a house in the Critical Area with a footprint in excess of 3,000 square feet plus a large deck, resulting in significant impact to the 100-foot Buffer. Now the applicant is requesting a second after the fact variance for additional structures built in the Buffer. The variance request is based on a condition which is the result of action by the applicant. It appears the applicant has reasonable and significant use of the entirety of the property, and denial of the requested variances would not be an unwarranted hardship; therefore, this office does not support the variance.

The Buffer functions required to be maintained by Worcester County Code § NR 3-104 are: (1) Provide for the removal or reduction of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bays and their tributaries; (2) Minimize the adverse effects of human activities on wetlands, shoreline, stream banks, tidal waters and aquatic resources; (3) Maintain an area of transitional habitat between aquatic and upland communities; (4) Maintain the natural environment of streams; and (5) Protect riparian wildlife habitat. The applicant has constructed a concrete pad and pavers in an area of the Buffer which, according to the submitted request letter, the applicant currently uses as a back yard. These uses restrict the functions of the Buffer and are not consistent

with the requirement to ensure the Buffer functions listed above. If Worcester County allows this variance, the applicant should be required to mitigate for the loss to the County's natural resources caused by additional development in the Buffer, as explained in the following comments.

1. Mitigation should be required at a ratio of 3:1 for the area of the paver patio, concrete pad and hot tub, as these structures prohibit functions of the 100-foot Critical Area Buffer. As stated in Worcester County Code § NR 3-104, the Buffer shall be maintained in natural vegetation, and management measures shall be undertaken to provide forest vegetation that ensures the Buffer functions as set forth in this section. Mitigation plantings should be accommodated on the property to the maximum extent possible and installed in a manner that will compensate for the loss of the Buffer area on the site. We recommend that plantings consist of a mix of native species of trees, shrubs and ground cover.

Please note that there are discrepancies in the impervious surface figures between the 1/27/06 survey used in the Variance Case #100321 and those of the current site plan. For example, on the current site plan the existing house (with porch and steps) appears to be 120 square feet less in area. Similarly, the driveway/sidewalks appear to be 50 feet less in area. Please document whether the figures are correct on the previous plan or the current plan, or otherwise explain the discrepancies in the surveys. If necessary, please have the surveyor submit a signed statement that all of the existing structures on this site have been accurately located, measured, and shown on the site plan with area calculations, including all paving, impervious pavers, roof overhangs, storage sheds, and any other impervious surfaces.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 112-06



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April 20, 2007

Holly Tompkins  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

RE: 04-07-02-0005c; Blue Jay Court  
Cracker Barrel Old Country Store, Inc.

Dear Ms. Tompkins:

Thank you for providing resubmitted plans and information on the above referenced proposal. The lot is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with a new commercial building. This office has the following comments on the resubmitted material.

1. The 100-foot Buffer includes the extent of the non-tidal wetland on the site. This has been labeled on the revised Site Plan, but with inconsistent line style and incorrect labeling. The Critical Area 100-foot Buffer line should be labeled as "Critical Area 100' Buffer." In order to ensure that the Buffer location is clear for all of the project related activities, please have the applicant correctly label the line on all sheets of the plan set where it occurs, including sheets 2 through 5, on details such as the Forebay Plan on sheet 8, and sheet 18 (sheet numbers corresponding to the set dated January 2007). Please ensure that the legends and line style designated for the Critical Area 100' Buffer are consistent throughout.
2. County Code Section 14:1-37.D.7 (under Use and development regulations in Intensely Developed Areas) requires that redevelopment shall be done in a manner that protects Habitat Protection Areas. As explained in County Code Section 14:1-11 (Definitions) the Critical Area Buffer is a Habitat Protection Area. The applicant has provided private profit related reasoning for why parking spaces exceeding the amount required by the County are proposed for this Cracker Barrel. However, the applicant is proposing this excess parking in the Chesapeake Bay Critical Area, within close proximity to a Habitat Protection Area (the Critical Area Buffer of Cox Creek and the wetland). Since ongoing

pollution and disturbance of traffic, vehicles and additional stormwater will not be minimized by minimizing parking, additional plantings in the area between the parking and wetlands should be required to help protect the Habitat Protection Area. To address this issue, the County should apply County Code Section 14:1-37.D.3 which states that all development and redevelopment projects shall delineate those site areas not covered by impervious surfaces to be maintained or established in vegetation. Where vegetation is not proposed, the developer shall demonstrate why plantings for such portions of the site are impracticable. Unless the applicant shows that it is impractical to vegetate the area between the parking lot and the existing tree line, those site areas not covered by impervious surfaces should be maintained or established in vegetation. The applicant has implied that the excess parking is required for greater customer capacity, which relates directly to the applicant's financial profit. It seems practical that the applicant would compensate for the associated impact to the County's natural resources by meeting the County's requirement in Section 14:1-37.D for planting, and through doing so, protecting the Habitat Protection Area.

3. The newly submitted stormwater information shows that a 0.44 acre paved area is directed to a single discharge proposed for non-rooftop disconnect credit. As stated in the 2000 Maryland Stormwater Design Manual, Section 5.3 (Disconnection of Non Rooftop Runoff Credits), the surface impervious area to any one discharge location cannot exceed 1,000 square feet. The Manual does not state that a spreading device, such as the proposed stone window, can be used to compensate for exceeding this requirement. The 0.44 acre area is too large for a non-rooftop disconnect with the current parking lot configuration, as no more than 1,000 square feet may be discharged at any one location. Reconfiguring the parking lot with additional biofiltration BMPs is recommended. Until this is resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete.
4. Subcatchment H flows directly into the stormwater pond, therefore should not be included in the BMP Series calculations. For the series, all of the subcatchments entering biofiltration and then the pond should be calculated separately. Subcatchment H should be calculated separately using the pond as a BMP at 50%. The amounts can then be added to provide the total pollutant removal figure. Please revise the 10% calculations.

Thank you for the opportunity to provide comments on this development proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner  
cc: QC 96-07



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April 20, 2007

Holly Tompkins  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

RE: 04-07-02-0005c; Blue Jay Court  
Cracker Barrel Old Country Store, Inc.

Dear Ms. Tompkins:

Thank you for providing resubmitted plans and information on the above referenced proposal. The lot is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with a new commercial building. This office has the following comments on the resubmitted material.

1. The 100-foot Buffer includes the extent of the non-tidal wetland on the site. This has been labeled on the revised Site Plan, but with inconsistent line style and incorrect labeling. The Critical Area 100-foot Buffer line should be labeled as "Critical Area 100' Buffer." In order to ensure that the Buffer location is clear for all of the project related activities, please have the applicant correctly label the line on all sheets of the plan set where it occurs, including sheets 2 through 5, on details such as the Forebay Plan on sheet 8, and sheet 18 (sheet numbers corresponding to the set dated January 2007). Please ensure that the legends and line style designated for the Critical Area 100' Buffer are consistent throughout.
2. County Code Section 14:1-37.D.7 (under Use and development regulations in Intensely Developed Areas) requires that redevelopment shall be done in a manner that protects Habitat Protection Areas. As explained in County Code Section 14:1-11 (Definitions) the Critical Area Buffer is a Habitat Protection Area. The applicant has provided private profit related reasoning for why parking spaces exceeding the amount required by the County are proposed for this Cracker Barrel. However, the applicant is proposing this excess parking in the Chesapeake Bay Critical Area, within close proximity to a Habitat Protection Area (the Critical Area Buffer of Cox Creek and the wetland). Since ongoing

pollution and disturbance of traffic, vehicles and additional stormwater will not be minimized by minimizing parking, additional plantings in the area between the parking and wetlands should be required to help protect the Habitat Protection Area. To address this issue, the County should apply County Code Section 14:1-37.D.3 which states that all development and redevelopment projects shall delineate those site areas not covered by impervious surfaces to be maintained or established in vegetation. Where vegetation is not proposed, the developer shall demonstrate why plantings for such portions of the site are impracticable. Unless the applicant shows that it is impractical to vegetate the area between the parking lot and the existing tree line, those site areas not covered by impervious surfaces should be maintained or established in vegetation. The applicant has implied that the excess parking is required for greater customer capacity, which relates directly to the applicant's financial profit. It seems practical that the applicant would compensate for the associated impact to the County's natural resources by meeting the County's requirement in Section 14:1-37.D for planting, and through doing so, protecting the Habitat Protection Area.

3. The newly submitted stormwater information shows that a 0.44 acre paved area is directed to a single discharge proposed for non-rooftop disconnect credit. As stated in the 2000 Maryland Stormwater Design Manual, Section 5.3 (Disconnection of Non Rooftop Runoff Credits), the surface impervious area to any one discharge location cannot exceed 1,000 square feet. The Manual does not state that a spreading device, such as the proposed stone window, can be used to compensate for exceeding this requirement. The 0.44 acre area is too large for a non-rooftop disconnect with the current parking lot configuration, as no more than 1,000 square feet may be discharged at any one location. Reconfiguring the parking lot with additional biofiltration BMPs is recommended. Until this is resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete.
4. Subcatchment H flows directly into the stormwater pond, therefore should not be included in the BMP Series calculations. For the series, all of the subcatchments entering biofiltration and then the pond should be calculated separately. Subcatchment H should be calculated separately using the pond as a BMP at 50%. The amounts can then be added to provide the total pollutant removal figure. Please revise the 10% calculations.

Thank you for the opportunity to provide comments on this development proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner  
cc: QC 96-07



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April 20, 2007

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

**Re: 04-05-09-0015-C, 107 Windward Court, Stevensville  
Daniel Callahan**

Dear Ms. Tompkins:

Thank you for providing information on the above referenced project. The applicant proposes to subdivide an existing lot located in the Limited Developed Area (LDA) into two lots. Please see my comments below.

1. Development activity, including placement of riprap, has occurred on this site in violation of § 14:1-53 (Specific provisions for Buffer Exempted Areas). In addition, the riprap appears to have exceeded the extent of activity described in the MDE General Tidal Wetlands License document. This disturbance and potentially other activity on the site appear to be in violation of Queen Anne's County Chapter 14.1 Chesapeake Bay Critical Area Act. The applicant should work with Queen Anne's County to resolve this issue prior to approval of the subdivision.
2. Although this site previously consisted of two separate lots, the existing dwelling was constructed over the lot line with portions of the structure on both of the lots. The "doctrine of merger" concept was established by *Friends of the Ridge v. BG&E* [352 Md. 645 (1999)], wherein it was determined that contiguous lots used in the service of a single structure are considered a single lot for land use purposes. Subsequent subdivision of the lot must be consistent with current zoning requirements. The County should ensure that this proposal meets all requirements of current zoning and should ensure that it does not conflict with the doctrine of merger.
3. Queen Anne's County Title 14:53.C (Specific Provisions for Buffer Exempted Areas. Applicability) states: "This section applies only to new development or redevelopment

within 100 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of December 1, 1985, and located in mapped Buffer Exemption Areas as shown on the critical area maps.” The proposed subdivision will create an additional lot as of the date the plat is recorded and will no longer comply with the date for grandfathered lots of record. Under the current County Critical Area Program, the Buffer Exemption section will no longer apply to this lot. As a result, any proposed development on that lot will be required to meet all applicable requirements of the Critical Area LDA, including the 100’ Buffer.

4. On the easternmost lot the 100-foot Buffer line must be established landward from the mean high water line of tidal waters, tributary streams and tidal wetlands. As stated in the submitted Chesapeake Bay Critical Area Environmental Site Assessment, Shoreline & Wetlands section, there is a tidal wetland on the subject property. This wetland must be professionally delineated and mapped on the subdivision proposal plans. The “100’ Critical Area Buffer” line shown on the submitted plan must be drawn 100 feet landward of the mean high water line, or where one exists, from the edge of the tidal wetland. This is necessary to confirm, among other things, whether the proposed land division will result in developable lots.
5. Application materials submitted indicate that there are hydric soils on the site. County Land Use and Development Code Section 18-1-64 (Site Development Standards, Wetlands), requires that a wetlands jurisdictional determination shall be made when there are hydric soils present. If there are hydric soils present on the subject site, please coordinate with the Army Corps of Engineers to provide the jurisdictional determination. This information is also necessary to confirm whether the proposed land division will result in developable lots.
6. As stated in County Code Section 14:1-52 (Expanding the Buffer, Sensitive areas), the Buffer shall be expanded to include sensitive areas on the site of proposed development activities or other land disturbing activities whose development or disturbance will or may adversely affect streams, wetlands or other aquatic environments. Sensitive areas into which the Buffer may be expanded include hydric soils and soils with hydric properties as designated by the Soil Conservation District. Once the extent of hydric soils on the site is determined, the County will determine whether the 100-foot Buffer must be expanded.
7. The note on the plan stating “New development or redevelopment in the Buffer Exempt Area is not permitted unless...” should be removed. This note is incorrect and should not be included on the plat or other plans.
8. The note on the plan showing figures for impervious surface limits appears to be based on approximate acreage, as the figures have  $\pm$  signs. The allowed impervious surface

figure is an exact amount based on the actual area of the lots. Unless exact lot areas can be calculated and used for the impervious surface limits, the note on the plan referring to allowed impervious area should be removed.

9. The application indicates that the proposed lot with existing house to remain has 7,024 square feet of impervious surface. The exact area of that lot should be calculated and used to determine whether the existing impervious surface meets the 15% impervious surface limits. The applicant must document how LDA impervious surface requirements are met for the proposed subdivision to be approved.
10. The note stating that the site has buffer exempt status should be removed.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 652-05





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April 17, 2007

Ms. Jean Fabi  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: 04-07-02-0003-c; 200 Elementary Way**  
Board of Education for Queen Anne's County

Dear Ms. Fabi:

Thank you for providing resubmitted plans and information for the above referenced proposal. The site is located within the Limited Development Area (LDA) and Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with additions to an existing school. I have provided updated comments below.

1. County Code § 14:1-54 (Woodland reforestation and afforestation standards in Critical Area District) requires diverse forest planting. According to the County Code, diverse forest plantings shall include a canopy layer, an understory layer and a shrub layer. The applicant has proposed the minimum number of plantings required using trees of small size, and no shrubs. The required afforestation is proposed at an offsite location, when there appears to be adequate space on the subject site. According to the submitted plan sheet C18.1, the proposed afforestation area is "fallow field with a variety of young and volunteer plant material surrounded by a vegetated buffer along Cox Creek." As an existing Buffer, this area is already protected from disturbance, and according to the assessment, is already in the process of natural regeneration. It will very likely be a restored forest on its own. The result of using it as offsite afforestation instead of reforesting onsite, results in an overall loss in long term forest within the Critical Area around Cox Creek. Increasing the afforestation plantings or planting area to compensate for this loss is recommended.

Jean Fabi  
April 17, 2007  
Page 2 of 2

2. Please forward the letter from DNR addressing the presence of sensitive species on this site to our office when it becomes available. The plans should not be approved until this letter is received and any issues are addressed.

Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 97-07

Robert L. Ehrlich, Jr.  
*Governor*

Michael S. Steele  
*Lt. Governor*



Martin G. Madden  
*Chairman*

Ren Serey  
*Executive Director*

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April 16, 2007

Ms. Jean Fabi  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 03-07-04-001-C, 220 Fairview Farms, Centerville  
Fairview Farms II, LLC**

Dear Ms. Fabi:

Thank you for providing information on the above referenced subdivision. The applicant proposes to relocate an existing lot line separating two lots partially within in the Resource Conservation Area (RCA). No new development activities are proposed in the Critical Area under this proposal. The Critical Area Commission staff has no objection. Please telephone me if you have any questions at (410) 260-3479.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: QC 203-07





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April 12, 2007

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

**RE: 07-05-01; Bennett Point Road  
Hiebler**

Dear Ms. Swinson:

Thank you for providing information on the above referenced variance. The lot is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The property is currently developed with a single family dwelling. The applicant proposes to construct a new addition to the existing house, and is requesting a variance for development in the 100-foot Buffer. Provided that this lot is properly grandfathered, Critical Area Commission staff does not oppose a variance. Critical Area staff has the following comments regarding this request.

1. Mitigation, at a ratio of 3:1 for development within the Buffer, should be required. It appears that mitigation plantings could be accommodated on the property. Plantings should consist of a mix of native species of trees, shrubs and ground cover, and should be installed in a manner that maximizes environmental benefits of the Buffer.
2. The new addition to the existing house should include stormwater management design elements which increase benefits to water quality from the stormwater leaving the site.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Johnson".

Marshall Johnson  
Natural Resources Planner

QC 212-07





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April 9, 2007

Karen Houtman, Planner  
P.O. Box 348  
Snow Hill, MD 21863

**RE: Shipyard Alley Growth Allocation, Snow Hill**

Dear Ms. Houtman,

This letter from the Critical Area Commission staff is in response to a request from the Town of Snow Hill to revise and move forward with a growth allocation request previously submitted in 2005. The revised proposal includes changing the LDA designation to IDA for future development of 11 units outside of the 100-foot Critical Area Buffer. The Critical Area staff has the following comments.

1. A complete environmental features or environmental assessment map has not been received by the Commission for review. A "Building Setback and Open Space Tabulation" plan was included; however it does not show all of the necessary environmental features with respect to the site boundary and the proposed development envelope. The features that should be shown are further described below.
2. Soil types must be shown on the environmental features map in order to verify that all hydric soil areas have been identified and the relationship with nontidal wetlands can be evaluated. This information is necessary so that expansion of the 100-foot Buffer for hydric soils can be addressed.
3. Additional information about the presence of State and private tidal wetlands should be included in the environmental report, and explained on the environmental features map. State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for calculations or to meet the performance standards for development within the Critical Area. If portions of the project site have been determined to be private tidal wetlands, documentation regarding how this determination was made must be submitted, so that the Maryland Department of the Environment and the Board of Public Works can verify the methodology used. It is possible that they may want to verify the delineation and supporting information in the field, so appropriate detail should be provided. The area of State and private tidal

wetlands affects all of the calculations based on the area of the property, including those relating to growth allocation, stormwater management, and the area of the 100-foot Buffer; therefore, this information is necessary to properly review the project.

4. The growth allocation request is to convert LDA to IDA. The IDA classification does not include specific afforestation or reforestation standards. However, permeable areas in the IDA shall be established in vegetation if practicable, and development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation. Additional information should be provided regarding any proposed clearing of existing forest cover and proposed reforestation and afforestation of the project site.
5. The applicant has not provided adequate information addressing stormwater management plans. Additional information is needed to ensure compliance with the 10% pollutant reduction requirement for the intended development of the site. Preliminary information regarding stormwater management will be required prior to the Commission's consideration of the growth allocation request. Best management practice (BMP) stormwater features used to meet the 10% pollutant reduction requirement may not be located within the 100-foot Buffer.
6. Portions of the five residential lots shown on the submitted plan are located within the 100-foot Buffer. It is not clear if any decks or porches will extend into the 100-foot Buffer. Because most of the lots are relatively small, and the site is to be intensely developed, it is likely that the Commission will have significant concerns about any structure or disturbance in the Buffer, or the Buffer being used as a rear yard on these lots. It is strongly recommended that the lot pattern be reconfigured to avoid lots located within the Buffer.
7. A Buffer Management Plan for the 100-foot Buffer from tidal wetlands, tidal waters, and tributary streams will need to be prepared and submitted for this project in accordance with the provisions in the Critical Area law that require establishment of the 100-foot Buffer. A conceptual Buffer management plan should be submitted with the growth allocation application.
8. It is not clear from the information submitted if the proposed growth allocation request has met all of the requirements for the use of growth allocation, including those relating to adjacency to other IDA, the 300-foot setback, and the parcel history. Additional information about conformance with the Town's growth allocation provisions is needed. As you are aware, the locational guidelines relating to growth allocations were clarified in 2006 by the General Assembly. When a jurisdiction submits a request for the Commission to review and approve the use of growth allocation, the request shall state how the local government has applied the locational guidelines as set forth in Chapter 55 of the 2006 Laws of Maryland. The Commission shall ensure that these guidelines have been applied in a manner that is consistent with the purpose, policies, goals and provisions of the Critical Area Law and all Criteria of the Commission.

9. Subdivision history of the parcels/lots should be submitted to clarify whether this configuration existed at the time the Critical Area legislation was adopted. This information is necessary to determine if proposed growth allocation acreage is accurate.
10. It is not clear if there is an existing pier on the property. The proposed community pier must comply with the slip limits set forth on COMAR 27.01.03.07.B. It appears that the pier would be limited to one slip for each 50 feet of shoreline. Please clarify how many slips are proposed.

The preceding comments represent the review and evaluation by Commission staff of the submitted concept plan. I look forward to working with you and to address these comments as the project progresses through the local approval process. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal at this stage in the design. Please contact me if you have any questions at (410) 260-3479.

Sincerely,



Marshall Johnson  
Natural Resource Planner

cc: SN 140-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

Memorandum

Date: April 5, 2007

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

Re: POS # 5102-5-144  
Wheeler-Lockerman Acq. Addition (Stanley), Caroline County

Dear Mr. Price:

Thank you for sending notice of the above referenced park addition acquisition. The Critical Area Commission has no concerns about the acquisition. However, the site is within the Critical Area. Therefore, if any development is proposed on the site in the future, the Denton Critical Area Program criteria would need to be addressed. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner





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April 5, 2007

Thomas Burke  
Anne Arundel County, Office of Planning & Zoning/Development Division  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

**RE: Project # 07-0035; Shoreham Beach Road Subdivision; Shoreland and McCarter**

Dear Mr. Burke:

Thank you for providing information on the above referenced subdivision proposal. The subject site is partially within the Limited Development Area (LDA) and the Resource Conservation Area (RCA) and partially outside of the Critical Area. The Critical Area Commission staff has the following comments.

1. The grading plan submitted shows a stormwater pond located partially within the RCA. Stormwater facilities supporting development on the non-RCA portion of the site should not be located within the RCA.
2. Three proposed lots are shown partially within the RCA. The lots should be located completely outside of the RCA portion of the site.
3. A note must be placed on the plat stating the maximum impervious surface allowed for the portion of the subdivision in the LDA. The maximum amount of impervious surface allowed in the LDA portion of the site will be 15% of the area within the LDA. The impervious surface limit calculation does not include the area of the RCA.
4. Mitigation for removal of vegetation must be provided at a ratio of 1:1 for disturbance within the LDA. 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, and that they be installed as near to the shoreline as possible to maximize environmental benefits of the buffer.

Thank you for the opportunity to provide comments on this project. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: AA 117-07





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April 3, 2007

Raja Veeramachaneni  
State Highway Administration  
Office of Planning and Preliminary Engineering  
707 North Calvert Street  
Baltimore, MD 21202

Dear Mr. Veeramachaneni,

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays accepts the request to participate in the study for work on the US 50 Crossing at Ocean City (Project No. WO419A11). It appears that the project will require review by the Critical Area Commission. I look forward to participating with SHA on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Johnson".

Marshall Johnson  
Natural Resources Planner  
Phone: (410)260-3479  
Email: [Mjohnson@dnr.state.md.us](mailto:Mjohnson@dnr.state.md.us)





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Memorandum

Date: April 3, 2007

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

Re: **U.S. Army, Draft Environmental Impact Statement for BRAC 2005 Actions  
at Aberdeen Proving Ground, Maryland**

Dear Mr. Dintaman:

Thank you for sending notice of the above referenced project. This proposed federal action will be reviewed by the Critical Area Commission staff for consistency of federal action with the State Coastal Zone Management Program. It appears that the development activity proposed at the Aberdeen Proving Ground will be partially located in the Chesapeake Bay Critical Area. The information submitted indicates that the applicable Critical Area criteria are those of the Areas of Intense Development designation. The Critical Area Commission staff has the following comments.

1. The Critical Area 10% Rule Guidance Manual explains the pollution reduction calculations for development within the IDA of the Critical Area. The applicant should provide the calculations of Worksheet A of the manual, and document how the proposed action will meet the 10% pollution reduction criteria.
2. As required by the Critical Area criteria, a Buffer shall be established 100 feet landward from the mean high water line of tidal waters, tributary streams and tidal wetlands. The Buffer should be expanded beyond 100 feet to include contiguous, sensitive areas, such as steep slopes, hydric soils, or highly erodible soils, whose development or disturbance may impact streams, wetland, or other aquatic environments. In order to document that the Buffer has been accurately established, please submit a site plan with the proposed limits of disturbance, which also shows the location of tidal and non-tidal wetlands, topography, streams and soil types. No new development activities are permitted within the 100-foot Buffer except water dependant facilities.

Dintaman  
April 3, 2007  
Page 2

3. Our records indicate that the northern peninsula site may be within a sensitive species project review area. Please contact Lori Byrne with the Maryland DNR Natural Heritage Division, at (410) 260-8573 to determine the type of habitat that may be located on this site. Once this information has been received from DNR, please forward a copy to our office.

Thank you for the opportunity to provide comments on this project. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner



**MARYLAND**  
DEPARTMENT OF  
NATURAL RESOURCES

Martin O'Malley, Governor  
John R. Griffin, Secretary

March 19, 2007

Memorandum

To: LTC Daniel Hughes, NRP  
Lisa Hoerger, CAC  
Peter Dunbar, RAS  
Tim Larney, WHS  
Christine Conn, WS  
Nita Settina, PS  
Arnold Norden, PLPP  
Nick Williams, MET  
Marian Honeczy, FORS

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

Subject: U.S. Army, Draft Environmental Impact Statement for BRAC 2005 Actions at Aberdeen Proving Ground, Maryland

Enclosed please find a request for comments from the U.S. Army regarding the above referenced document. A complete copy of the DEIS on a CD is available in our office if you wish to review it. In addition, the document is available on the web ([http://www.hqda.army.mil/acsim/brac/nepa\\_eis\\_docs.htm](http://www.hqda.army.mil/acsim/brac/nepa_eis_docs.htm)) or additional copies of the CD can be requested by sending an email to [APGEIS@parsons.com](mailto:APGEIS@parsons.com). Please review the submitted materials and provide us with any comments you may have by **April 23, 2007**. 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 - *[Handwritten Signature]*

Agency - *Critical Area Commission*

Date - *4/3/07*

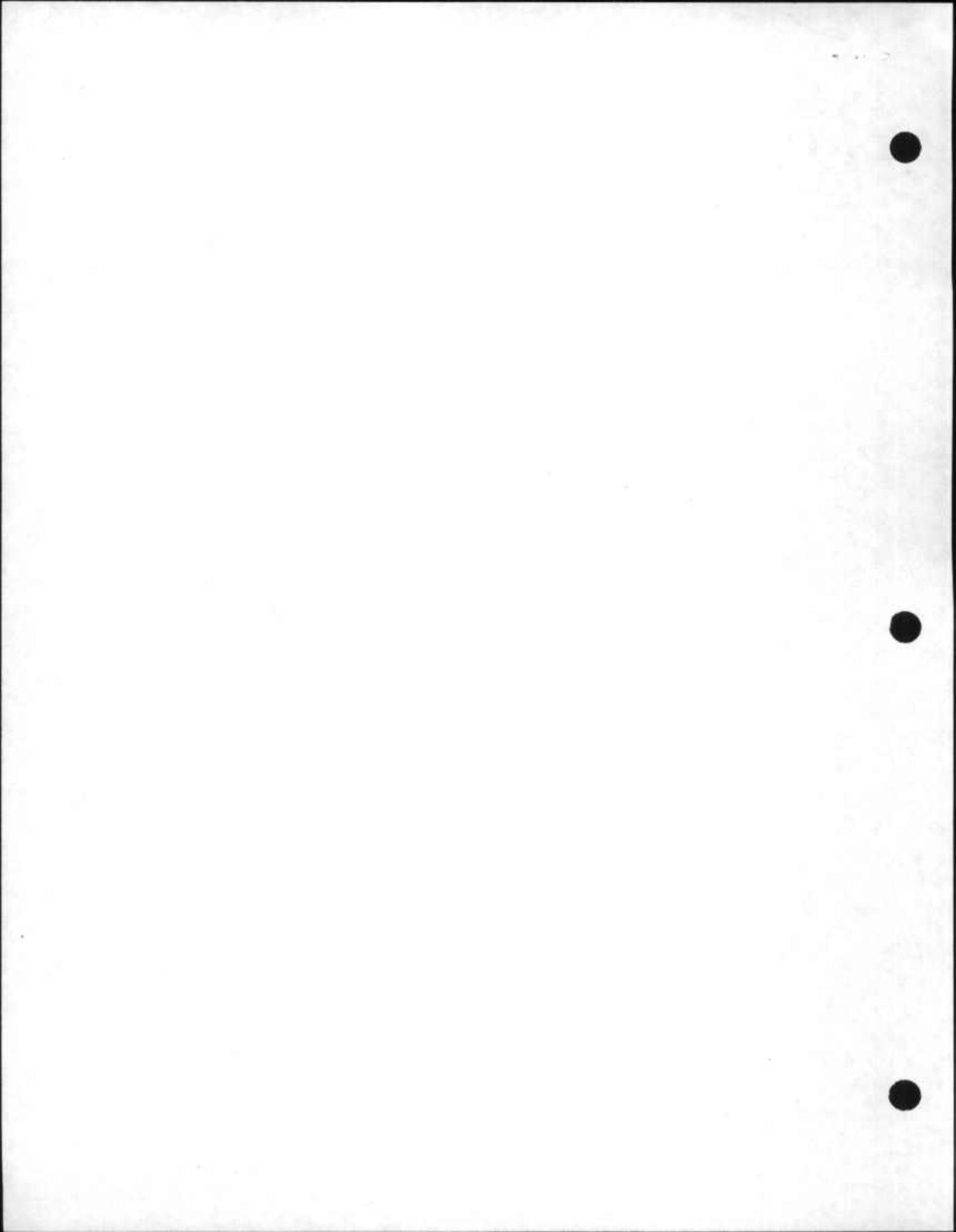
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Enclosures

**RECEIVED**

MAR 21 2007

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March 30, 2007

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

**Re: Site Plan - 12525 Ocean Gateway Rite Aid**

Dear Ms. Davis:

Thank you for submitting additional information on 10% pollutant removal calculations and landscaping for the above referenced proposal. After reviewing the information submitted, this office has the following comments.

1. The applicant has provided calculations to meet the 10% pollutant removal requirement using the incorrect coefficient for Flow weight mean concentration of pollutant (total phosphorous) in urban runoff (C). The correct coefficient is 0.30 mg/l. With the corrected coefficient used in the calculations, it appears that the applicant must plant 64 trees (or equivalent combination of trees/shrubs based on Worcester County standards) in order to offset the deficit in pollutant removal. Please see the calculations below for the area of the site within the Critical Area:

1.98 lbs/yr pollutant removal is required  
1.66 lbs/yr would be removed by the proposed multiple pond system  
0.32 lbs/yr is left as a shortfall that must be offset  
64 trees would be required based on the assumption that 2lbs/acre is treated by plantings at the standard 400 tree/acre rate.

2. The plantings to offset 10% rule pollutant removal shortfall may be located on the site outside of the Critical Area if there is not adequate space to plant them within

Janet Davis  
March 30, 2007  
Page 2

the Critical Area of the site. However, landscaping provided to meet any other County requirements cannot also be used to meet 10% rule pollutant removal offsets.

Thank you for the opportunity to provide comments on this application. If you have any additional questions please contact me at 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 711-06



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March 30, 2007

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

**RE: Gum Point Road Growth Allocation Proposal  
Steen Associates**

Dear Ms. Davis,

**Environmental Features**

1. A complete environmental features or environmental assessment map has not been received by the Commission for review. A "Critical Area Site Plan" was included; however, it only includes site topography and limited vegetation information. Much of the information that is usually included on a comprehensive environmental features map has been shown on various display documents such as copies of a soil survey and other topography map. The environmental features map is still needed in order to see the relationship between these features on a single map.
2. There are extensive areas of hydric soils on the project site. Soil types must be shown on the environmental features map, so that it can be verified that all hydric soil areas have been identified and the relationship between nontidal wetlands and streams can be evaluated. This information is necessary so that expansion of the 100-foot Buffer for hydric soils can be addressed.

**Tidal Wetlands**

3. The southern portion of the site includes a tidal wetland that requires the establishment of a 100-foot Buffer. The Buffer must be shown on the plan. It appears that there may be non-tidal wetlands in this site as well; however, they are not shown on the plans. A

field delineation of the wetlands on the site should be performed to determine the exact boundaries of tidal wetlands and that State and private tidal wetlands have been identified. This information should be submitted to the Critical Area Commission for review.

4. Additional information about the area of State and private tidal wetlands should be included in the environmental report. State tidal wetlands should not be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area. If portions of the project site have been determined to be private tidal wetlands, documentation regarding how this determination was made must be submitted, so that the Maryland Department of the Environment and the Board of Public Works can verify the methodology used. It is possible that they may want to verify the delineation and supporting information in the field, so appropriate detail should be provided. The acreage of State and private tidal wetlands affects all of the calculations based on the acreage of the property, including those relating to growth allocation, stormwater management, and the area of the 100-foot Buffer; therefore, this information is necessary to properly review the project.

#### **100-foot Buffer and Other Habitat Protection Areas**

5. The applicant must provide written correspondence from the Heritage Division of the Department of Natural Resources for this specific project. The applicant has submitted a letter from the Heritage Division dated November 23, 2004 for the adjacent parcel; however, the letter must be for the project site and current to within no more than two years. A copy of an updated letter from the Heritage Division of the Department of Natural Resources pertaining to the current proposal has not been received by the Commission.
6. Tributary streams are shown on the site plan. A stream identification and delineation to confirm the location of these water features should be performed and the 100-foot Buffer delineated based on this information. A summary of the field work for the delineation should be included in the Environmental Report.
7. Significant portions of 20 residential lots are located within the 100-foot Buffer. Because most of the lots are approximately one half acre in size, and the site is to be intensely developed, it is likely that the Commission will have significant concerns about the Buffer being used as a rear yard on these lots. It is strongly recommended that the subdivision be reconfigured to avoid lots located within stream buffers.
8. In Section D of the Critical Area Report submitted, "Site Topography and Soil Conditions," it is stated that the soils on site range from poorly drained to well drained. There appear to be significant areas of hydric soils adjacent to the 100-foot Buffer or tidal waters, tidal wetlands, and tributary streams; however, expansion of the 100-foot Buffer for all of these features has not been addressed. The Buffer is required to be expanded to include contiguous sensitive areas, such as hydric soils, whose

development or disturbance may impact streams, wetlands, or other aquatic environments. In the case where nontidal wetlands are contiguous to the 100-foot Buffer, expansion of the Buffer is required. The assessment does not indicate that there has been any analysis to determine whether expansion of the Buffer may be necessary. More detailed information is needed.

9. A Buffer Management Plan for the 100-foot Buffer from tidal wetlands, tidal waters, and tributary streams will need to be prepared and submitted for this project in accordance with the provisions in the Critical Area law that require establishment of the 100-foot Buffer. A conceptual plan should be submitted with the growth allocation application.

### **Growth Allocation and Development Envelopes**

10. It is not clear from the information submitted if the proposed growth allocation request has met all of the requirements for the use of growth allocation set forth in the Worcester County Code including those relating to adjacency to other IDA and LDA, the 300-foot setback, and the parcel history. Additional information about conformance with the County's growth allocation provisions is needed. As you are aware, the locational guidelines relating to growth allocations were clarified in 2006 by the General Assembly. When a county submits a request for the Commission to review and approve the use of growth allocation, the request shall state how the local government has applied the locational guidelines as set forth in Chapter 55 of the 2006 Laws of Maryland. The Commission shall ensure that these guidelines have been applied in a manner that is consistent with the purpose, policies, goals and provisions of the Critical Area Law and all Criteria of the Commission.
11. The proposed growth allocation on a portion of Parcel 72 does not meet Critical Area Commission guidelines for counting growth allocation, which state that total acreage of a parcel should be counted against the allocation, even when development is not proposed on the entire parcel. It appears that an alternative subdivision design with a similar number of lots could remain completely within the bounds of Parcel 67, eliminating the need for forest removal and growth allocation on Parcel 72. This alternative would also eliminate loss of connectivity of a portion of the forest, reducing the impact within the Critical Area. The applicant should address this issue.
12. The application does not include the Critical Area acreage of Parcel 67 and the Critical Area acreage of Parcel 74. There is also no subdivision history of the parcels, so it is not clear if this configuration existed at the time the Atlantic Coastal Bays Protection legislation was adopted. Without this information, it cannot be determined if the development envelope and proposed growth allocation acreage is accurate.

The preceding comments represent the review and evaluation of the project plans and documents by Commission staff. I look forward to working with you and the County Council to address these comments as the project progresses through the local approval process. As you know, the Critical Area Commission must review and approve all requests for map

Janet Davis  
March 30, 2007  
Page 4

amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal at this stage in the design. Please contact me if you have any questions at (410) 260-3479.

Sincerely,



Marshall Johnson  
Natural Resource Planner

cc: Worcester County Council



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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March 28, 2007

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

**Re: Site Plan - 12525 Ocean Gateway Rite Aid**

Dear Ms. Davis:

Thank you for submitting the revised site plan for the above referenced proposal. The property is partially located in the IDA (Intensely Developed Area) of the Atlantic Coastal Bays Critical Area. The applicant proposes to construct a new commercial building with associated parking and stormwater management facilities. The Critical Area Commission staff has the following comments.

1. As stated in the letter dated January 29, 2007 from LeeAnne Chandler of this office, at least 15% of the Critical Area portion of the site must be vegetated with trees and shrubs. It is unclear if the proposal meets this requirement. Please submit documentation of how much plantable area is proposed within the Critical Area portion of the site. Also indicate how many trees and shrubs and what species of each are proposed within the Critical Area, and document how the proposal meets the Natural Resources Article Title 8-1808.8 Local Critical Area Protection Program, which states that proposed development in the Intensely Developed Areas must provide a forest or developed woodland cover of at least 15% after development (includes a fee in lieu option). To meet this requirement, at least 15% of the area within the Critical Area portion of the site should be planted with trees and shrubs at the density matching that of the Worcester County standards for landscaping plants/acreage.
2. The 10% calculations provided use a figure for the entire site, including areas outside of the Critical Area. As stated in the letter dated January 29, 2007 from LeeAnne Chandler of this office, and as stated in the Section 4.0 Standard Application Process of the Critical Area 10% Rule Guidance Manual Step 2, the

pollution reduction calculations are based on "Area of the site within the IDA Critical Area (acres)." Please revise the calculations to reflect only the area of the site within the Critical Area. Please indicate the figures for the pre and post impervious surface areas in the Critical Area portion of the site on the site plan. Compacted gravel is generally considered impervious.

3. The proposed stormwater pond shown on the resubmitted plans received by this office on March 22, 2007 and the submitted 10% calculations indicate that the pond would have a 65% total phosphorous removal efficiency, which is listed as a multiple pond in Table 4.8 of the Critical Area 10% Rule Guidance Manual. The design of the proposed pond does not appear to adequately meet the Performance Criteria listed in Chapter 3 of the 2000 Maryland Stormwater Design Manual. For example, the design of the multiple pond should maximize pollutant removal by including properly designed forebay (section 3.1.3) and pond geometry that maximizes the flow path (section 3.1.4). There may be other design or feasibility criteria that should be shown to be met. See the diagram in Figure 3.4 Example of Multiple Pond System in the 2000 Maryland Stormwater Design Manual (also shown in the Critical Area 10% Rule Guidance Manual as Figure E.10 Schematic of Multiple Pond System). Please review the descriptions of optional pond designs in the manuals and either revise the pond design to meet the criteria, or adjust the 10% calculations and balance met by plantings accordingly.
4. Landscaping provided to meet any other requirements (including buffering, Natural Resources Article Title 8-1808.8, etc) cannot also be used to meet 10% rule pollutant removal offsets. If the applicant proposes to offset 10% rule pollutant removal by providing extra plantings, please provide documentation of how many plantings will be provided beyond those required for any other requirements. Please explain the proposed landscape schedule on Sheet C6.1, so that we may determine whether the requirements are met. There should be a table exclusively referring to plantings in the Critical Area of the site, indicating which are for the 15% forested/woodland area requirement of Title 8-1808.8, versus those provided to offset 10% pollutant removal requirements.
5. There are multiple discrepancies in the "Atlantic Coastal Bays Critical Area Report" received by this office on March 22, 2007. Part 6. Proposed Clearing, Excavation and Grading states that the site is currently undeveloped. However, Part 7. Discussion of Proposed Development states that the proposed development of this site will replace previously developed property and further states that the site is currently 19.4% impervious and is being considered redevelopment. The figures referenced in this section for the 10% calculations do not match the figures in the Worksheet A 10% calculations provided. Section 8 states that a habitat study is required for this site, while the previously submitted letter from the DNR Wildlife and Heritage Service dated September 15, 2006 does not imply that a study is required. Please clarify whether there has been updated information or study conducted pertaining to the habitat protection requirements

Janet Davis  
March 28, 2007  
Page 2

of the Critical Area. Under the Entire Site section of the Report, Percent Impervious is listed with 78.1% of the site, while Percent Landscaped is listed with 25% of the site, the total of which exceeds 100%. Please clarify the discrepancies in the Report so that the Critical Area staff may determine whether this proposal meets Critical Area Criteria.

Thank you for the opportunity to provide comments on this application. If you have any additional questions please contact me at 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 711-06





STATE OF MARYLAND  
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March 28, 2007

Holly Tompkins  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: MASP #04-07-03-0006-C; Conditional Use for St Christopher's Church  
1871 Harbor Drive, Chester**

Dear Ms. Tompkins:

Thank you for providing information on the above referenced proposal. The lot is located partially within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. There is no proposed development disturbance in the Critical Area portion of the property, only plantings. Therefore, this office has no comments on the conditional use request. If you have any additional questions please contact me at 410-260-3460.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: QC 186-07





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March 23, 2007

Mr. Chris Clark  
Town of Centreville  
101 Lawyer's Row  
Centreville, MD 21617

**Re: Town of Centreville, 103/115 Front Street  
Warf Pocket Parks**

Dear Mr. Clark:

Thank you for submitting plans for the above-referenced project. The project as proposed would not be consistent with the Critical Area Program, and would therefore require review by the Critical Area Commission under the provisions for Conditional Approval (COMAR 27.02.06). Critical Area Commission Staff has provided comments on the submitted Concept/Sketch Plan. The site is within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. It is also within the Centreville Buffer Exempt Area (BEA), which requires that development activities minimize impacts in the Buffer, or demonstrate that there is no feasible alternative given the guidelines under Section 1-124(d)(1). After reviewing the plan submitted, this office has the following comments.

1. As proposed, the boardwalks along the riverbank would not be allowed in the BEA because they do not meet the standards mentioned above. However, if the need for an ADA accessible pathway and boardwalk at the fishing/deep water docking pier can be justified based on the standards, the southern park boardwalk may be acceptable. The applicant would need to establish that there is no feasible alternative, and that the standards are met by the proposal.
2. Based on the Critical Area Program standards, the gazebo and pavilion structures are not allowed in the BEA. In addition, the proposed pump out facility should be moved closer to the road, and as far from the river as possible, in order to minimize impacts.
3. The pervious surface roadway appears to be proposed where there is an existing roadway. Please confirm the existing perviousness of the site and details for the proposed pervious

Chris Clark  
March 23, 2007  
Page 2 of 2

roadway construction. These details should include: existing soil conditions, potential for successful percolation, material proposed for pervious paving, maintenance needs and schedule to maintain perviousness. Gravel roadways compacted by vehicular traffic are generally not pervious.

4. Stormwater management plans should be submitted, including existing and proposed impervious surface area and the calculations for the 10% pollutant reduction requirement (Worksheet A from the Critical Area 10% Rule Guidance Manual). Please note that improving the existing riprap swale through stormwater best management practices is highly recommended. The benefits of an improved stormwater management system on the site could offset impacts of the project.
5. If the applicant is proposing a soft or living shoreline planting project at the site, please provide specific technical plans for this part of the proposal.
6. Please submit any additional landscaping plans, plant lists and planting schedules for meeting the 25 foot bufferyard planting requirement. In addition, the Centreville Critical Area Program states that if practicable, permeable areas shall be established in vegetation. There are many wildlife and water quality benefits to having natural vegetation (i.e. vegetation that would be expected in the absence of human disturbance) along streams and rivers. Plantings of native trees, shrubs, and groundcover are strongly recommended for the portions of this site that are shown as lawn. This type of improvement would further offset impacts of the project.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: CV 137-07



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March 22, 2007

Mr. Ronald A. Stafford, President  
Commissioners of Hillsboro  
P.O. Box 128  
Hillsboro, MD 21641

**Re: Hillsboro Town Hall Hiking Path, 22043 Church Street**

Dear Mr. Stafford:

Thank you for submitting the above referenced proposal to this office per the requirements of COMAR 27.02.02 (State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions). After reviewing your consistency determination and the accompanying site plan, this office agrees that the project is consistent with the Hillsboro Critical Area Program for the reasons outlined below.

- The path and related disturbance will be sited outside the 100-foot Buffer.
- Impervious surface cover on the site will increase, but the overall impervious area will not exceed the 15% limit in the LDA and RCA.
- Tree removal will be mitigated at a ratio of at least 1:1

Since the project is consistent with the local program, it will not require formal approval by the Critical Area Commission, notwithstanding any other required resource agency approvals. Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410)260-3460.

Sincerely,

Marshall Johnson  
Natural Resources Planner

cc: HI 110-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338  
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March 22, 2007

Mr. Donald J. Bautz, Jr., Deputy Director  
City of Havre de Grace  
Department of Economic Development & Planning  
711 Pennington Avenue  
Havre de Grace, Maryland 21078

**Re: City of Havre de Grace, 105 Lafayette Street  
Main Sewer Pumping Station Upgrade**

Dear Mr. Bautz:

I have received the materials requested addressing the 10% pollutant reduction requirement for this proposal. Therefore, I concur that that the project appears to be consistent with the provisions of COMAR 27.02.02 and the criteria outlined within COMAR 27.01.02.03. The Critical Area Commission Staff has no further comment. Please contact me at (410) 260-3460 if you have any questions.

Sincerely,

Marshall Johnson  
Natural Resources Planner

cc: HG 123-07





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March 22, 2007

Sandra Carter  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centreville, MD 21617

RE: File #MISP #4-06-09-0012-C  
Thompson Creek Shopping Center

Dear Ms. Carter:

I have reviewed the information submitted for the proposed Thompson Creek Shopping Center infill development. Thank you for the opportunity to review this project. The Critical Area staff has no further comments. If you have any questions or comments please contact me at (410) 260-3460.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Johnson".

Marshall Johnson  
Natural Resources Planner

cc: QC 608-06





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March 21, 2007

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

**Re: Goody Hill Road Subdivision  
John and June Lewis/Bunting**

Dear Ms. Davis:

Thank you for submitting the site plan for the above referenced proposal. The property is partially located in the RCA (Resource Conservation Area) of the Atlantic Coastal Bays Critical Area. The applicant proposes to subdivide the site into two lots.

1. Conflicting information was submitted regarding the location of the RCA. Please verify that the line on the subdivision proposal plan is accurate. The RCA of the site must be contained completely within only one of the new lots.
2. A 100 foot Buffer must be established landward from the mean high water line of tributary streams. If the "existing ditch" shown on the site is a tributary stream, then the Buffer must be established on the subdivision plan.
3. The Buffer must be expanded beyond the 100 foot shoreline Buffer, to contain contiguous sensitive areas, including wetlands. Our records indicate that there are wetlands on or near the site. Please confirm whether there are wetlands that would require an expanded Buffer, and if so, show the established Buffer on the subdivision plans.
4. Our records indicate that this site is within a sensitive species project review area. Please contact Lori Byrne with the Maryland DNR Natural Heritage Division, at (410) 260-8573 to determine the type of habitat that may be located on this site. Once this information has been received from DNR, please forward a copy to our office.

Janet Davis  
March 21, 2007  
Page 2

5. The applicant should indicate how the lot with RCA could be developed meeting Critical Area requirements, including: a minimum 15% of RCA area forested, impervious surface limits, and development activities only to occur outside of the required Buffers.
6. The septic reserve area must be located outside of any Critical Area Buffers. Locating the septic reserve area outside of the RCA is recommended.

Thank you for the opportunity to provide comments on this application. If you have any additional questions please contact me at 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 130-07



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March 20, 2007

Cathy Maxwell  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: CU-030001; 210 Grey Fox Lane  
Conditional Use Forest Timber Harvest**

Dear Ms. Maxwell:

Thank you for providing information on the above referenced application. The lot is located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The applicant proposes to remove trees for commercial timber harvest. The Timber Harvest Plan appears to contain all of the necessary elements for the described timber harvest in the Critical Area. Therefore, this office does not oppose the proposal. Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3460.

Sincerely,

A handwritten signature in black ink, appearing to read "MJ" followed by a horizontal line.

Marshall Johnson  
Natural Resources Planner

cc: QC 129-07





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CRITICAL AREA COMMISSION  
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March 19, 2007

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

**RE: Ramada/Condo Conversion; Case # 06-18100009  
41<sup>st</sup> Street/Coastal Highway**

Dear Mr. Smith:

Thank you for providing information on the above referenced proposal. The following comments pertain to the resubmitted plans and additional information for the proposed project.

1. The calculations on the "Mitigation Worksheet in the 100' Buffer" do not match sheet C1.2 figures. Please explain how the proposal meets mitigation requirements, and indicate whether the "Total site plantable area" on sheet C1.4 includes the existing landscaping.
2. The applicant stated that a letter has been requested from the Maryland Department of Natural Resources to determine the existence of any Habitat Protection Areas that may be affected by the proposed development. Please provide this letter to our office when it is available.
3. Pervious concrete pavers are shown on C500 as a stormwater management facility, and shown on C1.1 as proposed impervious area called "concrete paver." Please clarify.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me directly at 410-260-3460.

Sincerely,

Marshall Johnson  
Natural Resources Planner

cc: OC 723-06

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





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March 16, 2007

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

**Re: 105352; Gum Point Road Variance  
Nathan Burch/Cropper**

Dear Ms. Davis:

Thank you for submitting the site plan for the above referenced proposal. The property is located in the LDA (Limited Development Area) of the Atlantic Coastal Bays Critical Area. The applicant proposes to redevelop the site with two dwellings and associated facilities within the 100 foot Critical Area Buffer.

The property is almost entirely within the Buffer. The current development on this site predates the Critical Area regulations, and includes a house, garage, large gravel drive/parking area, boat ramp, septic mound, five septic tanks, two sheds, a boat house and four cottages. Some of the rental cottages contain multiple units, resulting in a total of eight rental units. Although the rental cottages are not literally defined as additional dwellings, the impact of inhabitation, vehicle traffic and related activity for these rental units is comparable to the ecological impact of multiple dwellings. The applicant proposes to remove the cabins and the majority of the structures, and redevelop the site with two single family dwellings. The applicant's proposal includes significant environmentally beneficial improvements to the site, including upgrading septic facilities, planting vegetation that will buffer the shoreline and an overall reduction in impervious surface. Provided that this lot is properly grandfathered, Critical Area Commission staff does not oppose the variance.

In support of the statement above, the impacts of development to habitat value and water quality should be reduced by minimizing damage to the Buffer, and mitigating for any unavoidable damage. In light of the Buffer regulations, and the potential adverse environmental impacts of development in the Buffer, we recommend that the size of the proposed houses, driveways and disturbance areas be reduced to the extent practicable.

In addition, the Critical Area Commission staff has the following comments regarding the development proposal.

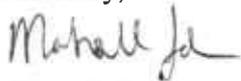
1. The applicant is proposing development activities within the 100-foot Critical Area Buffer for which the Critical Area variance criteria must be addressed. All specifically proposed development activities within the Buffer must be indicated on the site plan. Any future development activity, particularly creation of impervious surfaces, on the site must also meet Critical Area criteria. As currently labeled, the "50' SETBACK" line could be misinterpreted to imply that additional development activity could occur without review, which is not the case. Therefore, for clarity the line labeled "50' SETBACK" on the plan should be relabeled as "Proposed Limits of Disturbance." The area of the proposed disturbance should be calculated and provided in order to determine the required mitigation.
2. Mitigation plantings must be provided at a ratio of 3:1 for the area proposed to be within the limits of disturbance.
3. The width of the driveways should be reduced from 18' to the minimum required width for a private driveway. Parking areas likewise should be reduced to the minimum allowable. Moving the houses closer together would reduce the amount of driveway necessary, and allow additional on-site Buffer plantings. In general, because two houses are proposed instead of one, both of the house footprints should be reduced and limits of disturbance should be minimized.
4. As proposed by the applicant, both units should be connected to public sewer once it is available. At that time, the septic areas should be decommissioned (through the appropriate permit process) and the areas should be planted with additional native shrubs and trees to further restore the Buffer. If possible, the decommissioning and revegetating should be a condition of approval of the land division.
5. It appears that the 20" Oak shown on the existing site plan is proposed for removal due to the proximity of the septic area for Lot 2. If at all possible, we recommend shifting the location of the septic area to preserve significant vegetation, such as this large oak.
6. Mitigation plantings must be provided to meet the species, size and other requirements of Worcester County regulations. The areas denoted as "Coastal Old Field Early Successional Stage Habitat" may be labeled as such, but only in so far as all mitigation requirements are met. These areas must also include mitigation plantings on the site.

Janet Davis  
March 16, 2007  
Page 2

7. Improved bio-nutrient reduction septic systems are available which greatly reduce the impact to water quality from septic systems. It is recommended that the applicant use bio-nutrient reduction septic systems for this site.
8. Please note that the State Wetlands Administrator of the Board of Public Works may not have made a determination as to whether the "canal" area at this site is under private or State jurisdiction. Such a determination may affect the potential for subdivision. This letter only applies to the current proposal. Any subsequent changes to the proposal that affect Critical Area criteria must be reviewed by the Critical Area Commission office.

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. If you have any additional questions please contact me at 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 107-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS  
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March 15, 2007

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

**Re: King's Ransom Subdivision on MD Rte. 522, Chester - 04-06-06-0004-C  
Bozek / McCrone, Inc**

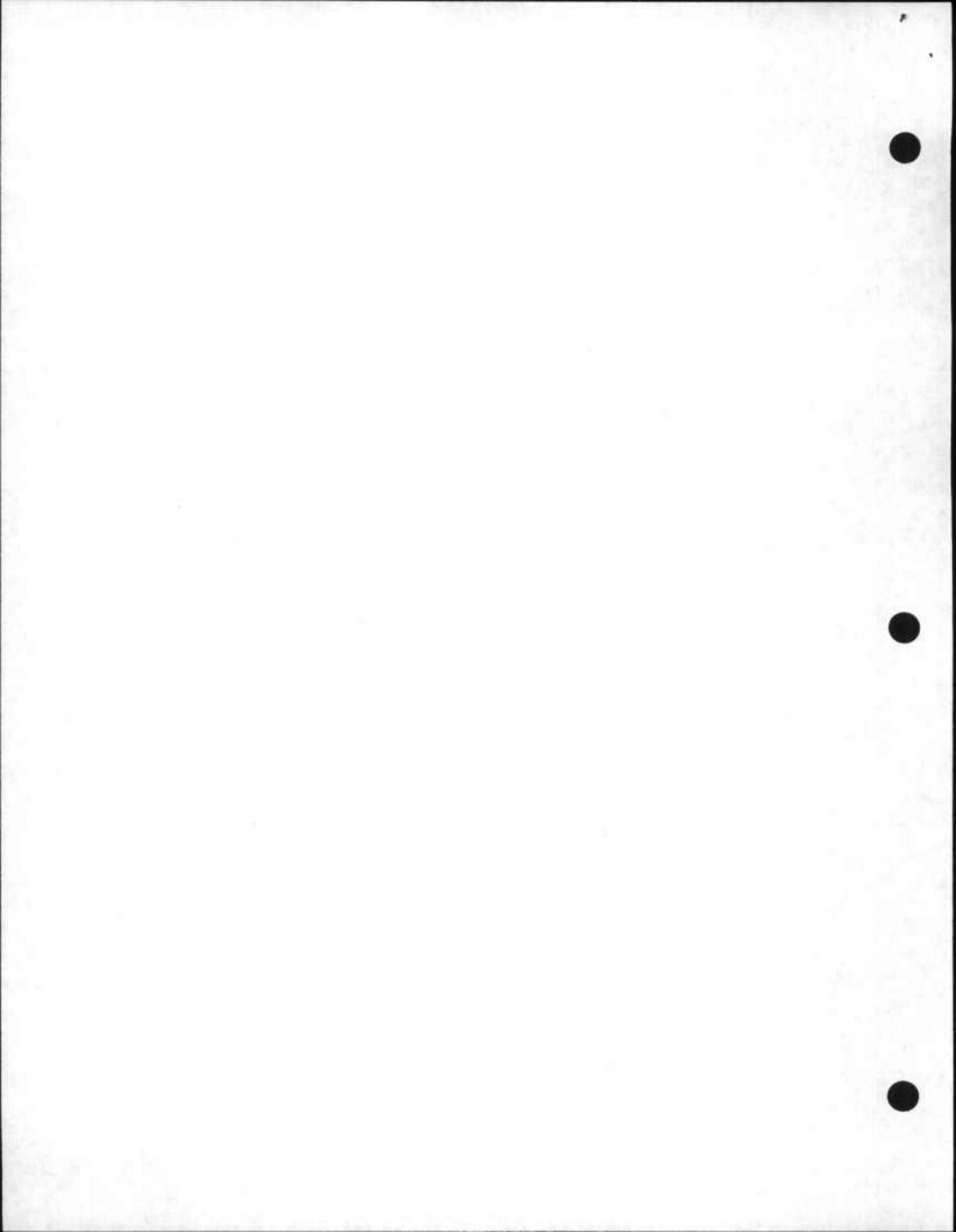
Dear Ms. Tompkins:

Thank you for providing information on the above referenced project. The applicant proposes to subdivide a property located in the Limited Development Area (LDA) into four lots. This office has the following comments.

1. Off site mitigation is proposed on a property where a subdivision is currently proposed. Please document how the off site mitigation will be coordinated with the proposed subdivision of that property.
2. The proposed off site mitigation plantings would be more effective if located directly adjacent to the existing forested margin shown on the Critical Area Reforestation Plan. Planting adjacent to the existing forest would provide habitat connectivity, enlarge the vegetation area buffering the stream and generally increase ecological benefits. The applicant should either relocate the mitigation plantings adjacent to the existing forest or provide adequate explanation as to why they are proposed to be located elsewhere.
3. On the Minor Subdivision plan (sheet 2) the notes for Bald Eagle Protection Zones do not match the notes in the April 3, 2006 letter from Lori Byrne of DNR Wildlife and Heritage Services. Please explain why the notes do not match the DNR letter. The applicant may contact DNR Wildlife and Heritage Services at (410) 260-8573 with questions about what notations are needed on the plat.



4. Note 18 on Overall Site Plan & Notes indicates that approval for a combined driveway will be obtained by the developers of the lots. If the proposed combined driveway is considered as a factor in the approval of this subdivision, the applicant should document that a combined driveway permit will be issued prior to subdivision approval.
5. Hydric soils on the site extend beyond the 100 foot Critical Area Buffer line shown on the plans. A determination to expand the Buffer to include the hydric soils will be made by the Queen Anne's County Planning Commission. If the Commission determines that the Buffer will be extended, the line should be re-drawn on the plans to reflect the extension, and in that case this office will have additional comments on the proposal.
6. Disturbance within the 100 foot Critical Area Buffer for relocation and construction of the drainage facility should be reduced to the extent possible. In order to minimize damage to the wetland, hydric soils and existing vegetation, the ditch, rock outlet and construction corridor should be the minimum allowable. It appears that the proposed facility could also be relocated (for example toward the center of the rear of Lot 3), in a way that would reduce the amount of disturbance to the delineated wetland area. Low impact machinery (e.g. spider hoe or rubber tracks) should be used for construction of the drainage facility, particularly to minimize soil compaction and unnecessary vegetation removal in the Buffer. The drainageway and rock outlet area should be replanted with dense native vegetation, including emergents, shrubs and trees typical to local riparian zones. The drainageway and rock outlet area should be designed with natural materials to the extent possible. The project should be designed to minimize the loss of resource and functional values of the resource. In order to be approved, the applicant must show through reasonable alternatives analysis that the proposed design and construction methods will result in the least impact to the Buffer.
7. Please address the drawing on the Grading, SWM and Sediment and Erosion Control Plan (sheet 2) which appears to be a soil stockpile. If it is a soil stockpile, the applicant should explain why it is located in the path of the existing drainage. This would appear to pose an unnecessary potential erosion problem. In order to minimize impact to the Buffer, relocating the stockpile closer to the roadway and outside of the path of the existing drainage is advised.
8. Please clarify the note on the Critical Area Forest Plan (Sheet No. 6) concerning plant stock, which states that if stock is not available it will be replaced with plants "found growing in the wild nearby." Plant stock should be provided as specified by Queen Anne's County requirements.
9. As stated in the letter from this office dated June 20, 2006, filling or disturbance of delineated non-tidal wetlands 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

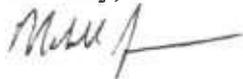


March 15, 2007  
Holly Tompkins  
Page 3

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 submitted environmental assessment also points out that these hydric soils provide severe limitations for homesites and vehicle roadways.

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

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 724-04





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

March 12, 2007

1804 West Street, Suite 100, Annapolis, Maryland 21401  
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[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

Betsy Walk  
Office of Planning  
403 S. Seventh Street, Suite 210  
Denton, Maryland 21629

**RE: 200700006; 25369 Harpers Branch Drive  
Margaret Carlson**

Dear Ms. Walk:

Thank you for providing information on the above referenced variance. The lot is located within the Limited Development Area (LDA). The applicant is requesting a variance to allow a retaining wall within the Critical Area Buffer. The intent of the project is to stabilize a steep slope within the Buffer, which is currently eroding directly behind the applicant's house. Due to the necessity of stabilizing a seriously eroding slope that is in close proximity to an existing house, this office does not oppose the variance; however impacts must be minimized and the disturbance should be the minimum necessary to provide relief. Requesting assistance from the Soil Conservation District is recommended, to determine if the location and design of the retaining wall is appropriate. This office has the following comments in regard to the proposal.

1. Mitigation, at a ratio of 3:1 for disturbance within the Critical Area Buffer, should be required. It appears that mitigation plantings could be accommodated on the property in a manner that will help stabilize the slope to prevent future erosion or slope failure problems. We recommend that plantings on the slope consist of a mix of native species of shrubs and ground cover. As part of the mitigation, additional native tree species may be planted on the site, preferably within the Buffer.
2. Existing trees should not be removed, unless removal is necessary for construction of the slope stabilization 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. If you have any additional questions please contact me at 410-260-3460.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner  
cc: CR 108-07





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

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March 9, 2007

Mr. Donald J. Bautz, Jr., Deputy Director  
City of Havre de Grace  
Department of Economic Development & Planning  
711 Pennington Avenue  
Havre de Grace, Maryland 21078

**Re: City of Havre de Grace, 105 Lafayette Street  
Main Sewer Pumping Station Upgrade**

Dear Mr. Bautz:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the submitted materials, this office has the following comment.

The proposed redevelopment project is in the IDA (Intensely Developed Area) of the Critical Area, which requires documentation that the 10% pollution reduction standard will be met. Therefore, please submit Worksheet A, which calculates the pre and post impervious areas and the removal requirement. This calculation is required regardless of the proposed BMP. Please also provide a site plan showing proposed versus existing impervious areas on the entire site.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Johnson".

Marshall Johnson  
Natural Resources Planner

cc: HG 123-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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March 6, 2007

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

**RE: Broad Marsh Townhomes; Case # 11577/11906  
69<sup>th</sup>-70<sup>th</sup> Streets (Bayside)**

Dear Mr. Smith:

Thank you for providing information on the above referenced proposal. The following comments pertain to the resubmitted plans and additional information for the proposed project.

1. The 10% pollution reduction calculations have been submitted as one figure for the entire project. However, these calculations cannot be accepted until additional information has been provided. Please submit specifications for the proposed pervious paving/storage, including:
  1. Cross section of pavers with trenches beneath
  2. Proposed pervious fill material
  3. Depth to water table
  4. Soil permeability at the site
2. The landscaping requirements have been submitted for the entire project. If, at a future date, it is determined that all of the 14 phases described in the current plans are not to be completed, the required amount of landscaping must be provided for the phases that have been built at that time.
3. Section IV Buffer and Buffer Management Area, subsection (d)(4) of the Ocean City Critical Area Program addresses pervious walkways in the Buffer. This section is meant to allow walkways attached to a primary structure, running

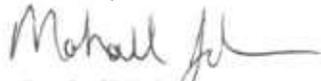
March 6, 2007  
Blaine Smith  
Page 2

perpendicular to the shoreline through the Buffer. In general the intent is to allow access to the water while limiting impacts to the Buffer. The plans show a walkway running parallel to the water, along the majority of the Buffer on the site; therefore, the plan needs to be revised to either remove the parallel walkway or make it perpendicular to the shoreline.

Please note that Commission Staff met with Town Staff in the summer of 2005 to discuss, among other issues, the possibility of revising the Town's Critical Area Program to include a comprehensive Bay-side boardwalk element. We remain available to assist the Town in designing appropriate provisions for inclusion in the Town's Program. Absent provisions for Bay-side boardwalks, or preferably, a comprehensive boardwalk element, piecemeal boardwalks on individual properties are not authorized under 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 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: OC 674-05



STATE OF MARYLAND  
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March 5, 2007

C/O Sandra N. Carter  
Ms. Jennifer Jackson Rhodes  
Queen Anne's County  
Department of Planning and Zoning  
160 Coursevall Drive  
Centerville, MD 21617

**Re: 04-07-02-0012-C, 711 Main St., Stevensville  
Fish, John & Michele**

Dear Ms. Rhodes:

Thank you for providing information on the above referenced project. The applicant proposes to subdivide an existing lot located in the Intensely Developed Area (IDA) into two lots. Please see my comments below.

1. The applicant has previously addressed the 10% pollutant reduction calculation for the existing development on the site. Therefore, all of the existing BMPs used to meet that requirement must remain on the same lot with the existing structure.
2. At the time of building permit application for development on the new lot (shown as lot 16), IDA development regulations should be met, including the 10% pollutant reduction calculation.

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

Sincerely,

Marshall Johnson  
Natural Resources Planner

cc: QC 114-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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March 2, 2007

Ms. Jean Fabi  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: 04-07-02-0003-c; 200 Elementary Way**  
Board of Education for Queen Anne's County

Dear Ms. Fabi:

Thank you for providing information on the above referenced proposal. The lot is located within the Limited Development Area and Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with additions to an existing school. I have provided Commission Staff comments below.

1. The plans indicate that a temporary parking lot is proposed in the IDA portion of the site. Please submit additional information addressing this part of the proposal such as the length of time the area will be used for parking, whether it is an existing or proposed gravel parking area, what is the intended use after it is no longer used for parking, etc.
2. Development in the IDA must meet standards, including the 10% rule for stormwater management. The applicant must submit the 10% calculations (Worksheet A) if gravel is proposed for the temporary parking area in the IDA. Please note that where practicable in the IDA, permeable areas shall be established in vegetation.
3. The site plan shows a soil stockpile area on the existing drainage of the site, and near existing vegetation. The applicant should not propose development activities in the Critical Area that could adversely impact water quality. Therefore, the soil staging area must be placed in a more appropriate location that will minimize potential impacts to the drainage, stormwater quality and existing vegetation.

4. The applicant should explain why the required afforestation is proposed off-site when there appears to be adequate space on the subject site. The explanation should include reasoning for not placing afforestation on site, and may include documentation of benefits of locating the afforestation in its proposed location (e.g. habitat connectivity, planting in buffers, etc). If the applicant wishes to maintain the afforestation plantings off-site, doing so should be mitigated by increasing the planting density, species diversity, plant size, and adding shrubs and ground cover to the planting plan.
5. Stormwater management standards of Maryland Department of the Environment (COMAR 26.09.01) must be met for development proposed in the Critical Area Limited Development Area. The applicant should document that these requirements will be met for the project.
6. Because the applicant is proposing to alter the parking lot of a site in the Critical Area, this would be an ideal opportunity to incorporate low impact development stormwater elements which reduce water quality impacts.
7. Our records indicate that this site is within a sensitive species project review area. The applicant has stated that a letter was requested from DNR addressing the presence of sensitive species on this site. Please forward the letter from DNR to our office.

Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 97-07



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

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March 2, 2007

Holly Tompkins  
Queen Anne's County  
Office of Planning and Zoning  
160 Coursevall Drive  
Centreville, Maryland 21617

**RE: 04-07-02-0005c; Blue Jay Court  
Cracker Barrel Old Country Store, Inc.**

Dear Ms. Tompkins:

Thank you for providing information on the above referenced proposal. The lot is located within the Intensely Development Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to redevelop the site with a new commercial building. This office has the following comments.

1. The Critical Area Buffer line shown on the site plan should be expanded to include the nontidal wetlands. The proposed limit of disturbance and a stormwater outfall extend into the nontidal wetland on the plans. Impacts to the nontidal wetland and its 25-foot buffer will require permits from the Maryland Department of the Environment. Where possible, stormwater outfalls and other facilities should be placed where they do not require vegetation removal or other impact to sensitive areas such as wetlands.
2. According to the information provided by the applicant, 110 parking spaces are required for the proposed use. The applicant has proposed 159 spaces, including 3 large enough for RVs or buses. Since the applicant is proposing development in the Chesapeake Bay Critical Area, and within close proximity to Cox Creek and associated wetlands, it is recommended that the disturbance and additional impervious surface on the site be reduced by creating the minimum required amount of parking. If the applicant chooses to demonstrate that the excess parking is necessary, additional plantings in the area between the parking and wetlands should be required to help reduce the impact of the excess runoff leaving the site.

3. The open water of Cox Creek is State-owned, and must be subtracted from the total site area for calculations relating to stormwater requirements. The applicant must clearly indicate whether the area of open water of Cox Creek was subtracted from total site area for stormwater management calculations, and also what methods were used to determine the location of the mean high water of the creek.
4. The stormwater report lists a 0.44 acre area subject to non-rooftop disconnect credit. The applicant must provide a drainage map and documentation of where this area is located on the site and how it meets the criteria for non-rooftop disconnect credit. Until this is resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete.
5. The applicant has requested a waiver of County stormwater quantity treatment requirements based on stormwater being discharged directly to tidal waters. However, the plan indicates that the stormwater will be discharged directly into the nontidal wetlands. This issue should be resolved before the stormwater quantity requirements are waived.
6. The Site Plan shows "proposed tree lines" which seem to indicate additional removal of vegetation and/or tree removal. The applicant should minimize removal of existing vegetation wherever possible or meet replacement requirements if there is no feasible alternative. For example, locating stormwater facilities on the portion of the site that is currently mowed lawn is a potentially feasible alternative that would reduce loss of existing trees and shrubs.

Thank you for the opportunity to provide comments on this proposal. 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 additional questions please contact me at 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: QC 80-07



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

March 2, 2007

Janet Davis, Critical Area Planner  
Development Review & Permitting  
One W Market Street, Room 1201  
Snow Hill, Maryland 21863

**RE: Case # 105003, Tax Map 80, Parcel 54, Lot 3 (Scott's Landing Road)  
Hugh Cropper, et al.**

Dear Ms. Davis:

Thank you for providing information on the above referenced variance. The lot is grandfathered in respect to the Critical Area. It is 9.64 acres, located within the Resource Conservation Area (RCA) of the Atlantic Coastal Bays Critical Area. The property is currently undeveloped. The applicant proposes to construct a single family dwelling, deck and paved driveway and clear approximately 6,000 square feet of vegetation for septic reserve, within the Buffer of the Critical Area. The applicant is requesting a variance to allow a dwelling within the Critical Area Buffer, and to disturb and clear in excess of 30% of vegetated area in the Buffer.

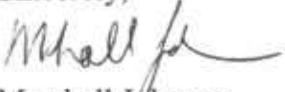
Provided that this lot is properly grandfathered, Critical Area Commission staff does not oppose the variance. However, to the extent possible, the impacts of development on the habitat value and water quality of the bay should be reduced by minimizing damage to the Buffer, and mitigating for any unavoidable damage. In light of the Buffer regulations, and the potential adverse environmental impacts of clearing and placing a structure within the Critical Area Buffer, we recommend that the size of the proposed house, driveway, deck and disturbance areas be reduced. In addition, the Critical Area Commission staff has the following comments regarding the development proposal.

1. Mitigation, at a ratio of 3:1 for new impervious surface and disturbance within the Buffer, should be required. To the extent possible, mitigation plantings should be accommodated on the property and installed in a manner that will reduce the impacts of clearing the land, including soil erosion, loss of habitat and loss of stormwater filtration. We recommend that plantings consist of a mix of native species of trees, shrubs and ground cover.
2. Our records indicate that this site is within a sensitive species project review area. Please contact Lori Byrne with DNR, at (410) 260-8573 to determine the type of habitat that may be located on this site.

3. In order to meet the variance criteria, the proposal should minimize impacts by including stormwater management design elements which increase benefits to water quality from the stormwater leaving the site. These may include pervious paving, pervious deck construction, and other low impact development methods which are acceptable to the County.

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. If you have any additional questions please contact me at 410-260-3460.

Sincerely,



Marshall Johnson  
Natural Resources Planner

cc: WC 95-07



STATE OF MARYLAND  
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March 1, 2007

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

**RE: V-020007; 856 Thompson Creek Road  
Richard Aufderheide**

Dear Ms. Swinson:

Thank you for providing information on the above referenced variance. The lot is located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The property is currently developed with a single family dwelling. The applicant proposes to construct a new garage and is requesting a variance to exceed building coverage on the site. Since there appears to be no Critical Area issues, this office has no comment regarding this request.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

Marshall Johnson  
Natural Resources Planner

QC 80-07





STATE OF MARYLAND  
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March 1, 2007

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

**RE: 2007-0008-V, 3230 Cragun Road  
William Simpson**

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The lot is 2.82 acres in size, located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The property is currently developed with a single family dwelling with a gravel drive and sidewalk. The applicant proposes to construct a new three car garage with second level, as an attached addition to the house. The entire site is within the Critical Area Buffer. In this case, the Buffer has been expanded due to steep slopes. The applicant has applied for a variance to allow the new garage addition to be within the Buffer. The site is currently below impervious surface limits. The new garage will be placed almost entirely over existing gravel drive, which is considered impervious in Ann Arundel County. The applicant also proposes to maintain the current amount of impervious surface by removing a portion of the existing gravel driveway. Thus there is no change proposed to overall impervious surface on the site.

Provided that this lot is properly grandfathered, Critical Area Commission staff does not oppose a variance. For a reasonable expansion; however, the applicant must demonstrate that it would experience unwarranted hardship without the addition of a three car, two story garage in the Critical Area Buffer. The purpose of the Buffer expansion for steep slopes is to reduce the impact of development on sensitive land features, for example erosion and slope failure resulting in increased sediment input to the Bay. In light of the criteria, and the potential adverse impact of a large additional structure within the Critical Area steep slope Buffer expansion, we recommend that the size of the proposed garage addition be reduced in order to demonstrate how impacts to the expanded Buffer have been minimized. In addition, the Critical Area Commission staff has the following comments regarding the development proposal.

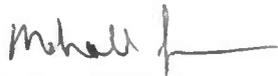
1. Mitigation, at a ratio of 3:1 for development within the Buffer, should be required. It appears that mitigation plantings could be accommodated on the property. Plantings should consist of a

mix of native species of trees, shrubs and ground cover, and should be installed in a manner that maximizes environmental benefits of the Buffer, particularly to promote slope stability and reduce erosion. When the proposed gravel driveway removal occurs, revegetating that area with the native mitigation plants is highly recommended as well.

2. The new structure should include stormwater management design elements which increase benefits to water quality from the stormwater leaving the site.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

AA 82-07



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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March 1, 2007

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

**RE: 2007-0007-V, 1854 Chesapeake Road  
Wayne and Lisa Knell**

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The lot is 8,700 square feet in size, located within the Limited Development Area (LDA). The property is currently developed with a single family dwelling, detached garage, concrete drive and patio. The applicant proposes to remove the garage and replace it with a new garage on the same location, which is outside of the Critical Area Buffer. The applicant has applied for a variance to allow the new garage to be within property setbacks. The site is currently over impervious surface limits. The new garage will extend beyond the limits of the garage to be removed, increasing the overall impervious surface of the site, however, the applicant proposes to maintain the current amount of impervious surface by removing a portion of the existing concrete patio. Thus there is no change proposed to overall impervious surface on the site.

Provided this lot is properly grandfathered and there is no overall increase in impervious surface area on the site, we have no comments regarding the variance. This office does have the following comments regarding the development proposal.

1. Mitigation, at a ratio of 1:1 for disturbance within the LDA, 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, and that they be installed as near to the shoreline as possible to maximize environmental benefits of the buffer.
2. The impervious area of the concrete patio proposed for removal by the applicant should be removed at the time the existing garage is demolished. The applicant should remove enough impervious area from the concrete patio to maintain no overall increase in impervious surface once the new garage is constructed. If the new development activity results in any increase in impervious surface, the applicant must apply for an impervious surface variance.

3. The new garage should include stormwater management design elements which increase benefits to water quality from the stormwater leaving the site.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson  
Natural Resources Planner

AA 81-07



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CRITICAL AREA COMMISSION  
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February 27, 2007

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

RE: 2006-05097; 110 Edge Knoll Lane  
Mark and Sharon Stemen

Dear Ms. Swinson:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling within the Critical Area Buffer. The lot is 78,411 square feet in size, located within the Limited Development Area (LDA). The property is currently developed with a single family dwelling. The applicant proposes to remove the existing dwelling and construct a new dwelling on the same footprint.

Provided this lot is properly grandfathered, we have no comments regarding the variance to place a new dwelling within the buffer on an existing foundation. This office does have the following comments regarding the development proposal.

1. Mitigation, at a ratio of 3:1 for new impervious surface and 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.
2. Our records indicate that this site is within a sensitive species project review area. Please contact Lori Byrne with DNR, at (410)260-8573 to determine how to proceed with development proposed in a sensitive species project review area.

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. If you have any additional questions please contact me at 410-260-3479.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Marshall Johnson', with a long horizontal flourish extending to the right.

Marshall Johnson  
Natural Resources Planner  
QA 76-07

Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 29, 2007

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

Re: M1081  
Sterling Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision, lot line abandonment, and subdivision. The applicant is proposing to revise and abandon lot lines on three existing tax parcels and to create two new lots. The property is designated as a Resource Conservation Area (RCA). Revised Tax Parcel 218, Revised Tax Parcel 216, New Lot, and New Lot 2 are undeveloped and have no impervious surface. Revised Tax Parcel 2 is developed currently with a single-family dwelling unit, studio, parking area, pool, storage area, driveway, and dog pen. Total impervious surface on this site is 86,878 square feet, which is below the 15% permitted (101,969 square feet). All five available development rights in the Critical Area will be used if this project is approved.

Based on the provided information, this application adequately addresses most of the comments that were sent from this office by Kerrie Gallo on December 7, 2006. However, we have the following comments on this project:

1. Please ensure that the applicant follows the recommendations given by the Department of Natural Resources Wildlife and Heritage Service in order to protect the Delmarva Fox Squirrel, which is known to occur on or in the immediate vicinity of this property.
2. The site plan states, under the Property Area Statistics Section, that total acreage of the property is 110.249 acres and the total area in the Critical Area is 101.897 acres. The same acreage is stated for forest cover calculations. Under development rights calculations, however, Critical Area acreage is 103.529 acres. Furthermore, area outside the Critical Area is 8.352 acres. Total acreage would

then be 111.881 acres. Meanwhile, when adding up the area for each parcel and lot in the impervious area calculations section of this site plan, total acreage in the Critical Area is only 98.208 acres (Tax Parcel 218 = 69.612 acres, Tax Parcel 216 = .939 acres, New Lot 1 = 7.932 acres, New Lot 2 = 4.119 acres, and Revised Tax Parcel 2 = 15.606 acres). Please determine the accurate acreage of this property both inside and outside of the Critical Area and recalculate the amount of impervious surface permitted, forest cover needed, and development rights allowed. If Critical Area acreage falls below 100 acres, then the property loses one development right, and one lot must be removed from this subdivision application.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resource Planner

TC ~~49-06~~

737-06

Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 29, 2007

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

Re: 1447  
Hall & Davies-Subdivision

Dear Ms. Verdery:

Thank you for providing the information on the above referenced subdivision application. The applicant proposes to build a two-lot subdivision on a parcel zoned as a Limited Development Area (LDA). Total size of the parcel is 1.35 acres (58,806 square feet). A total of five development rights are permitted on site; two are utilized, and three will remain available on Lot 2. Lot 1 is developed with a two-story dwelling with a deck, gravel driveway, shed, and brick walkway. Lot 2 includes a shed and a gravel path that leads to a pier. Total impervious surface on Lot 1 is 2,665.34 square feet (17.8%) and 785.76 square feet (1.7%) for Lot 2. The impervious amount existing on both lots fall under the 25% permitted.

Based on the information provided, we have the following comments on this project.

1. Required forest in the Critical Area should be 8,559.54, not 85,559.54. If forest is cleared in the future for this project, then mitigation will be required.
2. Based on this subdivision plan, Lot 1 will have no riparian rights or access.
3. Lot 2 should be created to have a sufficient buildable area so that a need for variances in the future is eliminated.
4. No new development will be permitted in the Buffer area for proposed Lot 2.
5. The tidal wetlands classification table on the site plan mentions that, of the total amount of tidal wetlands on-site (3,594.04 square feet), half is privately owned and consists of marshelder/groundsel bush, and half is state-owned and consists of smooth cordgrass. Seeing this total split in half raises concerns about the accuracy of this delineation. Please have the applicant perform a proper delineation of how much wetlands is private and state-owned in order to

determine the total buildable area for this property and, in turn, to determine the impervious surface allowed for Lot 2.

Thank you for providing the opportunity to comment on this project. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly  
Natural Resource Planner  
TC 818-06

Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 29, 2007

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

Re: Dogwood Harbor Bulkhead Replacement, Waterman's Observation Wharf and  
Parking Lot Resurfacing- **ADDENDUM**

Dear Ms. Verdery:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. Based on your conversations with Kerrie Gallo about afforestation on the Trappe Public Landing project, and upon your request for clarity with myself and Ms. Gallo on afforestation with the above-referenced project, I am sending you an addendum to my April 17, 2007 letter that I had written for the Dogwood Harbor project:

- For this project, compliance with the 15% afforestation requirement is necessary. I calculate .321 acres (13,982.76 square feet) is required for this project. Please provide information that explains whether this requirement can be met on-site, or if an off-site location is necessary. Commission staff will need this information in order to determine that the project is consistent with the regulations for local government projects as outlined within COMAR 27.02.02.

Please add this letter to the project's file and amend my previous letter with this new requirement. I sincerely apologize for the oversight of this requirement.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resources Planner  
cc: TC 185-07



Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 29, 2007

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

Re: L1060  
Cavaselis Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is requesting a lot line revision between an existing lot (Lot 4) and an undeveloped parcel (Parcel 96). Both properties lie within a Rural Conservation Area (RCA). However, a portion of Parcel 96 falls outside of the Critical Area and is denoted as a Rural Agricultural Conservation Zone (RAC).

Lot 4 is developed with a two-story dwelling and gravel driveway. Parcel 96 is currently undeveloped. Total impervious surface on Lot 4 is .18 acres, which is below the 15% impervious surface allotment permitted. If the lot line revision is granted, total acreage for Lot 4 will increase from 3.21 to 5.00 acres. Acreage for Parcel 96 in the Critical Area will fall from 35.60 acres to 31.04 acres.

Based on the information provided, this office has no comment on the lot line revision.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
TC 362-07



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 28, 2007

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

Re: M1020  
Nourse Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to build a three-lot subdivision that is located in a Rural Conservation Area (RCA). Lot 1 is 42.339 acres and currently has .954 acres of impervious surface. This lot is developed with a two-story frame dwelling, single story guest dwelling, two sheds, building, pier, and driveway. The guest house will be removed. Lot 2 is 4.734 acres and Lot 3 is 17.358 acres; neither are developed nor do they contain any impervious surface.

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

1. Please have the applicant break down the impervious surface calculations for Lot 1 so that the amount of impervious surface for the dwelling units, sheds, building, and road are separated and shown. Furthermore, Oak Creek Road must be included in the impervious surface calculations for this lot. Please recalculate the impervious surface for this lot, including the road.
2. The tidal wetlands delineations for this project were taken from the 1972 maps. We recommend having an updated wetlands delineation performed on the site to determine how much acreage on the site is available for parcel development.
3. The calculation for development rights in the RCA is incorrect. COMAR 27.01.02.05 §C4 states that development in the RCA may only occur at rate of one dwelling unit per twenty acres. Total acreage in the RCA for this project is 64.432 acres; therefore, **only two** development rights are allowed in this development, **not three** as stated on the site plan.

4. The applicant must receive a letter from the Department of Natural Resources' (DNR) Wildlife and Heritage Division evaluating the property to determine if there is the presence of any rare, threatened, or endangered species. If present, the applicant must address all recommendations from DNR for protection of this species. Please forward to this office a copy of this letter.
5. Please have the applicant ensure that the Buffer does not require any expansion for contiguous sensitive areas.
6. The applicant is required to perform afforestation within the Buffer as mentioned in the Critical Area Forest Table.
7. The Buffer area must be reestablished in vegetation since the use of this land is switching from agricultural to residential.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,



Nick Kelly  
Natural Resource Planner  
CC: TC 117-02

Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 28, 2007

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

RE: **Ramada/Condo Conversion; Case # 06-18100009**  
**41<sup>st</sup> Street/Coastal Highway**

Dear Mr. Smith:

Thank you for your recent updated submittal for the above request to convert hotel units within the existing Ramada Inn to multi-family residential units. The 1.77 acre lot is located in an Intensely Developed Area (IDA).

On May 29, 2007, in a letter written by yourself and Gail Blazer, information was provided to clarify issues addressed by Marshall Johnson in his March, 19, 2007 Critical Area comment letter. We have the following comments on this project:

1. Your letter suggests that because the project is staying within the existing footprint of the site, that mature existing landscape on site should be used as credit for mitigation computations. However, Section IV (d) 7 (e) of the Town of Ocean City Atlantic Coastal Bays Critical Area Program states that "Impervious surface which remains impervious as a result of construction or reconstruction shall be mitigated at a one to one (1:1) ratio." Furthermore, Section IV (d) 7 (g) states that "Any construction in a setback, including pervious decks and walkways, shall be mitigated at a two to one (2:1) ratio." By allowing this applicant to avoid mitigation in this case would be granting the person a special privilege. Therefore, we believe mitigation is necessary for the redevelopment portion of this site. If mitigation cannot be completed on-site, a fee-in-lieu must be paid.

Thank you for sending the updated documentation. If you have any further questions regarding this project, please call me directly at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resources Planner  
cc: OC723-06



Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 28, 2007

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

Re: 1059  
Carter Lot Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is requesting a lot line revision between three tax parcels (Tax Parcels 22, 24, and 25). All three tax parcels are zoned Limited Development Area (LDA). Tax Parcel 22 is developed with a gravel driveway and a right-of way; the right-of-way will be extinguished if this revision is granted. Tax Parcel 24 is developed with a dwelling, shed and well house. Tax Parcel 25 is developed with a concrete pad building foundation. Total impervious surface on Tax Parcel 22 is 342 square feet, on Tax Parcel 24 is 2,254.3 square feet, and on Tax Parcel 25 is 2,154.5 square feet. All three tax parcels are below the 15% impervious surface allotment permitted. Acreage for Tax Parcel 22 will decrease from 6.01 acres to 5.44 acres. The acreage on Tax Parcel 24 will fall from 3.31 acres to 3.23 acres. Finally, acreage on Tax Parcel 25 will increase from .54 acres to 1.10 acres.

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

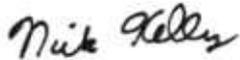
1. Existing impervious area on this site plan for Tax Parcel 22 is calculated as 342 square feet. However, there is a 24-foot wide gravel driveway on the lot that is approximately 320 feet long. Additionally, a 12-foot right of way that is approximately 440 square feet long exists on site. Gravel surfaces are considered impervious in Talbot County. Please have the applicant recalculate the impervious surface amounts to include these two roads. Furthermore, please have the applicant break down impervious surfaces by structure (dwelling, shed, driveway, etc.) for each tax parcel.



2. Any future development on Tax Parcels 22 and 24 should be created so that a sufficient buildable area is available on each parcel without the need for a variance.
3. If forest is cleared in the future for this project, mitigation will be required.
4. Since tidal wetlands are located on Tax Parcels 22 and 24, we recommend having an updated wetlands delineation performed on the site to determine how much acreage is private ownership. This will help determine actual acreage for allowable impervious surface limits.

Thank you for providing the opportunity to comment on this project. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly  
Natural Resource Planner  
TC 818-06



Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 25, 2007

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

Re: 1019  
Albright Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision plan. The applicant proposes to create a two lot subdivision on a 3.89 acre property that is partially located within a Limited Development Area (LDA). Currently, the site is developed with a one-story dwelling, garage, gravel driveway, shed, and pavilion. Total area on the site is 3.89 acres, with 2.01 acres located within the Critical Area. Overall, 1.86 acres of land is located within the Critical Area on Lot 1, and .15 acres are found within the Critical Area on Lot 2. The shed and pavilion are located entirely within the Critical Area on Lot 1, and portions of the garage and driveway are located in the Critical Area on Lot 2. Lot 1 contains .008 acres (376 square feet) of impervious surface (.4%), and .015 acres (675 square feet) of impervious is located on Lot 2 (10.4%). More than 15% of each lot is forested.

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

1. If forest is cleared in the future for this project, then mitigation will be required.

Thank you for providing the opportunity to comment on this project. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
TC 363-07



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 25, 2007

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

Re: Phelps Site Plan  
13248

Dear Mr. Smith:

Thank you for providing comments on the June 14, 2007 letter that addressed issues concerning the above mentioned site plan. The applicant is proposing to expand a single family dwelling, porch, and walkways as well as construct an impervious deck, driveway, and pool. Currently, the site contains a single-family dwelling, garage, patio, porch, and walkway. The area of the site is 22,779 square feet and is located in an Intensely Developed Area (IDA).

I am aware that the Town of Ocean City is zoned as an Intensely Developed Area (IDA) with a Buffer Management Plan and is mapped as a Buffer Modification Area. Furthermore, you are correct in stating that my letter did not have the full wording of Section 30-554 (d) (1) of the Town of Ocean City Atlantic Coastal Bays Critical Area, which states that new development shall "minimize the extent of intrusion *as further regulated below.*" The words "*as further regulated below*" should not have been omitted from my letter. However, I did take those regulations into account when providing comments on this site plan. In particular, since this lot is less than 40,000 square feet, I used Section 30-554 (d) (2) during my analysis. This section states that structures cannot be located in the setback, no permanent structures can be placed over deadmen or tiebacks, and that impervious surfaces cannot be located in the setback area. While I understand that the pool and deck are fulfilling these regulations by remaining outside of the setback area, I still have concerns on whether this pool and deck area "minimizes the extent of intrusion" on the site, as expected under Section 30-554 (d) (1). It is questionable that a 30-foot by 40-foot pool with a patio that extends as far as 19 feet from the pool is truly minimizing intrusion into the Buffer. In fact, this size of a pool may be better suited for commercial use, such as for a hotel or condominium development,

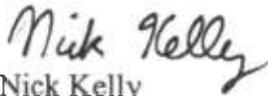
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instead of an individual home. In my letter, I simply recommended placing the pool outside of the Buffer. However, I understand that this may be impossible based on the size and shape of the lot. Therefore, I recommend a smaller pool and patio area so that Buffer disturbance is minimized.

I appreciate the time your office takes to review each project and value your comments. I also thank you for taking the opportunity to read and address my comments for each plan so that I can more fully understand the Critical Area requirements for the Town of Ocean City. If you have any questions or concerns, please contact me directly at (410) 260-3483. I look forward to working with you and Ms. Blazer on this and other projects in the future.

Sincerely,



Nick Kelly  
Natural Resource Planner  
cc: OC 342-07

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 25, 2007

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

Re: 12689  
Failla, Peter & Kathleen – Site Plan

Dear Mr. Smith:

Thank you for providing responses to the letter sent by this office on April 2, 2007, which commented on the above mentioned site plan. The responses provided adequately addresses any concerns surrounding this project; therefore, this office has no further comment.

Once again, thank you for providing clarification for this project. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
OC 180-07



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 25, 2007

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

Re: 22<sup>nd</sup> Street Parking Lot  
13337

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant is proposing to repave an existing site into a parking lot. The lot is 50,793 square feet. Total impervious surface on the site is currently 40,209 square feet. After paving the parking lot, total impervious surface will fall to 33,000 square feet. This parcel is zoned as an Intensely Developed Area (IDA). Critical Area issues include stormwater management, pollutant removal, and afforestation.

To meet afforestation requirements in the Critical Area, 953 square feet of landscaping is needed to meet Buffer mitigation requirements, and 7,619 square feet of planting is needed to meet mitigation for land outside of the 100-foot Buffer. Total plantings necessary for this project is 8,572 feet. The applicant proposes to plant 9,000 square feet of landscaping.

We have the following comments on stormwater management and pollution control for this site, and ask for revisions on the following:

1. On the 10% worksheet, the existing impervious surface should be 79.85% (40,538 square feet/50,793 square feet), not 67.8%. Consequently, the applicant is removing more phosphorus per square feet than required. As mentioned in my phone conversation with Gail Blazer, please make sure the applicant is aware of this difference.
2. The Water Quality Volume worksheet provided by Barry Isett and Associates, Inc. states that the impervious surface reduction on the site is 20%. The actual reduction in impervious surface on site is 17.93% (7,209 square feet reduced/40,209 square feet of existing impervious surface). Once again, more

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water quality is provided than necessary. As discussed in my phone conversation with Gail Blazer, please make sure the applicant is notified of this fact.

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 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resource Planner

cc: OC 722-05

*352-07*



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CRITICAL AREA COMMISSION  
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June 22, 2007

Ms. Chris Corkell  
Talbot County Office of Planning and Zoning  
11 N. Washington Street  
Courthouse  
Easton, Maryland 21601

Re: Appeal #1463  
Mullaney Variance

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant is proposing to reduce the 100-foot Buffer for tidal wetlands to zero feet in order to allow a six foot fence to remain. In addition, the applicant wishes to reduce the 50 foot front yard setback to zero feet and to allow for the height of the fence to remain at six feet, which is two feet above the maximum height requirement. The property is located in a Rural Conservation (RC) zone and is currently developed with a home, driveway, deck, and porch.

The 100-foot Buffer is an area meant to provide transitional habitat between the land and the water. Structures within the Buffer have a negative effect on the use of Buffer areas as riparian habitat. As stated in COMAR 27.01.09.01, "New development activities, including structures, roads, parking areas and other impervious surfaces, mining and related facilities, or septic systems, may not be permitted in the Buffer, except for those necessarily associated with water-dependent facilities..." Fences that do not permit wildlife to travel have a negative effect on the ability of the Buffer to provide the habitat functions it was designed to offer.

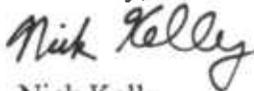
In evaluating the revised request, the Board must determine that encroachment into the Buffer will not degrade the ability of the Buffer to provide for water quality and habitat benefits. In addition, the Board must find that denial of a request for Buffer encroachment for the purpose of constructing a fence would result in an unwarranted hardship to the applicant. Based on the information provided, it does not appear that each of County's variance standards can be met.

Upon reviewing the site plan and visiting the property, it is understood that the applicant has erected this portion of the fence for safety reasons. In particular, the applicant is concerned for the safety of his children alongside Bruceville Road. If the Board determines safety is the greater issue in this instance, given the Board's broader expertise in this area, we will defer to that expertise. However, in evaluating this variance application, the Board must determine whether options are available that can uphold safety for the applicant and his children as well as maintain the quality of wildlife and water in the area. Moving the play area or planting trees in place of the fence may be options for the Board to consider.

It is also recommended that the applicant have a wetlands delineation performed on-site. Elisa DeFlaux, Talbot County Environmental Planner, performed a soil test on the day of my site visit and found that portions of the property within 100 feet of the fence contained wet, sandy soil. If a wetlands delineation determines that this location is a nontidal wetland, then a 25-foot Buffer area will need to be established surrounding this portion of the site.

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

Sincerely,



Nick Kelly  
Natural Resource Planner  
cc: 318-07

Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 18, 2007

Steve Dodd  
Dorchester County  
Planning and Zoning Office  
County Office Building  
P O Box 107  
Cambridge, MD 21613

Re: 1135  
Dieter/Close Quarters Defense, Inc.

Dear Mr. Dodd:

Thank you for providing a copy of the June 6, 2007 letter from Mr. Sean Callahan, relating to a proposed Conceptual Wildlife Pond to be created on the site of the Close Quarters Defense, Inc. firing range. The applicant, Duane Dieter, is proposing to build a Conceptual Wildlife Pond within the 100-foot stream Buffer. The firing range is located in a Resource Conservation Area, and was approved as a special exception in 2005. According to Mr. Callahan's letter, the applicant, Lane Engineering, Inc., and SCS Engineers believe that the pond is an agricultural measure, is not required for the shooting range, and thus may be permitted as an agricultural activity, given that proper permits are obtained and that best management practices are followed. The pond will be shallow in nature and include both habitat planting and wood duck boxes.

In order to protect the productivity of the land and to enhance water quality, a Soil Conservation and Water Quality Plan must be put in place on an agricultural property. According to Mr. Callahan's June 14, 2007 e-mail to the Critical Area Commission, a full Soil Conservation and Water Quality plan is not in place on the site. The land has been tilled for soy beans within the past year, but has not been continuously tilled for five years. Additionally, the applicant requested a special exception to build the firing range in 2005. This puts into question whether the site is agricultural in nature. Until the applicant receives a full Soil Conservation and Water Quality plan, the land will not be considered agricultural. Therefore, the 100-foot stream Buffer must be maintained as a minimum best management practice, and the Conceptual Wildlife Pond cannot be built.

While reviewing this project, it has also come to my attention that besides filing for a Special Exception in 2005 to build the firing range, the applicant has also asked to further develop the land with a parking area, a 24-foot by 24-foot building, and a topsoil stockpile. The Dorchester County Zoning Ordinance, Article 7, § 155-38 H. 3.c.ii., states that any proposed new industrial, commercial, or institutional use in a Resource Conservation Area may be allowed, provided that "...the proposed new use does not constitute an intensification or expansion of the pre-existing commercial, industrial or institutional use." We recommend that the Dorchester County Planning and Zoning Office consider the intensity of use on this site, and consider whether the continued expansion of the site keeps the property in accordance with the County's Critical Area Regulations for land use within an RCA. Furthermore, we question the practicality of creating a wildlife pond for waterfowl and other wildlife in such close proximity to a firing range.

Thank you for the opportunity to provide comments on this proposed pond creation. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly  
Natural Resource Planner  
DC 303-05

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 18, 2007

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

Re: Miramar Condominium Site Plan  
10052

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant is proposing to redevelop an existing site into multi-family housing, a hotel, and parking to replacing existing buildings and parking areas. The parcel is split by Baltimore Avenue, with the parking located west of the avenue (Parcel 1), and the multi-family housing and hotel located east (Parcel 2). Total site area is 55,583 square feet (4.68 acres). Total area for Parcel 1 is 14,584 square feet, and Parcel 2 is 40,999 square feet. Parcel 1 falls entirely within the Critical Area, while only 44.6% of Parcel 2 (18,311 square feet) lies within the Critical Area. These parcels are zoned as an Intensely Developed Area (IDA). Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total impervious surface on Parcel 1, which contains the parking lot, will decrease from 14,584 feet (100% impervious) to 10,471 square feet (71.79%). Impervious surface on Parcel 2, where the multi-family housing and hotel unit located, will fall from 18,311 square feet (100%) to 15,448 square feet (84.36%). To meet mitigation requirements in the Critical Area, 4,934 square feet is required; 8,400 of landscaping is provided. For this project, 16 large trees, 17 small trees, and 70 small shrubs will be planted. Requirements to meet the 10% Rule for stormwater management and pollution reduction have been met.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me directly at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
cc: OC 722-05



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 15, 2007

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

Re: County Council Bill #1056: Designation of Buffer Management Area #13A, Bentley Hay, St. Michaels, MD

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced Critical Area Buffer Management Area request. On June 6, 2007, the Critical Area Commission concurred with Chairman McHale's determination that the referenced Buffer Management Area designation could be reviewed as a refinement to the County's Critical Area Program. The Commission supported the County's designation of a new Buffer Management Area (BMA) at Community #13A, Bentley Hay, which is located on Tax Map 201, and recommended to the Chairman that the request be approved. The Chairman approved the map amendment on June 14, 2007.

This refinement shall be reflected on the County's Critical Area Maps within 120 days of the date of this letter. Please provide a copy of the revised map to the Commission when it is available. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner



Martin O'Malley  
Governor



Margaret G. McHale  
Chair

Anthony G. Brown  
Lt. Governor

Ren Serey  
Executive Director

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June 14, 2007

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

Re: Phelps Site Plan

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant is proposing to expand a single family dwelling, porch, and walkways as well as construct an impervious deck, driveway, and pool. Currently, the site contains a single-family dwelling, garage, patio, porch, and walkway. The area of the site is 22,779 square feet and is located in an Intensely Developed Area (IDA). Critical Area issues include stormwater management, pollutant removal, and afforestation.

Proposed construction on the site will result in an additional 5,883 square feet of impervious surface, resulting in a total 8,227 square feet of impervious surface (36.1% of the total site). To meet mitigation requirements in the 100-foot Buffer, \$14,000 of landscaping is required. The applicant plans to address this matter on-site using 9 large trees, 121 large shrubs, and 71 small shrubs, for a total of \$14,425 of vegetation. A grass swale and two rain gardens are also proposed on-site for stormwater management.

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

1. The applicant proposes to build a 2,658 square foot pool/patio area within the 100-foot Buffer area. The Town of Ocean City Atlantic Coastal Bays Critical Area Program Section IV, Buffer and Buffer Management Areas §(d) (1), states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." The pool and pool deck encroach further into the Buffer than other structures on-site. Furthermore, the size of the pool and deck is excessive. We question whether an accessory structure of this size and location is minimizing intrusion into the Buffer; therefore, we recommend removing the pool from the site plan and placing it in a location outside of the 100-foot Buffer.

2. The stormwater quality computation equation on the Ocean City Standard Stormwater Management Plan is calculated correctly by the applicant; however, there is a typo on the office form. The current equation is as shown:

$$WQ_v \text{ cf} = \text{New impervious area} + 20\% \text{ of existing impervious} * .95/12$$

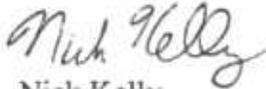
The equation should be as follows:

$$WQ_v \text{ cf} = (\text{New impervious area} + 20\% \text{ of existing impervious}) * .95/12$$

Please update and correct this form to avoid any future calculation problems.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me directly at 410-260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: OC 342-07

Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 14, 2007

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

Re: 13093  
Building Permit - Stiltz

Dear Mr. Smith:

Thank you for resubmitting the applicant's proposal to acquire a building permit in order to replace an existing mobile home and boardwalk with a new mobile home, reduced boardwalk, and steps.

It appears that the deck and steps are constructed in a pervious manner, as based on the provided diagram. We also thank you for providing a mitigation/landscaping plan and 10% calculations. The office has no further comment on these issues. However, the office still has a comment on the following:

- It is not clear where the 5-foot by 5-foot rain garden is located

Thank you again for the opportunity to comment on this project. If you have any questions or concerns, please contact me directly at 410-260-3483.

Sincerely,

  
Nick Kelly  
Natural Resource Planner  
cc: OC 305-07



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 11, 2007

Ms. Chris Corkell  
Talbot County Office of Planning and Zoning  
11 N. Washington Street  
Courthouse  
Easton, Maryland 21601

Re: Appeal #1461  
Mercer Variance

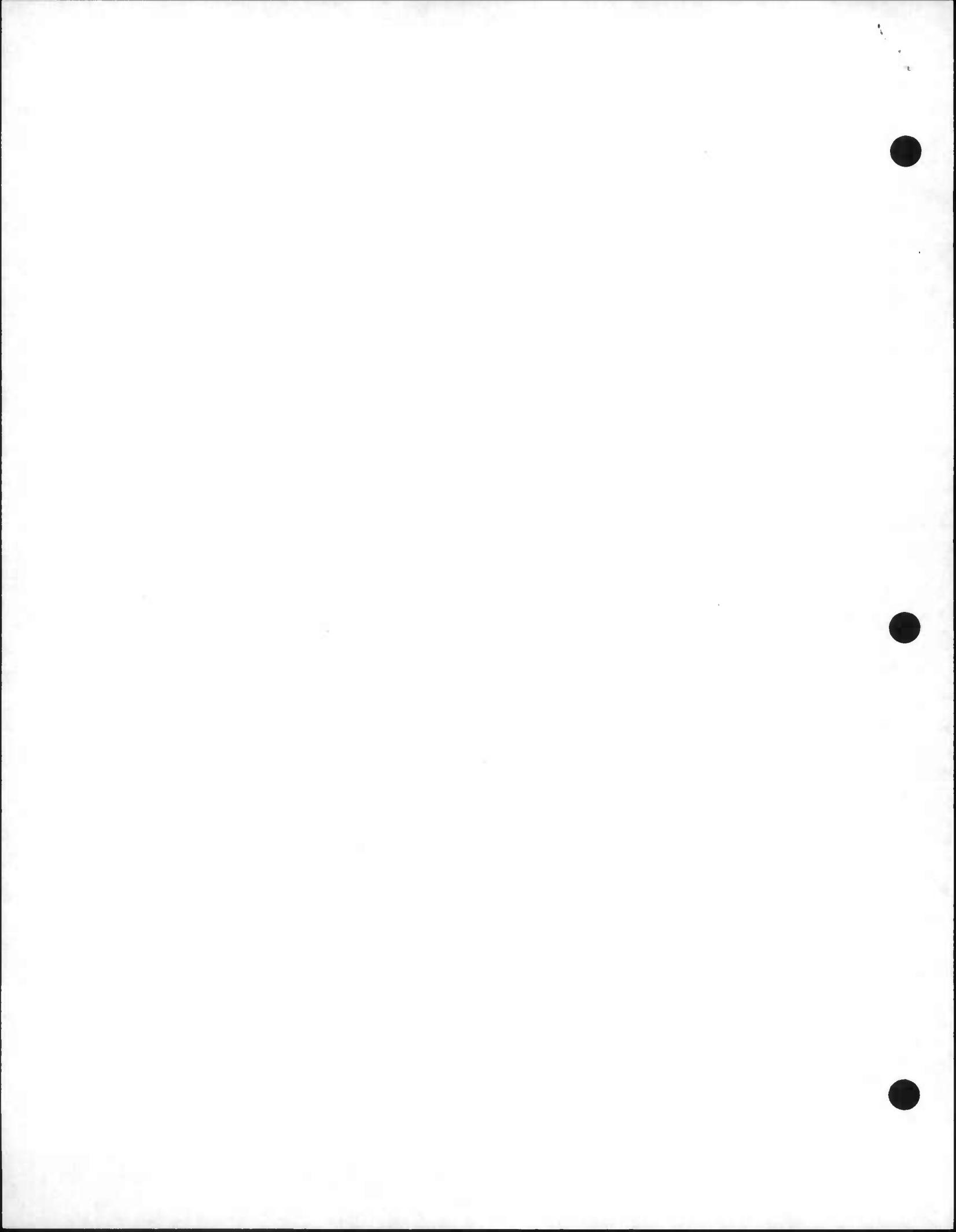
Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant is seeking a variance to the 25-foot non-tidal wetland buffer to 1 foot and the expanded 100-foot perennial stream Buffer to 75 feet in order to convert an existing farm lane into a residential driveway paving area. The applicant also wishes to perform lot line revisions on parcels of the property located in the Reservation of Development Rights portion of the site. The property is 100.29 acres and is located in both Rural Conservation (RC) and Town Residential (TR). The property is proposed to be divided into five lots; however, the subdivision plat has not been approved.

We do not recommend that the County accept for processing variance applications for lots for a new subdivision. New lots created after the County's Critical Area Program adoption date must fully comply with all of the County's Critical Area regulations. Therefore, we cannot support the requested variance for the reasons outlined below.

Upon visiting the site, I observed that the proposed location of lot 5 does not minimize disturbances to either the non-tidal or 100-foot stream Buffer. Despite the fact that the Maryland Department of the Environment has granted a Wetland Disturbance Authorization for Proposed Lot 5, this lot should be located elsewhere on Revised Tax Parcel 43 (Remaining Lands) to avoid impacts to non-tidal wetlands. There is another agricultural access road on the eastern portion of Revised Tax Parcel 43 (Remaining Lands) that intersects Glebe Road from the south. It appears that a lot could be created here that would minimize impacts to the perennial stream Buffer and eliminate any impacts on the non-tidal wetlands buffer.

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, particularly emphasizing the importance of the 100-foot Critical Area Buffer. Specifically, the General Assembly reaffirmed the stringent standards of the law, 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 Board of Appeals finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

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

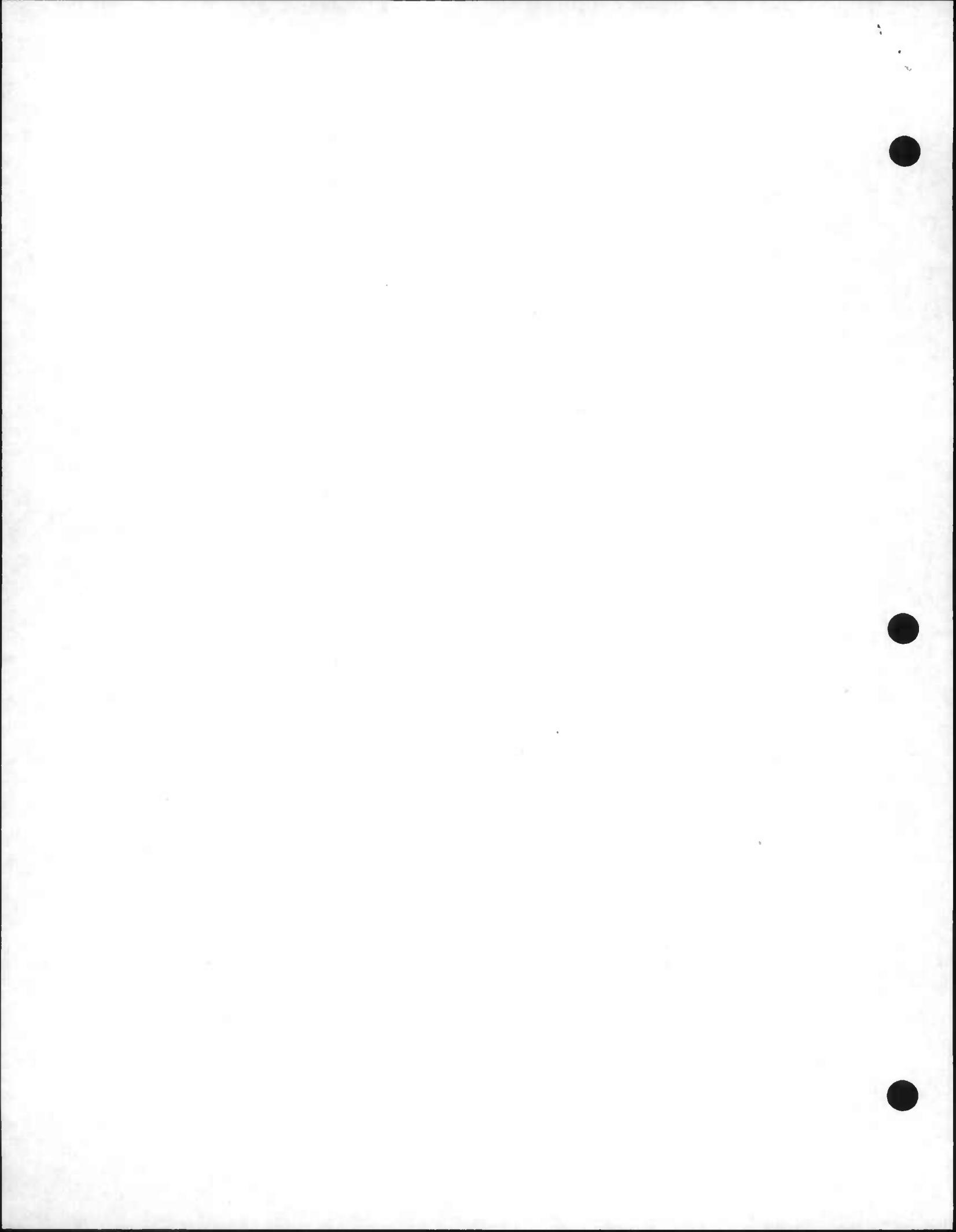
As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. The entire parcel at issue in this case is subject to reasonable and significant use, whether or not the applicant can create his proposed Lot 5 at the preferred location. For this variance, the applicant proposes to build a lot that would require converting an existing farm lane into a residential driveway paving area, and that would require Critical Area variances to do so. Because the subdivision has not yet been approved, there is an opportunity for the applicant to create a fifth lot on this parcel that does not require any variances. Even if the applicant is not able to create a fifth lot, this would not amount to a deprivation of reasonable and significant use of the entire parcel, which can still support four new lots. We do not believe that the County has evidence on which to base a finding that, without this creation of this lot, the parcel would lack reasonable and significant use.

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 will not be deprived of a right commonly enjoyed by others in the Critical Area if this Board denies the request for variances for a new, fifth lot, on this parcel. No property owner has the right to receive a Critical Area variance prior to subdivision approval in order to obtain multiple lots from one parcel. Therefore, the rejection of a variance for the driveway paving area prior to subdivision approval would not deny the applicants a right commonly enjoyed by others.

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 (Talbot County Code §190-97), in this case the ability to convert an existing farm lane, prior to subdivision approval, into a residential driveway paving area through both a non-tidal wetland buffer and perennial stream Buffer, which would be denied to others in this area as well as in similar areas found in the County's Critical Area. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. 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 action, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*

The applicant has created the alleged need for this variance by designing his subdivision so that one of the lots needs variances from the Critical Area regulations. By proposing to plat Lot 5 in an area that requires a variance to the 25-foot non-tidal wetland buffer and to the expanded 100-foot perennial stream Buffer, the applicant has created his own need for a variance. This hardship could be avoided by creating a lot in another area of the Tax Parcel that does not require driveway access through the non-tidal buffer or the perennial stream Buffer. Therefore, this variance is based on conditions or circumstances which are the result of the 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 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.*

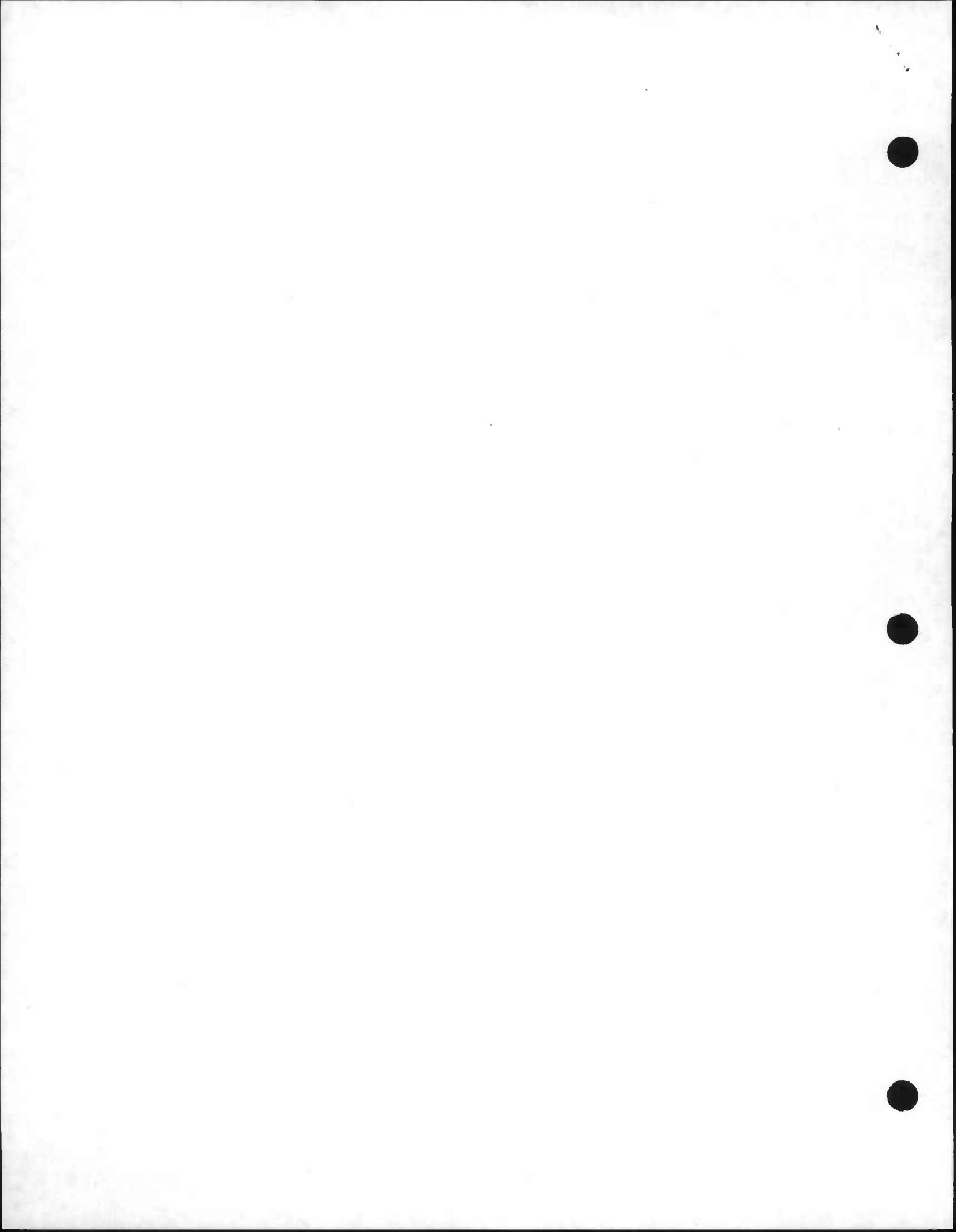
Granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. By allowing the applicant to build a new road that crosses both the non-tidal wetland buffer and the perennial stream Buffer, for a newly-created lot, the ability for current wildlife and plant habitat to prosper is unnecessarily compromised. Given that the applicant could located a fifth lot elsewhere on the parcel that will not affect the non-tidal wetland buffer or the perennial stream Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

Thank you for the opportunity to provide comments for this Board of Appeals variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly  
Natural Resource Planner  
cc: TC 274-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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June 7, 2007

Mary Ann Skilling  
Maryland Department of Planning  
Upper Eastern Shore Regional Office  
120 Broadway  
Centreville, MD 21617-0000

Re: Millington Waterfront Park

Dear Ms. Skilling:

At its meeting on May 2, 2007, meeting, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Millington Waterfront Project with the following conditions:

- Prior to commencement of construction, the Town of Millington shall submit a planting plan, including educational signage, for review and approval by Commission staff showing mitigation areas located in the 100-foot Buffer. The Town must exhaust all on-site mitigation opportunities before moving mitigation off-site.

This condition will be satisfied once I receive a copy of the planting plan.

Thank you for your help and thank you for presenting this project to the subcommittee and to the Commission. If you have any questions, please telephone me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resources Planner

cc: R. Dennis Hager, Mayor, Town of Millington  
Dave Teel, Administrator, Town of Millington  
MI 63-07



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chairman

Ren Serey  
Executive Director

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June 7, 2007

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

Re: 441  
Talbot County Country Club

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to remove an existing building that occupies 1,751 square feet and replace it with a 2,700 square foot pole building for storage. The site is 138.48 acres (6,032,115 square feet), with 81.22 acres (3,538,101 square feet) located in a Resource Conservation Area (RCA). Total impervious surface on the site is 24,531 square feet (.69%). In total, 3,780 square feet of impervious surface will be added, while 1,751 square feet of impervious will be removed. Total impervious surface on the site will be 26,560 square feet (.75%).

Based on the information provided, we have the following comments on your application.

1. The gravel driveway, cart path, and the entire paved golf drive must be included in the impervious calculations. Furthermore, it appears that a portion of Country Club Drive is located on Parcel 10. Please provide impervious surface calculations that include these areas.
2. The amount of forested area on the site is unclear. Critical Area Criteria states that "if no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent" (COMAR 27.01.02.04). In addition, Talbot County Zoning Ordinance § 73-10, "Afforestation and retention," mentions that 15% afforestation is required as well. Please have the applicant show the amount of forested area located on this parcel and provide for 15% afforestation if necessary.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
TC 344-05





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May 30, 2007

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

Re: Broadman Variance  
A095

Dear Ms. Verdery:

Thank you providing information on the above reference variance request. The applicant is requesting a variance to change the roof pitches on existing structures and states that no new impervious surface will be added to the site. The lot is zoned Rural Conservation (RC), is 78,449 square feet in size, and the total impervious surface on the site is 8,784 square feet (11.1%). This total falls under the 15% impervious surface limit.

Provided the lot is properly grandfathered, we do not oppose this variance for a change to roof pitches. Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
cc: TC 271-07





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May 29, 2007

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

Re: 13093  
Building Permit - Stiltz

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to acquire a building permit in order to replace an existing mobile home and boardwalk with a new mobile home, reduced boardwalk, and steps. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot size is 1,702 square feet and is designated as an Intensely Developed Area (IDA). The total amount of impervious surface currently existing on the site is 1,123 square feet (66.0%). After the replacement is completed, total impervious surface on the site will be 941 square feet (55.29%). To meet mitigation requirements in the 100-foot Buffer, \$1,200 of landscaping is required. The applicant plans to address this matter on-site using sixteen large shrubs (Holly or Boxwood). A swale is also proposed on-site for stormwater management.

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

1. Critical Area stormwater management requirements for homes less than 5,000 square feet list seven Best Management Practices that are the minimum necessary to be incorporated into the project. Based on the site plan provided:
  - a. There is no explanation of how the deck and steps are constructed. Therefore, we cannot determine if they are pervious. Please explain how much spacing is proposed between the deck boards.
  - b. It is not clear where the 5-foot by 5-foot rain garden is located.
  - c. It is not clear that there is a 20 foot disconnect for the 2-foot swales.

2. The applicant must include the mitigation/landscaping plan that shows the cost value and plant schedule for vegetation added on-site.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me directly at 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resource Planner

cc: OC 305-07



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May 25, 2007

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

Re: 1058  
Callahan Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision application. The applicant is proposing to develop a seven lot subdivision with a new road. The site is 136.36 acres, is currently undeveloped, and is zoned Rural Conservation (RC) and Rural Agricultural Conservation District (RAC). Total acreage within the Critical Area is 160.6 acres.

Based on the information provided, we have the following comments about this project:

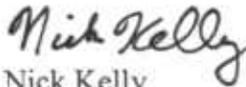
1. The total amount of acreage within the Critical Area is unclear. The site plan states that Tax Parcel 3 has 105.17 acres in the Critical Area, and that Previous Tax Parcel 54 "Remaining Lands" has 55.43 acres in the Critical Area. The combined total for these two parcels is 160.6 acres. However, based on the amount of acreage cited for each lot and for the Remaining Lands in Tax Parcel 54, total acreage in the Critical Area is 119.4 acres. Please have the applicant designate the correct amount of acreage that is located within the Critical Area.
2. The site plan mentions that Wetlands of Special State Concern (WSSC) are located on-site. Prior to plat approval, please have the applicant provide a letter from the Department of Natural Resources verifying that a WSSC exists on-site. Because of the existence of a WSSC, no new lot lines should extend to Mill Creek. If the applicant plans to allow waterfront access to the subdivision, we recommend establishing a community pier to be built in order to minimize impact to the WSSCs, provided the Department of Natural Resources Wildlife &

Heritage Division has an opportunity to review any pier proposals. The pier must be developed in accordance with the standards set forth in COMAR 27.01.03.07.

3. Please have the applicant forward a copy of this plan to the attention of Mr. Tim Larney of DNR's Wildlife & Heritage Division for their review due to the presence of the WSSC. Plat approval should not be granted until the comments and recommendations of DNR are satisfactorily addressed.
4. Please have the applicant designate the amount of forest coverage located on-site. Any future clearing in the Critical Area for lot development will require forest mitigation in accordance with the standards set forth in COMAR 27.01.02.04.
5. The Buffer must be established in native vegetation since the use will be changing from agricultural to residential.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 295-07

Tim Larney, DNR



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May 25, 2007

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

Re: 1056  
Kellogg Site plan

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant proposes a minor line revision between two parcels. Parcel 97, Lot 1 is currently developed with a two-story frame dwelling, gravel driveway, two decks, pool, garage, two sheds, and ramp walkway. Parcel 97, Lot 2 currently contains a two-story dwelling, porch, deck, garage, and gravel driveway. The lots are located in a Rural Conservation (RC) zone. Currently, the area of Revised Lot 1 is 4.955 acres, and Revised Lot 2 is 6.403 acres. After the lot line revision, total acreage for Revised Lot 1 will be 5.029 acres, and Revised Lot 2 will be 6.329 acres. All development rights have been exhausted for each lot.

Based on the information provided, we do not oppose the granting of this lot line revision. Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly  
Natural Resource Planner

TC 281-07





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May 25, 2007

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

Re: 1018  
Passyn Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision application. The applicant proposes to create a 2-lot subdivision on a parcel located in a Rural Conservation (RC) area. Currently, the site is developed with two dwelling units, an existing pool, a man-made pond, driveway, and garage. Total acreage of the site is 37.125 acres.

Provided the lots are properly grandfathered, we do not oppose the granting of this subdivision application. We have the following comments on this site plan:

1. Please add a note to the site plan designating the total acreage of the site.
2. Please designate the total amount of impervious surface on each lot.
3. Please designate the Critical Area boundary on the site plan.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,

Nick Kelly  
Natural Resource Planner  
CC: TC 283-07





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May 25, 2007

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

Re: 1057  
Wuest-Santos Site Plan

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant intends to perform a minor lot line of division. The site is located in a Rural Conservation (RC) area. Tax Parcel 45, Parcel B and Parcel C are currently undeveloped, while Tax Parcel 18 contains a house, garage, walkway, four equipment storage areas, and driveway. Currently, the lot size for Tax Parcel 45, Parcel B will be 17.493, Tax Parcel 45, Parcel C is 4.234 acres, and for Tax Parcel 18 is 3.168 acres. After revision, total acreage for Tax Parcel 45, Parcel B will be 17.600 acres, Tax Parcel 45, Parcel C will be 4.127 acres, and Tax Parcel 18 will remain 3.168 acres. All development rights have been exhausted for each lot.

Based on the information provided, we do not oppose the granting of this lot line revision. We do have the following comments on the proposal.

1. We notice that the tidal wetlands delineations were taken from the N.W.I. maps of 1972. We recommend having an updated wetlands delineation performed on the site to determine how much acreage on the site is available for parcel development (i.e. – allowable impervious surface calculations, coverage, clearing limitations). Alternatively, the applicant can deduct the area of tidal wetlands from the total site acreage to determine the allowable impervious coverage and clearing limits.
2. The site plans states that 1,524 square feet of impervious surface exists on Tax Parcel 45, Parcel C. However, there appears to be no impervious structures on this

lot. Please have the applicant show where the impervious surface is located on this parcel.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

CC: TC 282-07



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May 24, 2007

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

Re: 2007-0105 V  
Sweany Variance

Dear Ms. Schappert:

Thank you for providing information on the above-referenced variance. The applicant is requesting a variance to construction an addition with less Buffer than allowed. The applicant proposes to construct a 2-car attached garage with a basement to accommodate a mud/laundry room and family room. The applicant also plans to enlarge the kitchen and second floor bedrooms. A screened porch will be added and the deck will be replaced. Total lot size is 20,204 square feet (.46 acres), with 12,554 square feet (including the existing home) located in a Limited Development Area (LDA) and 7,650 square feet located in a Rural Conservation Area (RCA). Existing impervious surface on the site is 2,176 square feet (10.7% total area). The applicant plans to add 1,510 square feet, for a total of 3,686 square feet of impervious surface on site (18%). Approximately 111 square feet of impervious surface would be added inside the 100-foot Buffer.

Given the proposed improvements and the increase in impervious surface area on site, Staff recommends that the porch and deck be reconfigured so that it will not be located within the 100-foot Buffer. While we understand that reconfiguring the deck and porch will reduce the size of the family room to 10 feet by 26 feet, and we generally do not oppose modest Buffer intrusion for decks, it is our position that a 260 square foot family room is reasonable for the property, given the other improvements. In addition, any disturbance on the property should be mitigated at 1:1 ratio using native vegetation.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Ms. Suzanne Schappert

5/24/2007

Page 2 of 2

Sincerely,

*Nick Kelly*

*(gmk)*

Nick Kelly

Natural Resource Planner

CC: AA 300-07



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May 21, 2007

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

Re: 2007-0115  
Phillips Variance

Dear Ms. Schappert:

Thank you for providing information on the above-referenced variance. The applicant is requesting a variance to allow a dwelling addition with less setbacks and Buffer than required and with disturbance to steep slopes. The lot is 27,200 square feet in size and is located within an Intensely Developed Area (IDA). Currently, a one-story brick dwelling, patio, porch, solarium, and driveway exist on the site. The applicant proposes to build a 40-foot, 2-inch by 20-foot sunroom (804 square feet) to the front of the house. The applicant proposes to add 804 square feet of plantings for water quality improvement on-site.

Provided this lot is properly grandfathered, we do not oppose this variance for a reduced setback, Buffer, and disturbance to steep slopes. Based on the provided information, we have the following comments on the project:

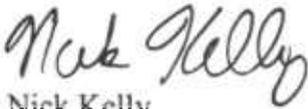
1. The 100-foot Critical Area Buffer must be shown on the site plan since, on the current site plan, it appears that the addition of the sunroom is occurring outside of the Buffer.
2. Steep slopes and the expanded Buffer must be shown. Based on the site plan provided, it is difficult to determine if disturbance to steep slopes has been minimized.
3. To comply with the requirement for water quality improvement when the area disturbed is less than 1,000 feet and is located inside the 100-foot Critical Area Buffer (Article 16-3-205), mitigation should be performed at two times the area of impervious surface added. In this case, 1608 square feet of plantings for water

quality improvement is necessary. We recommend that the replanting for water quality improvement occur within the Critical Area Buffer, if possible. The proposed replacement planting must consist of native species.

4. We recommend mitigation at a 3:1 ratio for all new disturbances to the Buffer and steep slopes.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,



Nick Kelly  
Natural Resources Planner  
AA 299-07



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May 18, 2007

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

Re: 2007-0128 Horn Variance

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling addition with less setbacks than allowed. The site currently is developed with a two-story dwelling, wooden porch and steps, hot tub, pool, concrete walkways, concrete pad, and wooden shed. A 12 -foot by 28-foot, 4-inch addition is proposed to be added to the rear of the house to create additional living space and a bedroom. Wood steps will be removed in order to install this addition. Total impervious surface on the site will increase from 3,406 square feet to 3,742 square feet. The lot is zoned Limited Development Area (LDA).

Provided the lot is properly grandfathered, we do not oppose the granting of this variance. However, verification of the impervious surface to ensure it does not exceed 15% is required. Grandfathered lots in the Critical Area that are greater than one acre in size are limited to 15% impervious surface. According to our research, the total area of the site is 65,340 square feet (1.5 acres). If this correct, then the total amount of impervious surface permitted on the site is 9,801 square feet (.225 acres).

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. If you have any additional questions please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
cc: AA 256-07





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May 17, 2007

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

Re: 2007-0125 Mark Batson Dwelling with Steep Slopes

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling with less setbacks than required and to allow disturbance to steep slopes. The total area of the site is 10,360 square feet (.24 acres) and is located in a Limited Development Area (LDA). Currently, the site is completely forested. The applicant proposes to build a single family home with a garage and driveway. A total of 5,533 square feet of forest will be cleared (53.4% of the site). Total impervious surface on the site after construction will be 1,857 square feet (17.92%), which falls under the 31.25% limit allowed in dwelling units that are between one-quarter and one-half acre.

Based on the information provided, it appears that the disturbance to steep slopes has not been minimized. We suggest that the applicant build the garage on the south side of the home. This will move the entire foundation of the house away from the sloped areas, will lessen the amount of driveway covering steep slopes, and will lower the total amount of impervious surface on the site. Additionally, the applicant will need to mitigate for forest removal. As stated in the Anne Arundel County Code for forest clearing in the LDA, removal of forest coverage on a site within the Critical Area on a grandfathered lot that is less than one-half acres requires replanting at a ratio of 1:1, provided the clearing does not exceed 6,534 square feet. Additionally, mitigation at a rate of 3:1 is necessary for any disturbance to steep slopes. This mitigation may be performed either onsite or offsite, or a fee in lieu can be paid at a rate of \$1.20 per square foot. We recommend using a combination of native trees and shrubs when replanting.

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. If you have any additional questions please contact me at (410) 260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resource Planner

cc: AA 254-07



STATE OF 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 17, 2007

Gary Letteron  
Environmental Planner  
Baltimore City Department of Planning  
417 East Fayette Street, 8<sup>th</sup> Floor  
Baltimore, MD 21202

Re: Nestadt Site Plan

Dear Mr. Letteron:

Thank you for providing information on the above referenced site plan. Currently, the site is composed of a 2.5-story masonry building, a 2-story masonry building, driveway, wood deck, and grass yard. The applicant is requesting to renovate and create an addition to the existing residential structures. A 3-story glass and metal building will replace a 1-story portion of the 2.5-story existing masonry building and will be added to part of the existing 2-story masonry building. Both buildings will be connected through the second and third stories of the glass and metal building. This connection will be placed above part of an existing concrete and brick courtyard. Asphalt on the Hamburg Street side of the lot will be removed and replanted with a tree, a native species garden, and a plant border composed of native species. A portion of the concrete and brick courtyard will be replaced with new pavers and a plant border with native species. The area of the site is 5,160 square feet (.118 acres). Current impervious surface on the site is 4,763 square feet. After the renovation, the total impervious surface on the site will be 3,960 square feet. This will reduce Phosphorus levels on the site by .04 pounds per year. The calculation for this project is consistent with 10% requirements.

Based on the information provided, it appears the renovation and new construction of this site is consistent with the Baltimore City Critical Area Program. Thank you for providing calculations that document the estimated reduction in phosphorus loading. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly  
Natural Resource Planner  
CC: BA 279-07





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May 9, 2007

Gary Letteron  
Environmental Planner  
Baltimore City Department of Planning  
417 East Fayette Street, 8<sup>th</sup> Floor  
Baltimore, MD 21202

Re: Beason Street Site Plan

Dear Mr. Letteron:

Thank you for providing information on the above referenced site plan. The applicant is requesting to redevelop an existing Intensely Developed Area (IDA) with five three-story dwellings, five rear garages, and a courtyard. Total area of the site is 6,867 square feet (.158 acres). To complete 15% afforestation requirements, the applicant will plant three street trees that will adjoin the site.

The applicant proposes to remove 1,725 square feet (.04 acres) of paved surface as part of an off-site greening project at Mount Royal Elementary School in lieu of performing 10% requirements onsite. This will reduce Phosphorus levels on the site by .08 pounds per year. The calculation for this project is consistent with 10% requirements.

Based on the information provided, this office does not oppose the construction of this site and the offsite asphalt removal on school property. Thank you for providing calculations that document the estimated reduction in phosphorus loading. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly

Natural Resource Planner

CC: BA 268-07





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May 8, 2007

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

Re: Broadman Variance  
A095

Dear Ms. Verdery:

Thank you providing information on the above reference variance request. The applicant is requesting a variance to change the roof pitches on existing structures and states that no new impervious surface will be added to the site. The lot is zoned Rural Conservation (RC), is 78,449 square feet in size, and the total impervious surface on the site is 8,784 square feet (11.1%). This total falls under the 15% impervious surface limit.

Provided the lot is properly grandfathered, we do not oppose this variance for a change to roof pitches. However, while reviewing the site plan, it appears that the applicant is also proposing to add a 4 foot by 18.1 foot porch extension within the 100-foot Buffer. This porch was not mentioned in the variance application. By extending the porch, impervious surface will increase by 72.4 square feet. Total impervious surface on the site will increase to 8,856 square feet (11.2%). While this extension keeps the impervious surface amount under 15% and is located further from mean high water than other structures on this site, a separate variance for this porch is necessary. Furthermore, please clarify if any other additions or structures are proposed to be added to the site at this time, and recalculate the impervious surface area including these changes as well.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in

writing of the decision made in this case. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

*Nick Kelly*  
Nick Kelly

Natural Resource Planner

cc: TC 271-07



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May 7, 2007

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

RE: 2007-0090 McCauley, Daniel

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling addition with less setbacks than required. The lot is 10,000 square feet in size and is located within the Limited Development Area (LDA). The property is currently developed with a single-family dwelling, deck, and gravel parking pad. The applicant proposes to build an addition to the house that will be 860 square feet in size and to reduce the parking pad by 550 square feet. The new addition will be built on the south end of the lot, at the furthest point possible from the bog area shown on the maps of the Critical Area. A rain garden will also be installed in the northern corner of the lot for stormwater management. Total impervious surface on the site will be 2060 square feet (20.6%), which is under the amount allowed for a lot that is under one-half acre in size (25%).

Provided this lot is properly grandfathered, we do not oppose this addition and setback variance. However, this office does have the following comments regarding the development proposal.

1. The location drawing by Mountain Road Surveys shows walkways between the gravel parking pad and home as well as between the parking pad and deck. Are these walkways impervious? If so, are they included in the impervious surface calculations? If they are not included, please recalculate the impervious surface area on the site, adding these walkways to ensure that the total square footage of impervious surface remains under the allowable limits.
2. A shed is shown on the location drawing but is missing from the administrative site plan. Will the shed be removed? If not, has this been included in impervious calculations? Please clarify and recalculate impervious surface amounts, taking this shed into account.
3. Mitigation for any ground disturbance should be performed at a ratio of 1:1. We recommend that plantings consist of a mix of native species of trees, shrubs and ground cover.
4. If the variance is granted, then the development activity shall comply with the bog provisions set forth in Anne Arundel County Code Article 17, Title 9.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resources Planner

AA247-07



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May 7, 2007

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

Re: 2007-0099 Barnett Dwelling

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling with less setbacks, Buffer, and buffer to a bog than required. The total area of the site is 12,250 square feet (.281 acres) and is located within a Limited Development Area (LDA). The applicant plans to demolish a preexisting home and reconstruct a single family home with a deck, covered porch, and extended driveway. The total amount of impervious surface on the site will be 2,899 square feet, or 23.66%. This falls below the 25% limit allowed in the Critical Area. The applicant has reduced the impervious impacts from the driveway by using tire strips.

Based on the information provided, we do not oppose this variance for a dwelling and less setbacks, Buffer, and buffer to a bog. However, we do have the following comment on the project.

1. Mitigation on the site for the five trees to be removed should occur. It is not clear whether these trees are located inside the Buffer or not. If the trees are found inside of the Critical Area Buffer, then the trees should be replaced at a 3:1 ratio. If they are located outside of the Buffer, then a 1:1 ratio may be used. Furthermore, as stated in the 2005 granting of this variance, a Critical Area Planting Agreement must be provided to offset adverse impacts to water quality and habitat.
2. It appears that the site is located in the LDA. However, the Critical Area Report also lists the site as an Intensely Developed Area (IDA). According to our records, the site is LDA. Please verify that this is correct.
3. The proposed impervious surface in the Critical area Report is 2,899 square feet, but the site plan lists this number as 2,628 square feet. While both numbers keep the site

under the 25% impervious limit, please ensure that the applicant clarifies which is the correct calculation. In addition, we recommend the parking pad be reduced to minimize impervious area.

4. As stated in the Anne Arundel County Code, Article 17-8-205, "A new private septic system on a lot that meets standard percolation requirements for a conventional septic system shall include nitrogen removal activity." Since a portion of the septic system is in the bog, we recommend this be included as a condition of the variance.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

*Nick Kelly*  
Nick Kelly

Natural Resource Planner

AA 255-07



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May 3, 2007

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

Re: 2007-0129 James Call Dwelling

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling with less setback and Buffer than required. The total area of the site is 57,256 square feet (1.314 acres), with 14,410 square feet located in a Limited Development Area (LDA) and bordering Chalk Point Road, 19,653 square feet located in a Resource Conservation Area (RCA), and 23,193 square feet located outside of the Critical Area. The site is completely forested, and a non-tidal wetland is located on the site. The Maryland Department of the Environment has stated that this project will qualify for a Letter of Authorization to build a single family home on the lot.

The applicant proposes to build a single family residence with a garage, porch, and gravel driveway. A total of 9,280 square feet of forest will be cleared (27% of the site), with 1,395 square feet of clearing located on the uplands portion of the site, 2,930 square feet located within the 25 foot non-tidal buffer, and 4,955 square feet of development occurring within the non-tidal wetlands. The total amount of impervious surface on the site will be 2,830 feet, or 8.3%. This falls below the 15% limit allowed in the Critical Area.

Based on the information provided, we do not oppose this variance for a dwelling and less setbacks. However, we do have the following comment on the project.

- As stated in the Critical Area Guidance Manual for Forest Mitigation, removal between 20% and 30% of forest coverage on a site within the Critical Area requires mitigation at a ratio of 1.5:1. This reforestation option may be performed either onsite or offsite, or a fee in lieu can be paid at a rate of \$1.20 per square foot. We recommend using a combination of native trees and shrubs when replanting.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resource Planner

AA 255-07



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May 3, 2007

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

RE: 2007-0095 Christopher Cord Setback/Addition

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling addition with less setbacks than required. The lot is 12,000 square feet in size and is located within an Intensely Developed Area (IDA). The property is currently developed with a single-family dwelling, deck, patio, and two driveways. Overall, the home will be extended ten feet to the east side of the home, seven feet, eight inches to the west side, seven feet to the south, and five feet to the north side of the property. The addition to the house will add 1060.9 square feet in impervious surface to the site, but remove 173.4 feet during this process as well. The applicant has submitted a planting plan to replace the twenty foot pine tree and two juniper trees that will be removed.

Provided this lot is properly grandfathered and that the aforementioned trees are replaced, we do not oppose a variance for an addition and reduced setbacks. Based on the information provided, I have the following comments regarding the current development proposal and variance request:

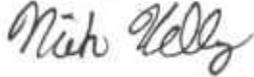
- In this case, the area disturbed is 1,060.9 feet. Therefore, the applicant must comply with the requirement for water quality improvement when the area disturbed is between 1,000 and 5,000 square feet and is located outside the Critical Area Buffer (Article 16-3-205). This requirement offers three options:
  - ❖ replanting onsite within the Critical Area of an area equal to the area of new impervious surface;
  - ❖ replanting offsite within the Critical Area of an area equal to new impervious surface; or

❖ payment of a fee of \$0.60 per square foot of new impervious surface;  
We recommend onsite replanting within the Critical Area of an area equal to the  
new impervious surface, if possible.

- The proposed replacement planting must consist of native species.

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. If you have  
any additional questions please contact me at 410-260-3483.

Sincerely,



Nick Kelly  
Natural Resources Planner  
AA 249-07



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May 3, 2007

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

Re: 2007-0129 BR & WT Properties

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling with less setback and buffer to a non-tidal wetland than required. The total area of the site is 10,000 square feet (.22 acres), with 6000 square feet located in a Limited Development Area (LDA) and 4,000 square feet located in a Resource Conservation Area (RCA). The site is completely forested, and a non-tidal wetland is located on the site. A permit to impact the wetlands has been acquired from the Maryland Department of the Environment (MDE).

The applicant proposes to build a single family residence with a driveway and wood deck. A total of 4,400 square feet of forest will be cleared (44% of the site), with 2,105 square feet of forested woodland replanted. Wetland impacts are being replaced at a rate of 2:1 on the site. The total amount of impervious surface on the site will be 2,105 feet, or 21.05%. This falls below the 31.25% limit allowed in the Critical Area.

Based on the information provided, we do not oppose this variance for a dwelling and less setbacks. However, we do have the following comment on the project:

- Please ensure that the applicant submits a copy of the MDE non-tidal wetlands permit.
- Currently, the applicant plans to replace 2,105 square feet of the total 4,400 square feet of forest removed. This does not meet the Critical Area forest mitigation requirements. As stated in the Critical Area and County Code, removal of over 30% of forest cover on a site within the Critical Area requires replanting at a ratio of 3:1; therefore, the remaining mitigation must be performed offsite, or a fee in lieu must be paid.
- Please have the applicant show the LDA and RCA designation line on the parcel.

- We recommend that the footprint on this site be reduced to further minimize impacts to the non-tidal wetlands.

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. If you have any additional questions please contact me at (410) 260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resource Planner

AA 257-07



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May 1, 2007

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

Re: 06-118  
Judith Shaw Subdivision

Dear Ms. Moredock:

Thank you for providing information on the above referenced subdivision. Currently the site is composed of a two-story dwelling, unattached garage, two stone drives, deck, and shed. The site is .52 acres, is zoned as an Intensely Developed Area (IDA), and is located outside of the 100 foot Buffer. According to our conversation on April 26, 2007, the applicant plans to divide the lot into two, reduce the size of the deck on the existing building, and move the shed from Lot 5B to Lot 5A. Total existing impervious surface on the site is 3,136 square feet (.072) acres, or 13% impervious surface. Forested land on the site totals 5,183 square feet (.119 acres), which covers 22% of the total site.

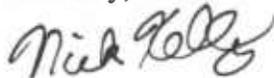
Based on the information provided, we have the following comments on the application:

1. Please have the applicant submit a narrative explaining how they plan to develop both lots.

2. The current site plan shows existing structures and their location, but does not mention any new structures to be built or where existing structures will be moved. Please submit a plan that explains how the lots will be developed under this project. For example, in our conversation you mentioned that the existing shed will be moved. However, the new site of the shed is not shown on the plan. Please indicate where the shed will be relocated.
3. Please provide 10% calculations for stormwater quality if the disturbed area is greater than 250 square feet. Critical Area guidelines state that all development or redevelopment within the IDA must be accompanied with practices to reduce water quality impacts that are associated with stormwater runoff.
4. The site plan shows that the size of the deck will be reduced. In our conversation, you mentioned that this is being done to meet lot setback standards. By reducing the deck size, the total amount of impervious surface on the site should decrease. However, the application states that the total amount of impervious surface on the site remains the same. Are the decks in this case considered to be pervious? Furthermore, are the stone driveways included in the impervious surface calculations, or are they considered to be pervious as well? Please have the applicant recalculate the impervious surface numbers for this project to reflect these considerations and to ensure the 10% calculations are completed properly.
5. There is an unidentified building on Lot 5B. Please provide information on what this building is and whether it will be removed or not.
6. Please designate where the tree line is located on the site. Furthermore, please provide us with information as to whether any trees will be removed. If trees are to be cleared on this site for development, mitigation at a ratio of 1:1 is necessary.

Thank you for the opportunity to provide comments on this subdivision plan. I look forward to your responses as this project progresses. Furthermore, please forward any revisions of this site plan to this office. If you have any questions, please contact me at 410-260-3483.

Sincerely,



Nick Kelly  
Natural Resource Planner

KC 234-07



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April 24, 2007

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

Re: 2458 Shannahan – Shed in Buffer

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to build an eight foot by ten foot shed within the Buffer that will sit over a well head to protect it from heavy traffic on the waterfront lot. The well is four inches in diameter, and the well head rises eighteen inches above the ground. The property is designated as a Village Center District (VC), and its Critical Area Designation is Limited Development Area (LDA).

The Critical Area Buffer establishes an area of undisturbed natural forest vegetation, or an area for enhancement with vegetation native to the Critical Area, managed to protect shorelines, streams, wetlands, and riparian biological communities from adverse effects of land use. Thus, the County has enacted a specific set of provisions to recognize the importance of the 100-foot Buffer and maintain its integrity by prohibiting the construction of new structures unless they are water dependent (Talbot County Code §190-93). Based on these provisions, we cannot support the construction of a shed in the Buffer.

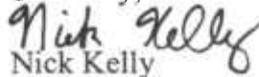
We understand that the Talbot County Health Department Office of Environmental Health approved the shed in order to avoid damage to the well. However, upon speaking with Dawn B. Price, R.S., Environmental Sanitation Supervisor for the Office of Environmental Health, we learned that only a five foot by five foot structure is necessary to protect the well head. The shed that the applicant proposes to install is three times as large as that deemed necessary for protection of the well head. Furthermore, Ms. Price mentioned that another method of protection, such as a fence, could be used to protect the well instead of a shed, as long as the fence was visible to drivers who were parking on

this lot. Since a fence would not add an impervious roof area to the Buffer, this method of well-head protection would be far preferable.

If the Board evaluates this application under the variance standards required by State and County law, we believe that the application must be denied, because the application fails to meet all of the required standards. For example, in our view, the application does not present information on which a finding of unwarranted hardship could be made: that is, that without a variance for an eight foot by ten foot shed in the Buffer, the applicant would be denied reasonable and significant use of the entire parcel of lot. Moreover, we believe that if the variance were to be granted, it would confer upon the applicant a special privilege, in this case the building of a shed within the 100 foot Buffer, that would be denied to others in this area as well as in similar regions found in the County's Critical Area. Therefore, we recommend installing a five foot by five foot fence that is tall enough to be seen by drivers who park in this area, rather than erect a shed that will further degrade the integrity of the Buffer. A fence will provide the adequate amount of safety needed to protect the well from traffic and will not increase the amount of impervious surface to the area.

Thank you for the opportunity to provide comments for this Board of Appeals variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

  
Nick Kelly

Natural Resource Planner

cc: TC 214-07

Marianne Dise, Commission Counsel



STATE OF MARYLAND  
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April 23, 2007

Doug Novocin  
Maryland Transportation Authority  
Engineering Division  
300 Authority Drive  
Baltimore, MD 21222-2200

Re: Maryland Transportation Authority  
Interchange Improvements at Quarantine Road and MD695

Dear Mr. Novocin:

At its meeting on April 4, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Interchange Improvements at Quarantine Road and MD695 project with the following conditions:

1. Prior to the start of construction, MdTA will submit to Commission Staff a proposal for an offset option to comply with the 10% Rule.
2. Prior to the start of construction, all permits and approvals from the Maryland Department of the Environment (MDE) and the Maryland Department of Natural Resources (DNR) will be received and sent to Commission Staff.

In regard to Condition 1, please contact me as soon you have determined which option MdTA proposes to utilize in order to fully comply with the 10% Pollutant Removal Requirement. Condition 2 will be satisfied once I receive copies of all MDE and DNR permits. Currently I have a copy of the DNR permit.

Thank you for your help and thank you for sending Harry Canfield to the meeting to assist in answering any questions about the project. If you have any questions, please telephone me at (410) 260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly  
Natural Resources Planner  
DOT 13-07  
cc: Meg Andrews, MDOT Commission Member



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April 23, 2007

John F. Wilson  
Deputy Director  
Public Lands Policy & Planning  
Tawes State Office Building E-4  
Annapolis, Maryland 21401

Re: Sandy Point State Park Curatorship  
Garage Construction

Dear Mr. Wilson:

At its meeting on April 4, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Sandy Point State Park Curatorship Garage project with the following condition:

1. Prior to the commencement of construction, the unauthorized garage must be removed, the area must be stabilized, and a restoration plan must be submitted to the Critical Area Commission Staff for review and approval.

This condition will be satisfied once the Department of Natural Resources provides Commission staff a restoration plan for review and approval.

Thank you for attending Wednesday's presentation and helping with the presentation of this project to the Commission subcommittee. If you have any questions, please telephone me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
DNR 24-06





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401  
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April 23, 2007

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

Re: A094  
Hanrahan - Covered Entry

Dear Ms. Verdery:

Thank you for providing information on the above-referenced variance request. The applicant plans to add a 10 foot by 5 foot covered entry to an existing caretaker's dwelling. This entry will be built 69.9 feet from Mean High Water, which is further than the closest point of the caretaker's dwelling unit to the shore (44.6 feet). Total current impervious surface on the site is 48,457 square feet (6.4% impervious). Upon adding this covered entry (50 square feet) and removing 715 square feet of a portion of a concrete slab (to add a gazebo) and 113 square feet of an existing stairway on the caretaker's house, total impervious surface on the site will fall to 47,742 square feet (6.3% impervious).

Provided the lot is properly grandfathered, we do not oppose this variance. However, we do have the following comments about the project.

1. The "Impervious Area and Disturbance Calculations" sheet is incorrect. While the sheet mentions 715 feet of the concrete slab to be removed, it does not include the 113 square feet of stairways removed. Please recalculate this worksheet.
2. Please provide a calculation of total forest coverage on the site.
3. As mentioned in Megan J. Sines' February 23, 2007 variance letter for this site, in which a second story addition and gazebo was requested, please provide 2:1 mitigation for any area disturbed in the Buffer.
4. If the County finds this variance request can be granted, we recommend a condition that the concrete slab and stairway be removed prior to the construction of the porch.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly

cc: TC 810-06



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April 23, 2007

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

Re: 093 Shepard - Addition

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to add a second story addition over a previously existing garage and family room wing of a house that is located within a Rural Conservation (RC) zone. The wing of the home extends into the 100 foot Buffer.

With the construction of the second story addition to this house, no new impervious surface is added to the site and there is no additional encroachment to mean high water. Therefore, provided the lot is properly grandfathered, we do not oppose this variance.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
TC230-07





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April 20, 2007

Tom Hamilton, Town Planner  
City of Easton  
14 South Harrison Street  
P.O. Box 520  
Easton, MD 21601

**Re: Londonderry Phase 4 Growth Allocation**

Dear Mr. Hamilton:

We have received your request for the processing of the above referenced growth allocation proposal. Based on our review of the materials submitted, Commission staff is unable to accept the Town's growth allocation request for processing. Specifically, it appears that all of the information necessary to evaluate the request has not been included in the submittal.

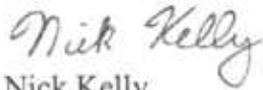
The Commission has the following comments on the project:

1. Commission Staff has not received the Department of Natural Resources' (DNR) Wildlife and Heritage letter evaluating the property to determine if there is the presence of any rare, threatened, or endangered species. If present, the applicant must address all recommendations from DNR for protection of the species. While we understand that a request for this letter has been made, processing of this growth allocation cannot be completed until this letter is received. Please forward us a copy of this letter.
2. The Commission has not yet received documentation detailing the dates and process by which the Town approved the growth allocation. Please provide a copy of the Town Council's resolution and relevant analysis of findings of fact relative to the approval of the growth allocation.
3. Attached to this letter is a copy of the letter we received from Bill Stagg in response to Kerrie Gallo's initial review of the Growth Allocation project on March 27, 2007. This letter included a section entitled "Location and Extent of Future Intensely Developed and Limited Development Areas." Please verify in writing that the analysis represents the views of the Town on this matter.

In summary, the items listed above must be provided to the Commission before the Town's growth allocation can be accepted for processing.

Thank you for providing us the opportunity to review your growth allocation request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: EA 73-07



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April 19, 2007

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

Re: Establishment of BMA Community #13A, Bentley Hay  
St. Michael's, Talbot County, MD

Dear Ms. Verdery:

We recently received a copy of County Bill 1053 proposing the designation and mapping of a new Buffer Management Area (BMA), identified as BMA Community #13A, Bentley Hay, and located in St. Michaels, Maryland. Thank you for forwarding your evaluation regarding the functions of the Buffer for the above-referenced project, using the Criteria in COMAR 27.01.09. The Critical Area Commission is accepting these bills today for processing. The Chairman will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

Thank you for your help on this matter. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly  
Natural Resource Planner

cc: Mr. Thomas G. Duncan, Talbot County Council President  
Mr. R. Andrew Hollis, Talbot County Manager  
Mr. George Kinney, Talbot County Planning Officer  
Mr. Michael L. Pullen, Esquire, Talbot County Attorney  
Ms. Marianne Mason, Assistant Attorney General





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April 17, 2007

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

RE: 0088  
Lawrence, John

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to extend the eighteen months of maximum time allowed before terminating a nonconforming use for an additional six months in order to complete a building permit. The lot area is 7,860 square feet (.18 acres) and is located in a Limited Development Area (LDA). A two-level Boathouse is approximately 90% complete, and the applicant wishes to have a variance in order to complete construction of the project.

Provided this lot is properly grandfathered, we have no comments regarding the variance to extend the nonconforming use designation for an additional six months.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

Nick Kelly  
CC: AA 211-07





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April 17, 2007

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

Re: Dogwood Harbor Bulkhead Replacement, Waterman's Observation Wharf and  
Parking Lot Resurfacing

Dear Ms. Verdery:

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

1. The proposed project is located in Tilghman, MD, and consists of constructing 390 linear feet of replacement bulkhead within a maximum of 18 inches channelward of existing deteriorated bulkhead. Additionally, the applicant will construct a 15 foot-by-92 foot Waterman's Observation Wharf, a 12 foot-by-24 foot boat mooring slip, and resurface 0.4 acres of existing parking lot with hot mix asphalt. The Critical Area designation is Limited Development Area (LDA), and total acreage is 2.14 acres. The project is water-dependent.
2. No new impervious surface will be added. Therefore, there is no increase in runoff.
3. The project is exempt from stormwater management, and an Erosion and Sediment Control Plan approval will be obtained.
4. There will be no new impacts to the Buffer.
5. The Talbot County Department of Public Works has received a permit for bulkhead replacement from the Maryland Department of the Environment (MDE); however, the permit for the wharf is still pending. Therefore, the County may not begin construction of the wharf until MDE issues the permit.

Mary Kaye Verdery  
April 17, 2007  
TC 185-07

6. The project mentions that 6,000 square feet of total area will be disturbed. There is no mention of mitigation for this disturbance. Please replant at a ratio of 2:1 for shoreline access, using a mix of native trees and shrubs on site and within the Buffer, if possible.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly  
Natural Resources Planner

cc: TC 185-07



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April 17, 2007

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

Re: A092  
Sullivan, Mark and Antoinette Porch Addition

Dear Ms. Verdery:

Thank you for providing information on the above-referenced variance request. The applicant plans to add a 16-foot by 24-foot (384 square feet) covered side porch to an existing residence that is located within the 100-foot Buffer. The porch will be located no further than the closest point of existing building encroachment on the site (58 feet). An 18.5 foot by 19.9 foot pad will be demolished, and much of the new porch will be built on this site. Total impervious surface for the project is 4,326 square feet, or 11% of the total site.

Provided the lot is properly grandfathered, we do not oppose this variance. However, we do have the following comments about the project.

1. To compensate for the addition of impervious surface within the Buffer, mitigation at a rate of 2:1 is necessary. Plantings should be provided in the form of native trees and shrubs.
2. On Sheet 2 of the site plan, a sidewalk is shown running from the garage to the new porch, and from the porch to the rear of the house. Please have the applicant show this sidewalk on Sheet 1 of the site plan, and calculate this area as new impervious surface since it will also require 2:1 mitigation.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

cc: TC 206-07



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April 16, 2007

Gary Letteron  
Environmental Planner  
Baltimore City Department of Planning  
417 East Fayette Street, 8<sup>th</sup> Floor  
Baltimore, MD 21202

Re: Branches Offset Fee Project Request

Dear Mr. Letteron:

This office understands that your department is requesting comments from the Critical Area Commission regarding the usage of \$32,977 to support Building Resources and Nurturing Community Health and Environmental Stewardship (BRANCHES) in improving water quality and enhancing the habitat within Baltimore City. In addition, this project improves the quality of life for the citizens of Baltimore as well as creates employment and educational opportunities for the youth of Baltimore.

We understand that BRANCHES is a summer program whose goal is to restore urban forests and riparian buffers in Baltimore's Park System. Three teams will be created to concentrate on improvements in the Middle Branch area, while a fourth team will work in watershed 263.

The BRANCHES project will provide employment and environmental training for twenty high school students from disadvantaged neighborhoods in Baltimore. In addition, four college students will be hired as team leaders. These students will work in Baltimore's forests, helping supplement the Forestry Division and other staff for Baltimore's Park System. Using a rate of \$2.50 per square foot of Buffer, the program plans to restore .3 acres.

The total cost of the project for the Summer of 2007 will be \$99,700, and \$32,977 of Buffer Offset Fees are proposed to be used, therefore matching the Critical Area funding at over two to one. The Buffer Offset Fees were collected to mitigate for 13,191 square feet of impacts to the Buffer ( $\$2.50 \text{ per square foot} \times 13,190 \text{ square feet} = \$32,977$ ); however, the overall project will result in restoration and enhancement of more than 2.75

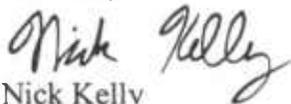
TTY for the Deaf

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acres of developed woodlands. These funds will be used for supplies, training, trash cleanup around the Middle Branch, invasive removal in the Critical Area in several parks, vacant lot restoration, stormwater management, and stormwater educational materials in a targeted watershed.

Based on the information you have provided, this office is satisfied with the use of Buffer Offset Fund monies for this project since it meets the Critical Area goals of improving water quality and enhancing wildlife habitat. If there are changes in the proposed project, please notify this office. Thank you for the opportunity to provide comments on this proposal. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: Gary Letteron  
Duncan Stuart  
Mary Owens  
Ren Serey  
BA General Files



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April 16, 2007

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

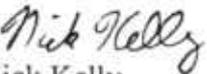
Re: 0086  
Sereboff, Daniel Dwelling Addition

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling addition (attached two car garage) and additional driveway with less setbacks than required. The property is designated as Limited Development Area (LDA), is 10,055 square feet in size, and is currently developed with a single family dwelling, shed, and gravel drive. All development is located outside of the 100-foot Buffer. Currently, existing impervious surface on the site is 1,950 square feet (19.4% of the lot). Upon adding the garage and driveway, the total amount of impervious surface will be 2,330 square feet (23.2%). This falls under the 31.25% impervious surface allotment allowed for grandfathered lots that are less than one-half acre. Therefore, provided the lot is properly grandfathered, we do not oppose this variance to build the garage and driveway.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

  
Nick Kelly  
Natural Resource Planner  
cc: AA210-07





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April 2, 2007

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

Re: 12689  
Failla, Peter & Kathleen - Site Plan

Dear Mr. Blaine:

Thank you for providing information on the above referenced application. The applicant is requesting to construct a single-family dwelling with an attached garage and pervious deck on an undeveloped lot. Critical Area issues include stormwater management, pollutant removal and afforestation.

The lot size is 6,822 square feet and is located is designated as an Intensely Developed Area (IDA). The total amount of impervious surface on the site will be 3,188 square feet (46.7% of the total site). No construction will occur within the 25 foot Buffer. Two grass swales, a gravel trench, and a pervious deck will be built on the site. Mitigation for stormwater management has also been adequately provided.

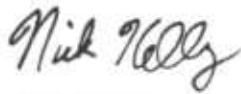
The Commission has the following comments based upon the information provided:

1. In the stormwater management plan, the applicant states that 12 trees or 97 shrubs can be planted for vegetative mitigation. The amount of trees necessary to be planted is incorrect. If the applicant were to plant trees, it would need to be completed at a rate of 1 tree for every 100 square feet of impervious surface located outside the Buffer. Therefore, 32 trees must be planted.
2. The applicants list the Best Management Practices (BMP) for stormwater management that will be utilized on-site. However, they do not mention how much stormwater quality, in cubic feet, that will be attained by using the BMPs. Please provide numbers indicating the amount of water quality that is acquired from each BMP.
3. Information on the pervious deck detail has been adequately provided.

4. The site plan mentions that the sidewalk on the western side of the house has not been included. If this is true, please recalculate the impervious surface numbers for the site. This will not only affect the water quality and mitigation numbers, but it may also require payments of \$1.20 per square foot if the amount of impervious surface exceeds 50% of the total lot area.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me directly at 410-260-3483.

Sincerely,



Nick Kelly  
Natural Resource Planner  
OC 180-07



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April 11, 2007

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

Re: 1053  
Fielder Smith Lot Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is requesting a lot line abandonment between two existing lots. Both properties lie within a designated Rural Conservation zone (RC). One lot is developed with a one- and-a-half story home, pool, three additional buildings, garage, pier, beach boat landing, and gravel driveway. The other lot is currently undeveloped.

Based on the information provided, we do not oppose the lot line abandonment. However we do have the following comments about the project.

1. The letter attached to the application from Debbie Moore mentions that tree removal is part of this project. However, there is no indication as to where the trees will be removed on the site plan. Please provide further details on this matter. In addition, there is no explanation as to why clearing is needed. If clearing will occur, planting must occur at a 1:1 ratio.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
TC 160-07





**STATE OF MARYLAND  
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March 30, 2007

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

Re: A 091 Wadsworth

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to add a two-story dwelling porch addition with bath to an existing two-story dwelling. The addition will not encroach towards the mean high water line any more than the existing property. Currently, the home is located 59 feet from mean high water; the addition will be located 69 feet from mean high water. The property is designated as Rural Conservation (RC).

Provided the lot is properly grandfathered, we do not oppose this variance. Based on the information provided, we have the following comments regarding the Buffer variance and development proposal:

- The 100-foot Buffer line appears to be drawn only from the east side of the property until it touches the home. Please extend the line to the western portion of the site.
- On the site map, under "Impervious Area Calculation, 100 foot Buffer," the impervious area remaining total is 5,966 square feet. It should be 5,966 square feet.
- Under the Critical Area Impervious Coverage calculations, there are no figures listed for "Detached Garage" and "Guesthouse/Tenant." However, on the site plan, a garage, guesthouse, and car port appear. Please explain whether these features were included under another heading in the calculations. Otherwise, the impervious area measurements must be recalculated.
- The property will disturb land within the 100 foot Buffer. We recommend replanting at a 3:1 ratio for any disturbances occurring inside the 100-foot Buffer.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly  
Natural Resource Planner  
TC 92-07



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March 30, 2007

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

Re: 07-1210001  
Andrew - Inlet Sea Doo

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant is requesting conditional use on the site for water-related recreational activities. Mr. Andrew has owned and operated Sea Doos Inc. for eleven years under a conditional use permit to operate personal watercraft and fishing skiffs. He is asking to extend his permit for an additional five years and to add a parasail boat.

Based on the information provided, it appears that this conditional use will create no new impacts on the Critical Area. Therefore, this office has no comment on the project.

Thank you for the opportunity to comment on this project. If you have any questions or concerns, please contact me directly at 410-260-3483.

Sincerely,

Nick Kelly  
Natural Resources Planner  
OC 178-07





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March 29, 2007

Steve Dodd  
Dorchester County  
Planning and Zoning Office  
County Office Building  
P O Box 107  
Cambridge, MD 21613

Re: 1135  
Dieter/Close Quarters Defense, Inc.

Dear Mr. Dodd:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to create a topsoil stockpile, parking area that is partially paved and partially gravel, and a gravel lot with a 24 foot-by- 24 foot building. The site is 95.49 acres and is zoned Resource Conservation Area (RCA). Only 1.92 acres of the site are proposed for disturbance.

Based on the information provided, we have the following comments regarding the Buffer variance and development proposal:

- Neither the site plan nor the Critical Area Project Notification Application specify the amount of existing and proposed impervious surface for the site. Please provide calculations of each. The site is limited to 15% impervious surface, or 14.32 acres.
- There are no area specifications for the two existing trailers to be removed. Please provide calculations for each.
- According to map data using Geographic Information Systems software (GIS), the forest located east of the site and adjacent to the area cleared is a Forest Interior Dwelling Bird Habitat (FIDS). It appears from the site plan that .16 acres of saplings and small trees near the existing field edge will be removed. Afforestation should occur, at a 1:1 ratio, in riparian or streamside areas that lack woody vegetation, forested riparian areas less than three feet wide, or on gaps or peninsulas of nonforested habitat within or adjacent to existing FIDS habitat, if possible. Furthermore, construction around the FIDS habitat cannot occur from April through August.
- The site plan mentions that, on the western side of the site, the area 50 feet around both sides of the entrance (or until the end of the property line) will be permanently cleared of trees and visual obstructions. The application does not mention mitigation of any kind for this. Since 89.28 acres of the site is forested, we can assume that less than 20% of forested area is being removed in this process. Therefore, mitigation at a ratio of 1:1 is necessary.

Page Two  
1135 Dieter/Close Quarters  
March 29, 2007

- There is mention on the site plan of an equipment access point for the project, which appears to be found on pervious land near the parking lot. Please replant on any land that is disturbed for roads, walkways, or other disturbances that may occur from the use of this access point.

Thank you for the opportunity to provide comments for this administrative variance. Please include this letter as part of the record for the case. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3483.

Sincerely,



Nick Kelly  
Natural Resource Planner  
DC 303-05



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401  
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March 29, 2007

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

Re: 449  
Talbot Agricultural Service Center

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant intends to build a new office to replace existing facilities. The construction will consist of a 15,300 square foot building, a 1,500 square foot workshop, and a 300 square foot shed.

Based on the information provided, it appears that all construction on the lot is occurring on land located outside of the Critical Area. Therefore, we have no comment on the construction of the office. However, we do see that stormwater from the site drains into a stormwater management pond located within a Rural Conservation (RC) area. While this stormwater site has been approved previously, in general such practices are not allowed within the Resource Conservation Area of the Critical Area. Therefore, we recommend that no expansion of the stormwater pond occur on the site.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner

TC 161-07





STATE OF MARYLAND  
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March 26, 2007

Duncan Stuart  
City of Baltimore Planning Commission  
Department of Planning  
417 E. Fayette Street, 8<sup>th</sup> Floor  
Baltimore, Maryland 21202-3416

Re: Case #265  
Erasmus Warehouse

Dear Mr. Stuart:

Thank you for providing information on the above referenced site plan. The applicant is requesting a variance to permit the construction of a warehouse within the Critical Area. The property is 7.21 acres, is designated IDA, and is currently developed.

The building of this warehouse will occur over previously existing pavement area. During the construction of this project, 3,050 feet of ground disturbance will occur for foundation construction. Since this amount is under 5,000 square feet, stormwater management and sediment control issues do not need to be addressed; however, the 10% Pollution Reduction calculation is required.

The site of the project is completely impervious, except for the existing stormwater management swale, which was created in compliance with an earlier Critical Area project. Consequently, there is no room to provide proper mitigation for the amount of phosphorus created at the site from this project. Under the Critical Area 10% rule, the applicant would be required to remove 1.63 pounds per year of total phosphorus. In lieu of this removal, the applicant will pay an offset fee. It is my understanding that Baltimore City is currently collecting \$35,000 per pound of phosphorus when the pollutant reduction requirement is satisfied by payments of fees-in-lieu into the City's Stormwater Offset Fund. Based on this, Erasmus, Inc. will pay \$57,050 in offset fees.

Thank you for providing calculations documenting the estimated reduction in phosphorus loading resulting from the removal of impervious surface area.

Sincerely,

  
Nick Kelly  
Natural Resource Planner

CC: BA 170-07

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





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March 21, 2007

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

Re: L1049  
Fleming/Kagan Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicants are requesting a lot line abandonment between two existing lots. Both properties lie within a designated Rural Conservation zone (RC), and both lots are undeveloped.

Based on the information provided, we do not oppose the lot line abandonment. However, we do have the following comments about the project.

1. According to 2005 USDA Satellite images that were accessible through our Geographic Information Systems program, the site is heavily forested. It appears that all proposed development is occurring outside the Critical Area. Should future development occur within the Critical Area, mitigation should be performed if any tree coverage is removed at a rate of 1:1 if 20% of the forest is removed, 1.5:1 if 20%-30% is removed, and 3:1 if over 30% is removed.
2. The impervious surface calculation chart on the site plan needs further clarification. The development computes impervious calculations for "Revised Tax Parcel 147" and "Revised Deed Parcel No.2." Please clarify that "Revised Tax Deed Parcel No. 2" is the same as Tax Parcel 290.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
TC 159-07





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March 21, 2007

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

Re: L1047  
D & C Investment, LLC

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicants are requesting a lot line abandonment between two existing lots. Both properties lie within a designated Rural Conservation zone (RC), and both lots are undeveloped. The size of the lot after the line abandonment is .68 acres.

Based on the information provided, we do not oppose the lot line abandonment. However we do have the following comments about the project.

1. The applicant claims that the current dwelling has been razed, and that no new impervious surface will be added at this time. According to our 2005 Geographic Information Systems Maps from the USDA, the dwelling still exists. Please be aware that, if the home still does exist, no new homes can be built on this property based on the 1:20 density of development that is allowed in the Rural Conservation Area.
2. Contingent that the dwelling has been razed, please be aware that should new development occur, the amount of impervious surface allowed is 5,445 feet, not 4,443.1 feet as mentioned on the site plan. Based on 1996 legislation passed by the Maryland General Assembly, lots with an acreage between .5 and .83 acres are allowed 5,445 feet of impervious surface.
3. From looking at the USDA land coverage maps through GIS, it appears that a small portion of this site is forested. Mitigation should be performed if any trees are removed, at a rate of 1:1 if 20% of the forest is removed, 1.5:1 if 20%-30% is removed, and 3:1 if over 30% is removed.

Mary Kay Verdery  
Line Revision L1047  
March 21, 2007  
Page 2

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly  
Natural Resource Planner  
TC 160-07



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March 20, 2007

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

Re: 2007-0051-V  
Dean and Evelyn Bush – Setback

Dear Ms. Schappert:

Thank you for providing information on the above-referenced variance. The applicant is requesting a variance to allow an accessory structure with less setbacks than required. The lot is 6,750 square feet in size and is located within the Limited Developed Area (LDA). Currently, a single-family dwelling, deck, and driveway exist on the site. The applicant plans to build a carport over existing impervious surface. No new impervious surface will be added to the lot.

Provided this lot is properly grandfathered, we do not oppose this variance for a reduced setback.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

Nick Kelly  
Natural Resources Planner  
AA 154-07





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March 20, 2007

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

RE: 2007-0047-V  
Brian Mead – Setback

Dear Ms. Schappert:

Thank you for providing information on the above-referenced variance. The applicant is requesting a variance to allow a dwelling with less setbacks than required. The lot is 4800 square feet in size and is located within the Intensely Developed Area (IDA). A total of 1614 square feet of new impervious surface will be added to the lot. The applicant plans to provide mitigation plantings on-site for this increased impervious area.

Provided this lot is properly grandfathered, we do not oppose a variance for reduced setbacks. Based on the information provided, I have the following comments regarding the current development proposal and variance request:

1. The applicant must comply with the requirement for water quality improvement where the area disturbed is between 1,000 and 5,000 square feet and is located outside the Critical Area Buffer (Article 16-3-205). This requirement offers three options:
  - replanting onsite within the Critical Area of an area equal to the area of new impervious surface;
  - replanting offsite within the Critical Area of an area equal to new impervious surface; or
  - payment of a fee of \$0.60 per square foot of new impervious surface;We recommend onsite replanting within the Critical Area of an area equal to the new impervious surface, if possible.

Suzanne Schappert  
March 20, 2007  
AA-0155-07

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resources Planner  
AA 0155-07



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March 19, 2007

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

Re: 2007-0045-S  
Spectic LLC

Dear Ms. Schappert:

Thank you for providing information on the above referenced special exception. The applicant is requesting to allow an expansion of a non-conforming use (six-unit apartment building). The property is designated as an Intense Development Area (IDA) and is currently developed with an apartment building. The applicant plans to raze the existing six-unit apartment building and parking area and replace it with a new apartment building and gravel area. Impervious surface coverage will increase from .11 acres (4791.6 feet) to .21 acres (9147.6 feet).

Based on the information provided, we have the following comments regarding the development proposal and variance request.

1. Because this property is designated as IDA, water quality improvements must be provided to offset the proposed development. Pollutant reductions of 10% phosphorus can be achieved by the utilization of stormwater best management practices or with plantings. Please submit a 10% Critical Area Stormwater Management Plan to our office for review.

Thank you for the opportunity to provide comments for this special exception request. If you have any questions, please feel free to call me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
cc: AA156-07





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March 19, 2007

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

Re: Tilghman Back Creek Park – Re-deck observation deck, construct steps and soft-landing for boat/canoe/kayak access  
Consistency Report

Dear Ms. Verdery:

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

1. The proposed project is located in Tilghman, MD, and consists of updating an observation deck and installing flagstone steps, a flagstone path, and a soft landing adjacent to Back Creek. The Critical Area is designated as Resource Conservation (R.C.). The observation deck will be re-decked, with a new guardrail added. The flagstone steps, flagstone path, and sand soft-landing for boats, canoes, and kayaks for access to Back Creek will be newly installed. The project is water-dependent.
2. There is a minimal increase in the amount of impervious surface (174 feet added) for water-dependent use, so there is no expected increase in stormwater runoff.
3. No forests, woodlands, or trees will be removed.
4. Since the area disturbed is less than 500 square feet, the project is exempt from stormwater management methods as well as sediment and erosion control plans.
5. For erosion control, the applicant has planned to plant lirioppe on the bank adjacent to the flagstone steps. However, we recommend that, in exchange for lirioppe, either St. John's Wort, switchgrass, or coastal panicgrass be planted instead.

Mary Kay Verdery  
March 19, 2007  
TC 0141-07

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly  
Natural Resources Planner

cc: TC 0141-07



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March 19, 2007

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

Re: 2007-0028-V  
Oyster Harbor Citizens

Dear Ms. Schappert:

I have received the above-referenced variance request for review and comment. The applicant proposes to replace the existing pier and pilings and construct a new six-foot by 130-foot pier that includes a six-foot by 32-foot Head. It is our understanding the variance request is for construction, replacement, and improvement of the pier. No impervious surface will be added and no impact to steep slopes will occur. We will defer to the Maryland Department of the Environment (MDE) permit reviewer and your office to determine whether this request can be permitted.

Notwithstanding MDE's or the County's determination, this office does not oppose this request provided the County is satisfied that the applicant can demonstrate minimization. If the Board of Appeals finds the applicant is entitled to relief we recommend mitigation as prescribed by County staff.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
cc: AA157-07





STATE OF MARYLAND  
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March 19, 2007

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

Re: 2207-0018-V  
John and Barbara Hollis

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling addition (sunroom) with less Buffer than required. The property is designated as Limited Development Area (LDA), and the lot is currently developed with a single family dwelling, garage, driveway, and patio. From this construction, an additional amount of 168 square feet of impervious surface will be added to this 21,260 square foot site (24% of the total lot). This falls under the 31.25% impervious surface allotment allowed for lots that are less than one-half acre (21,780 square feet).

Provided the lot is properly grandfathered, we do not oppose this variance. However, impacts must be minimized. Mitigation at a 3:1 ratio should be required for any new disturbance within the Buffer. Mitigation plantings should be accommodated on site and directed first towards the Buffer. Plantings should consist of densely grouped native trees and shrubs.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner





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March 16, 2007

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

RE: 2007-0053, Melbourne Avenue  
Robert and Bjorg Little

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a dwelling with less setbacks and buffer than required. The lot is 2,665 square feet in size, located within the Intensely Developed Area (IDA). The property is currently developed with a single-family dwelling. The applicant proposes to rebuild the existing home due to extensive rot and termite damage as well as add a second floor over the existing footprint. Minimal disturbance alongside the home (4 feet) will occur.

Provided this lot is properly grandfathered, we have no comments regarding the setback variance. This office does have the following comments regarding the development proposal.

1. Should ground disturbance occur beyond what is stated in the application, then mitigation should be performed at a ratio of 3:1 for disturbance within the Buffer. We recommend that plantings consist of a mix of native species of trees, shrubs and ground cover.
2. The applicant must comply with the requirement for water quality improvement where the area disturbed is less than 1,000 square feet within the Critical Area Buffer and no grading permit is required (Article 16-3-205). This requirement offers three options:
  - replanting inside the 100-foot critical area buffer of an area two times the area of new impervious surface;
  - replanting outside the 100-foot critical area buffer of an area two times the area of new impervious surface
  - payment of a fee in the amount of \$1.20 per square foot of new impervious surface

We recommend replanting within the 100-foot critical area if possible.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resources Planner  
AA 0153-07



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March 16, 2007

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

RE: 2007-0025-V  
1026 Plum Creek Drive Home Construction

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a single-family home on Plum Creek Drive within the 100-foot Buffer and with disturbance to steep slopes. Most of the site is found within the expanded Buffer. The total lot area is 19,038 square feet and is located within the Limited Development Area (LDA). Presently, the property is completely wooded with a fence running along the property to the water. To create an area for construction of the home, 7,824 square feet of wooded area will be cleared. The front portion of the lot is relatively flat, while steep slopes begin about one-third of the way from the road to the waters of Plum Creek. The applicant plans to create 3,019 square feet of impervious surface on the lot, which equates to 15.85% of the total lot size. This falls under the 31.25% impervious surface allotment allowed for lots that are less than one-half acre (21,780 square feet).

Provided the lot is properly grandfathered, this office does not oppose the variance to the expanded Buffer and steep slopes. Given the constraints of the site, it seems that impacts have been minimized. I have the following comments:

- The applicant does not explain how much mitigation will be accomplished in order to build on the lot. Mitigation for all impacts to forests with the 100-foot Buffer should be provided at a rate of 3:1, or 23,472 square feet. This mitigation can be performed onsite or offsite. Or, a fee in lieu may be paid at \$1.80 per square foot (\$14,083.20) in exchange for mitigation.

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. If you have any additional questions please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resources Planner  
AA 0147-07



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March 15, 2007

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

Re: Richard Minchik  
A090

Dear Ms. Verdery:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow for the renovation and expansion of a home that is located within the 100-foot Shoreline Development Buffer on a grandfathered lot. The property is 1.09 acres, is zoned Rural Conservation, and is currently developed. The building footprint will be expanded by 387 square feet. Included in the proposal are several additions to the existing dwelling, the reconfiguration of the driveway and sidewalk, a second story addition, and the construction of a pool and pool deck. The applicant has stated that the proposed expansion will not be located any closer to the shoreline than its current distance of 34 feet, 8 inches. The amount of impervious surface found within the Buffer will be 5 square feet less than the amount allowed under the 15% impervious limit standard.

The office generally does not oppose the modest additions and renovations requested for the existing dwelling on a grandfathered lot. However, we do oppose the variance to build a new swimming pool and pool deck in the Buffer. 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, particularly emphasizing the importance of the 100-foot Critical Area Buffer. Specifically, the General Assembly reaffirmed the stringent standards of the law, 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 Board of Appeals finds that an applicant has satisfied its burden to prove

that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this case the applicant is proposing to construct a new pool and patio within the Buffer. The Critical Area Buffer establishes an area of undisturbed natural forest vegetation, or an area for enhancement with vegetation native to the Critical Area, managed to protect shorelines, streams, wetlands, and riparian biological communities from adverse effects of land use. Thus, the County has enacted a specific set of provisions to recognize the importance of the 100-foot Buffer and maintain its integrity by prohibiting the construction of new structures unless they are water dependent (Talbot County Code §190-93).

The variance to the 100-foot Buffer cannot be granted unless the applicant proves, and the Board of Appeals 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, and accordingly the variance should be denied. I have discussed each one of the 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.*

Currently, the lot is developed with a single-family residential home, garage, patio, and driveway, and is located entirely within the 100-foot Buffer on a grandfathered lot. Most of the proposed dwelling expansion will occur within the 100-foot Buffer, but will be placed on the existing footprint or only modestly add new impervious surface to the lot. Overall, 5,024 square feet of impervious surface will be located within the Buffer. However, the proposed patio and pool are placed inside the original 100-foot Buffer, with only a small portion of the development located on the preexisting footprint. 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 finding that, without the pool and patio, the entire parcel would lack reasonable and significant use.

- 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 a reasonable use of this property for residential purposes, and therefore, would not be denied a right commonly enjoyed by neighboring properties, such as constructing a modest deck entirely over a preexisting footprint. No property owner has the right to build a new swimming pool or patio within the Buffer. Therefore, the rejection of a variance for the swimming pool and patio 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, in this case building a pool and patio over pervious land, which would be denied to others in this area, as well as in similar areas found in the County's Critical Area. To grant a variance to the Buffer would confer a special privilege on the applicant (Section 190-97). 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.*

From the information provided, it does not appear that the variance request is based on conditions or circumstances that are the result of the applicant or from a neighboring property. Therefore, it appears that the applicant has met this standard.

*5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat 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.*

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 in the Buffer and consequential disturbance to the land results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities. Given that the applicant can adequately redevelop this property and enjoy outdoor activities without the addition of a pool and deck in the 100-foot Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

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,

*Nick Kelly*

Nick Kelly  
Natural Resource Planner

CC: TC 90-07



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338  
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March 15, 2007

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

Re: L1032  
TAMI, LLC Lot Line Revision  
Tax Map 31, Parcel 53

Dear Ms. Verdery:

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

Based on the information provided, this office has no comment on the revision to the lot lines on this parcel. However, we have the following comment regarding the plat submitted.

1. Please provide a breakdown of the existing impervious surface area for each lot in Parcel 53. The total area of existing impervious surface area is not clear based on the information shown on the current plat. Each resulting lot must be in compliance with the impervious surface limits.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

Nick Kelly  
Natural Resource Planner  
TC 94-07





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March 15, 2007

Ms. Elisa DeFlaux  
Talbot County Office of Planning and Zoning  
11 N. Washington Street  
Courthouse  
Easton, Maryland 21601

Re: Jean Ellen duPont Shehan Audubon Sanctuary  
ENV 001

Dear Ms. DeFlaux:

Thank you for providing information on the above Habitat Restoration Concept Plan. The applicant is planning to create thirteen habitat restoration, enhancement, and protection projects within the 100-acre Wells Point portion of the property. The size of the site is 950 acres, with 800 acres found within the Critical Area portion of the property. Currently, the site is designated as a Resource Conservation Area (RCA).

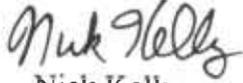
In general, the office supports this project. We also wish to provide the following comments on the restoration project.

1. The proposed Solar Powered Wet Lab/Visitor Center needs to be evaluated for compliance with the Talbot Code General Table of Land Use Regulations since the site is located in the RCA zone.
2. Please submit a site plan of the Wet Lab/Visitor Center prior to its approval.
3. Please replant any land that is disturbed for roads, walkways, or other disturbances that are to be used for the construction phase of this project.
4. As stated in COMAR 27.01.08, "Any plans developed for the use of parks should recognize that all natural terrain has a finite capacity to tolerate human disturbances and, therefore, should give utmost attention to limiting the number of park visitors in any park at any one time or in the course of a season." Please keep this aspect in mind in the future when attracting tourists to your site.

Elisa DeFlaux  
ENV 001  
March 15, 2007

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this site plan. If you have any questions, please contact me at 410-260-3483.

Sincerely,



Nick Kelly  
Natural Resources Planner  
TC 116-07



STATE OF MARYLAND  
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March 12, 2007

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

Re: Kingston Public Landing – Boat Ramp Replacement  
Consistency Report

Dear Ms. Verdery:

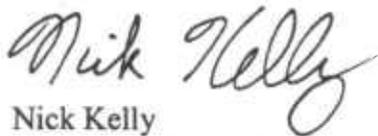
Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. After reviewing the consistency report, this office agrees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

1. The proposed project is located on Kingston Landing. The pier leads into the Choptank River. The Critical Area is designated as Resource Conservation (R.C.) The existing earthen boat ramp will be replaced by a concrete boat ramp. An adjacent boat pier for loading and unloading passengers and supplies onto boats that are using the ramp will be added as well.
2. The project is water-dependent.
3. There is no increase in the amount of impervious surface, so there is no increase in stormwater runoff.
4. No forests, woodlands, or trees will be removed.
5. The project is exempt from stormwater management methods as well as sediment and erosion control plans since the area disturbed is less than 500 square feet.
6. The County has received its MDE Tidal Wetland Impacts permit. However, we have not received a copy of this permit. Please forward a copy for our files.

Mary Kaye Verdery  
March 12, 2006  
TC 0132-07

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resources Planner

cc: TC 0132-07



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March 12, 2007

Duncan Stuart  
City of Baltimore Planning Commission  
Department of Planning  
417 E. Fayette Street, 8<sup>th</sup> Floor  
Baltimore, Maryland 21202-3416

Re: Case #222  
Erasmus Warehouse

Dear Mr. Stuart:

Thank you for providing information on the above referenced site plan. The applicant is requesting a variance to permit the construction of a warehouse which is partially located within the 100-foot Shoreline Buffer. The property is 11.95 acres, is designated IDA, and is currently developed.

Due to a limited site area, elevation limits on the existing storm drain outfall, and a water table that would be too close to the surface, the applicant states that site is unable to properly remove enough phosphorus to fulfill the Critical Area 10% rule. It is my understanding that the City is currently collecting \$35,000 per pound of phosphorus when the pollutant reduction requirement is satisfied by payments of fees-in-lieu into the City's Stormwater Offset Fund. Thank you for providing calculations documenting the estimated reduction in phosphorus loading resulting from the removal of impervious surface area.

In lieu of paying this entire fee, the applicant plans to provide financial support for an "AcquaEcosystem" Aquaculture and Wetland Nursery Demonstration and Training Facility for the National Aquarium in Baltimore. Based on the information provided, the Commission supports the use of \$3,475 as recognized education costs for this project, and \$29,678 for equipment, soil amendments, and plant materials, which will support the "AcquaEcosystem" Project for a period of ten years. Thank you for the opportunity to comment on this project. We look forward to seeing them completed.

Sincerely,

Nick Kelly  
Natural Resource Planner

CC: BA 106-07





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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March 12, 2007

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

Re: 441  
Talbot County Country Club

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to remove an existing building that occupies 1751 square feet and replace it with a 2700 square foot pole building for storage. In total, 5,288 square feet of impervious surface will be added, while 3,808 feet of impervious will be removed. The property is designated a Resource Conservation Area (RCA) and is currently developed. This office has the following comments on your application.

1. The site plan indicates that the impervious surface calculations only examine the land area found within the inset. Driveways, pathways, and other roads in the parcel are not included. A calculation of impervious surface found on the entire site should be provided.
2. A prior letter sent by the Critical Area on October 27, 2006 shows that the total impervious surface calculation on lot 13 in this parcel had a total impervious surface of 31.03%. Please confirm that there has not been a lot line abandonment, thus merging the lot we are currently examining with lot 13. If this has occurred, please recalculate the impervious surface for this project.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

Nick Kelly  
Natural Resource Planner  
TC 344-05





**STATE OF MARYLAND  
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March 8, 2007

Mr. Joseph Kincaid  
Maryland Department of the Environment  
Water Management Administration  
Salisbury District Court/Multi-Service Building  
201 Baptist Street  
Salisbury, MD 21801

**RE: Comments on Applications for State Permits – Dorchester County**

Dear Mr. Adkins:

I am writing to provide comments on the following projects located in Dorchester County:

**200667665/07-WL-0821: GERTRUDE BROMWELL**

This project involves an application to mechanically dredge a 35-foot wide by 270-foot long entrance channel as well as a 50-foot wide by 250-foot long boat basin to a -3.0 foot depth at mean low water. In addition, 1500 cubic yards of dredged material will be deposited in two on-site, upland containment areas. Ms. Bromwell has also applied for a 6-year maintenance agreement not to exceed 500 cubic yards of material each year. Additionally, she has applied to construct and backfill 1,085 linear feet of replacement bulkhead within a maximum 18 inches channelward of a deteriorating bulkhead. The project's purpose is to control shoreline erosion and improve navigable access. The Dorchester County Critical Area Program recommends nonstructural shore protection measures whenever practical. However, if MDE determines that structural means are necessary, then this office will defer to your determination. The two upland containment areas must be located outside the 100-foot Buffer.

Thank you for the opportunity to provide comments on the referenced projects. If you have any questions, please call me at (410) 260-3483.

Sincerely,

*Nick Kelly*  
Nick Kelly

Natural Resources Planner

cc: Steve Dodd



**STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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March 8, 2007

Mr. Robert Cuthbertson  
Maryland Department of the Environment  
Wetlands & Waterways Program  
1800 Washington Boulevard  
Baltimore, MD 21230

**RE: Comments on Applications for State Permits – Baltimore City**

Dear Mr. Cuthbertson:

I am writing to provide comments on the following projects located in Baltimore City:

**200665943/07-WL-0306: Henderson Wharf**

This project involves several components. The applicant proposes the construction and backfilling of 961 feet of steel sheet pile bulkhead, the construction of a five-story condominium within a maximum of seven feet channelward of the existing mean high water line but landward of the proposed replacement bulkhead, and the construction of a 961-foot long by 14-foot wide Baltimore City Promenade. Furthermore, the project applicant proposes the removal of 3 slips from a 246-slip marina and the reduction of 91 slips from the marina through the creation of a 263-foot long by 8-foot wide floating pier, a 234-foot long by 8-foot wide floating pier with an 88-foot long by 8-foot wide "T" head, and forty-three 40 to 80-foot long by 4 to 6-foot wide finger piers. Finally, the applicant plans to construct a 70-foot long and a 96-foot long by 16-foot wide section of breakwater as well as a 39-foot long by 3-foot wide finger pier. The goal of this project is lot development, shore erosion control, and marina configuration. In Baltimore City, the building of a structure within the 100-foot Buffer may require a variance unless it falls into the Waterfront Revitalization Area. If so, then any building that occurs within 100 feet or less from the mean high tide or edge of tidal wetlands requires mitigation. If this cannot be completed within the buffer or outside the buffer and within the Critical Area, then a contribution to the Buffer Offset Fund must be completed. Total liabilities for offsets cannot exceed 2% of the cost of proposed development. Mitigation must occur on a 1:1 basis within the Critical Area, and at a 3:1 ratio if within the Buffer.

In regard to the bulkhead and marina reconfiguration, this office defers to MDE staff to determine the impacts associated with these development activities that are waterward of mean high water.

Thank you for the opportunity to provide comments on the referenced projects. If you have any questions, please call me at (410) 260-3483.

Sincerely,

*Nick Kelly*

Nick Kelly  
Natural Resources Planner

cc: Duncan Stewart, Baltimore City



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March 8, 2007

Ms. Tressa Ellis  
Maryland Department of the Environment  
Wetlands & Waterways Program  
1800 Washington Boulevard  
Baltimore, MD 21230

**RE: Comments on Applications for State Permits – Talbot County**

Dear Mr. Adkins:

I am writing to provide comments on the following projects located in Talbot County:

**200665691/07-WL-0267 Jennifer Stanley**

This project involves the filling, grading, and planting of marsh vegetation along 215 feet of shoreline that is eroding. Sand and low profile, stone groins will be used to extend 28 feet channelward of the mean high water line. This office supports nonstructural means of shoreline erosion control where it is appropriate. Any excavation above mean high water and within the 100-foot Buffer that may require clearing should be mitigated at a 1:1 ratio.

Thank you for the opportunity to provide comments on the referenced projects. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly  
Natural Resources Planner

cc: Lillian Lord





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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March 8, 2007

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

Re: 447  
BRM, LLC Site Plan

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to install a shade cloth canopy composed of six foot by six foot posts, two foot by ten foot support rafters, and a back shade cloth. The property is designated a Limited Development Area (LDA) and is currently developed with multiple structures and parking areas.

Based on the information provided, the cloth canopy is completely pervious. While the parcel currently exceeds the permitted impervious surface area limits within State and local Critical Area Law, the applicant is not proposing the addition of any new impervious surface area, or the renovation of any existing structures. As a result, we do not generally oppose the conversion of the installation of the shade cloth canopy. However, please note that should any new impervious surface areas be proposed in the future, a variance would be necessary.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner

TC 104-06





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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February 26, 2007

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

Re: A089 Buchwald

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to expand living space onto a deck area that is currently within the Buffer. The property is designated as a Village Center District (VC). Therefore, the Critical Area Designation is Limited Development Area (LDA).

Provided the lot is properly grandfathered, we do not oppose this variance. Based on the information provided, we have the following comments regarding the Buffer variance and development proposal:

- Mitigation at a 2:1 ratio for the footprint of the 100-foot new porch inside the 100-foot Buffer is recommended
- Disturbances occurring outside the 100-foot Buffer should use a 1:1 mitigation ratio

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

Sincerely,

Nick Kelly  
Natural Resource Planner  
TC443-02





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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February 26, 2007

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

Re: A089 Buchwald

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to expand living space onto a deck area that is currently within the Buffer. The property is designated as a Village Center District (VC). Therefore, the Critical Area Designation is Limited Development Area (LDA).

Provided the lot is properly grandfathered, we do not oppose this variance. Based on the information provided, we have the following comments regarding the Buffer variance and development proposal:

- Mitigation at a 2:1 ratio for the footprint of the 100-foot new porch inside the 100-foot Buffer is recommended
- Disturbances occurring outside the 100-foot Buffer should use a 1:1 mitigation ratio

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

Sincerely,

Nick Kelly  
Natural Resource Planner  
TC443-02





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
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February 26, 2007

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

Re: A089 Buchwald

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to expand living space onto a deck area that is currently within the Buffer. The property is designated as a Village Center District (VC). Therefore, the Critical Area Designation is Limited Development Area (LDA).

Provided the lot is properly grandfathered, we do not oppose this variance. Based on the information provided, we have the following comments regarding the Buffer variance and development proposal:

- Mitigation at a 2:1 ratio for the footprint of the 100-foot new porch inside the 100-foot Buffer is recommended
- Disturbances occurring outside the 100-foot Buffer should use a 1:1 mitigation ratio

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

Sincerely,

*Nick Kelly*  
Nick Kelly  
Natural Resource Planner  
TC443-02





STATE OF MARYLAND  
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February 26, 2007

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

Re: A088 Gadaire

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to the 100-foot Buffer to permit renovation and expansion of a home located partially within the 100-foot Shoreline Buffer. The property is 2.05 acres, is zoned Rural Residential, and is currently developed. Included in the proposal are several additions to the existing dwelling, a second story addition, and a six-foot wide pool deck extension with a walkway and steps.

The applicant has stated that the proposed expansion will not be located any closer to the shoreline than its current distance of 48 feet, eight inches. Additionally, not only will the renovations reduce the total amount of impervious surface on the lot by 163 square feet, but it will also relocate 1,419 square feet of impervious surface currently located within the 100-foot Buffer to locations outside of the Buffer. Provided the lot is properly grandfathered, we do not oppose the granting of this variance request. We recommend any mitigation of native Buffer plantings at a 2:1 ratio, and this mitigation be accommodated on site to the extent possible.

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

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly  
Natural Resource Planner  
TC91-07



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 12, 2007

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

[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

Steve Billman  
P.O. Box 40  
Hollywood, Maryland 20636

Dear Mr. Billman:

Enclosed you will find our entire correspondence file for the Avenmar Community growth allocation. There are also two large maps that accompany this file. We do not have the capacity to copy these maps so if you would like to view them please contact our offices and make an appointment. If you have any questions about the process for obtaining a revision to the previously approved growth allocation please contact Sue Veith at the St. Mary's County Office of Planning and Growth Management. Ms. Veith's number is 301-475-4200 extension 1547.

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



Martin G. Madden  
Chairman

Michael S. Steele  
Lt. Governor

Ren Serey  
Executive Director

STATE OF MARYLAND  
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January 10, 2007

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Ms. Ramona Plociennik  
Anne Arundel County  
Office of Planning & Zoning  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

**RE: AA 370-06 Deale House, LLC**  
**Local Case # 2006-0431-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 dwelling addition to impact the 100-foot Buffer. The parcel is 10,541 square feet, located in the IDA, and is currently improved by a single-family house, driveway, brick sidewalk, boat ramp, bulkhead, pier and boathouse. The applicant is requesting this variance to bring a deck constructed without the required variance into compliance.

We previously provided comments on this after-the-fact variance on June 22, 2006. At that time we did not oppose this variance; however, it appears that on July 28, 2006 the Administrative Hearing Officer denied the requested after-the-fact variance. The applicant has resubmitted his request for a variance to bring the addition into compliance. Our comments remain the same. Provided that the lot is properly grandfathered we do not oppose this variance. If this variance is granted we recommend mitigation at a ratio of 3:1 for impacts to the Buffer. Mitigation should be planted on site. In addition, any areas disturbed during construction should be replanted with native vegetation.

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. If you have any additional questions please contact 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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January 10, 2007

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Ms. Ramona Plociennik  
Anne Arundel County  
Office of Planning & Zoning  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

**RE: AA 779-04 Michael Malinowski  
Local Case # 2006-0432-V 1564 Park Lane**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow an extension in the time required for implementation and completion of a previously approved variance. The parcel is 27,878 square feet, located in the LDA and is currently improved by a single-family dwelling, pool, sidewalk shed and deck. The applicant is requesting a renewal of the previously approved variance to remove and replace the existing dwelling.

Provided that the lot is properly grandfathered we do not oppose this variance. Our comments on the renewal of this variance are the same as provided in the November 4, 2004 letter from Julie V. LaBranche and are as follows:

- 1) Steep slopes and the Buffer are not identified on the site plan provided for the variance. As estimated from the site plan, it appears that the Buffer may need to be expanded for steep slopes.
- 2) The applicant proposes to remove the existing dwelling, a concrete pad, and several existing walkways on steep slopes. The new dwelling (with attached waterside deck) will be constructed approximately 210 feet from the shoreline, which is further from the shoreline than the existing dwelling. The existing driveway will be reconfigured to provide access to the new dwelling. The current proposal will result in a 480 square foot reduction of impervious surface coverage, totaling 5,160 square feet. Currently, the property is non-conforming with respect to impervious surface coverage, with 5,640 square feet. It appears that the applicant has attempted to minimize impacts within the Buffer by reducing impervious surface coverage and increasing the setback from the shoreline for the new dwelling.
- 3) Mitigation at a ratio of 3:1 for disturbance within the Buffer, and 1:1 for disturbance outside the Buffer, should be provided. Mitigation plantings should be accommodated on

Ramona Plociennik

January 10, 2007

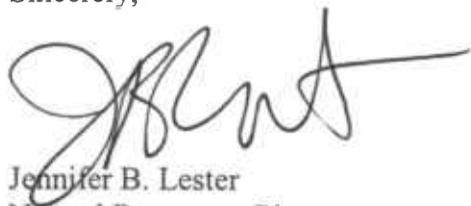
Page 2 of 2

site to the extent possible, particularly in on-forested areas within the Buffer. Plantings should consist of native trees and shrubs.

- 4) If possible, stormwater should be directed away from steep slopes on the site to a stable vegetated outfall or preferably to a best management practice.

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. If you have any additional questions please contact me at 410-260-3481.

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

**STATE OF MARYLAND  
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CHESAPEAKE AND ATLANTIC COASTAL BAYS**

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January 10, 2007

Ms. Ramona Plociennik  
Anne Arundel County  
Office of Planning & Zoning  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

**RE: AA 823-06 David Liddle  
Local Case # 2006-0418-V 2155 Lake Drive**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow disturbance to the 100-foot Buffer for a replacement dwelling. The parcel is 21,850 square feet, located in the LDA, and is currently improved by a log cabin. The applicant is requesting this variance to impact the 100-foot Buffer to replace the existing log cabin with a single-family dwelling. The proposed impervious area will be 3,195 square feet.

Provided that the lot is properly grandfathered we do not oppose this variance. The property is impacted by the 100-foot Buffer and due to the location of Sewage Reserve Areas the applicant is limited in areas to place the dwelling. In addition, the applicant appears to have minimized impacts. If this variance is granted we recommend mitigation at a ratio of 3:1 for impacts to the Buffer. It appears that the applicant has already developed a planting plan to provide the required mitigation for Buffer impacts. In addition to the mitigation provided, any areas disturbed during construction should be replanted with native vegetation.

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. If you have any additional questions please contact 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



Robert L. Ehrlich, Jr.  
Governor



Martin G. Madden  
Chairman

Michael S. Steele  
Lt. Governor

Ren Serey  
Executive Director

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January 8, 2007

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Ms. Ramona Plociennik  
Anne Arundel County  
Office of Planning & Zoning  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

**RE: AA 799-06 My-Chau Nguyen  
Local Case # 2006-0401-V**

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting variances to the 100-foot Buffer and to impact steep slopes. The parcel is 6,137 square feet, located in the IDA, in a Buffer-exempt area, and is currently improved by a house, driveway, deck and access ramp. The applicant is requesting these variances to enclose a residential elevator that will add 46.2 square feet of impervious surface.

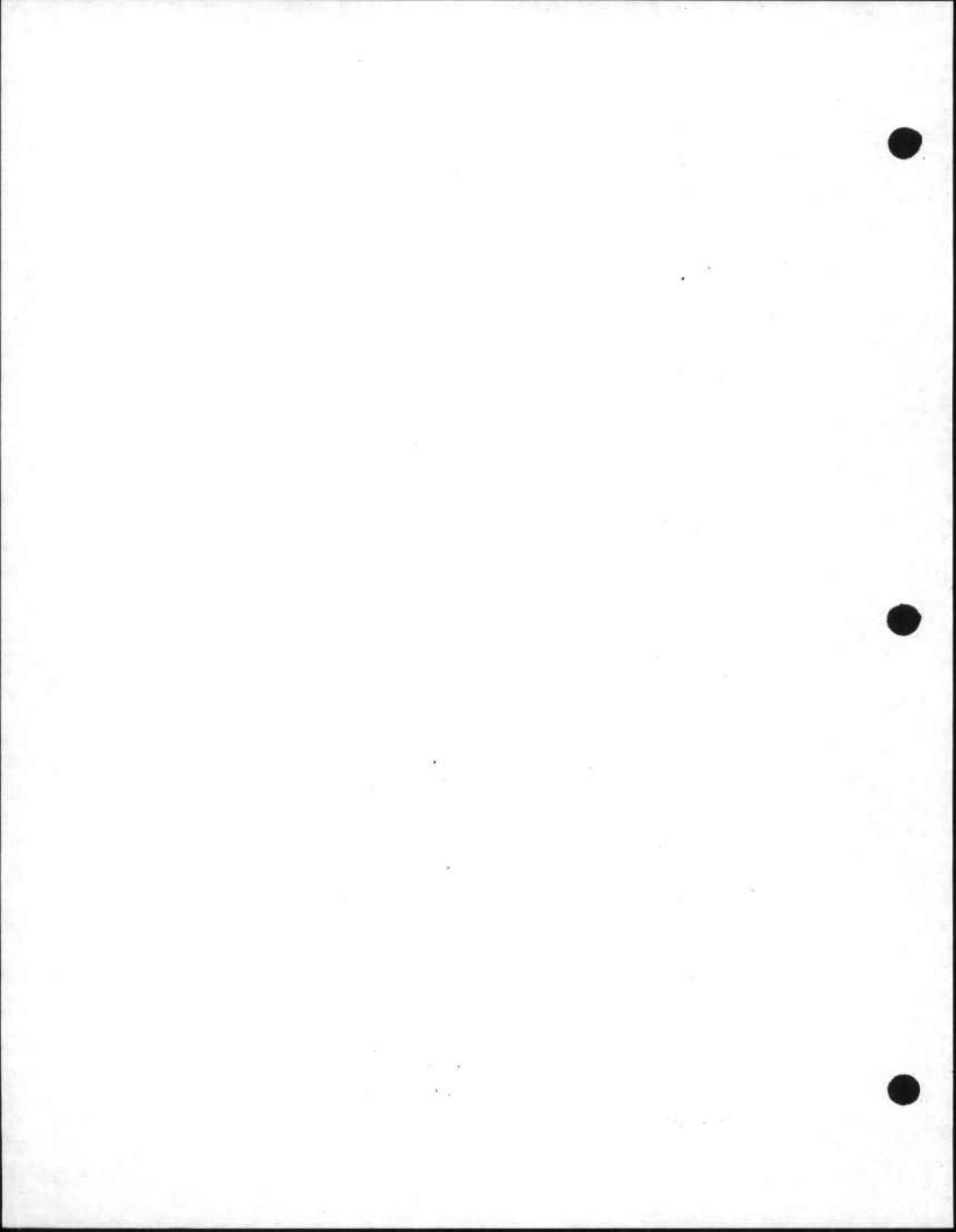
The site plan provided suggests the elevator is needed for reasonable accommodation of a disabled resident. If this is the situation, and the lot is properly grandfathered, we do not oppose this variance. The lot is relatively small and the proposed elevator is not water ward of the existing dwelling. We recommend that any areas disturbed during construction be replanted with native vegetation and that mitigation be provided for impacts to the 100-foot Buffer and for the increased impervious surface.

Please include this letter in the variance application file and provide our office with a written decision in this case. If you have any additional questions please contact me at 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer B. Lester".

Jennifer B. Lester  
Natural Resources Planner



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 22, 2007

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

**RE: SM 22-07 Margaret Hodges Subdivision  
St. Mary's County Project # 06-110-148**

Dear Ms. Veith: *Sue*

Thank you for providing me with additional information regarding the proposed subdivision. I have reviewed this information and the deeds and plats that you provided me with last month. Based on this information, I have summarized my understanding of the parcel history:

1. There is an original survey from June 1886 that depicts 79 acres, identified as Canoe Neck or River View.
2. There is a recorded plat from March 23, 1945 that divides the original 79 acres into Lot 1, Lot 2, and Lot 3. Although difficult to decipher, the acreage of Lot 1 appears to be 39.21 acres.
3. On May 17, 1945, Lot 1 was transferred from Helen Barry to Edwin J. Hodges as described in the deed, Liber CBG 17, Folio 136. The deed identifies the property as Lot 1 and the land area as totaling 39.21 acres.
4. On August 3, 1982, a 2.41 acre lot, identified as Lot 1 was subdivided by deed, and the deed was recorded in Liber 18, Folio 61. The County considers this lot a "grandfathered lot," and there is a dwelling constructed there. The remainder of Edwin J. Hodges's property, 30.56 acres, is also considered a grandfathered lot, and a dwelling is constructed there.
5. On October 27, 1982, Edwin J. Hodges transferred Lot 1, 2.41 acres, to Thomas George Hodges as recorded in Liber MRB 128, Folio 470.



6. On March 11, 1985, Edwin L. Hodges transferred the remainder of the original 39.21-acre, now 36.80 acres to Margaret Hodges Bailey.
7. On July 21, 1993, Margaret Hodges Bailey transferred an agricultural parcel totaling 3.627 acres to Barbara Hodges Link, and the deed was recorded in Liber EWA 796, Folio 340. This parcel, identified as Parcel 328, is not considered a residential building lot.
8. On March 16, 2003, Margaret Hodges Bailey transferred an agricultural parcel totaling 2.622 acres to Louis C. Hodges, and the deed was recorded in Liber EWA 2040, Folio 482. This parcel, identified as Parcel 340, is not considered a residential building lot.

At this time, the property owner is requesting growth allocation, so that the two lots, Parcel 328 and parcel 340, created after the adoption of the Critical Area law and Criteria can be made into legally buildable lots. The property owner is requesting 6.249 acres of growth allocation to change the Critical Area designation of these agricultural parcels from Resource Conservation Area (RCA) to Limited Development Area (LDA). The following comments pertain to the growth allocation request:

1. The subdivision plan does not include complete information about the environmental features of the site including forest cover, soil types, streams, wetlands, etc.
2. The 100-foot Buffer and any required expansion for steep slopes and hydric soils is not shown on the subdivision plan.
3. The applicant has not submitted an environmental report. The environmental report may be brief, but should serve as a supplement to the environmental features information.
4. The Commission has received correspondence from the Heritage Division of the Department of Natural Resources regarding threatened and endangered species and species in need of conservation on the site. The letter from Heritage indicates that there is a heron and egret colony in the area, and it could be affected by the proposed construction of dwellings on Parcels 328 and 340. Additional guidance regarding necessary buffers and/or time of year restrictions is needed. Commission staff is in the process of coordinating with Heritage staff to determine the specific requirements. I am hoping to meet with them in early July, and I will let you know when a meeting has been scheduled.
5. As part of the County's submittal of a formal request for growth allocation to the Commission, the County should address the recently amended provisions of § 8-1808.2(c) of the Natural Resources Article of the Annotated Code of Maryland and all relevant provisions pertaining to the use of growth allocation as set forth in Chapter 41.9 of the St. Mary's County Zoning Ordinance.

Thank you for the opportunity to comment on this project. The comments in this letter are the result of a review of the proposed growth allocation proposal by Commission staff. When the



Ms. Veith  
June 22, 2007  
Page 3

submittal is formally submitted to the Critical Area Commission for review and approval, the Commission may request additional information or identify other issues. If you have any questions about the comments in this letter, please contact me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary B. Owens".

Mary Owens, Chief  
Program Implementation Division



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 14, 2007

Mr. Dan Branigan  
St. Mary's College  
Office of Facilities  
18952 East Fisher Road  
St. Mary's City, Maryland 20686

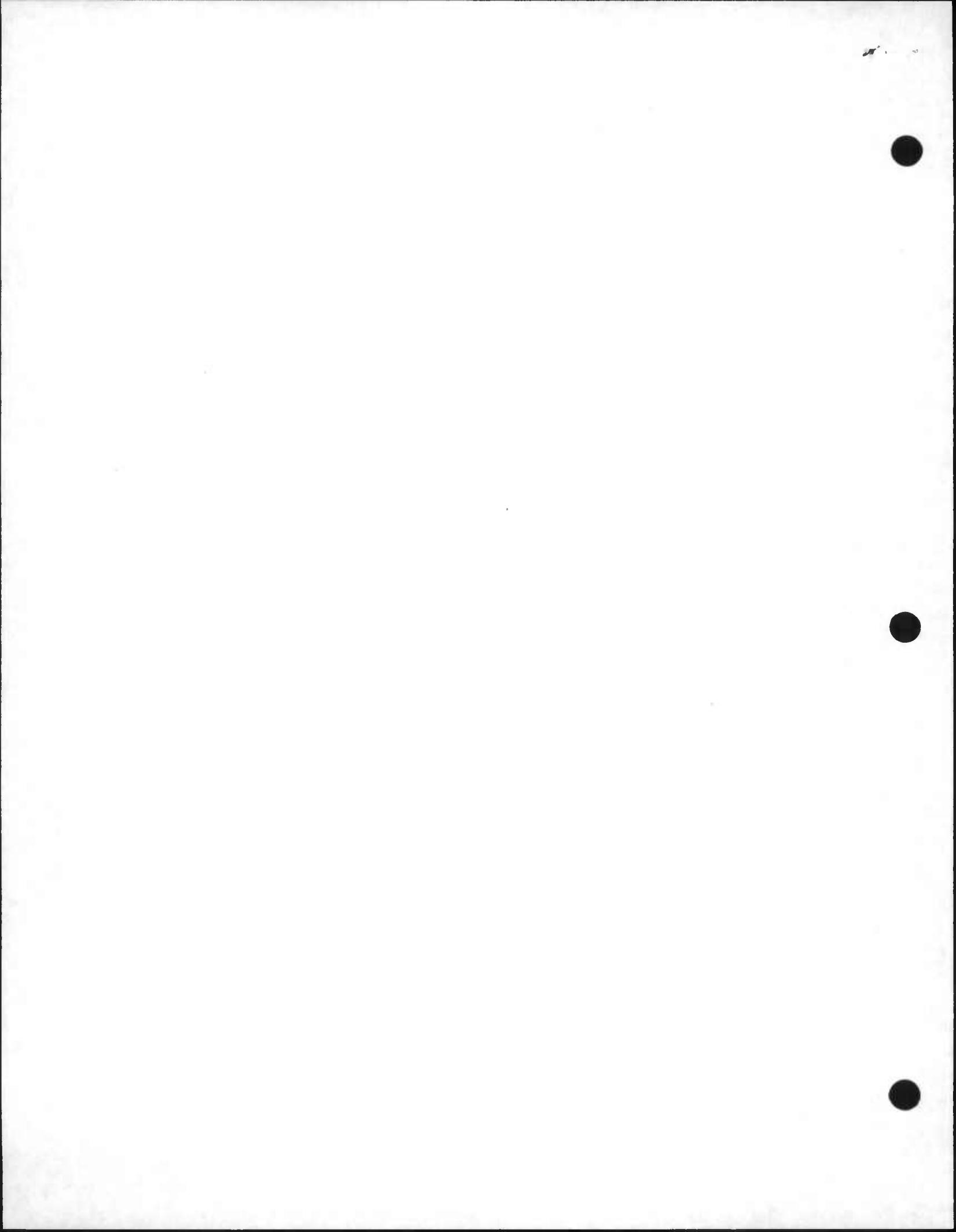
**RE: River Center Mitigation Plan  
St. Mary's College 59-06**

Dear Mr. Branigan:

A handwritten signature in cursive script, appearing to read "Dan", written over the printed name "Mr. Branigan".

Thank you for providing the mitigation plan submitted in accordance with the Critical Area Commission's approval of the River and Rowing Center on March 7, 2007. I have reviewed the Plan, and I have the following comments:

1. The total off-site mitigation requirement was estimated at 23,880 square feet. Has the on-site planting area been finalized, so that the required off-site mitigation can be finalized?
2. Of the total estimated off-site mitigation requirement of 23,880 square feet, 12,500 square feet must be within the 100-Buffer, preferably adjacent to tidal waters or tidal wetlands, and at least 25-feet wide. It does not appear that all of the plantings in Planting Zone A and Planting Zone B meet these requirements. Can the planting shown on the second sheet (Planting Zone C?) be expanded? That location is more desirable in terms of water quality and habitat benefits.
3. The proposed mitigation areas total 11,250 square feet, and a total of 23,880 square feet of mitigation are required. Where will the additional mitigation be located?
4. *Vinca minor* is not a species that is native to the Chesapeake Bay watershed, and it is highly invasive. There are numerous herbaceous plant species and vine species that are similar in appearance and require the same type of habitat. Please refer to the U. S. Fish and Wildlife Service publication *Native Plants for Wildlife Habitat and Conservation Landscaping – Chesapeake Bay Watershed* for acceptable alternatives.

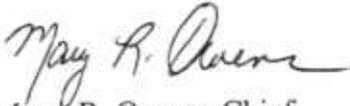


Mr. Branigan  
June 14, 2007  
Page 2

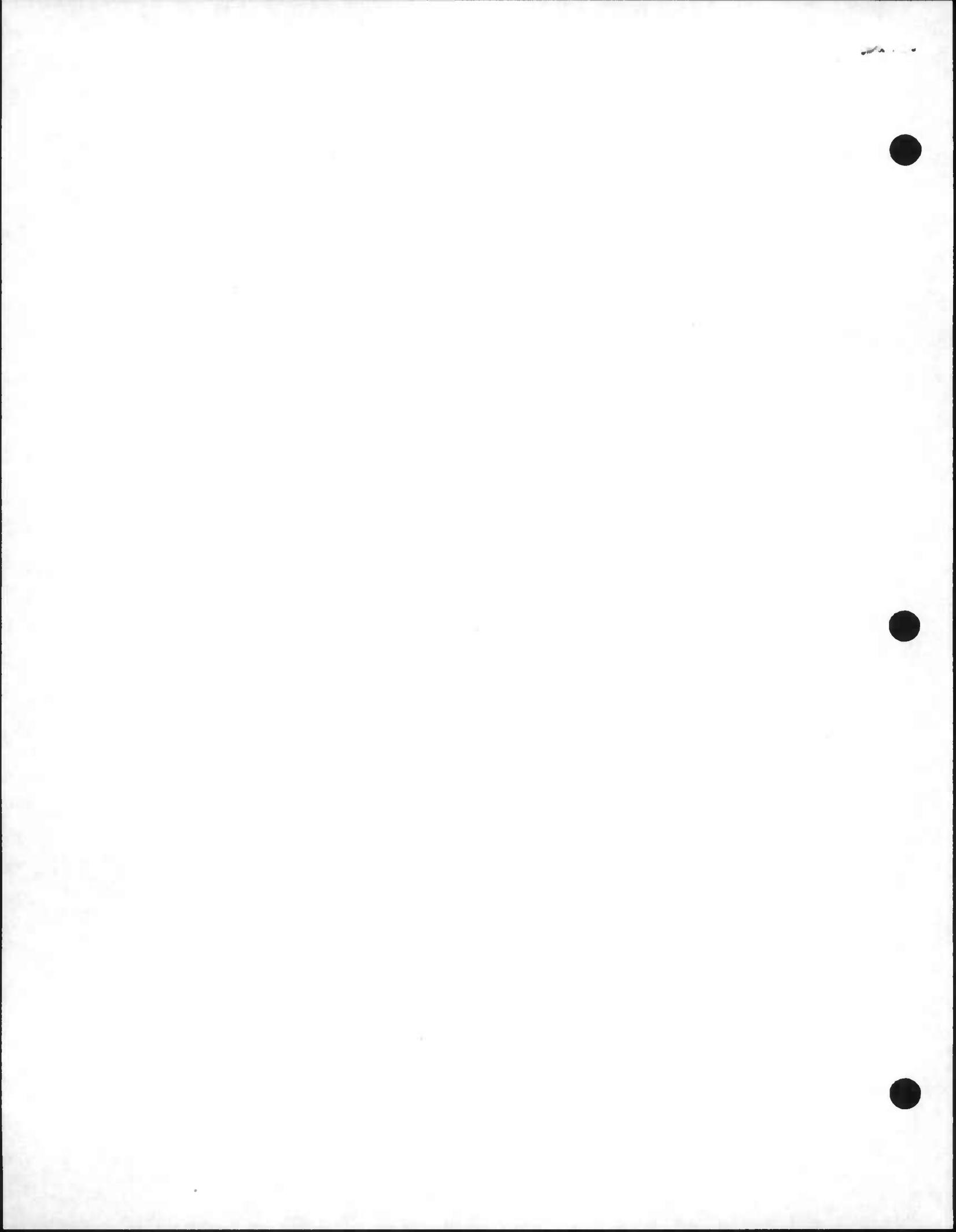
5. It is strongly recommended that a complete landscape schedule that includes the quantity (total number of plants), size (6-foot tall, 3 gallon, etc.), and stock-type (container, balled and burlapped, etc.) be prepared for each Planting Zone in order to make sure that the right number of plants are planted in each location.

Thank you for the opportunity to provide comments on the proposed River Center Mitigation Plan. If you have any questions, please feel free to contact me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief  
Program Implementation Division



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chairman

Ren Serey  
Executive Director

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June 7, 2007

Ms. Suzanne Schappert  
Office of Planning and Zoning  
Anne Arundel County  
P. O. Box 6675  
Annapolis, Maryland 21401

**RE: Bill No. 22-07  
Critical Area Map Amendment for Wright Investment, Inc.**

Dear Ms. Schappert:

Thank you for providing the above-referenced Bill and related Critical Area Map. The Commission staff has accepted the information as a complete submittal. The Chair will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will advise you of her 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





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May 30, 2007

Mr. Bill Watson  
Town of Chesapeake Beach  
P. O. Box 400  
Chesapeake Beach, Maryland 20732

**RE: Fortier Variance  
CB 574 – 03 Lot 31 Wickersham**

Dear Mr. Watson:

I am writing in response to the Town's request for comments on a revised Mitigation Plan for the referenced variance request. The variance is requested to allow the disturbance of 4,104 square feet of expanded Buffer in order to construct a single family dwelling and driveway and to provide utilities to the dwelling. I have reviewed the Mitigation Plan, and I have the following comments:

1. The drawing does not reflect the quantities of canopy trees, understory trees, and shrubs that are described in the "Street Tree and Understory Planting Schedule." At least two of the "forest units" receiving 400 square feet of credit should be located on the project site; therefore, two canopy trees should be shown on Lot 31.
2. The notes below the "Street Tree and Understory Planting Schedule" that describe the requirement for an additional 37 shrubs and 3 understory trees are unclear and confusing and do not appear consistent with the "Notes" on the left side of the sheet. The "Schedule" should indicate the correct total quantity, and the drawing should show the approximate location of all plantings.
3. The "Notes" state under Protective Easement that the Credit Rate is 1:3 within the Critical Area Buffer and 1:1 outside the Critical Area Buffer. This is incorrect, the Credit Rate is 1:3 for conservation of forested land designated Intensely Developed Area (IDA).

Thank you for the opportunity to comment on the Mitigation Plan. If I can provide further assistance, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens, Chief  
Program Implementation Division





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May 14, 2007

Mr. David Kibler  
Town of Greensboro  
P.O. Box 340  
Greensboro, Maryland 21639

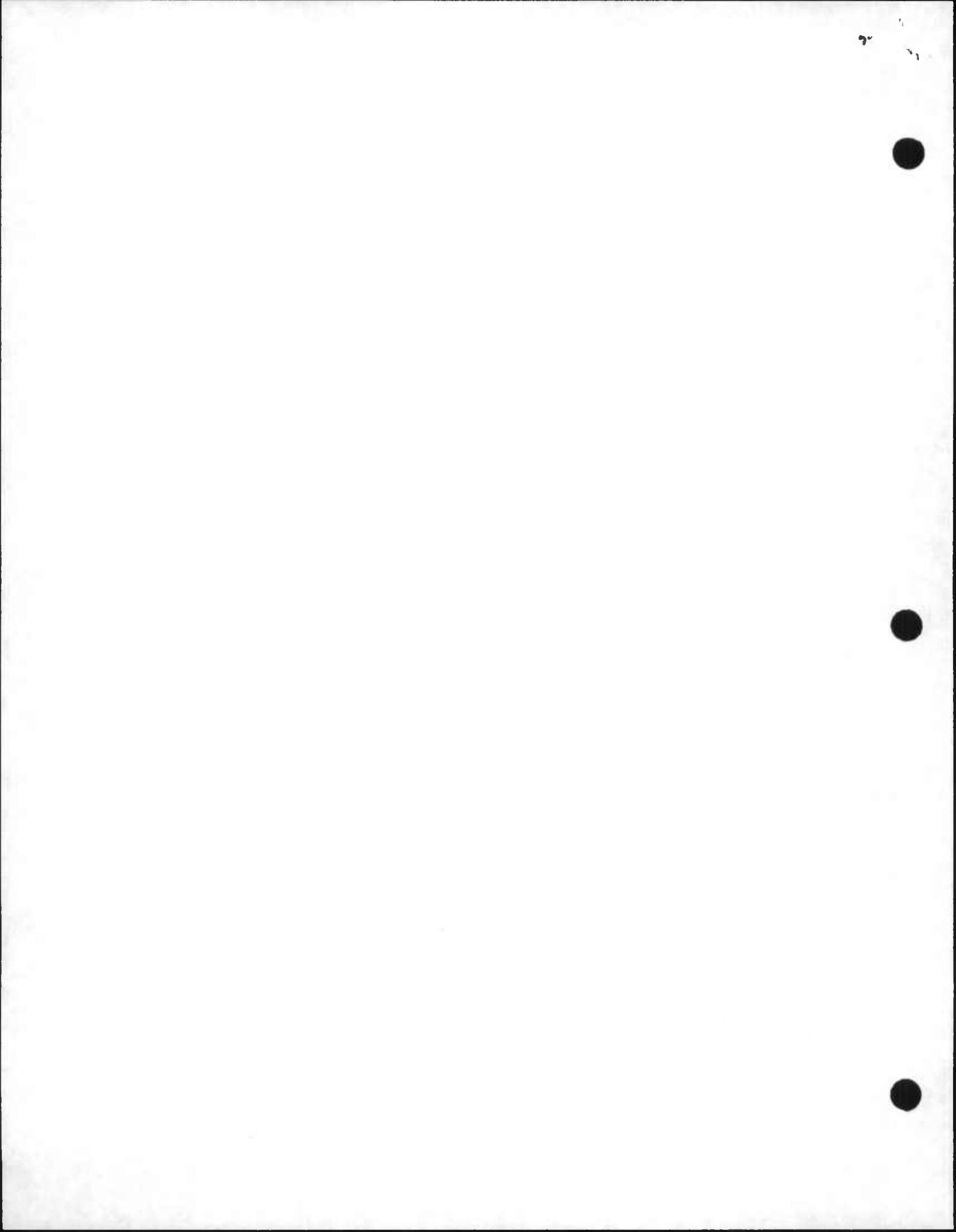
**RE: Draft Ordinance**

Dear Mr. Kibler:

Thank you for providing the additional information that was discussed at the meeting on March 21, 2007. I have reviewed the information that you provided and the proposed zoning ordinance amendments that were approved by the Town Planning Commission on March 20, 2007. I have also discussed the proposal with Ren Serey, the Executive Director of the Commission, and Marianne Dise, the Commission's legal counsel.

In reviewing the Town's proposal, I have several concerns that I believe may be shared by the Commission if they were to review the proposed zoning ordinance amendments pertaining to the "Application of Adjacency Guidelines." Over the last several years, the Commission has reviewed numerous growth allocation requests from several jurisdictions. These requests have varied in their size and location, and the projects themselves have varied in their use and intensity. In spite of this diversity, several important concepts have evolved that the Commission believes are particularly germane to their role in the review and approval of growth allocation requests and that are applicable to the Town's proposed ordinance. These concepts are:

- Isolated parcels or regions of Limited Development Area (LDA) or Intensely Developed Areas (IDAs) are not desirable in the Critical Area because they can promote fragmentation of habitat and a sprawl pattern of development. Locating growth allocation projects so that they are adjacent (adjoining) land with the same or a more intense Critical Area classification is an effective way to ensure that development is concentrated.
- The adverse environmental impacts that often accompany more intense land uses and development can usually be more effectively managed and mitigated when they are concentrated in the same area. Locating similarly developed areas near each other facilitates the sharing of public utilities, stormwater systems, and infrastructure, which can minimize adverse environmental impacts.



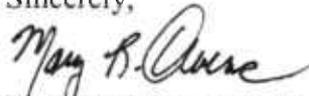
Mr. Kibler  
May 14, 2007  
Page 2

- In order to ensure that new IDAs are located where they minimize their impacts to the defined land use of the Resource Conservation Area (RCA), it is appropriate to provide buffers, setbacks, transitional areas, zoning restrictions and development performance standards because these tools serve to create a protective transition zone between RCA lands and uses and IDA lands and uses. These measures are often necessary because more intense land uses tend to be in conflict with the defined land uses of the RCA, agriculture, forestry, fisheries activities, and aquaculture. Locating new intense uses in the RCA without appropriate protective measures can compromise the continued viability of the RCA uses and may ultimately contribute to sprawling development patterns.
- In addressing the application of the locational guidelines and specifically adjacency, the Commission is concerned with ensuring to the degree possible, that a consistent approach is used. If a jurisdiction determines that there are certain situations where the adjacency guidelines should not be strictly applied, the jurisdiction should develop alternative provisions that will provide the necessary flexibility while still meeting the purposes, policies, goals and provisions of the Critical Area law and Criteria. The Commission has specifically discussed that provisions allowing the creation of a single residential lot or the use of a growth allocation project point system can be appropriate. The provisions should not be specific to a certain project, but rather should be generally applicable to situations where the jurisdiction finds that a more creative approach is warranted.

In evaluating the Town's proposal for revisions to the Town's zoning regulations, I believe that the Commission may find that while the 100-foot wide forested buffer may serve to ameliorate conflicts created by locating incompatible land uses next to each other, the numerous exceptions would render it largely ineffectual. As you are aware, the Commission is generally concerned about maintaining consistency throughout the State as jurisdictions make changes to their Critical Area Programs. This is not to say that the Commission believes that a standardized approach or formula must be used, but rather that provisions developed by a local government should not be based on a specific property or situation, and should be broadly applicable and validly defensible.

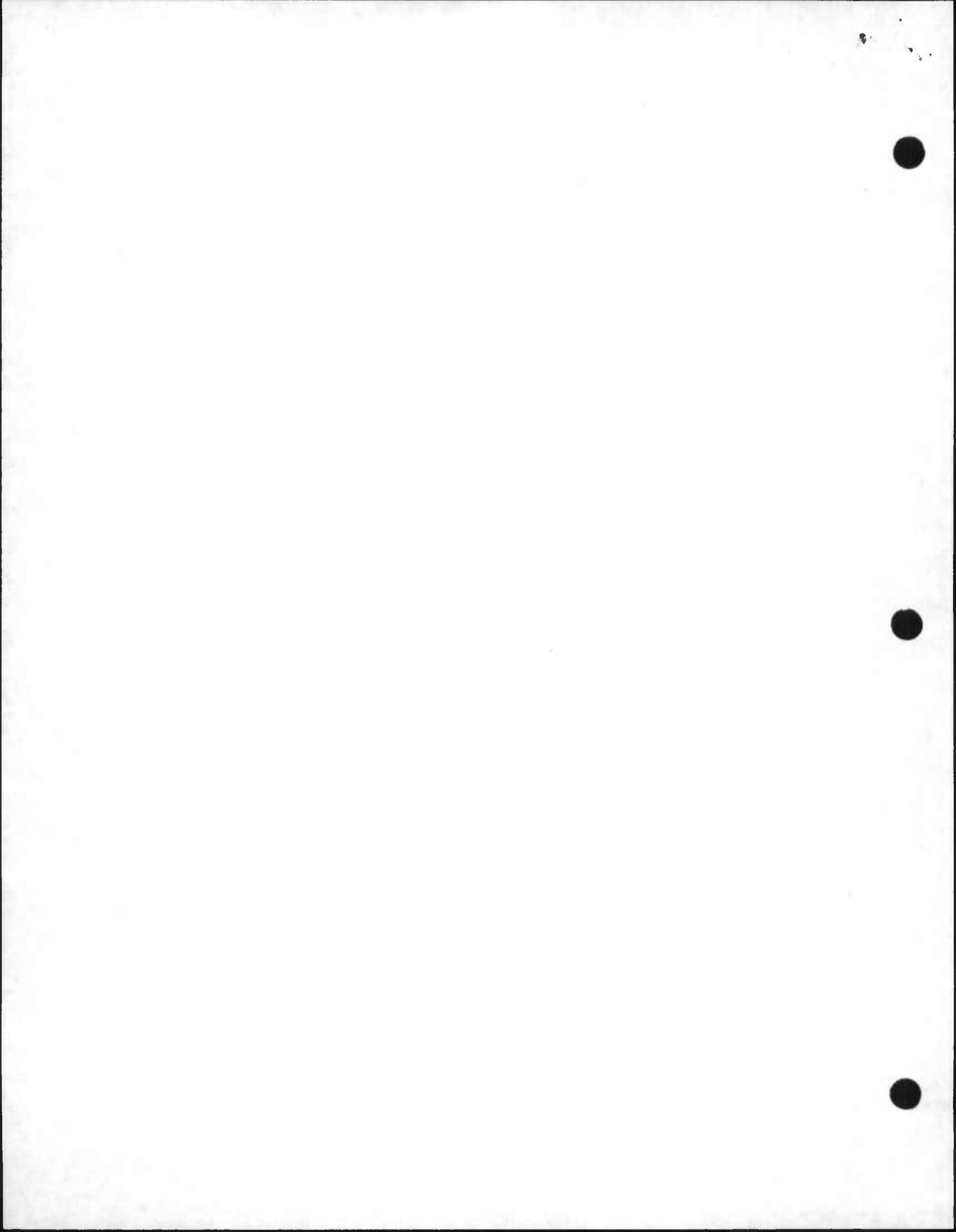
If you would like the opportunity to discuss the proposed zoning ordinance amendment with the Program Subcommittee of the Critical Area Commission, arrangements can be made for the meeting on June 6, 2007. If you have any questions about this letter or would like to discuss the matter with the Program Subcommittee, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Roby Hurley, MDP  
Marshall Johnson





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May 10, 2007

Mr. Douglas B. McCoach, III  
Baltimore City Planning Commission  
417 East Fayette Street, Eighth Floor  
Baltimore, Maryland 21202-3416

**RE: Growth Allocation**

Dear Mr. McCoach:

I am writing in response to your letter and our conference call regarding the Baltimore City Critical Area Maps, the LaFarge Parcel, and the status of the City's growth allocation. Thank you for providing the additional maps, aerial photography, and Middle Branch Park information. Based on the information that you have provided and a review of the Commission's copy of the City's official Critical Area maps, Commission staff believe that the property is designated Intensely Developed Area (IDA). I have copied the relevant portion of the Commission's map for the City and it is included as Enclosure (1). The cross-hatched area indicates IDA, and the "forested" area indicates Resource Conservation Area (RCA). It appears that a tributary stream that flows into Middle Branch creates the physical division between the IDA and RCA. I have also reproduced the Commission's map for the City at the same scale as the drawing you provided labeled "Critical Area Mylar," and I used that drawing to locate the LaFarge Parcel on the map. It is shown in pink on Enclosure (2). I believe that the Commission's maps are consistent with the City's.

With regard to the question regarding growth allocation, Commission staff believes that the City's original growth allocation acreage was 22.4 acres, which equals five percent of 448 acres. As we discussed, if the City's electronic mapping indicates that the original RCA acreage was incorrect, then the growth allocation acreage should be adjusted accordingly. In 1989, the Commission approved the use of approximately 16 acres of growth allocation for the Arundel Cove area. Assuming that the City started with 22.4 acres of growth allocation and 16.0 acres were used in 1989, then the City would have 6.4 acres of growth allocation remaining. However, § 8-1808.1(c)(3) of the Natural Resources Article of the Annotated Code of Maryland states that no more than half of the expansion [growth allocation] may be located in RCAs.



Mr. McCoach

May 10, 2007

Page 2

It is not clear how the Commission approved the use of more than half of the City's growth allocation in the RCA, although our records do not indicate, it is possible that they considered the Arundel Cove request to be an "interim growth allocation project." "Interim growth allocation projects" were those projects that had been initiated, but had not received final approval or been recorded by the date of local Program adoption and therefore were not grandfathered under the local regulations.

At this time, Commission staff believes that although the City has 6.4 acres of growth allocation remaining, under § 8-1808.1(c) (3) of the Natural Resources Article of the Annotated Code of Maryland, it cannot be used in the RCA. Because the City does not have any Limited Development Areas (LDAs), the remaining growth allocation cannot currently be used by the City.

Thank you for providing the Commission with the information necessary to make a determination regarding the LaFarge Parcel and for providing additional background about the City's growth allocation acreage. If you have any questions or would like to discuss this matter further, please do not hesitate to call me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief  
Program Implementation Division

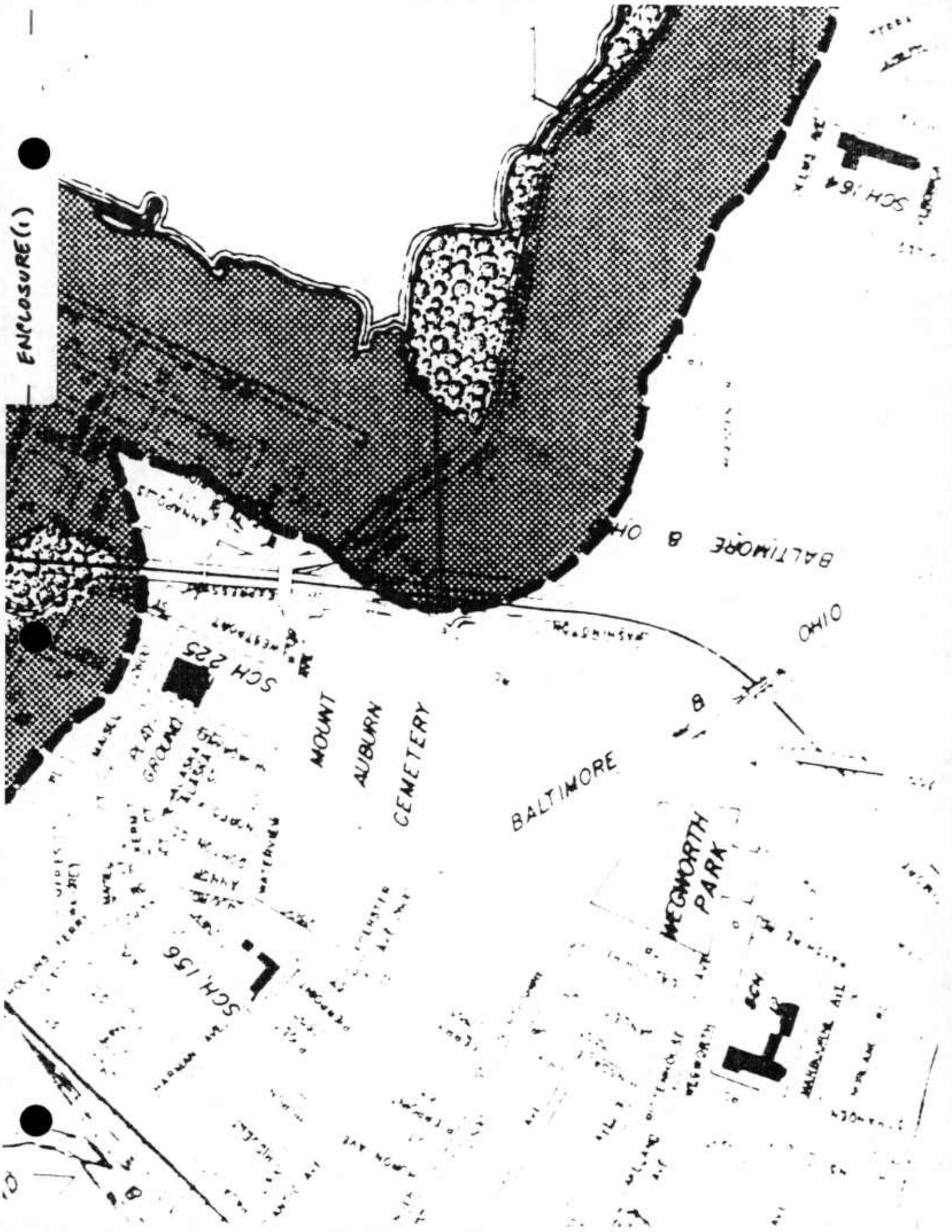
cc: Beth Strommen, City of Baltimore  
Duncan Stuart, City of Baltimore  
Ren Serey

Enclosures (2)



ENCLOSURE (1)

SCH 164  
L  
YLMW 92



BALTIMORE B OH

OHIO

BALTIMORE

MEG WORTH  
PARK

SCH 156  
L

SCH 225  
L

MOUNT  
AUBURN  
CEMETERY

SCH  
L



ENCLOSURE (2)

SCH 164



MOUNT  
AUBURN  
CEMETERY

BALTIMORE

MEGWORTH  
PARK

SCH 156

SCH 225

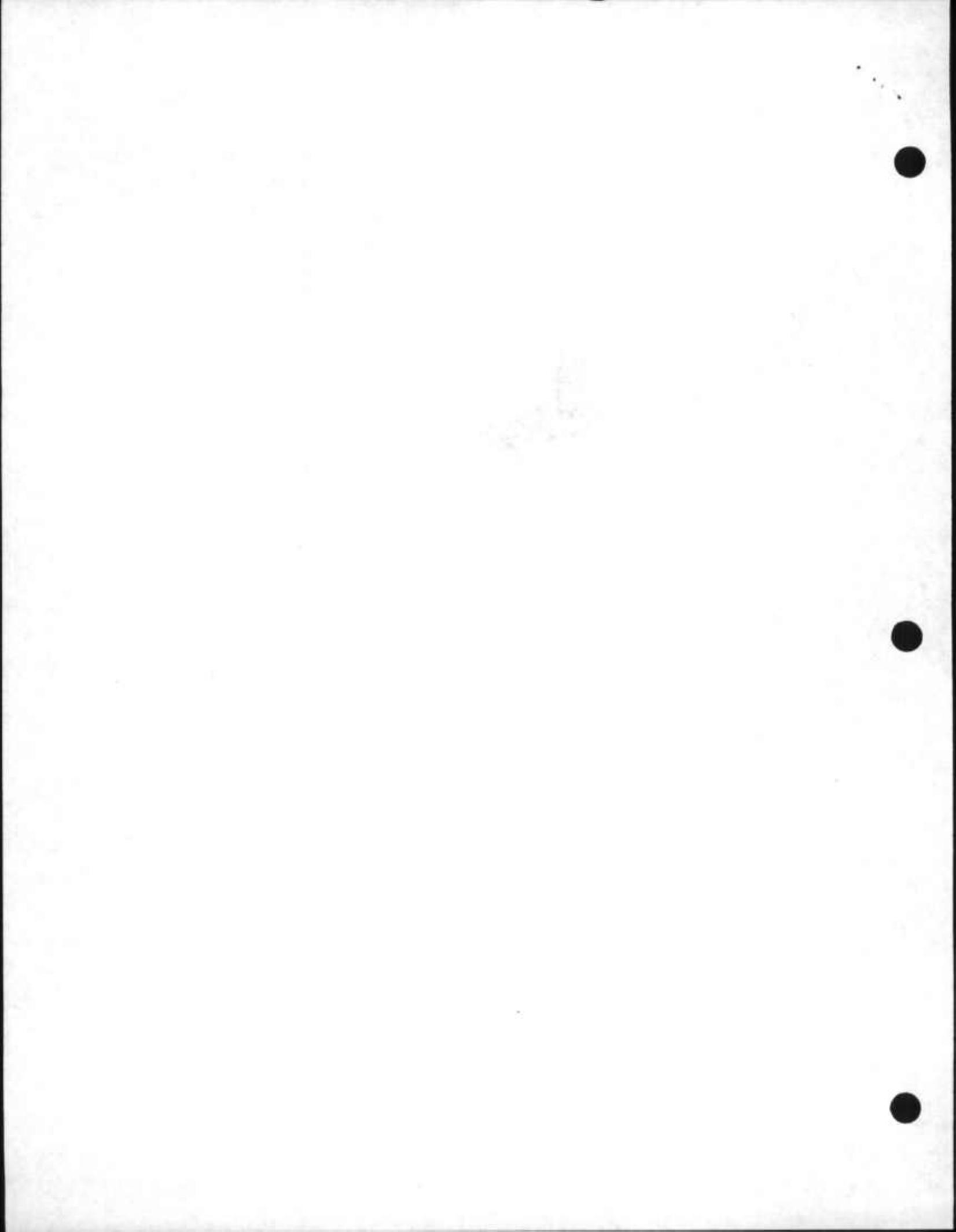
SCH 157

MARYLAND AVE

OHIO

BALTIMORE B OH

W. BALTIMORE AVE





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May 10, 2007

Mr. Blaine Smith  
Town of Ocean City  
Planning and Community Development  
P.O. Box 158  
Ocean City, Maryland 21843

**RE: 201 60<sup>th</sup> Street, Fager's Island**

Dear Mr. Smith:

I am writing to follow up on our telephone conversation regarding the site visit the Critical Area Commission staff made to the Fager's Island Project site on April 10, 2007. As we discussed, the property owner requested an amendment to a building permit while construction was underway. An authorization was improperly issued in the field to allow the construction of a masonry bar, without the necessary Critical Area review. As a result, impervious structures were constructed in the Buffer Management Area 25-foot setback, which is prohibited by the Ocean City Critical Area Ordinance. There were also several fire pits constructed in the "Garden Area," and it is not clear if these are also located within the 25-foot setback.

In response to your request for recommendations from the Commission as to how to resolve the issue, staff offers the following:

- The applicant shall have an as-built survey and site plan of the entire Fager's Island Restaurant and Bar property prepared by a licensed surveyor or engineer. The plan shall include all existing, buildings, decks, walkways, parking areas, H.V.A.C. facilities, planters, bars, gazeboes, and fire pits on the property. The plan shall also include the 25-foot Modified Buffer Area Setback.
- The applicant explained to Commission staff that he frequently makes minor modifications to the exterior of the building and "moves things around." The applicant should be required to officially amend his site plan and have it dated and stamped by a licensed professional whenever he obtains necessary permits from the Town.



Mr. Smith

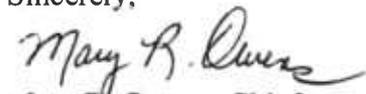
May 10, 2007

Page 2

- If the Town supports the applicant's proposal to keep the after-the-fact masonry bar (and fire pits if applicable), based in part on the improper field authorization, the Commission staff recommends that the applicant request a variance.
- As part of the Board's evaluation of the applicant's proposal, Commission staff recommends consideration of all of the following mitigation measures:
  1. An area of impervious surface equivalent to the area of the bar (and fire pits if applicable) shall be removed from or relocated outside the 25-foot setback. The applicant may determine what impervious structures will be removed. The applicant shall plant the area or an equivalent area on the site with native trees, shrubs, and grasses (not lawn grass). It appears that removal of the gazebo and modification of a portion of the parking lot are possible options.
  2. The location of the 25-foot setback shall be permanently identified on the site through the installation of decorative markers, light fixtures, plantings, or similar devices that can be used to determine the location of the setback in the field. The applicant may work with Town staff to determine the number and type of permanent identifying markers to be used. The markers will allow the applicant to plan for, and make modifications to his site and still remain compliant with the 25-foot setback requirement.
  3. A minimum of three educational signs shall be installed in the "Garden Area" or in the deck area that provide information about the Critical Area Program for the Atlantic Coastal Bays and the importance of riparian buffers for wildlife habitat and water quality. The applicant may work with Town staff and Commission staff to identify appropriate topics and content for the signs.

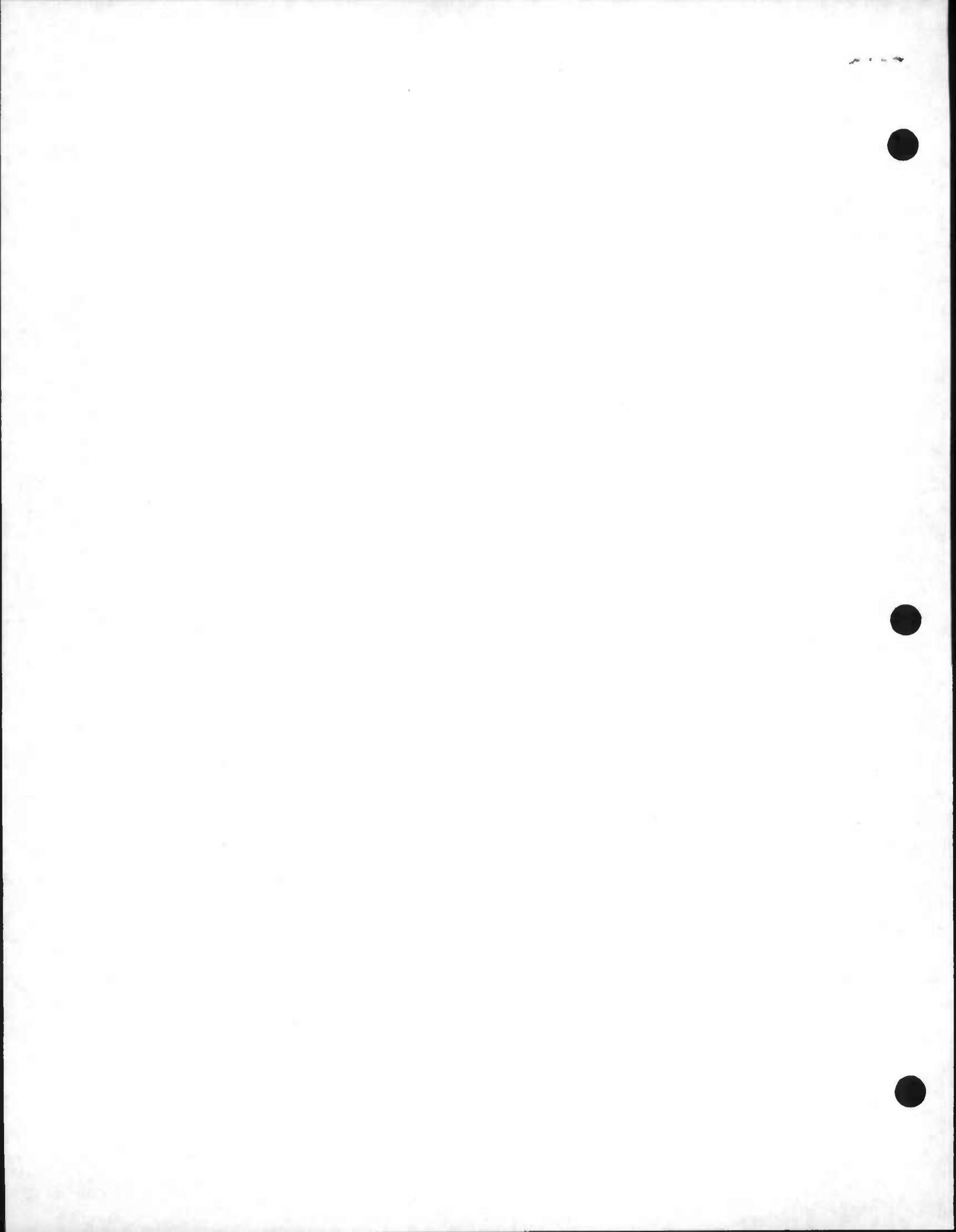
Thank you for requesting assistance from the Commission in resolving this unfortunate situation. As we discussed, changes made in the field can sometimes result in improper authorizations. It is anticipated that the clear delineation of the 25-foot setback on this site will avert similar situations in the future, and the signage will educate visitors and residents about the importance of the Town's Atlantic Coastal Bays Program. If you have any questions or would like to discuss this matter further, please do not hesitate to call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Nick Kelly





STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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March 27, 2007

Mr. Douglas P. McCoach, III  
Baltimore City Planning Commission  
Charles L. Benton, Jr. Building  
417 East Fayette Street, Eighth Floor  
Baltimore, Maryland 21202-3416

**RE: Offset Fee Project Approval Request**

Dear Mr. McCoach:

I am writing in response to your letter dated January 29, 2007 regarding the use of the City's Buffer Offset Fund to support the Bon Secours of Maryland Foundation's restoration efforts and Greenmount West, Hollins Market, and Johnston Square. Thank you for providing information describing the projects and the expenditures associated with the acquisition of trees, shrubs, wildflowers, and related planting materials. It is my understanding that the City proposes to use \$67,130 collected to offset 26,852 square feet of impacts to the Buffer, to restore and revitalize 297,000 square feet of vacant lots in the City. Currently, the lots are either paved or the soil is so severely compacted that the properties do not support any natural vegetation nor allow for any infiltration of rainwater or stormwater.

Based on the information provided, the Commission supports the use of \$67,130 of Buffer Offset Fees to assist the Bon Secours Foundation in implementing these restoration efforts. Thank you for the opportunity to comment on this project, and we look forward to seeing it completed.

Sincerely yours,

Mary R. Owens, Chief  
Program Implementation Division

cc: Mr. Gary Letteron, Baltimore City DOP  
Mr. Duncan Stuart, Baltimore City DOP  
Nick Kelly, CAC





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March 21, 2007

Mr. Gary Mott  
650 Ritchie Highway  
Severna Park, Maryland 21146

**RE: Tax Map 65, Grid 12, Parcel 56 – Lot 1**

Dear Mr. Mott:

I am writing to follow up on our recent telephone conversations regarding the referenced property located in Queen Anne's County. As we have discussed, you are planning to buy 28 acres that is located within the Critical Area and is designated Resource Conservation Area (RCA). The property is currently in agricultural use, and you plan to use approximately one acre to build a residence and maintain the rest of the property in agricultural use with a barn, pastures, and fields planted in hay. It is my understanding that you will be keeping several horses as part of your agricultural operation.

In COMAR 27.01.02.05.A, RCAs are described as "...those areas characterized by nature-dominated environments (that is wetlands, forest, abandoned fields) and resource utilization activities (that is agriculture, forestry, fisheries activities, or aquaculture). For purposes of implementing the Critical Area law and Criteria, a definition of agriculture is also provided. COMAR 27.01.01.B(2) states that, "agriculture means all methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products."

Based on your description of the proposed agricultural use of your property to feed, maintain, and house horses, as well as grow, cut, and bale hay; it appears that your proposed use of the property is consistent with the resource utilization activities that are permissible within RCAs within the Critical Area.

If you have any questions, please do not hesitate to 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





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March 15, 2007

Ms. Sue Veith  
St. Mary's County Government  
Department of Land Use and Growth Management  
P.O. Box 653  
Leonardtown, Maryland 20650

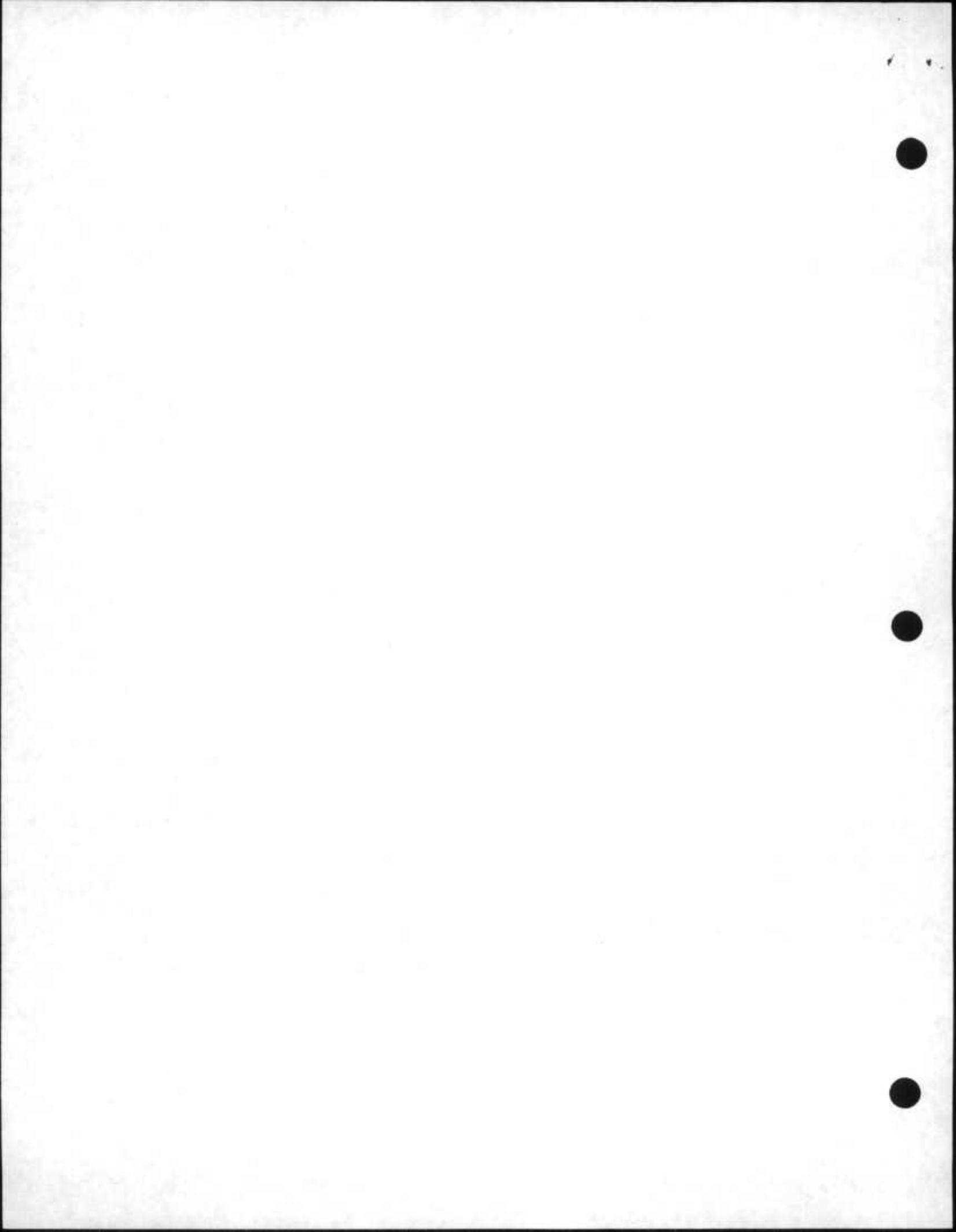
**RE: SM 159-05 St. Jerome's Branch  
Critical Area Boundary Extension**

Dear Ms. Veith: *Sue*

I am writing to follow up on information I have received from the applicant's attorney regarding the referenced Critical Area boundary extension that we discussed last summer and earlier this year. I have reviewed this information and also solicited comments on the overall proposal from the Critical Area Commission's Science Advisor, LeeAnne Chandler.

The applicant owns three parcels of land on Fresh Pond Neck Road. Two of the parcels totaling 0.683 acres are designated Limited Development Area (LDA). The third parcel, totaling 71.540 acres, consists of approximately 56.131 acres within the Critical Area and designated Resource Conservation Area (RCA), and 14.726 acres outside the Critical Area. The applicant is proposing to expand the Critical Area boundary to include the 14.726 acres outside the Critical Area, tear down an existing house on one of the LDA parcels, and abandon the "grandfathered" development right on the second LDA parcel. If the Critical Area boundary extension is approved, the applicant is proposing to create three large waterfront lots: Lot 1 will be 39.81 acres, Lot 2 will be 15.51 acres, and Lot 3 will be 16.14 acres. Portions of each lot are currently forested and as part of this proposal, additional acreage that is currently in agricultural use will be forested and protected by a conservation easement. Without the extension, the applicant would only be able to construct two dwellings on the waterfront parcel designated RCA.

As we have discussed, the Commission has reviewed a few proposals for extension of the Critical Area in the last 10 years. The Commission evaluates proposals for expanding the Critical Area on specific properties using the guidelines and standards set forth in the Commission's "Policy for Extension of the Critical Area," which was adopted on December 6, 1989. In June 2006, the applicant's attorney submitted an analysis of the proposal relative to the Commission's



policy and also provided an "Environmental Assessment and Evaluation for Critical Area Extension, Millison/St. Jerome Property, Scotland, St. Mary's County, MD." I have reviewed this information, and I have several concerns that should be addressed.

The Commission's policy document states that extension of the Critical Area should result in improvement of water quality or water quality protection, improvement in plant and wildlife habitat, or reduced adverse human impacts. The policy then specifies that the proposal must meet one of the specific justifications in each of three categories: habitat protection, water quality, and minimization of adverse impacts from the number and movement of people.

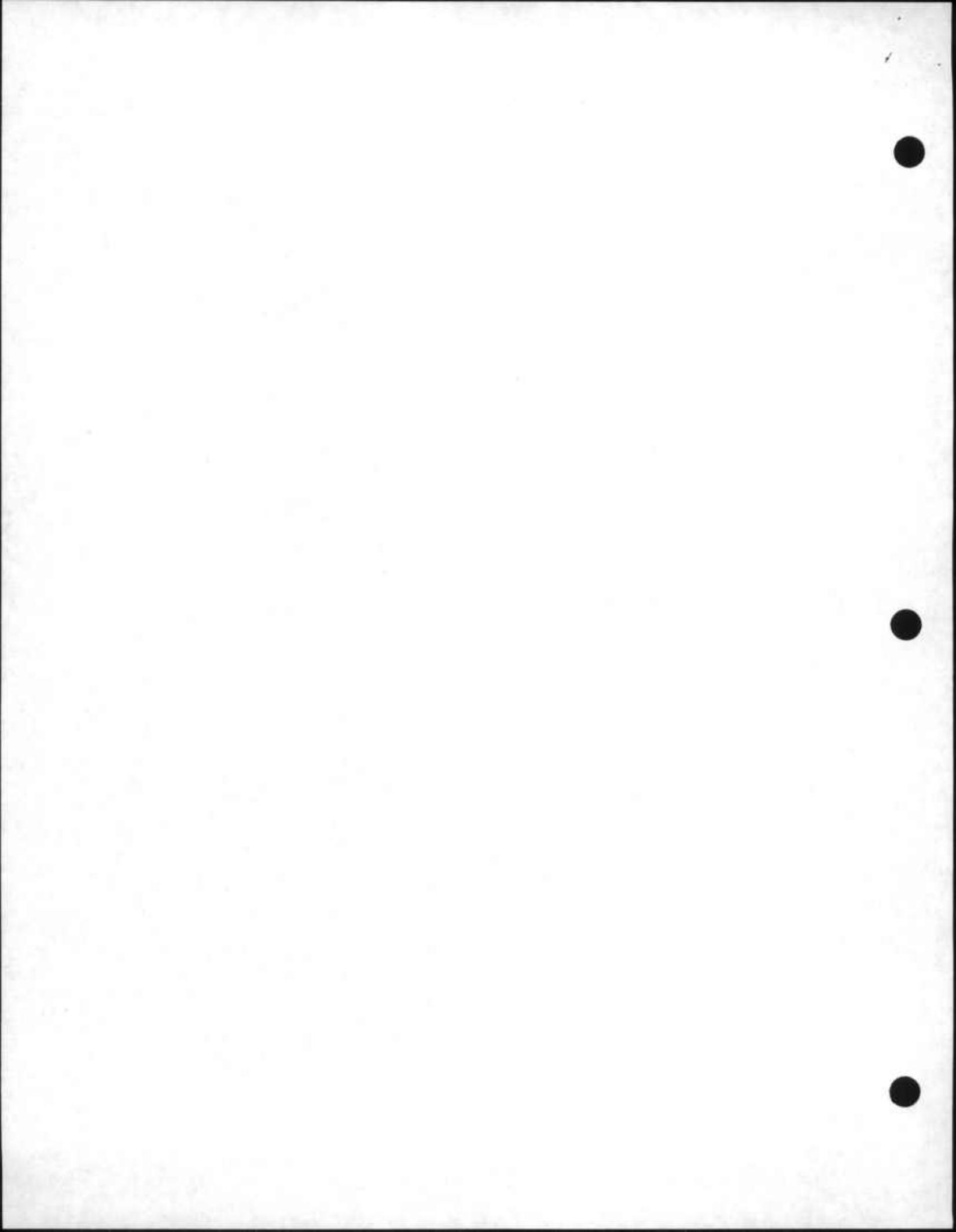
#### Habitat Protection

The applicant's environmental assessment discusses the possibility that the site may contain rare, threatened, or endangered plant species; however, no specific information from the Heritage Division of the Department of Natural Resources has been provided. The environmental assessment also indicates the possibility that ten Forest Interior Dwelling Bird Species (FIDS) may use the forested portions of the property and that the 15-acre forested area outside the Critical Area is part of a larger, 270-acre contiguous forest tract. Documentation from the Heritage Division of DNR has not been provided to verify this information.

Assuming that FIDS habitat is present on the site and in consideration of the Habitat Protection Guidelines included in the Commission's policy document, increasing FIDS habitat on the site and providing for permanent conservation of the habitat can be used to justify an extension of the Critical Area. In accordance with the Commission's publication, *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area* (June 2000), FIDS habitat is assumed to be present when there are, "Forests at least 50 acres in size with 10 or more acres of 'forest interior' (i.e. forest greater than 300 feet from the nearest forest edge).

The applicant's proposal includes planting 19.24 acres of forest for a total forest area of 50.43 acres. Unfortunately the configuration of the proposed planting will only result in a total of 34.28 acres of FIDS habitat on the property with 7.47 acres of FIDS interior because much of the planting is within the 100-foot Buffer and is not of sufficient width to be considered viable FIDS habitat. (See Attachment A.) Based on additional analysis by the Commission's Science Advisor, planting additional acreage on the lots could result in 50.14 acres of FIDS habitat with 15.54 acres of FIDS interior. (See Attachment B.) The latter planting configuration would meet the definition of FIDS habitat and satisfy the habitat goals of the Commission's policy.

The information submitted by the applicant does not include any information regarding how the proposed afforestation will be implemented. It is not clear if this will be accomplished by the developer or become the responsibility of the individual lot owners. It is also not clear how long it will take to establish the forest and for the forest to become viable as FIDS habitat. This information would allow the Commission to more accurately assess the value of the area proposed for extension.



#### Water Quality

The applicant's submittal proposes that water quality benefits are provided by the extension proposal because most of the extension area consists of forested nontidal wetlands. There is no discussion as to how or why this area is key to local protection of water quality due to hydrologic characteristics, although the environmental assessment indicates that the wetlands could be of relatively high quality. Although long-term protection and conservation of this area is desirable, it is unlikely that this area could be developed. It is not clear if this area may contain habitat for any rare, threatened, or endangered species, which could benefit from additional conservation measures.

#### Adverse Impacts From the Number and Movement of People

The Commission's policy indicates that dwelling units allowed by extending the Critical Area should be built in the extended area unless the extended area has greater water quality and habitat value than the original Critical Area. The additional dwelling unit is proposed to be located in the original Critical Area and all three proposed dwellings and septic systems are proposed to be located within 300-feet of tidal waters and wetlands. The 100-foot Buffer on each lot is required to be forested; however, the dwellings and associated accessory residential uses and activities will affect the habitat value of the Buffer and the shoreline. Of significant concern is that large portions of each lot will be converted to residential use and not forested (approximately 6.9 acres on Lot 1, 5.7 acres on Lot 2, and 6.9 acres on Lot 3). Except for the portions of the property that are developed for the dwellings and driveways, it is likely that these areas will be managed as a lawn. Mowing, the use of pesticides, and fertilizing are human activities that can cause adverse impacts on water quality and habitat. Increasing the forest cover on each lot would provide additional water quality and habitat benefits and would help to minimize the adverse impacts of a third dwelling.

Because the lots are large, it is likely that there may be significant impervious surface area near the shoreline. The applicant's proposal does not include any information about how stormwater is proposed to be managed for water quality and quantity.

Each lot is proposed to include an individual private pier. The applicant's proposal shows a cleared area, approximately 50-feet wide through the Buffer to provide access to each pier. Reasonable access to a pier is generally considered to consist of a path three-feet wide and associated clearing of no more than six-feet wide. There is also no information regarding how the Buffer will be established and protected. Often when large waterfront lots with extensive areas of shoreline are created, establishing and maintaining the Buffer in forest vegetation can become extremely difficult.

It is possible that the property owners may want to install some type of shoreline erosion control measure. Nonstructural practices may be appropriate at this location and would minimize the impacts of human activities on the intertidal zone. The application does not include any information about proposed shoreline erosion control measures and whether they would be limited to certain practices that provide environmental benefits.



Ms. Veith  
March 15, 2007  
Page 4

In summary, the Commission's policy document states that benefits from additional resource protection associated with a proposed Critical Area boundary extension must be found to exceed the negative impact of the additional development allowed by extending the Critical Area. Extending the Critical Area on this property will allow the creation of an additional waterfront estate lot with a pier, septic system, and lawn area. In order for the Commission to determine if the resource protection benefits will exceed the adverse impacts associated with this additional dwelling, additional information is needed regarding the creation and protection of viable FIDS habitat, the Buffer, shoreline erosion control measures, and stormwater controls. In addition, the Commission will want to review comments on the proposal by the Heritage Division of DNR.

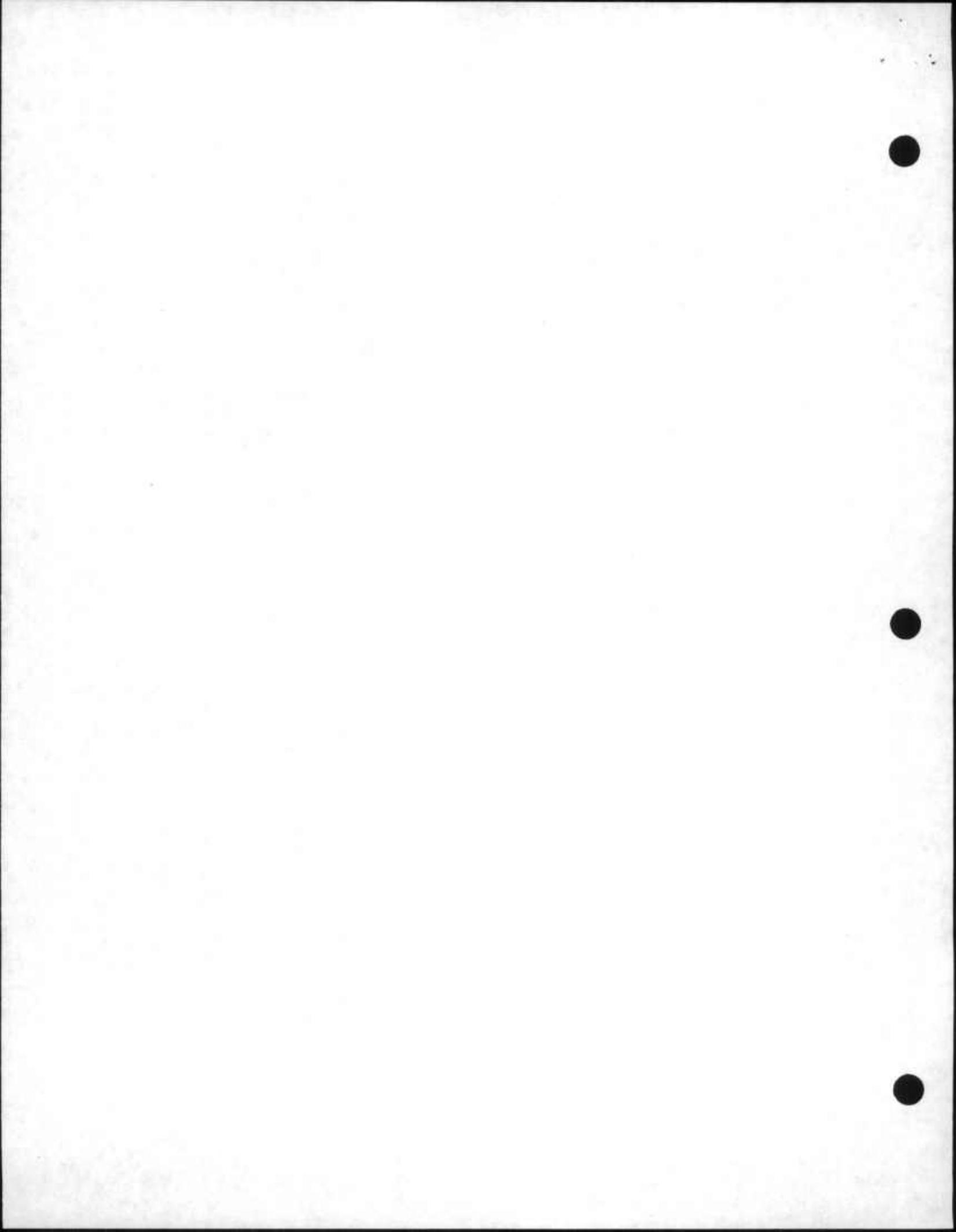
The preceding comments represent the review and evaluation of the extension proposal by Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the extension of the Critical Area. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments on this proposal at this time. As we discussed, the proposal can be brought before the Program Subcommittee for preliminary comment at an upcoming Commission meeting. If you would like to have this item placed on the agenda or have any questions, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Sang W. Oh, Law Offices  
Ren Serey





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March 14, 2007

Mr. Joseph R. Kincaid  
Maryland Department of the Environment  
407 Race Street  
Cambridge, Maryland 21613

**RE: Comments on Applications for State Permits – Dorchester County**

Dear Mr. Kincaid:

I am writing to provide comments on the following project located in Dorchester County:

**200667626/07 – WL – 0810 BSJ PARTNERS LLC**

This project involves the construction of a pier and transient boat slips. Section 155-38.J.6 through 17 of the Dorchester County Code regulates commercial water dependent facilities such as this one. The applicant should consult with County staff in order to ensure that the proposed structure complies with the provisions of the Code and that local approvals can be obtained. The application also includes the installation of 60 feet of rip rap revetment. In accordance with the Dorchester County Critical Area regulations and the State Critical Area Criteria, structural shore erosion control measures should be used only in areas where nonstructural measures would be impractical or ineffective. The applicant should consult with County staff in order to ensure that the proposed method of erosion control is necessary and will be acceptable. It also appears that some grading of the bank will be necessary to properly construct the revetment. Grading and disturbance to the Buffer are required to be minimized and any removal of natural vegetation must be mitigated. Additional information is available from the Dorchester County Office of Planning and Zoning at (410) 228-3234.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens, Chief  
Program Implementation Division





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March 13, 2007

Mr. Keith Lackie  
Maryland Department of Planning  
201 Baptist Street, Suite 24  
Salisbury, Maryland 21801

**RE: Provident State Bank, Town of Secretary  
SE 74-07**

Dear Mr. Lackie:

Thank you for providing information on the referenced project. I have reviewed the Site Plans and 10% Rule calculations, and I have the following comments:

1. The 10% Rule calculations have been correctly performed; however, they do not appear to match the conditions shown on the plans. If there are separate drainage areas served by individual Best Management Practices (BMPs), the calculations should be performed for each drainage area.
2. It also appears that the ponds are connected. It is not clear if they are functioning as BMPs in a series. If they are functioning as a series, then the standards outlined on page 7-9 of the *Critical Area 10% Rule Guidance Manual – Fall 2003* are applicable, and the calculations must be performed as specified.
3. A Landscape Plan was not submitted with the Site Plans. Within the IDA, the Critical Area Criteria and the Town of Secretary Zoning Ordinance states that permeable areas shall be established in vegetation, if practicable. Please provide a copy of the Landscape Plan.
4. It is my understanding that the site is not within 100 feet of tidal waters, tidal wetlands, or any tributary streams; therefore, no delineation of the Buffer is required.

Thank you for the opportunity to provide comments on the referenced project. 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





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March 12, 2007

Mr. Dan Branigan  
St. Mary's College  
Office of Facilities  
18952 E. Fisher Road  
St. Mary's City, Maryland 20686

**RE: St. Mary's College  
New Rowing Center and River Center**

Dear Mr. Branigan:

*Dan*

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the proposed new Rowing Center and River Center Project. On March 7, 2007, the Critical Area Commission voted to approve the project with the following conditions:

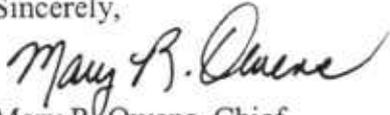
1. St. Mary's College shall obtain approval from MDE of the stormwater management design prior to initiating construction on any portion of the project other than the Rowing Center Building;
2. St. Mary's College shall submit a final Mitigation Planting Plan for the off-site mitigation areas within 90 days. This Plan shall be reviewed by Commission staff, and if necessary, the full Commission prior to construction on any portion of the project other than the Rowing Center Building; and
3. The final design for the shore erosion control measures on this site shall be brought to the Commission for approval after the design is complete and the necessary State and federal permits have been obtained.

I look forward to working with you over the next several months to finalize the Mitigation Planting Plan, which should be completed by June 12, 2007. As discussed in the staff report, at least 12,500 square feet of the mitigation shall consist of a 25-foot bufferyard that meets or exceeds the specifications shown in Figure 3 and described in Table 1 of Attachment A. As we discussed, alternative species may be used, but the overall quantity and stocking should be generally equivalent. Please provide the Commission with a copy of the stormwater management



approval letter from MDE when it is received. If you have any questions or would like to arrange a meeting to review preliminary mitigation concept plans, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

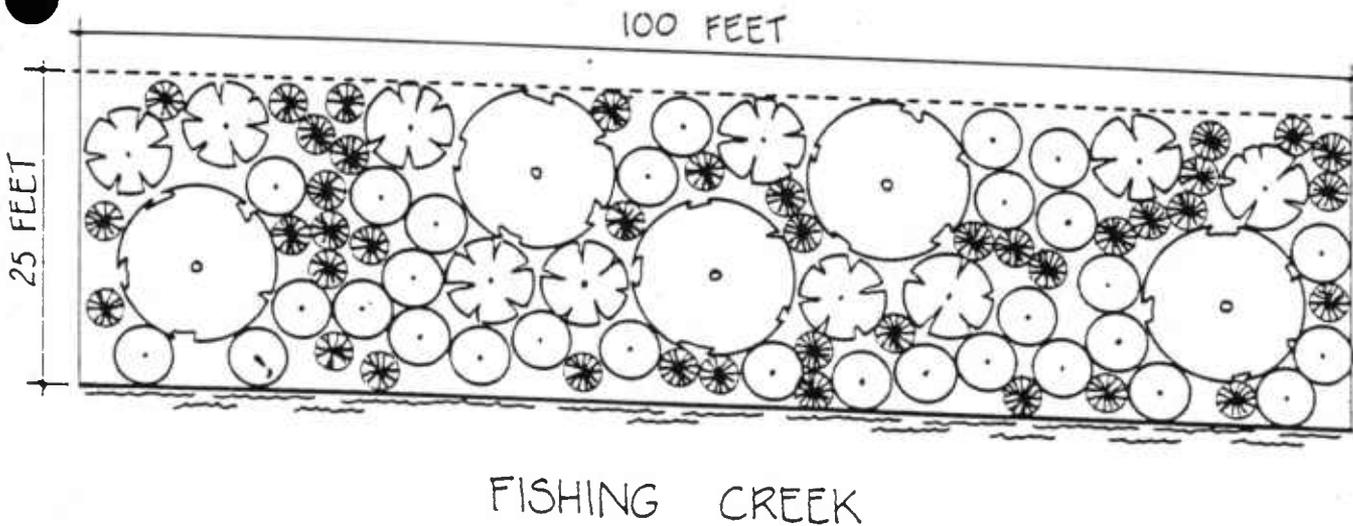
cc: Chip Jackson  
Aaron Smith, A. Morton Thomas and Associates, Inc.  
Debby Smith, O'Doherty Group Landscape Architecture  
File: SMC 59-06



4. Development and redevelopment may not impact any HPAs other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
5. 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.
6. BEA designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.
7. Any development or redevelopment in the Buffer Exemption Area requires mitigation, in the form of plantings, offsets, or fees-in-lieu.

**D. Mitigation**

1. The following mitigation measure shall be implemented for all development and redevelopment projects:
  - a. A forested or landscaped bufferyard, 25 feet wide, shall be established on the project site between the development and the water. This bufferyard shall be densely planted with trees and shrubs in accordance with Table 1. See Figure 3.



- |  |  |
|--|--|
|  TREE (5)         |  UNDERSTORY TREE/LARGE SHRUB (10) |
|  SMALL SHRUB (30) |  HERBACEOUS PLANT (40)            |

Figure 3 Buffer Planting Plan



- b. On redevelopment sites, if existing structures or those rebuilt on an existing footprint limit the area available for planting, then appropriate modifications to the width of the planted bufferyard may be made on a case by case basis.

**Table 1**  
**Required Bufferyard Planting**

Area	Quantity and Stocking	Suggested Species
For every 100 linear feet of bufferyard	5 Trees	White or Red Oak, Pin Oak, Willow Oak, Red Maple, American Holly, Eastern Red Cedar
	and	
	10 Understory Trees/Large Shrubs,	Dogwood, Mountain Laurel, Bayberry, Shadbush, Winterberry
	and	
30 Small Shrubs	Pepperbush, Chokeberry, Strawberry Bush, Sweetspire	
and		
	40 Herbaceous Plants, Grasses, Etc.	Wild Columbine, Butterflyweed, Common Milkweed, Asters

2. In addition to establishing a 25 foot bufferyard on site as described above, one of the following mitigation measures shall be implemented based on the following order of preference:
- a. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location, preferably on-site, as may be determined by the local jurisdiction.
  - b. Applicants who cannot fully comply with the planting requirement in "a" above, may use offsets to meet the mitigation requirement. Offsets may include the removal of an equivalent area of existing impervious surfaces in the Buffer, the construction of Best Management Practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.
  - c. Applicants who cannot comply with either the planting or offset requirements in a or b above, are required to pay into a fee-in-lieu program administered by the





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March 9, 2007

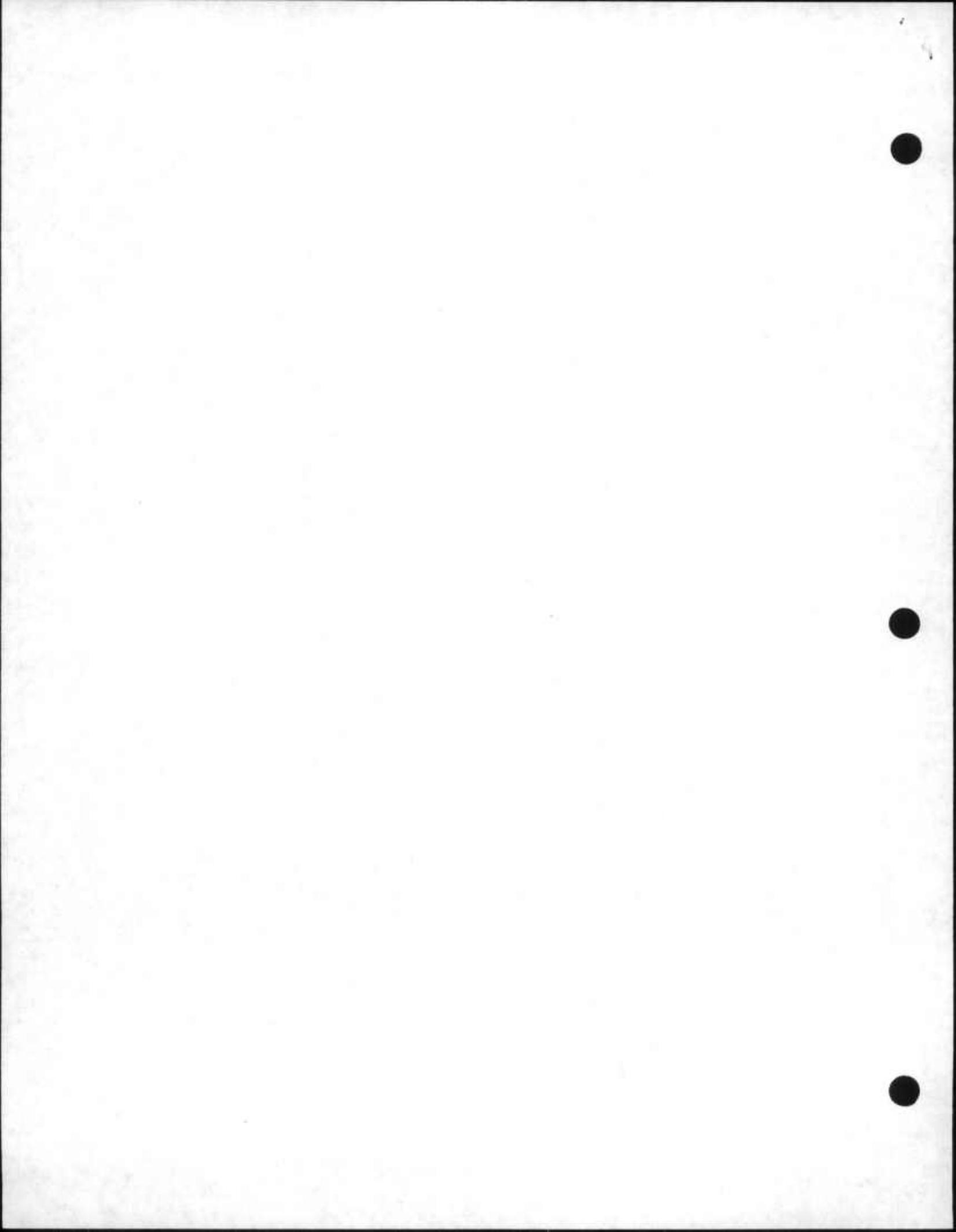
Mr. Blaine Smith  
Town of Ocean City  
P.O. Box 158  
Ocean City, Maryland 21843

**RE: Building Permit for Single Family Dwelling – Carlos Calderon Residence (#12301)  
OC 822-06**

Dear Mr. Smith:

I have reviewed the information submitted for the referenced project, and I have the following comments:

1. The project includes extensive areas of decking and a parallel walkway in the 15-foot setback. Only pervious, wooden walkways or decks with spaces between the boards can be located within the 15-foot setback. Walkways that parallel the shoreline are not permitted in the setback.
2. The project includes a detail for the installation of concrete pavers; however, the detail does not specify the required thickness or depth of the open-graded aggregate base whereas the thickness of all other materials is specified. Please clarify.
3. It appears that a portion of the “new dock and bulkhead to be constructed under a separate permit” is located within the 15-foot setback. The Maryland Department of the Environment is the agency that issues permits for water-dependent facilities and shore erosion control measures waterward of mean high water. Structures located within the setback must be included in the permit issued by the Town of Ocean City. Please clarify what is being constructed.
4. It is not clear that the information provided by Blue Heron Landscape and Design and included with the Critical Area Project Application is an estimate for the proposed planting shown on the Landscape Plan. The Application states that the cost values must equal or exceed “Means” book value. Many of the costs seem high, especially for the shrubs and grasses. How is this information verified? The applicant should be advised that all trees shall



Mr. Smith  
March 13, 2007  
Page 2

be a minimum of 1" – 1 1/2" caliper, and that all shrubs and grasses receiving a landscape credit of 50 or more shall be 36" tall or wide or 3-gallon size.

5. The site plan includes several rain gardens and swales to address compliance with the 10% pollutant reduction requirement. It appears that the plantings in the rain gardens are also being used to meet the mitigation requirements for construction in a Buffer Management Area; however, it is not clear whether there is no disturbance in the Buffer. Plantings required as part of a stormwater practice may not be used to meet the mitigation requirements for disturbance in the Buffer.
6. The landscape plan does not include a section detail of the proposed rain gardens. The rain garden should be designed to provide storage and infiltration of stormwater. In general, rain gardens should include the following treatment components a 2-1/2 to 4 foot deep planting bed, a surface mulch (organic) layer, and a 12' deep surface ponding area. Plantings should be primarily native species selected from the Plant List in Table A.4.1 of the 2000 Maryland Stormwater Design Manual.

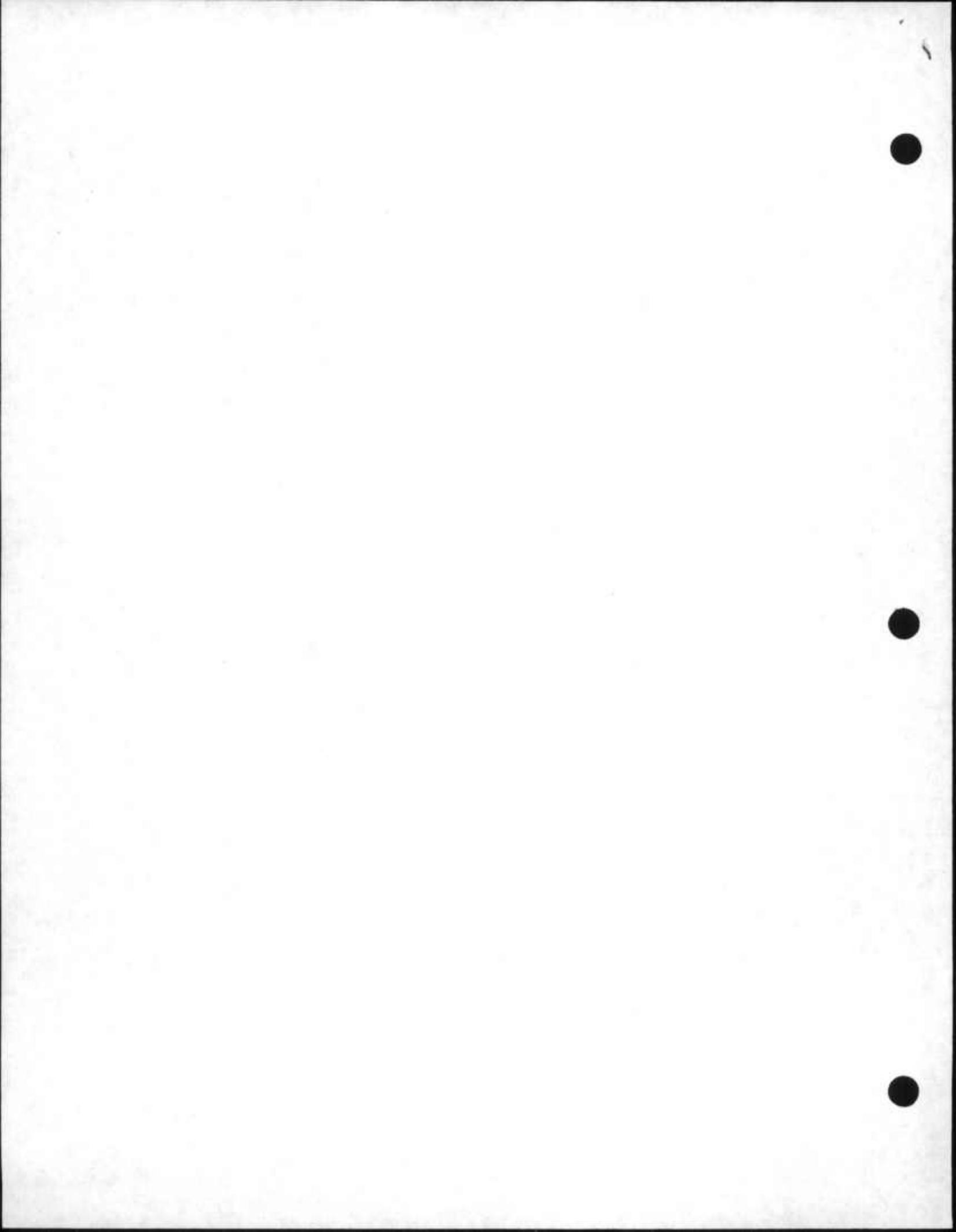
Thank you for the opportunity to comment on this project. If you have any questions, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Gail Blazer, Town of Ocean City





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March 5, 2007

Ms. Anne Kyle  
Maryland Office of Tourism Development  
217 E. Redwood Street, 9<sup>th</sup> Floor  
Baltimore, MD 21202

**RE: Linthicum Property and Harriet Tubman State Park**

Dear Ms. Kyle:

Thank you for arranging a site visit to the Linthicum Property last week and for providing me with some supplemental information about the property. I have done a cursory review of the readily accessible map resources, and I have the following comments on the proposed development of the Park as it relates to the Critical Area Program:

1. It appears that slightly more than half of the property is located within the Critical Area. See attached map with the hatched area indicating the Critical Area.
2. The property is currently designated as a Resource Conservation Area (RCA). If the property is transferred to the State, it would be determined to be "not an area of intense development," and would be regulated by the provisions in COMAR 27.02.05.03.B(3).
3. Impervious surface area within the Critical Area portion of the site will be limited to 15 percent of that area. Assuming that approximately nine acres of the property are within the Critical Area, impervious surface area would be limited to 1.35 acres (58,806 square feet) on that portion of the property.
4. It does not appear that there are any streams, tidal wetlands, or nontidal wetlands within the Critical Area portion of the property.
5. There appear to be tidal wetlands in close proximity to the southeast corner of the site. The Critical Area regulations require a minimum 100-foot Buffer from the edge of tidal wetlands to be established in natural vegetation. The regulations also require expansion of the Buffer beyond 100-feet to include contiguous sensitive areas such as steep slopes, hydric soils, or highly erodible soils, whose development or disturbance may impact streams, wetlands, or other aquatic environments. It is likely that there may be hydric

soils contiguous to the 100-foot Buffer. Although expansion of the Buffer may not be necessary if no development is proposed in the southeast corner of the property, it should not be overlooked if the design changes and development is proposed in that area.

6. The provisions of COMAR require that a forest or developed woodland cover be established on 15% of the Critical Area portion of the property. Assuming that approximately nine acres of the property are within the Critical Area, required afforestation would equal 1.35 acres (58,806 square feet).
7. Any development or land disturbance within the Critical Area portion of the property will require review and approval by the Critical Area Commission in accordance with COMAR Section 27.02.05. The Commission meets the first Wednesday of every month. Application materials need to be submitted to the Commission one month prior to the meeting date. A site plan, drawn to scale, and depicting the applicable information set forth in the attached "Critical Area Commission Project Application Checklist" will be required.

Thank you for the opportunity to provide some very preliminary comments on the proposed park. I look forward to working with you on this interesting project. If you need any additional explanation of these comments or have questions, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: John Wilson, DNR Policy and Planning  
Nick Kelly



STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

February 28, 2007

Mr. Ace Adkins  
Maryland Department of the Environment  
Water Management Administration  
Salisbury District Court/Multi-Service Building  
201 Baptist Street  
Salisbury, MD 21801

**RE: Comments on Applications for State Permits – Dorchester County**

Dear Mr. Adkins:

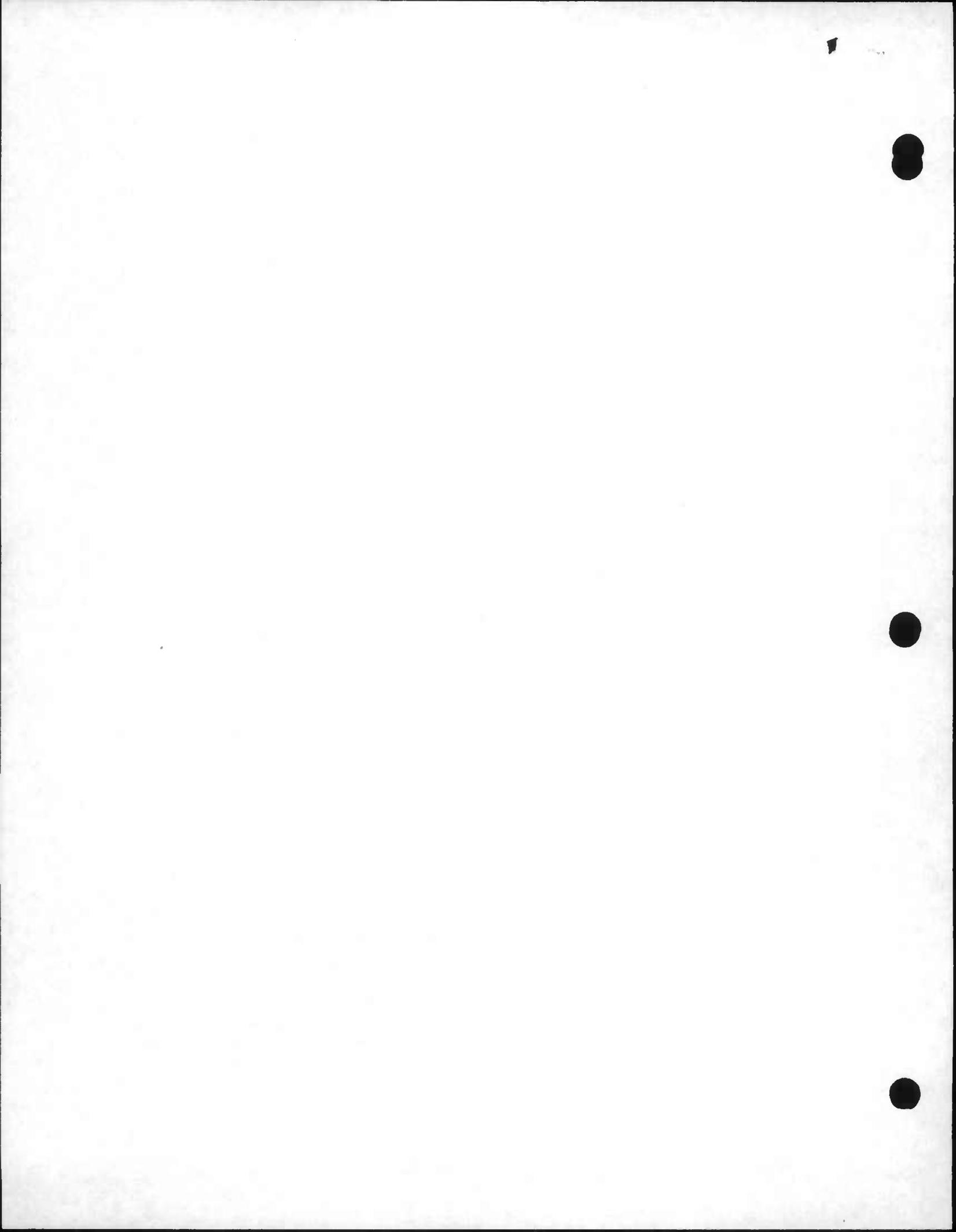
I am writing to provide comments on the following projects located in Dorchester County:

**200666482/06 – NT – 2178 DONNIE JONES**

This project involves the construction of a dwelling driveway, swimming pool, and detached garage on a property that will involve 12,761 square feet of impacts to nontidal wetlands. Within Dorchester County, nontidal wetlands are regulated as a Habitat Protection Area; therefore, any development or disturbance of these areas will require a variance. It is not clear from the information submitted if the nontidal wetlands may be contiguous to the 100-foot Buffer and therefore part of the expanded Buffer. In order to obtain a variance, the Board of Appeals must determine that the applicant's proposal meets all of the Critical Area variance standards as set forth in the Dorchester County Code. In general, impacts to Habitat Protection Areas should be the minimum necessary for the applicant to have reasonable use of the property. Additional information about the variance process can be obtained from Mr. Steve Dodd at the Dorchester County Department of Planning and Zoning at (410) 228-3234.

**200760363/07 – NT – 2012 DORCHESTER COUNTY DEPT. OF PUBLIC WORKS**

This project involves the reconstruction of a roadway and dam that were washed out during heavy rains in 2006. The project involves permanent impacts to nontidal wetlands. Within Dorchester County, nontidal wetlands are regulated as a Habitat Protection Area; therefore, any roads, bridges, or utilities that impact these areas must comply with the provisions of §155-38.1 of the Dorchester County Code. The Department of Public Works should coordinate with the Department of Planning and Zoning to prepare a consistency as required by COMAR 27.02.02 and address the requirements of the County Code.



Mr. Adkins  
February 28, 2007  
Page 2

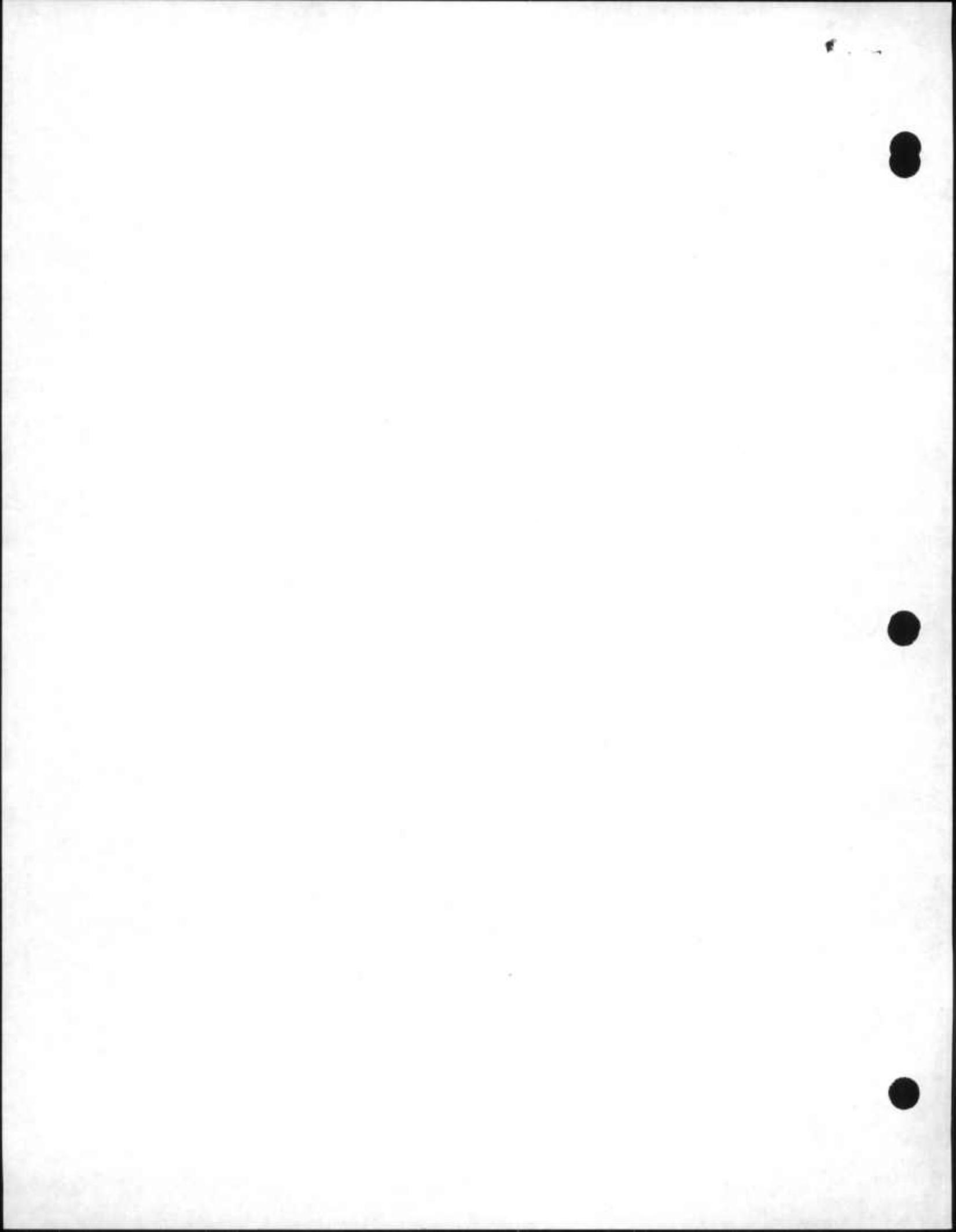
Thank you for the opportunity to provide comments on the referenced projects. If you have any questions, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Steve Dodd, Dorchester County



**CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS  
1804 West Street, Suite 100  
Annapolis, Maryland 21401**

**MEMORANDUM**

**To:** Carla Fleming, Waterway Improvement Program Division

**From:** Mary Owens *mo*

**Date:** February 28, 2007

**Subject:** Leonardtown Wharf Project

---

Thank you for providing information about the proposed improvements at Leonardtown Wharf. Commission staff has coordinated closely with Leonardtown staff and officials on the design of the proposed waterfront park and public water access. On May 4, 2005, the Critical Area Commission voted to approve the project with two conditions. The conditions of approval were as follows:

1. The Town shall obtain the required approvals from MDE for all impacts to tidal and nontidal wetlands. Any significant changes to the plans resulting from these authorizations will be submitted to Commission staff, and if necessary, the full Commission for review.
2. The mitigation requirements and mitigation strategies and credits shall be finalized and submitted to Commission staff, and if necessary the full Commission, for review and approval, prior to the Town issuing any permits for development activities on the park or commercial site.

At this time, it appears that the MDE has issued the Wetland Permit, so the first condition has been satisfied. The mitigation strategies and credits for the park have also been finalized. The design for the park includes a significant portion of the required mitigation, and the remaining mitigation is to be accomplished off site. Commission staff will continue to work with the Town to ensure that all mitigation is properly implemented. If you have any questions, please call me at (410) 260-3480.





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February 28, 2007

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

**RE: Site Plan – 94<sup>th</sup> Street Ocean Plaza Redevelopment**  
**File #06-181005**  
**OC 249-06**

Dear Mr. Smith:

The Critical Area Commission has received correspondence from John Canoles of Eco-Science Professionals, Inc. regarding the referenced project. A survey of the project site has been conducted to determine if the State-listed endangered Beach plum (*Prunus maritima*) was present on the site. Mr. Canoles concluded that there was no evidence or the presence of Beach plum on the project site; therefore, no specific protection measures for this species will be required.

I have reviewed Chris Clark's letter to you, dated August 7, 2006, and there appear to be a few outstanding comments. Have these comments been addressed? Please provide me with an update on the status of the project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens, Chief  
Program Implementation Division





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February 27, 2007

Mr. Gary Cole  
Baltimore City Planning Commission  
417 East Fayette Street, Eighth Floor  
Baltimore, Maryland 21202-3416

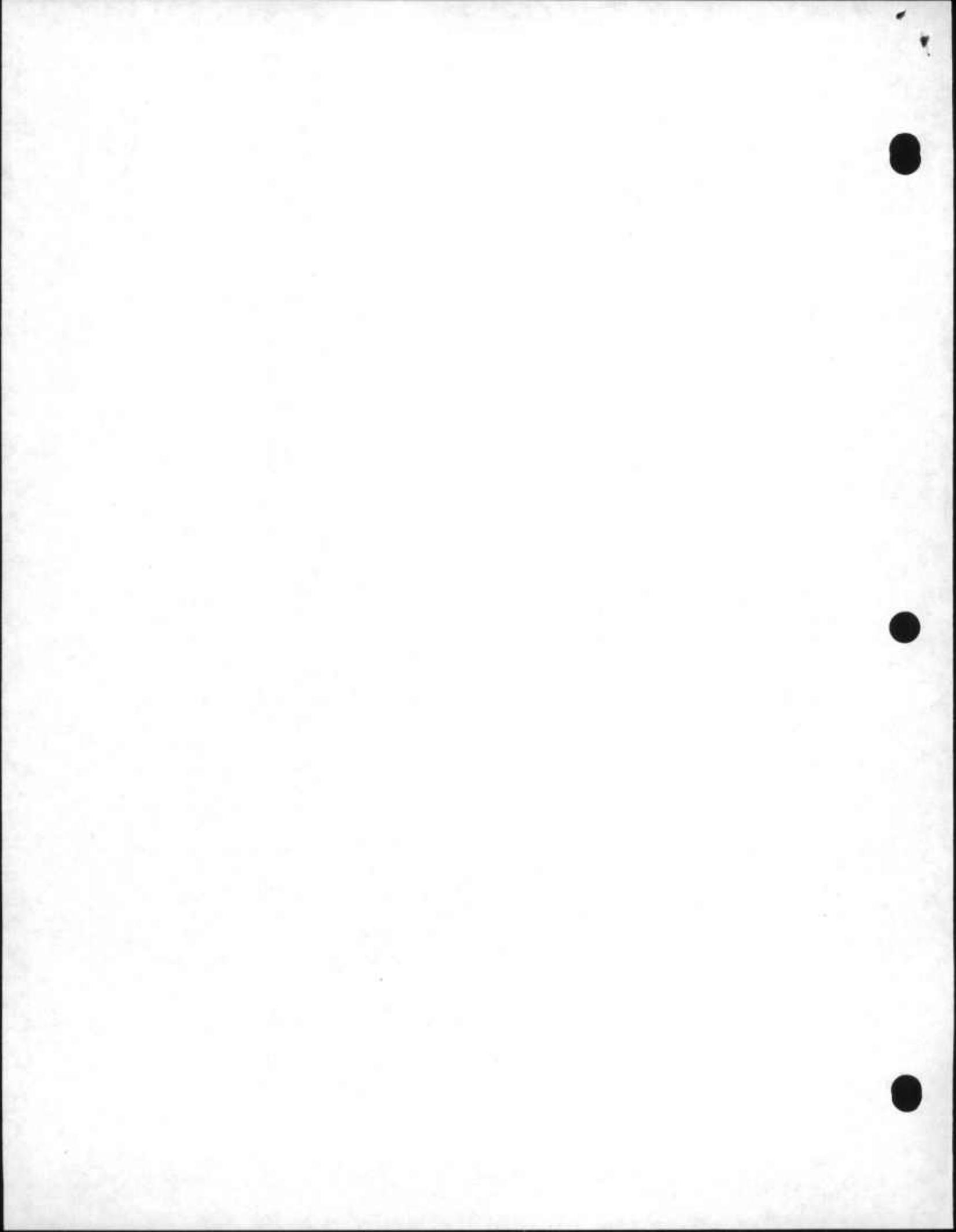
**RE: Growth Allocation**

Dear Mr. Cole:

I am writing in response to your letter regarding the status and history of the City of Baltimore's Critical Area growth allocation. I have discussed this matter with City staff and reviewed the Critical Area Commission's records.

In the publication prepared by J. Kevin Sullivan for the Commission in August 1989, *A Summary of the Chesapeake Bay Critical Area Commission's Criteria and Program Development Activities 1984 - 1988*, there is a table that shows that Baltimore City had 448 acres of Resource Conservation Area (RCA) and 22 acres of growth allocation. Based on information in your records, the City's original Critical Area Management Plan, enacted on January 1, 1988, indicates that 1,023 acres of Critical Area land was designated RCA. It seems possible that this acreage figure may have included the acreage of some Habitat Protection Areas, and that these areas included tidal wetlands. It is also possible that the RCA acreage included some federal lands. Although these areas may have been mapped by the City as RCA, the Critical Area law does not allow these lands to be used to generate growth allocation. In § 8-1808.1(b)(1) of the Natural Resources Article of the Annotated Code of Maryland, it is stated, "The growth allocation for a local jurisdiction shall be calculated based on 5 percent of the total Resource Conservation Area in a local jurisdiction at the time of original approval of the local jurisdiction's program by the Commission, not including tidal wetlands or land owned by the federal government."

It appears that this discrepancy may have been addressed in 1994 when the City of Baltimore Critical Area Management Plan was revised. This document indicates that the RCA acreage of the City is 431.5 acres. Based on this acreage, the City's growth allocation would have remained 22 acres. As stated in your letter, the Commission's records indicate that in 1989, growth



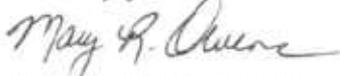
Mr. Cole  
February 27, 2007  
Page 2

allocation was used by the City to change the Critical Area designation of 16 acres of land from Resource Conservation Area to Intensely Developed Area (Waterfront Industrial Area). This reduced the City's growth allocation reserve from 22 acres to 6 acres. What is unclear is how this use of growth allocation was considered consistent with the provisions of § 8-1808.1(c)(3) which limit the use of growth allocation in the RCA to no more than one-half of the expansion (growth allocation acreage) allocated, which would have been 11 acres.

At this time, it is my understanding that the City has almost completed creation of digital maps of the City's Critical Area that will allow the RCA acreage to be calculated electronically. This methodology is far superior to measuring manually or using a planimeter, and I believe would make use of the best technology available to accurately and definitively determine the City's RCA acreage and the total growth allocation acreage. I would propose that the City complete the maps, and as part of the Commission's review and approval of the electronic maps, the RCA acreage and growth allocation acreage be recalculated and the CAMP appropriately amended.

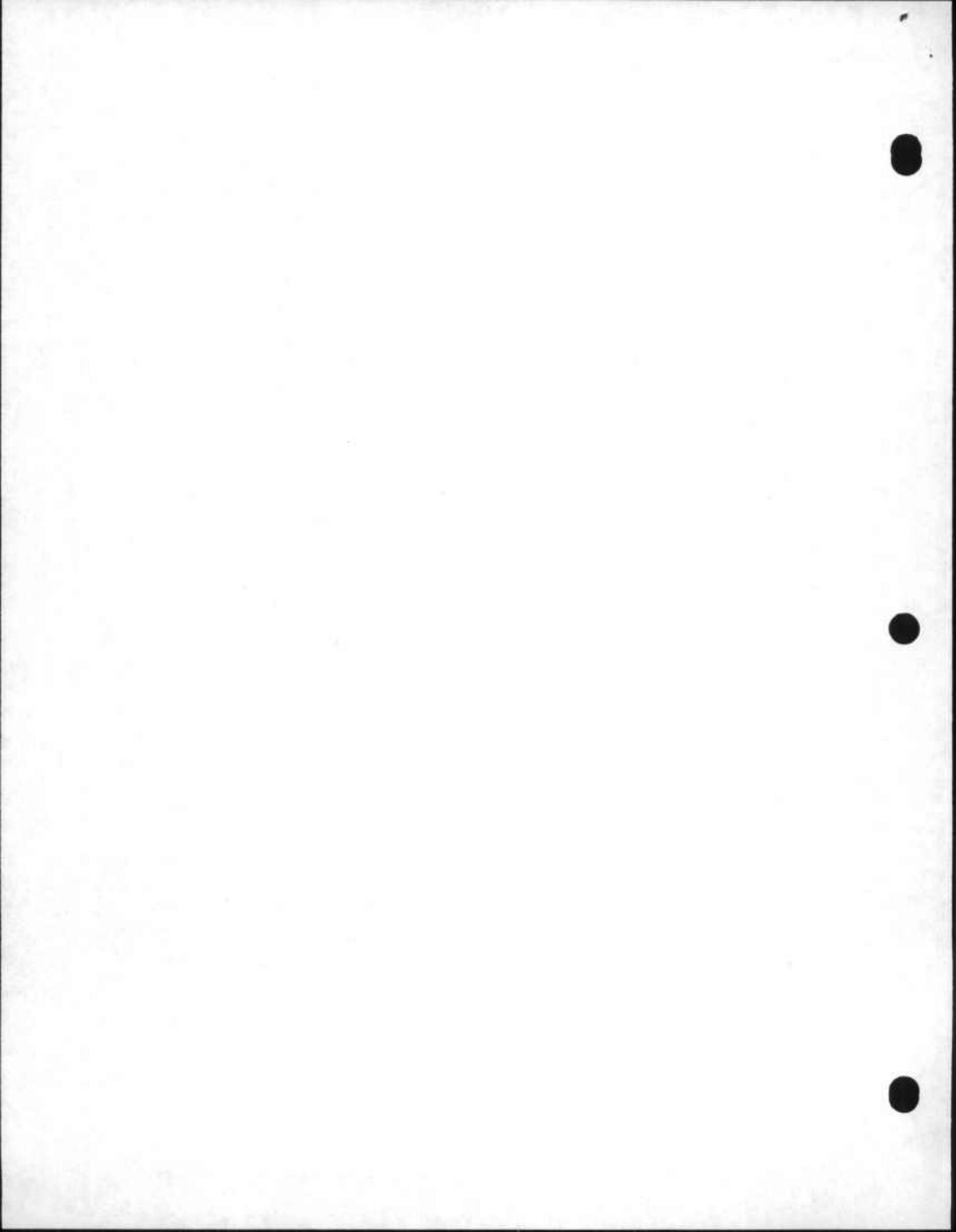
As you know, the Commission is very supportive of the City's efforts to improve the Critical Area Maps by converting them to an electronic format, and I look forward to working with you to finalize the Maps for Commission approval. If you have any questions, please contact me at (410) 260-3480.

Sincerely yours,



Mary R. Owens, Chief  
Program Implementation Division

cc: Beth Strommen, City of Baltimore  
Duncan Stuart, City of Baltimore





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CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS  
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February 26, 2007

Ms. Pat Farr  
Baltimore County  
Department of Environmental Protection and  
Resource Management  
411 Bosley Avenue  
Towson, Maryland 21204

**RE: Baltimore County Council Bill 9-07  
Liquified Natural Gas Facility**

Dear Ms. ~~Farr~~: *Pat*

This office has received Baltimore County's request to amend the County's Critical Area Program by incorporating the provisions of County Council Bill 9-07. The purpose of the bill is to prohibit the establishment or expansion of Liquified Natural Gas Facilities in Baltimore County's Critical Area. The County Council passed the bill on February 5, 2007. Commission staff has determined that the submittal is complete and will move forward with processing the request. The Acting Chairman will make an amendment or refinement determination within 30 days of the date of this letter, and Commission staff will notify you of his determination and the procedures for review by the Critical Area Commission.

Please telephone me at (410) 260-3480 if you have any questions.

Sincerely,

*Mary R. Owens*  
Mary R. Owens, Chief  
Program Implementation Division

cc: David Carroll, Baltimore County  
Marianne Dise  
Ren Serey





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February 26, 2007

Mr. Blaine Smith  
Town of Ocean City  
P.O. Box 158  
Ocean City, Maryland 21843

**RE: Renovations and Additions to St. Peter's Lutheran Church (#06-18100010)  
OC 757-06**

Dear Mr. <sup>Blaine</sup>Smith:

I have received a revised submittal for the referenced project in response to the comments I provided in a letter dated January 19, 2007. The applicant's consultant has revised the stormwater management plan to eliminate the practices that do not meet the standards in the 2000 Maryland Stormwater Design Manual. The consultant has also revised the 10% pollutant reduction calculations to properly account for the practices that have not been designed in accordance with the Manual. In order to meet the pollutant removal requirement, the applicant will pay into the City's Stormwater Fee-In-Lieu Fund. At this time, it appears that all of my comments have been addressed. Thank you for the opportunity to comment on this project. 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: Gail Blazer, Town of Ocean City  
Donna Wilson, Davis, Bowen and Friedel, Inc.





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February 23, 2007

Mr. E. Thomas Merriweather  
P.O. Box 253  
Cambridge, Maryland 21613

**RE: Gordy Jones Subdivision and Building Permit Request**

Dear Mr. Merriweather:

I spoke to you several weeks ago regarding concerns of the staff of the Critical Area Commission regarding a permit request by a property owner to build a single family dwelling on a newly subdivided lot at 1847 White Haven Drive in the Town of Church Creek. As you requested, I am forwarding a copy of the subdivision plat, the deed for the parent parcel, and a letter from the Mayor of Church Creek, Robert L. Herbert. The property was purchased by Mr. Gordy Jones and his wife in February 2002, and he still owns the parent parcel and the "subdivided parcel."

As you may know, on December 13, 1999, the Town approved a revised Resolution regarding exclusion of the Town from the Critical Area and agreeing to comply with the Dorchester County Critical Area Program insofar as possible. This Resolution included "Critical Area Requirements for the Town of Church Creek" and specified that the Maryland Office (Department) of Planning Circuit Rider or other designee would review development and redevelopment proposals in the Critical Area. I believe that the intent of this resolution was to allow the Maryland Department of Planning Circuit Rider to review and approve building permits within the Critical Area of Church Creek through the application of the standards in the resolution, which are generally consistent with the County's Critical Area Program.

The standards in the resolution are very basic and are designed to accommodate reasonable residential development on existing grandfathered lots. The resolution does not address subdivision or the creation of new lots because these types of activities were not contemplated as potentially occurring in the Critical Area of Church Creek. In fact, it was the Commission's understanding that the Town did not have the legal authority to approve subdivisions resulting in the creation of new lots. Had the Commission been aware of the Town's intention to approve this type of activity within the Critical Area, it is likely that a substantially different type of resolution would have been required.

It is my understanding that a "subdivision plat" has been recorded in the Land Records of Dorchester County; however, it does not appear that without further reviews regarding sewage disposal, access, and Critical Area requirements that the newly created lot can be recognized as a legally buildable lot and a building permit issued. In accordance with COMAR 27.03.01.03.A (1) and (2) and the Dorchester County Critical Area Program, this project involves a subdivision and appears likely to result in physical disturbance to the Buffer; therefore, the local approving authority or the applicant is required to send the application to Dorchester County and the



Mr. Merriweather  
February 23, 2007  
Page 2

Critical Area Commission for review and comment. In addition, the provisions of COMAR 27.03.01.02.E and F state,

- E. *After receipt of a copy of an application from the applicant or local approving authority, the Commission shall send written notice of receipt to the applicant and to the local approving authority before the close of the next business day. A failure of the Commission to send a timely notice shall render §F of this regulation inapplicable as to that application.*
- F. *The local approving authority may not process an application which has been sent to the Commission for notification until it has received notice of receipt from the Commission. To expedite this process, the local jurisdiction may telephone the Commission to verify receipt of any given application. Any action of the local approving authority in violation of this section shall be void.*

It is not clear exactly how the referenced project has proceeded to the point whereby the property owner is now requesting a building permit when the property has not been properly and legally subdivided. In a letter to Mr. Jones, the Mayor of Church Creek states that the Town Commissioners are allowing construction within the 100-foot Buffer of the new lot; however, the Buffer Exemption Area provisions that are applicable to the existing lot do not automatically transfer to the new lot when subdivision takes place. To allow this type of intensification of development within the Buffer requires that local governments include specific provisions in their Critical Area Programs to address the water quality and habitat impacts of the intensification.

In summary, it appears that there may be a procedural or coordination issue that needs to be addressed regarding Church Creek's planning and zoning authority with regard to the Critical Area regulations and the County Land Records Office. As we discussed in late January, I would like to arrange a meeting with the Commission's counsel, you, and Steve Dodd to discuss this matter and identify an appropriate resolution for Mr. Jones and for future projects in the excluded municipalities in Dorchester County (El Dorado, Brookview, Church Creek, and Galestown).

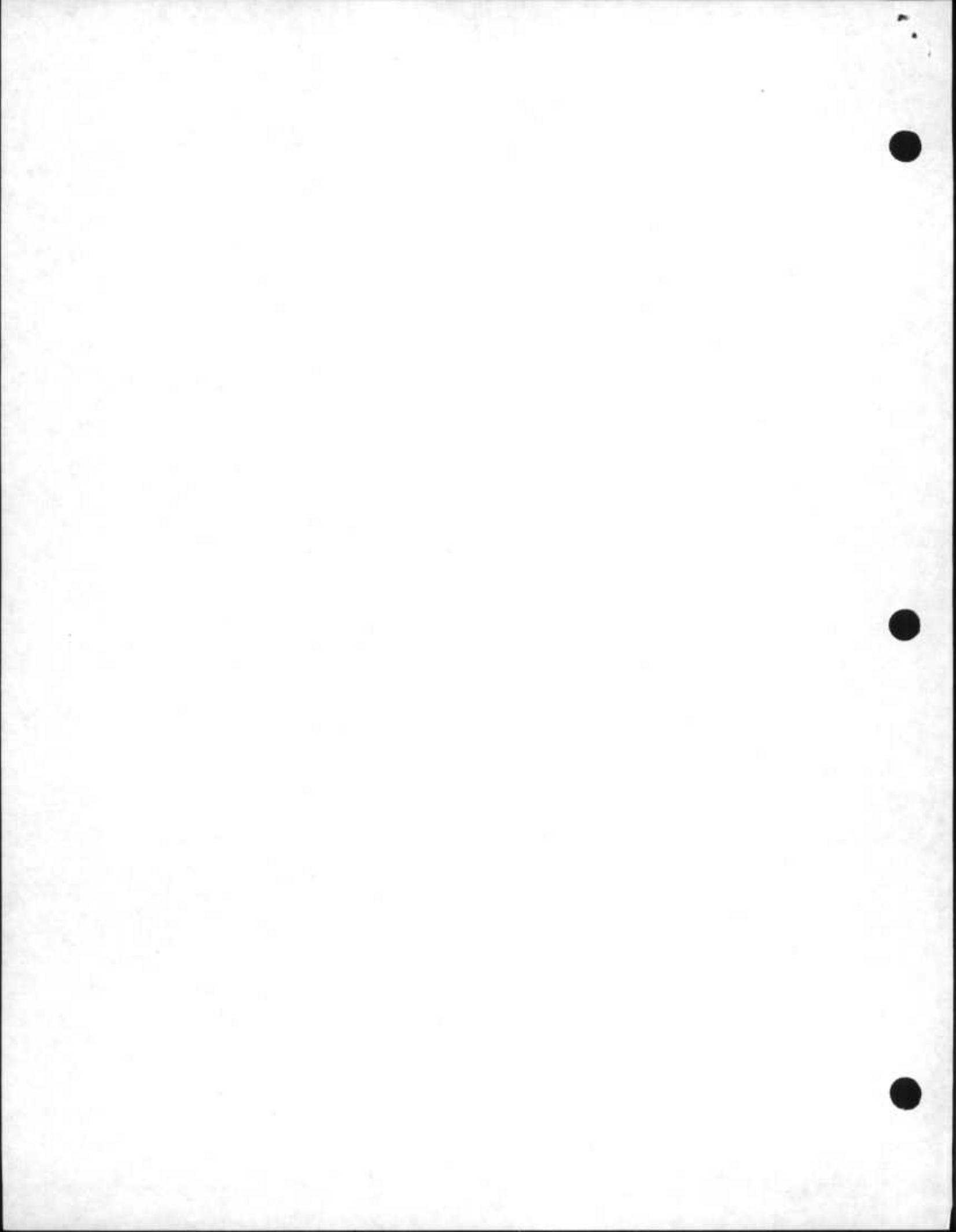
Once you have reviewed the enclosed material, please contact me at (410) 260-3480, so that I can arrange a meeting. Thank you in advance for your attention to this matter.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: The Honorable Robert L. Herbert  
Marianne Dise, OAG – CAC  
Steve Dodd, Dorchester County  
Tracey Gordy  
Roby Hurley  
Gordy Jones  
Ren Serey





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

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February 14, 2007

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

**RE: Comments on Applications for State Permits – Dorchester County**

Dear Ms. Ellis:

I am writing to provide comments on the following projects located in Dorchester County:

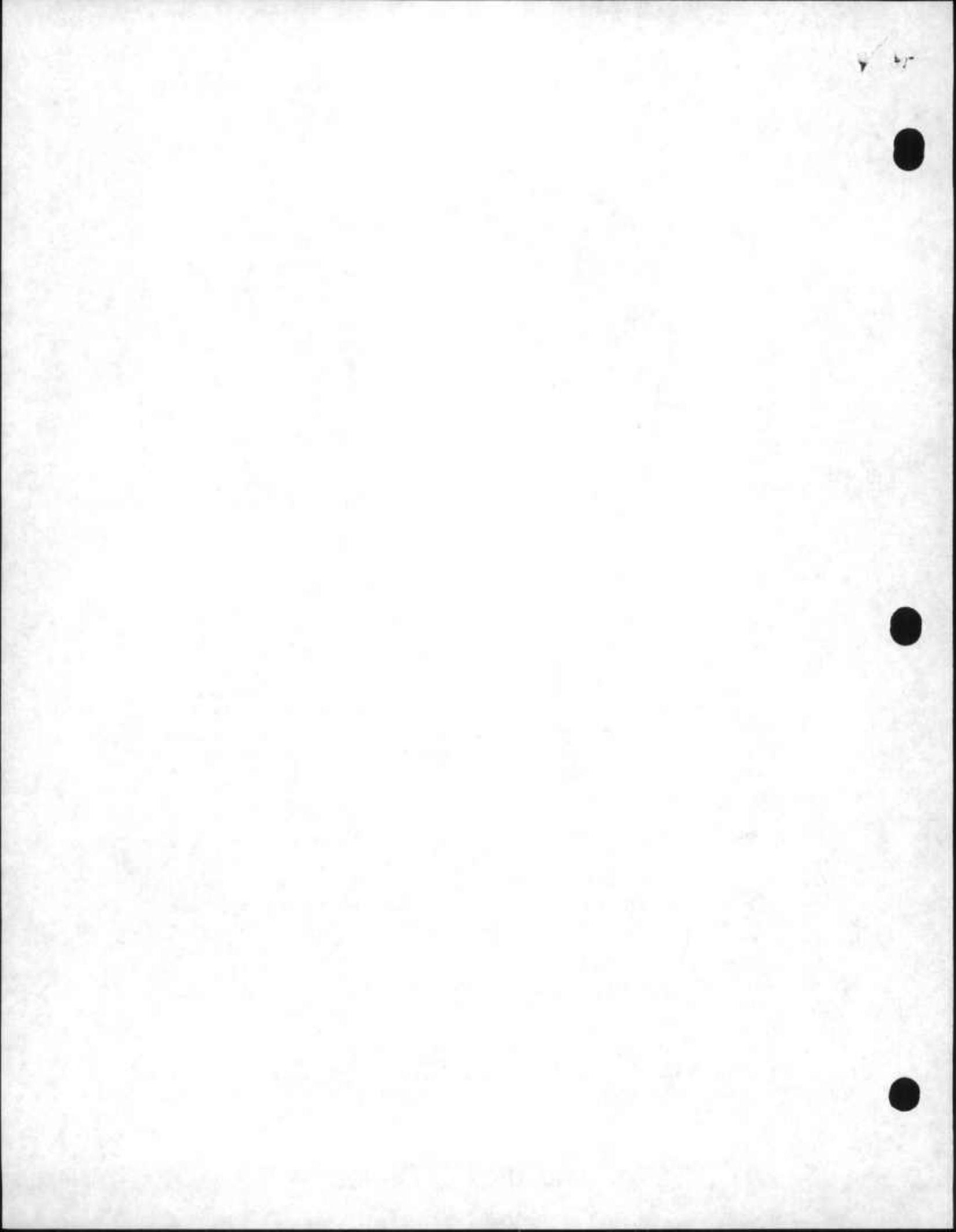
**200666107/07 – WL – 0364 BERNARD & JOCELYN PANZENHAGEN**

This project involves the construction of several timber jetties perpendicular to the existing shoreline. It is not clear from the drawings if an erosion control measure is installed along the existing shoreline. In accordance with the Dorchester County Critical Area regulations and the State Critical Area Criteria, structural shore erosion control measures should be used only in areas where nonstructural measures would be impractical or ineffective. The applicant should consult with County staff in order to ensure that the proposed method of erosion control is necessary and will be acceptable. Additional information is available from the Dorchester County Office of Planning and Zoning at (410) 228-3234.

The drawing attached to the permit indicates that the project consists of five components; A through E. Component A appears to be a "duck blind." In general, § 1808.4 of the Natural Resources Article of the Annotated Code of Maryland and the Dorchester County Code prohibit the construction of new structures on piers, unless specific standards are met. Bona-fide duck blinds, used for hunting and located in areas where hunting is permitted, must be licensed by the Department of Natural Resources and comply with the provisions of the Natural Resources Article of the Annotated Code of Maryland §§10-601 through 10-615. Recently, the Commission has reviewed two applications that included "duck blinds," but the proposed structures were actually a deck and a gazebo. Additional information about the proposed "duck blind" is needed.

**200666988/07 – WL – 0621 CAMBRIDGE DPW**

This project involves the construction of a platform and dockmaster's building in the Choptank River. The area where this project is located is within the "Exclusion Area" of the City of



Ms. Ellis

February 14, 2007

Page 2

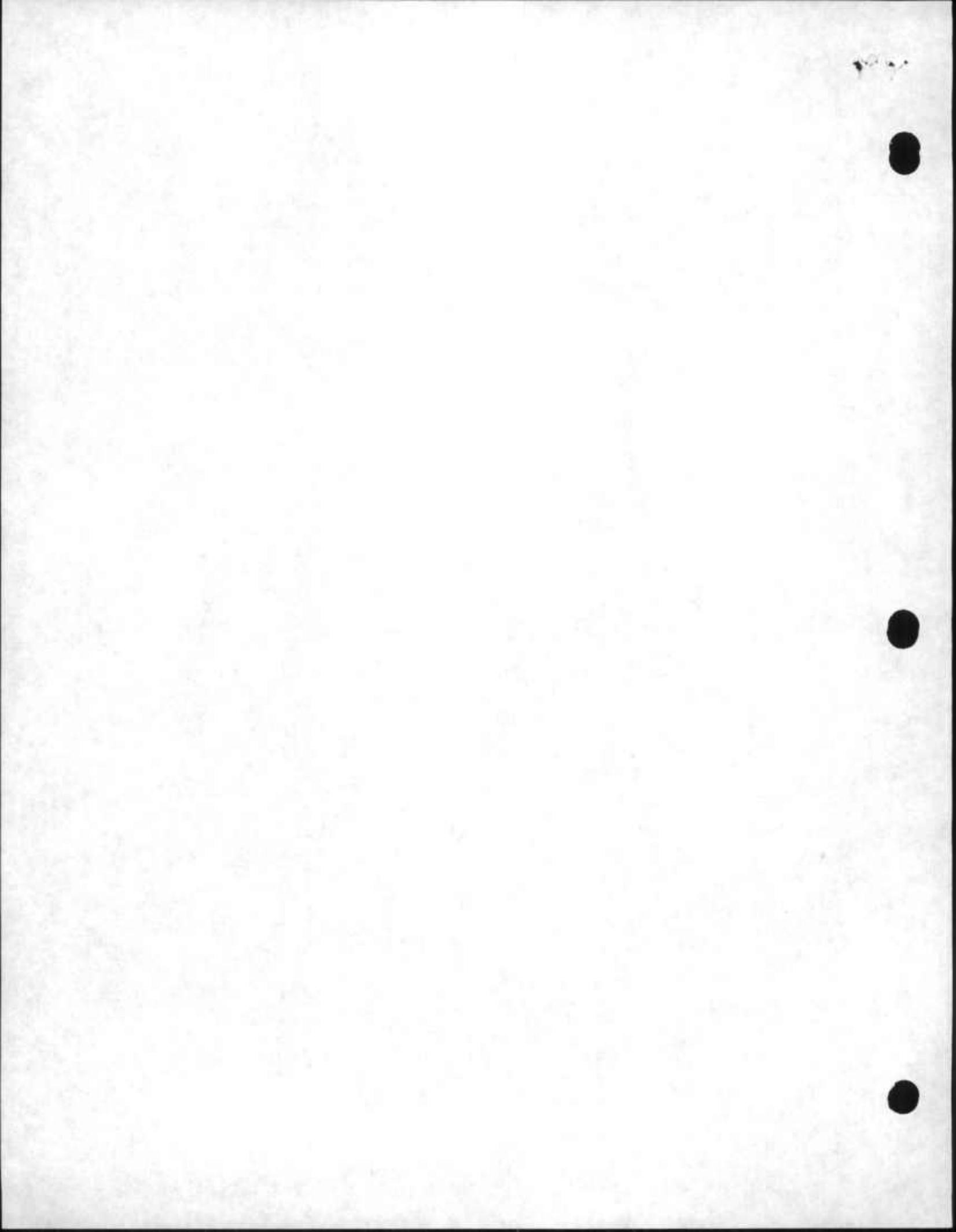
Cambridge and is not regulated by the City's Critical Area Program. The project involves the construction of a new structure on a pier, and it is my understanding that §§16-104 of the Environment Article of the Annotated Code of Maryland prohibits new structures on piers over tidal wetlands or tidal waters unless specific standards are met. It is not clear if the project will meet these standards or if they have been considered. The Department of Public Works should be coordinating closely with the Department of Planning regarding the project to ensure that these standards are met.

Thank you for the opportunity to provide comments on the referenced projects. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens, Chief  
Program Implementation Division

cc: Steve Dodd, Dorchester County  
Anne Roane, City of Cambridge





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February 13, 2007

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

**RE: Site Plan – 67<sup>th</sup> Street; Ocean Isle Areas 1- 5; Case # 06-181000008  
CAC File #: OC 814-05**

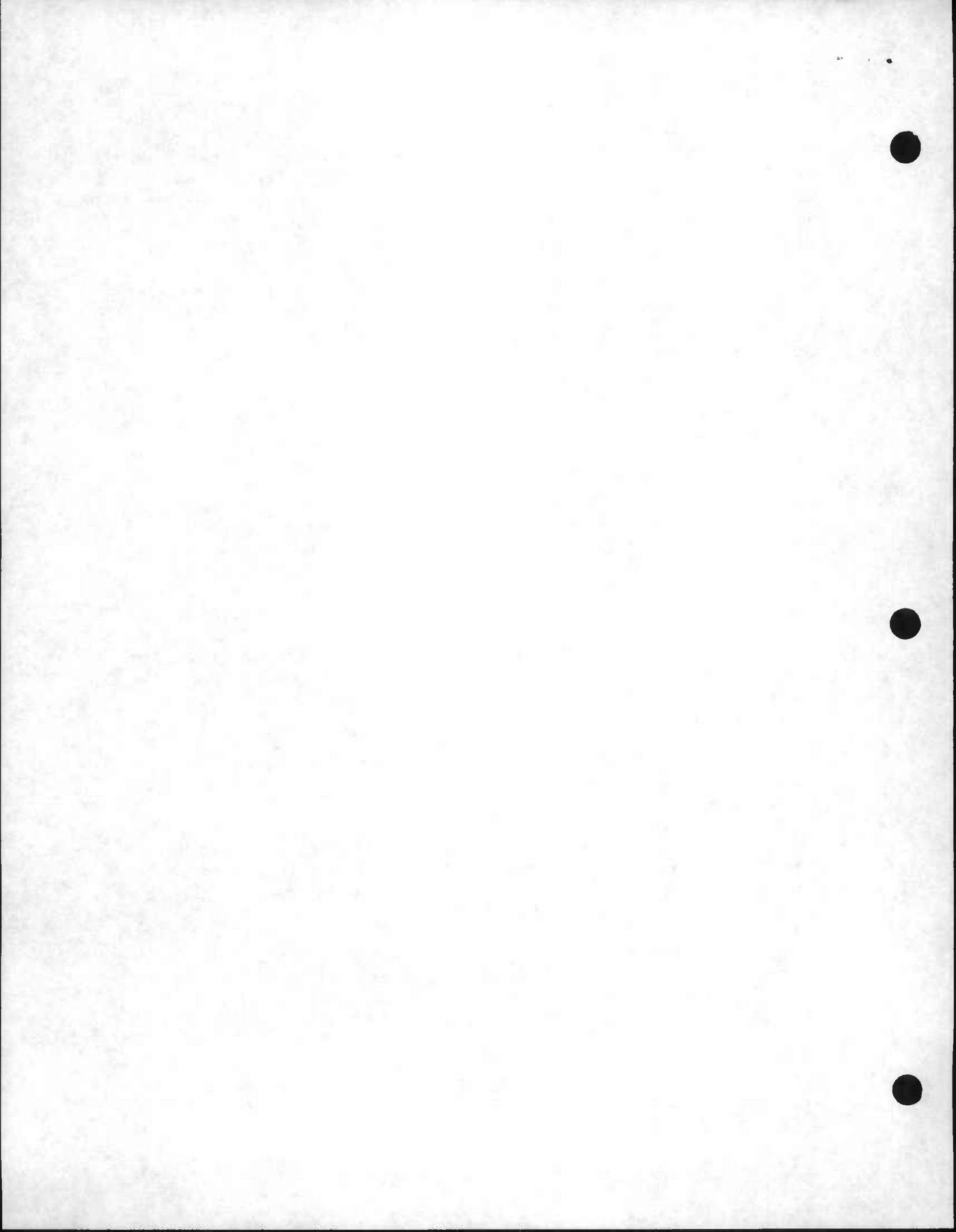
Dear Mr. Smith:

I have received revised plans and supplemental information regarding the referenced project. It is my understanding that the project consists of five separate areas that are proposed to be developed as a single project. The total site area consists of 4.697 acres or 204,580 square feet. Parcel 2 is waterfront and subject to a 25 foot setback. Parcel 5 is water front and subject to 10 foot setback. Parcels 1, 3, and 4 are non waterfront and are located outside of the 100-foot Buffer. Based on the plans submitted, the entire area of all parcels will be disturbed during construction; therefore, all stormwater, Buffer, and landscape performance standards shall be calculated for the entire site. Staff has reviewed the information supplied and has the following comments:

1. The "Atlantic Coastal Bays Critical Area Report" includes drawings and details of the piers prepared by Lawrence T. Whitlock Associates, Inc. In Area 2, these drawings show a concrete walkway within the 25-foot setback, and the drawings appear to be inconsistent with the recently submitted Site Plan. Only pervious, wooden walkways with spaces between the boards can be located within the 25-foot setback. Walkways that parallel the shoreline are not permitted in the setback.
2. The drawings of the piers prepared by Lawrence T. Whitlock Associates, Inc., show a 12-foot wide walkway adjacent to the bulkhead in Area 5. This walkway cannot be permitted in the 10-foot setback. If access parallel to the shoreline is needed, the applicant will need to revise the pier permit to accommodate the walkway below mean high water or change the building location so that the walkway can be located outside the setback.



3. The Critical Area Report states that there are tidal and non-tidal wetlands present on this site, and it includes an approval letter from the U.S. Army Corps of Engineers regarding the jurisdictional determination. Although the wetlands and wetland buffers are shown on the Site Plans, it is not clear that these are based on the delineation approved by the Corps. Please provide a copy of the wetland delineation that was the basis of the approval.
4. It appears that there may be acceptable habitat on this site for a state listed endangered species identified during the environmental review from DNR's Wildlife and Heritage Service. We suggest that a qualified expert provide the Commission with a survey of the property to establish if this species is present.
5. The numbers of existing slips and proposed slips are not clear. Please clarify and add appropriate notes. Please provide evidence of consistency and justification between the Critical Area Law and the proposed number of slips indicated on the site plan.
6. The Landscape Plans, Sheet C6.1 through Sheet C6.4, indicates that River Birch (*Betula nigra*) is considered a small tree and has a landscape credit of 100 square feet per tree. The Critical Area Report indicates that large trees are proposed to be planted and uses a landscape credit of 200 square feet per tree. The proposed quantities appear to be based on the higher credit. River Birch is considered a canopy tree or "large tree;" however, the Landscape Plans show these trees planted in 5-foot wide planting strips. Generally, Commission staff does not support large trees planted in small landscape islands because they will not survive in these locations. Large trees should be located in planting areas that are at least 10-feet wide. It is important to remember that the square footage credit is supposed to approximate the canopy coverage of a full-grown tree. The use of large trees in the small islands needs to be discussed with Commission staff, City staff, and the City arborist to determine if the proposed species are appropriate for the planned locations.
7. There appear to be many areas on the site where large trees could be located in areas that provide a root area that is significantly wider than 5-feet. These areas should be re-evaluated for planting with large trees.
8. The Landscape Plans, Sheet C6.1 through Sheet C6.4, indicates that all plantings will be River Birch (*Betula nigra*) and some species of Juniper (See Comment #8.). When required planting exceeds 5,000 square feet, at least three different species of each plant "type" (large tree, small tree, large shrub, etc.) should be used.
9. On the Landscape Plan, the large shrub species, *Juniperus chinensis*, is identified as Moonglow Juniper. My research indicates that *Juniperus chinensis* is actually Chinese Juniper. Neither of these species is native to the Chesapeake or Atlantic Coastal Bays watershed. At a minimum, 25 percent of the large shrub plantings should be native species.
10. On Sheet C6.2, on the eastern side of the project site, there is an area identified as a "Landscaped Courtyard," but there appears to be very minimal landscaping in this area. Could pervious openings be created in this area for additional planting?



11. The Plans for Area 2 show a 6-foot by 170-foot access walk pier. Is this structure located over open water, State tidal wetlands, or private tidal wetlands? The Site Plan should accurately depict the proposed erosion control measures, piers, walkways, slips, and mooring piles.
12. The Plans do not accurately show or describe the current condition of the shoreline and shore erosion control measures in Area 2 and Area 5. Is the shoreline of Area 5 bulkheaded? What type of bulkhead? Are any repairs or changes to the bulkhead proposed? Appropriate notes should be placed on the Plans. Is the shoreline of Area 2 protected with nonstructural measures? What are they? Are any repairs or changes to the shoreline proposed? Appropriate notes should be placed on the Plans.
13. Please provide engineering details concerning the type of pervious pavers being proposed, requirements for installation, and an ongoing maintenance agreement.
14. It is not clear if the detail on Sheet C4.1 is supposed to be the "Pervious Pavers BMP." Please provide appropriate labels. It is not clear that this BMP is correctly designed. In order to use this BMP to meet the 10% pollutant reduction requirement, the pavers must be designed to function like an infiltration trench and should generally match the sketch shown in Figure E.16 of the *Critical Area 10% Rule Guidance Manual*.
15. In the pollutant removal calculations for Area 4, an efficiency rating of 100% is used. It is not clear that the "Pervious Pavers BMP" for this area is different from that used in the other areas that had an efficiency rating of 50%. Please provide clarification and an additional detail as necessary.

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

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: OC 814-05  
Gail Blazer, Ocean City



*Mary-Reader*



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

February 13, 2007

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~~ *Bob*:

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

**200666555/ 07-WL-0475 SM CO DEPT OF RECREATION, PARKS & PUBLIC SERVICES**

This application involves the installation of a variety of shore erosion control measures at the Piney Point Lighthouse in St. Mary's County. The project includes marsh creation, the installation of segmented breakwaters, and the emplacement of stone revetment. It appears that efforts have been made to utilize nonstructural shore erosion control measures where practical and to minimize disturbance to the 100-foot Buffer. It is my understanding that there will be temporary impacts to the Buffer associated with construction access to the shoreline and for a material stockpile area. These areas should be stabilized and fully restored to a natural condition when the work is completed.

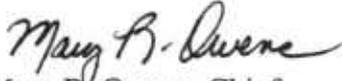
This project is considered to be a local government project on locally-owned land, and all impacts to the Buffer are associated with shore erosion control. The project has been determined to be of minor scale and of local significance; therefore, formal review by the full Critical Area Commission is not required. When the project design is complete and all permits and authorizations have been issued, the County is required to submit the project documents to the Commission with a consistency report as set forth in COMAR 27.02.02.

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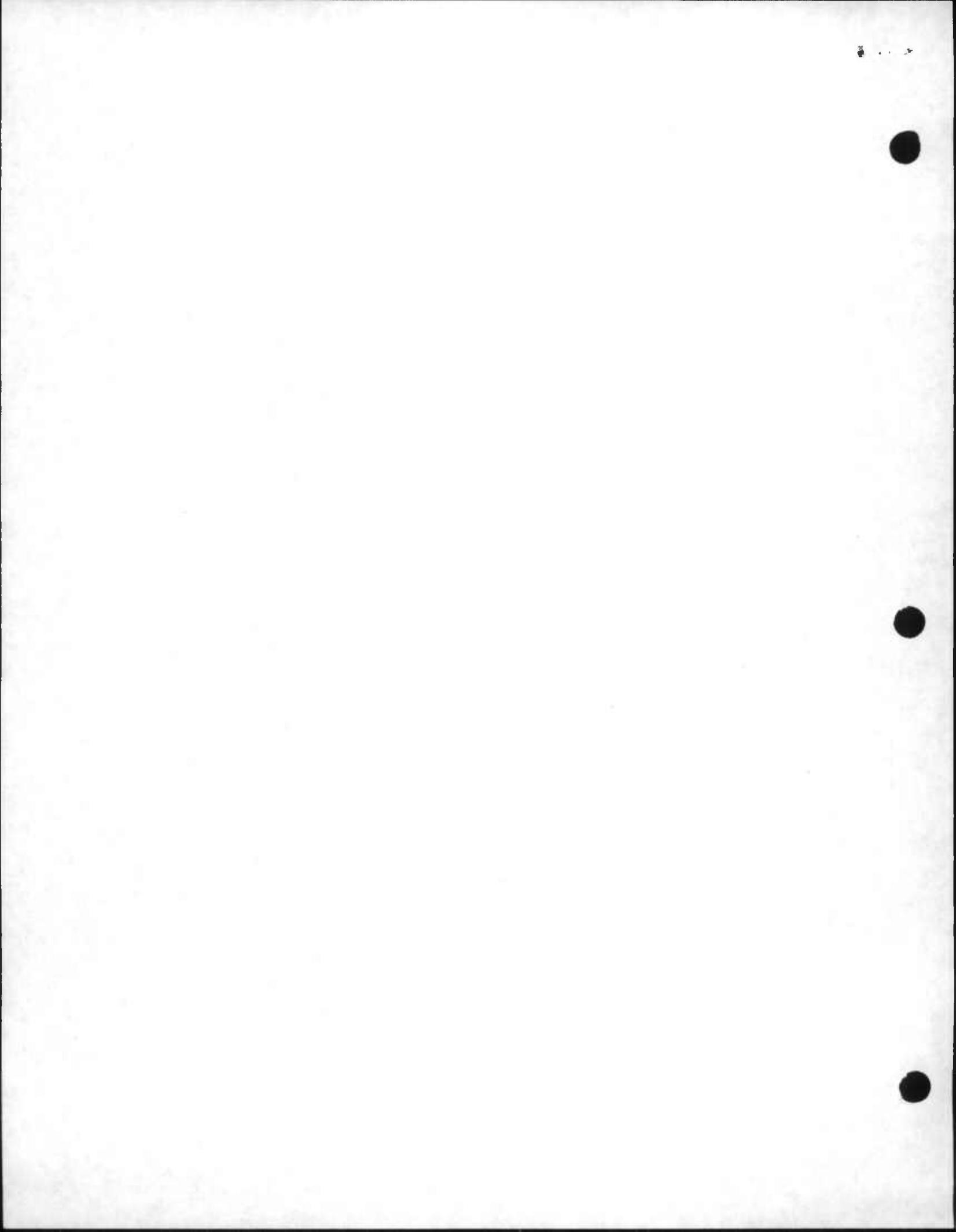


Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Mary R. Owens".

Mary R. Owens, Chief  
Program Implementation Division





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February 1, 2007

Mr. Douglas B. McCoach III  
Baltimore City Planning Commission  
417 East Fayette Street, Eighth Floor  
Baltimore, Maryland 21202-3416

**RE: Floating Concrete Piers – Tidewater at Port Covington  
BA 410-05**

Dear Mr. McCoach:

I am writing in response to your letter dated January 29, 2007 regarding the proposed concrete pier system proposed for the Tidewater at Port Covington Project. Based on my discussions with Dawnn McCleary and Gary Letteron regarding the nature of these structures and the information provided by Bellingham Marine, Commission staff would consider these types of structures to be impervious when calculating the stormwater offset fee. As stated in your letter, the fee is based on the pollutant removal requirement calculated in accordance with the Critical Area 10% Rule Guidance Manual, and the area is considered pervious prior to installation and impervious after installation.

Commission staff would support the codification of this interpretation in the City's CAMP Manual in order to facilitate effective and consistent implementation of the stormwater quality standards on similar projects. Thank you for the opportunity to comment on this issue. 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: Bijan Yarjani  
Beth Strommen  
Duncan Stuart  
Gary Letteron





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January 30, 2007

Ms. Yvonne Chaillet  
St. Mary's County Government  
Department of Land Use and Growth Management  
P.O. Box 653  
Leonardtown, Maryland 20650

RE: SM 20-07 Leon Anderson Variance  
St. Mary's County Project 20-07

Dear Ms. Chaillet:

Thank you for providing information on the referenced variance request. It is my understanding that the applicant is requesting a variance to construct a single-family dwelling within the 100-foot Buffer. The property is an existing grandfathered lot, and approximately half of the lot is constrained by the Buffer.

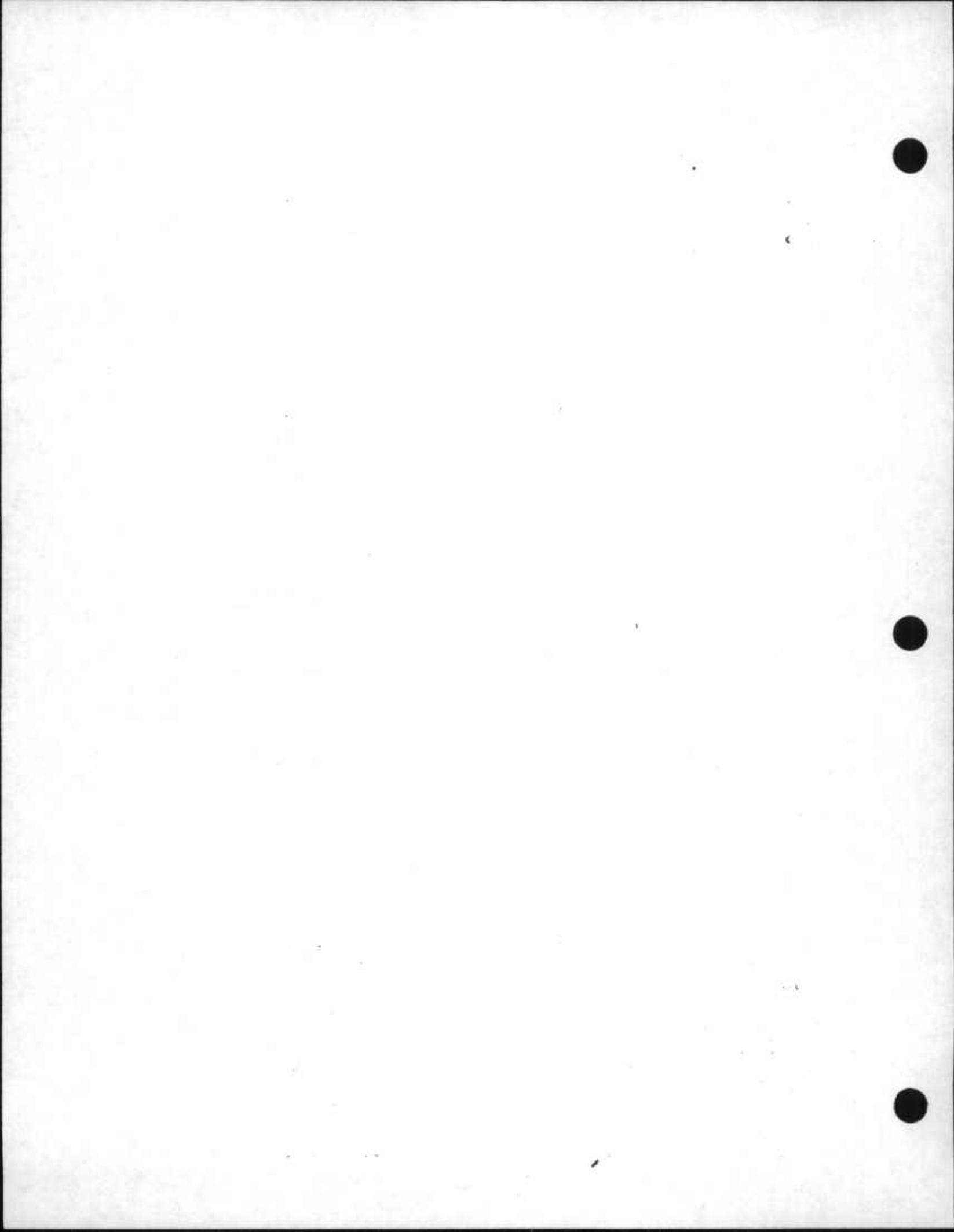
Although, there is an existing garage and swimming pool within the Buffer that is to be removed, it appears that the impacts to the Buffer associated with the new dwelling could be further minimized. The house could be moved closer to Half Pone Point Road, minimizing the impervious surface area in the Buffer and increasing the distance between the proposed deck and the 15% slopes within the Buffer. If necessary, the drainfield associated with the sewage reserve area could be moved closer to the road and reconfigured with three shorter trenches.

This office does not oppose the variance request for impacts to the Buffer if the Board determines that the applicant has made every effort to ensure that the site design minimizes impacts to the Buffer. If the variance is approved, Commission staff recommends implementation of mitigation planting at three-to-one as required by the St. Mary's County Comprehensive Zoning Ordinance and Subdivision Ordinance and the installation of appropriate stormwater best management practices to avoid discharging stormwater within the Buffer.

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 Divisions





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January 24, 2007

Mr. Robert Tabisz  
Maryland Department of the Environment  
Water Management Administration  
1800 Washington Boulevard  
Baltimore, Maryland 21230

**RE: Comments on Applications for State Permits – St. Mary's County**

Dear Mr. Tabisz:

I am writing to provide comments on the following projects located in St. Mary's County:

**200565932/07 – PR – 0533 WILLIAM J. BLANTON, JR.**

This project involves the extension of an existing private pier. St. Mary's County's zoning regulations include provisions that regulate the length and location of private piers in order to ensure that riparian landowners have equitable and reasonable water access. The applicant should be advised that a local permit is required for the pier extension and that compliance with local regulations will be required. Information about permits can be obtained by calling Mr. Jim Stokes at (301) 475-4200, X1525.

**200667402/07 – WL – 0746 JOHN WOODWARD**

This project involves the construction of several timber jetties perpendicular to an existing timber bulkhead. In accordance with the St. Mary's County Critical Area regulations, structural shore erosion control measures should be used only in areas where nonstructural measures would be impractical or ineffective. The applicant should be advised that a local permit is required for the jetties, and that compliance with local regulations will be required. Information about permits can be obtained by calling Mr. Jim Stokes at (301) 475-4200, X1525.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens, Chief  
Program Implementation Division





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January 23, 2007

Mr. Joseph R. Kincaid  
Maryland Department of the Environment  
Water Management Administration  
1800 Washington Boulevard  
Baltimore, Maryland 21230

**RE: Comments on Applications for State Permits – Dorchester County**

Dear Mr. Kincaid:

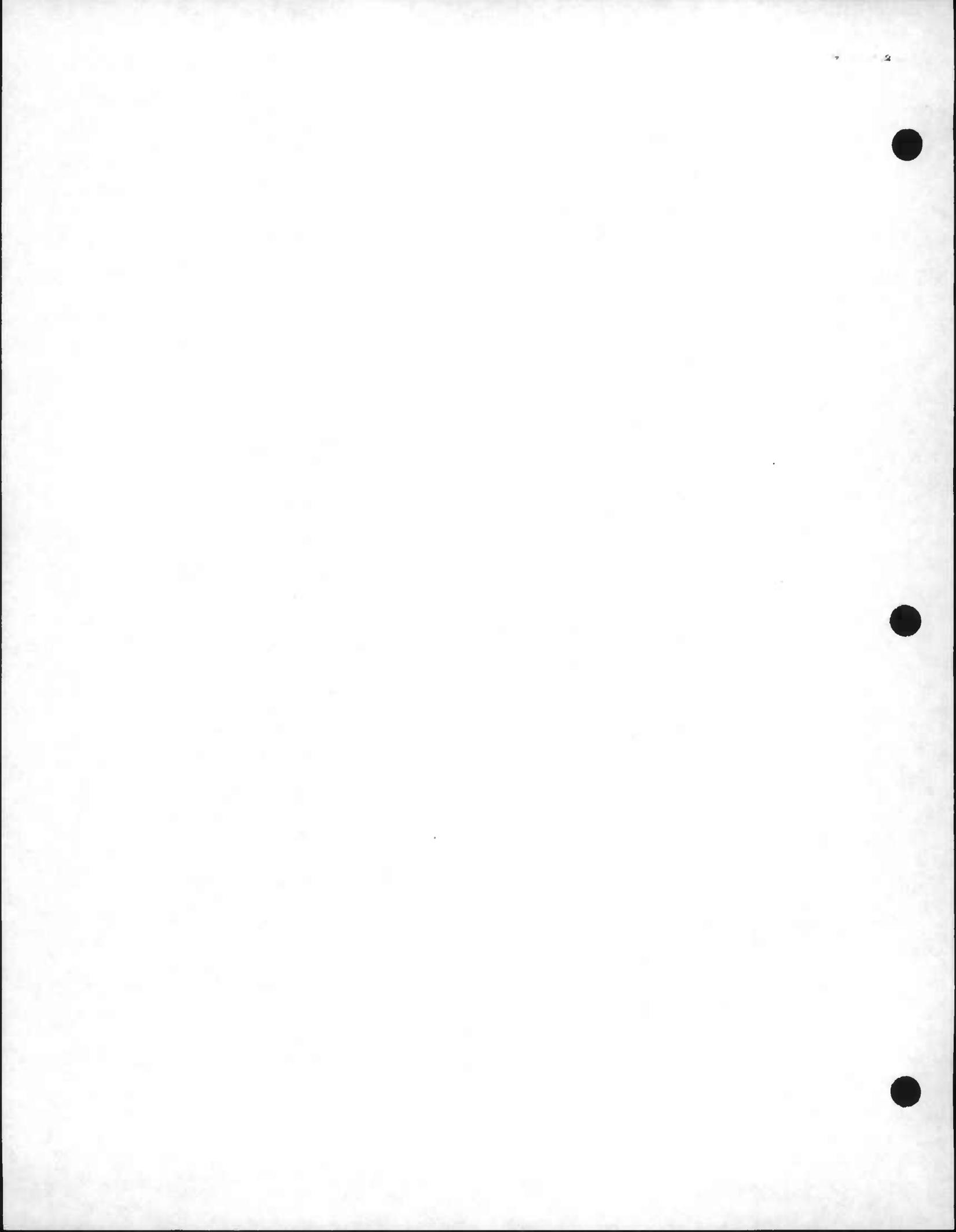
I am writing to provide comments on the following project located in Dorchester County:

**200667399/07 – WL – 0745 BLACKWATER FARMS INC**

This project involves the excavation of tidal wetlands and tidal waters to create an irrigation sump. It is not clear from the information provided why the sump is needed to improve agricultural production or what alternatives have been explored. Because this property is within the Critical Area, all agricultural activities shall be conducted in accordance with a Soil Conservation and Water Quality Plan approved by the Dorchester County Soil Conservation District. Information about compliance with an approved Plan has not been provided.

It appears that the proposal will involve the removal of natural vegetation within the Buffer. In general, the creation of new agricultural lands shall not be accomplished by clearing natural vegetation within the 100-foot Buffer. It is not clear if the irrigation sump can be considered a water-dependent facility. Water-dependent facilities, which require a location at or near the shoreline within the Buffer by reason of the intrinsic nature of their operation, may impact the Buffer; however, efforts should be made to minimize disturbance and to provide appropriate mitigation. The information submitted is not sufficient to determine if the activity is water-dependent.

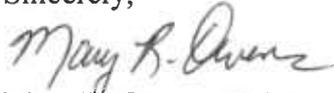
The application states that excavated material will be placed in an upland area greater than 100-feet from any tidal wetlands. Excavated material cannot be placed in the Buffer (from tidal wetlands, tidal waters, and streams) or in any designated Habitat Protection Area except as necessary for backfill for permitted shore erosion control measures, use in approved vegetative shore erosion control projects, placement on previously approved channel maintenance spoil disposal areas, and beach nourishment. The applicant should verify with the Dorchester County



Department of Planning and Zoning that the proposed disposal area is not in the Buffer or a designated Habitat Protection Area.

Thank you for the opportunity to provide comments on the referenced project. 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





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January 23, 2007

Mr. Steve Dodd  
Dorchester County  
Department of Planning and Zoning  
P O Box 107  
Cambridge, Maryland 21613

**RE: DC 18-07 Richard Travers Variance  
Dorchester County Project #2315**

Dear Mr. Dodd:

Thank you for providing information on the referenced project. The applicant is requesting approval of a variance to impact the 100-foot Buffer in order to replace an existing dwelling with a larger modular home. The proposed modular home will be placed in the same location as the existing dwelling. The property is an existing grandfathered parcel, and it is completely constrained by the Buffer and the location of the existing sewage reserve area.

The Commission does not oppose the proposed variance to impact the Buffer, as there is no feasible location that will avoid impacts to the Buffer. 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 Critical Area Program. Thank you for the opportunity to provide comments on this variance request. If you would like to discuss these comments, please call me at (410) 260-3480. Please provide a copy of the Board of Appeals' written decision on this variance request.

Sincerely,

*Mary R. Owens*

Mary R. Owens, Chief  
Program Implementation Division

MRO/jjd





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January 22, 2007

Ms. Kathy Anderson  
Us Army Corps of Engineers  
Baltimore District  
P. O. Box 1715  
Baltimore, Maryland 21203-1715

**RE: PN 07-03**  
**Shore Erosion Control at Piney Point Lighthouse**  
**St. Mary's County Department of Recreation, Parks and Public Services**

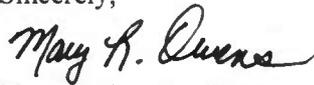
Dear Ms. Anderson:

I am writing to provide comments on the referenced application involving the installation of a variety of shore erosion control measures at the Piney Point Lighthouse in St. Mary's County. The project includes marsh creation, the installation of segmented breakwaters, and the emplacement of stone revetment. It appears that efforts have been made to utilize nonstructural shore erosion control measures where practical and to minimize disturbance to the 100-foot Buffer. It is my understanding that there will be temporary impacts to the Buffer associated with construction access to the shoreline and for a material stockpile area. These areas should be stabilized and fully restored to a natural condition when the work is completed.

This project is considered to be a local government project on locally-owned land, and all impacts to the Buffer are associated with shore erosion control. The project has been determined to be of minor scale and of local significance; therefore, formal review by the full Critical Area Commission is not required. When the project design is complete and all permits and authorizations have been issued, the County is required to submit the project documents to the Commission with a consistency report as set forth in COMAR 27.02.02.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

  
Mary R. Owens, Chief  
Program Implementation Division

Cc: Sue Veith, St. Mary's County





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January 22, 2007

Ms. Yvonne Chaillet  
St. Mary's County Government  
Department of Land Use and Growth Management  
P.O. Box 653  
Leonardtown, Maryland 20650

**RE: SM 806-06 Larry Jenkins Structure in the Buffer  
St. Mary's County Project 05-3465**

Dear Ms. Chaillet:

Thank you for providing information regarding the unauthorized construction of a free-standing deck, steps, and walkways within the 100-foot Buffer on property owned by Larry Jenkins. I have reviewed the letters and e-mail correspondence you provided and the photographs of the property from both the Spring and Fall of 2003.

This office supports the position of the Department of Land Use and Growth Management that the free-standing deck and other improvements is a violation of both Section 22.1.3 of the Comprehensive Zoning Ordinance which requires the issuance of an environmental permit and Section 71.8.3 which requires a variance for new development activities within the 100-foot Buffer. It is my understanding that Mr. Jenkins has purported that the structure is a duck blind. After reviewing the photographs of the structure and its location above mean high water and within the 100-foot Buffer, clearly this is not the case.

As you know 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. Construction of unauthorized structures within the Buffer, without an environmental review and the granting of a variance, contribute to the continued decline of the Bays' water resources by substantially increasing the amount of disturbance and impervious surface are in the Buffer. These impacts contribute to declines in water quality and to riparian and shoreline habitats that must be reversed in order to successfully restore and protect the Bay.

The applicant bears the burden to apply for any required permits or variances when development activities are proposed within the Critical Area. The proper implementation of the St. Mary's County Critical Area Program requires a respect for the law. It is unacceptable for an applicant to proceed with unauthorized development activities of this nature and to attempt to circumvent the appropriate permit

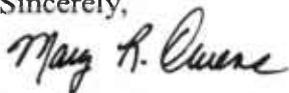


Ms. Chaillet  
January 22, 2007  
Page 2

process by claiming ignorance of the regulations, defining the development activity as something other than what it is, or by proceeding with the development activity in hopes that "forgiveness" is more easily obtained than "permission." Actions such as this can manipulate the County and potentially the Board of Appeals into accommodating an applicant's development proposal without permitting the County staff or the Board the opportunity to analyze the proposal and determine the best ways to avoid adversely affecting water quality and fish, wildlife, or plant habitats within the County's Critical Area.

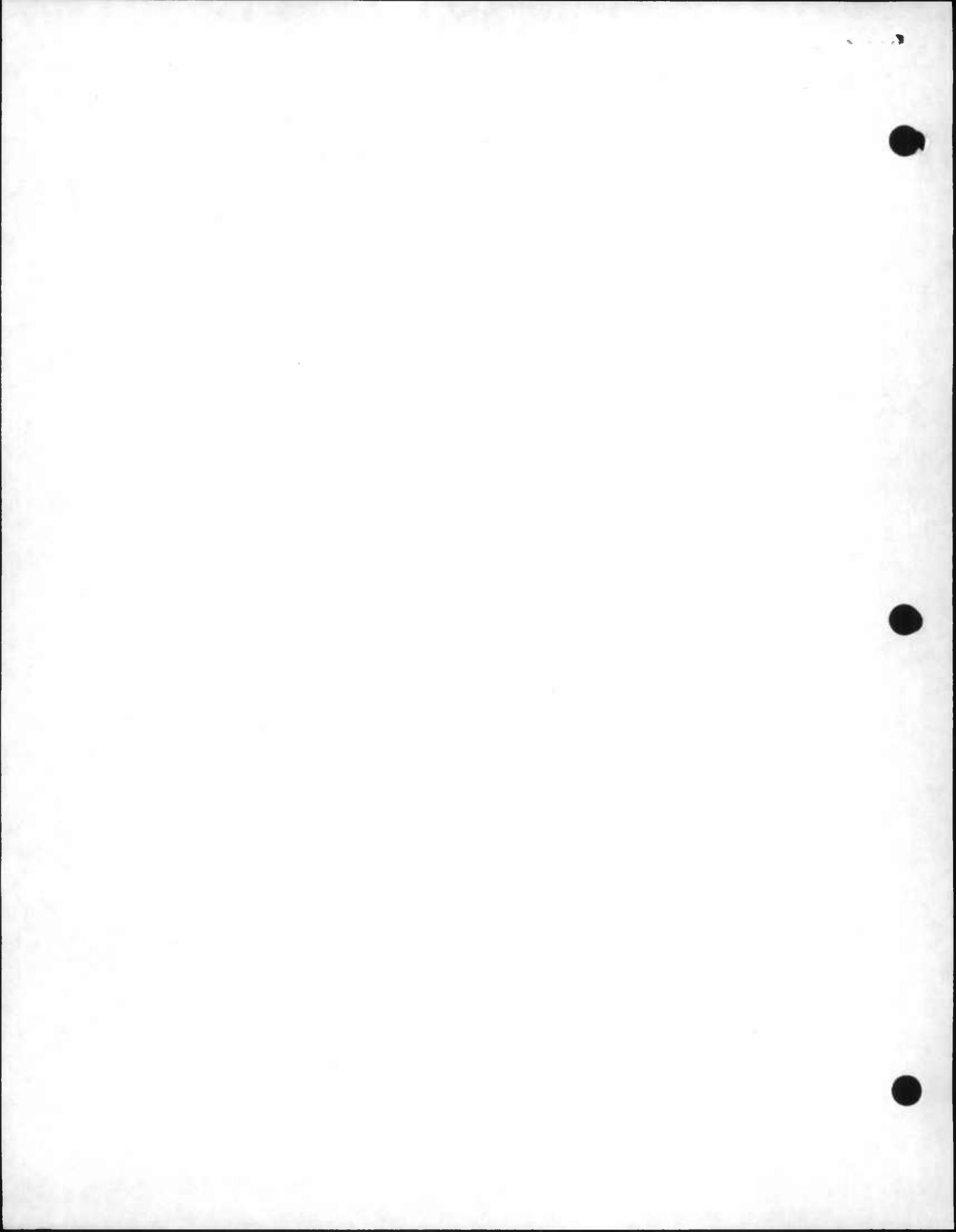
Thank you for requesting comments on the applicant's project and his appeal of the Planning Director's decision. Please provide a copy of the Board of Appeals' decision regarding this project. If you have any questions, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Marianne Mason





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January 19, 2007

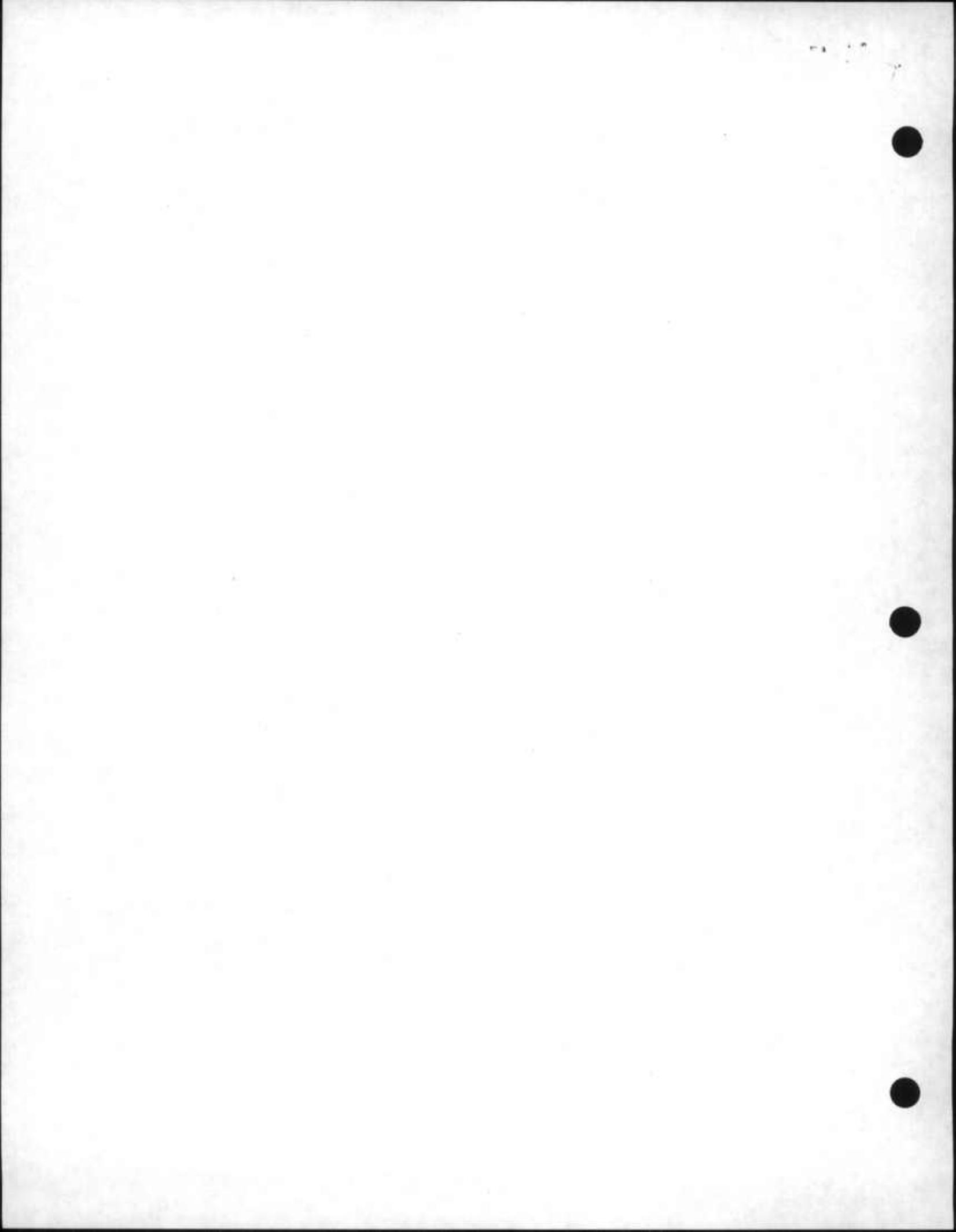
Mr. Blaine Smith  
Town of Ocean City  
P.O. Box 158  
Ocean City, Maryland 21843

**RE: Renovations and Additions to St. Peter's Lutheran Church (#06-18100010)  
OC 757-06**

Dear Mr. Smith:

I have received a revised submittal for the referenced project in response to the comments provided in a letter from Chris Clark, dated November 29, 2006. The following issues still need to be addressed:

1. It is my understanding that the area of disconnected roof-top run-off to each downspout is greater than 500 square feet. This exceeds the design standards in the 2000 MDE Stormwater Design Manual.
2. It appears that there is less than 10 feet between the grass channel and other adjacent impervious areas on the north side of the project site. This situation can result in a "reconnection" of stormwater discharges without infiltration and does not comply with the design standards in the 2000 MDE Stormwater Manual.
3. It appears that the disconnected non-rooftop run-off to a single discharge point significantly exceeds 1,000 square feet in the parking area. The contributing impervious area significantly exceeds the design standards in the 2000 MDE Stormwater Manual. Infiltration practices such as a sand filter may be worth exploring as an alternative as they could be located underneath the parking area.
4. The 10% pollutant reduction calculations must account for the entire site; therefore, the area that is currently treated by an infiltration practice needs to be included in the calculations and the infiltration practice should be included as an existing BMP. On pages 7-2 and 7-3 of the *Critical Area 10% Rule Guidance Manual – Fall 2003*, Frequently

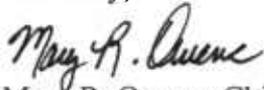


Asked Questions 6 and 7 provide additional information about how to include existing Best Management Practices in project calculations.

5. The existing and proposed plantings shown on the Landscape Plan meet the 15% afforestation requirement.

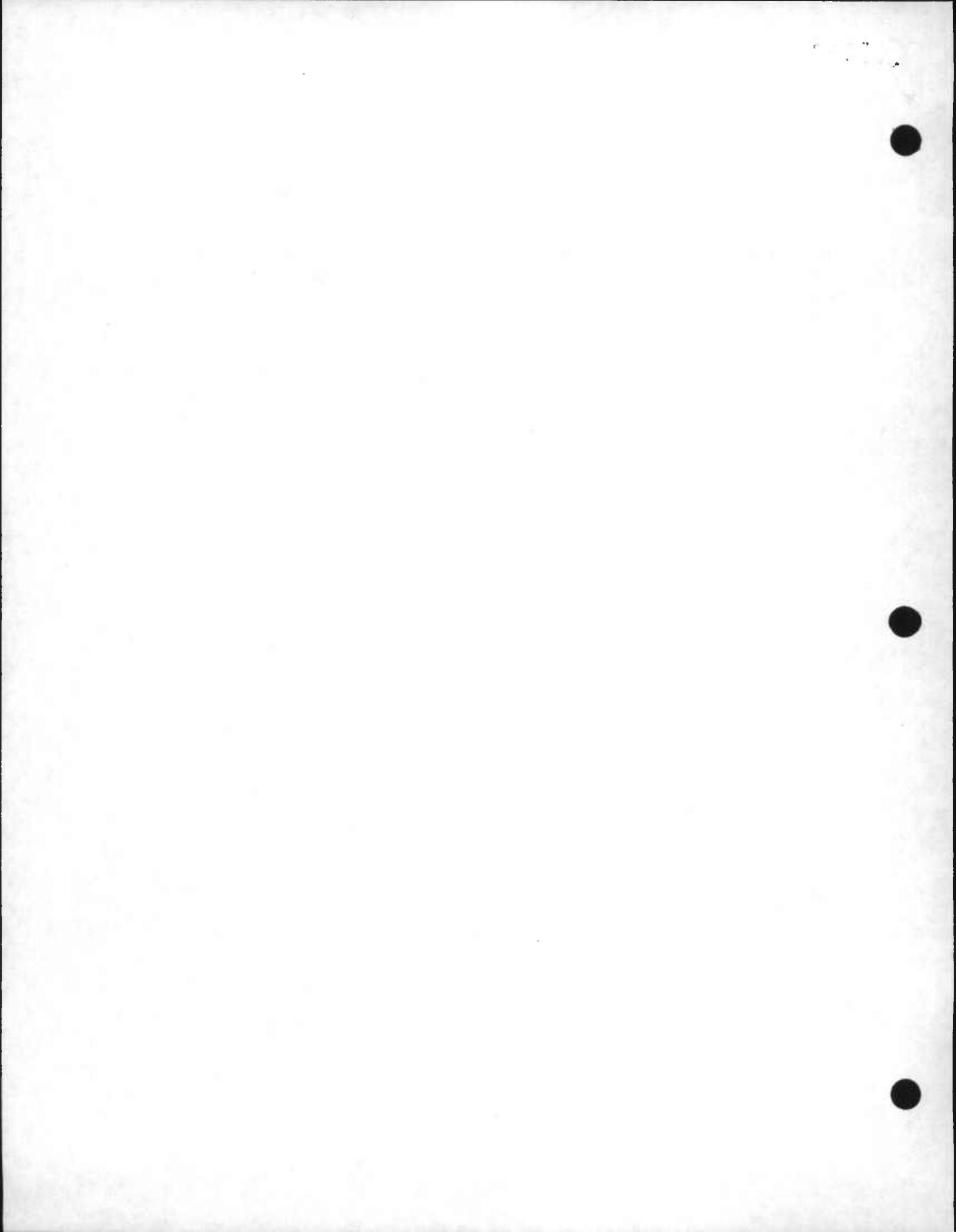
Thank you for the opportunity to comment on the latest revision of this project. I have provided the consultant with a copy of this letter, so that they can begin addressing the comments. If you have any questions, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Gail Blazer, Town of Ocean City  
Donna Wilson, Davis, Bowen and Friedel, Inc.





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January 18, 2007

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

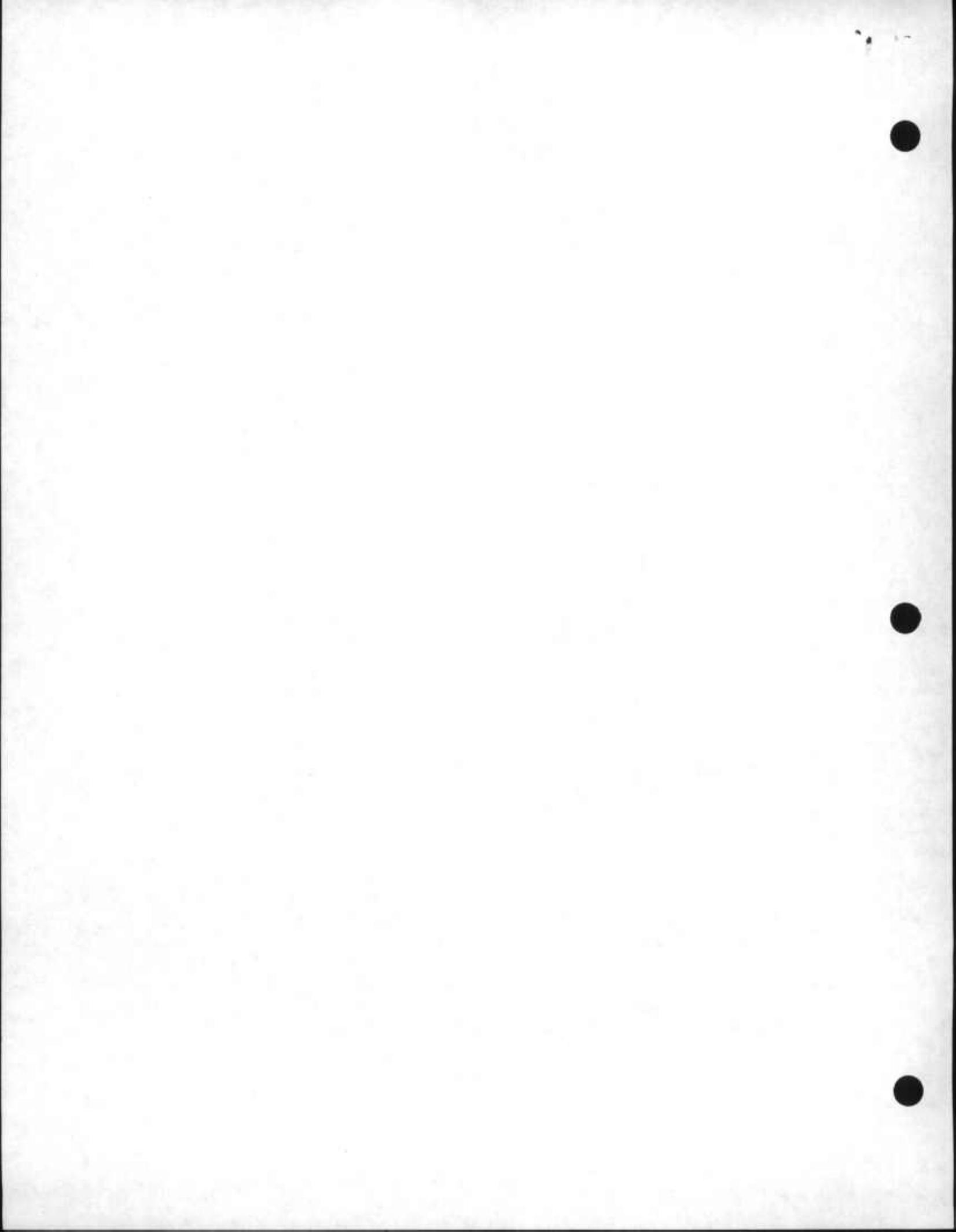
**RE: Pollutant Removal Requirement Calculations  
KC 836-06 Drayton Manor Retreat Center and Spa**

Dear Ms. Moredock:

I have received preliminary information regarding the 10% pollutant removal requirement for development projects in Intensely Developed Areas (IDAs) for the Drayton Manor Retreat Center and Spa. At the applicant's request, I have reviewed the site plan and the calculations on Worksheet A.

Worksheet A does not include a detailed breakdown of all proposed impervious surfaces, but it is my understanding that the total proposed impervious surface area of 4.359 acres includes all buildings, roads, parking areas, walkways, the swimming pool, and all other proposed impervious areas. There is a minor error in the post-development load calculations which reduces the post-development load from 13.519 pounds to 13.313 pounds. However, because the pollutant removal requirement is a negative number, and is rounded up to zero, this error does not affect the end result.

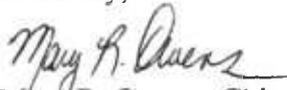
As explained in the *Critical Area 10% Rule Guidance Manual- Fall 2003*, "Under certain scenarios, the calculations can result in a value less than zero for the pollutant removal requirement. This less-than-zero scenario is referred to as a negative removal requirement and can happen when a drainage area has less than 17% imperviousness." This situation does not relieve the applicant of the need to comply with local requirements and regulations for managing stormwater quality and quantity, but simply establishes that because of the relatively low level of impervious surface coverage on the site as a whole, the Critical Area pollutant reduction requirement can be met through infiltration of run-off into surrounding pervious areas.



Ms. Moredock  
January 18, 2007  
Page 2

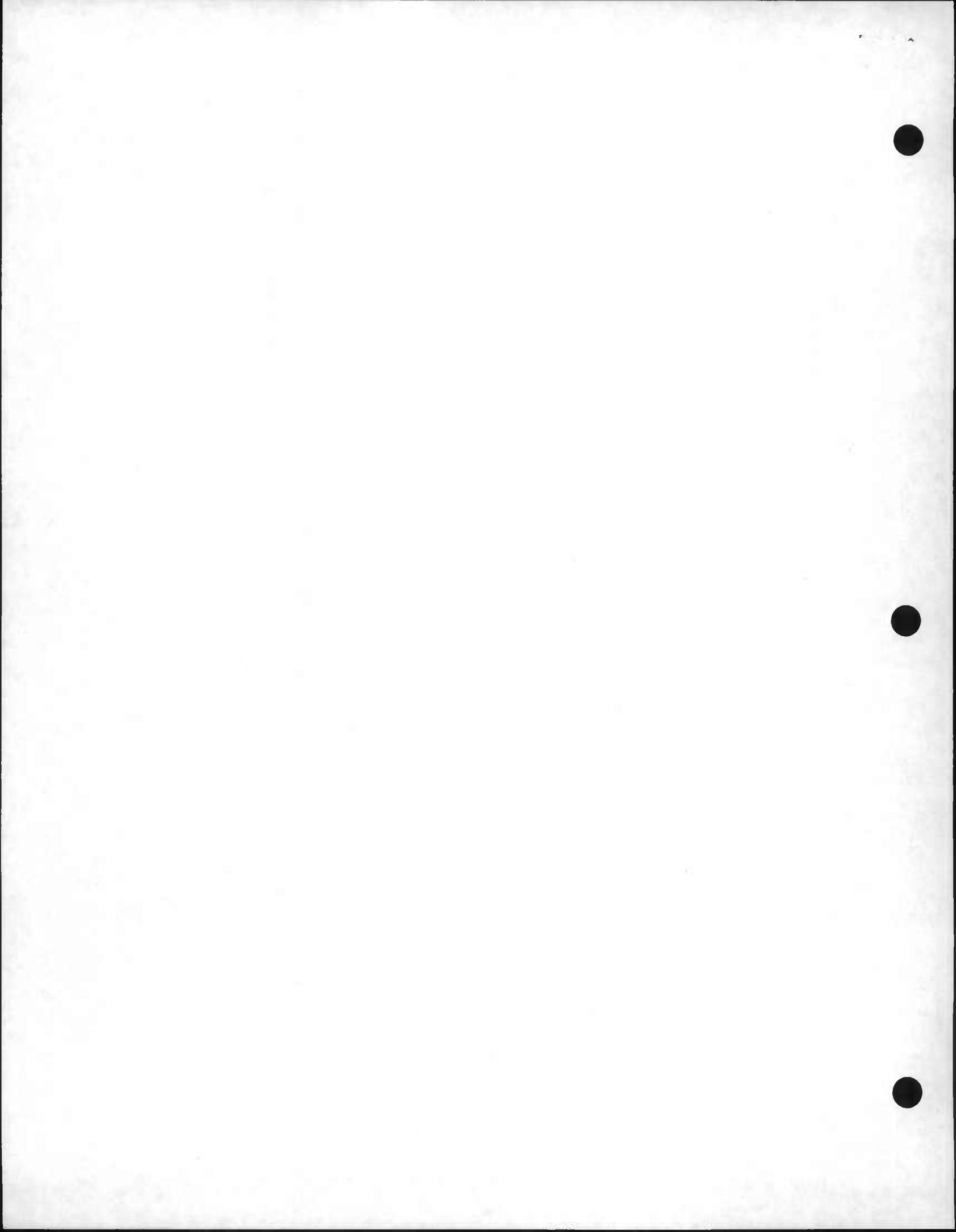
I hope this answers any questions that you have about the conceptual plan and compliance with the pollutant reduction requirement within the IDA. If you have any further questions, please do not hesitate to call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Erin Smith, Petro Design Group





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January 18, 2007

Mr. Bill Watson  
Town of Chesapeake Beach  
P. O. Box 400  
Chesapeake Beach, Maryland 20732

**RE: Fortier Variance  
CB 574 – 03 Lot 31 Wickersham**

Dear Mr. Watson:

I am writing in response to the recent submittal which included a Mitigation Plan and a Conservation Easement Exhibit for the referenced variance request and also to provide the clarifications that the Board of Appeals requested pursuant to their review of the application on October 3, 2006.

I have reviewed the Mitigation Plan and Conservation Easement Exhibit. The variance is requested to allow the disturbance of 4,104 square feet of expanded Buffer in order to construct a single family dwelling and driveway and to provide utilities to the dwelling. The Commission does not oppose the requested variance because the lot is an existing grandfathered lot, and the entire lot is constrained by the expanded Buffer. If the Board of Appeals approves the requested variance, in accordance with Chesapeake Beach Ordinance O-6-14, the applicant shall provide mitigation at three-to-one for a total of 12,312 square feet of mitigation.

The applicant's Mitigation Plan indicates that canopy trees, understory trees, and shrubs will be planted on the project site and on Lots 30, 16, 40, 19, and 18 to provide 7,800 square feet of mitigation. An additional 5,223.9 square feet of mitigation will be provided by placing a conservation easement on forested land designated IDA and shown on the Conservation Easement Exhibit totaling 15,830 square feet. Mitigation in the form of conservation easements placed on forested IDA land receives credit at 1:3 (33%). The applicant's proposed mitigation totals 13,023.9 square feet which satisfies the mitigation requirement.

In a letter to the Critical Area Commission dated November 7, 2006, you requested clarification on several issues that were discussed by the Board of Appeals at their meeting on October 3, 2006.



Mr. Watson  
January 18, 2007  
Page 2

With regard to my comment regarding the variance applications that were withdrawn in 2005, I incorrectly stated that these variances were for Lots 27, 28, and 29. The variance applications that were withdrawn were for Lot 30 and Lots 15 and 16. Lots 27, 28, and 29 are part of the variance application for Lot 31 because they are included in the mitigation proposal.

With regard to the Mitigation Plan dated January 4, 2007 and the Conservation Easement Exhibit dated January 2007, the proposed mitigation for the variance request appears to be acceptable. I have not reviewed the final Declaration of Covenants, Conditions, and Restrictions that will provide for the permanent protection of the areas shown on the Conservation Easement Exhibit. As you have requested, The Board of Appeals may condition their approval of the variance request on submittal of the final document for review by the Commission at a later date.

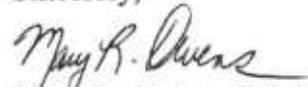
With regard to the need for an inspection of the property, you recall that I did a site visit with you last year, and we looked at the areas proposed for planting and for conservation. At that time, we agreed that the areas proposed for planting were acceptable as mitigation sites, and that the forested lots could be protected by a conservation easement for additional mitigation credit.

With regard to the discussion regarding the need for a metes and bounds description and a plat of the land that will be subject to the Conservation Easement, the Commission's legal counsel has determined that the "Line Table" includes the necessary information; therefore the Conservation Easement Exhibit is sufficient, and a metes and bounds description is not necessary.

In your final comment, you state that the land along Freedly Avenue that I thought was part of the Town's right-of-way, was abandoned and deeded to William L. Fortier et al. You state that there were no reservations placed on the right-of-way; therefore, it appears that Mr. Fortier can locate mitigation plantings in this area.

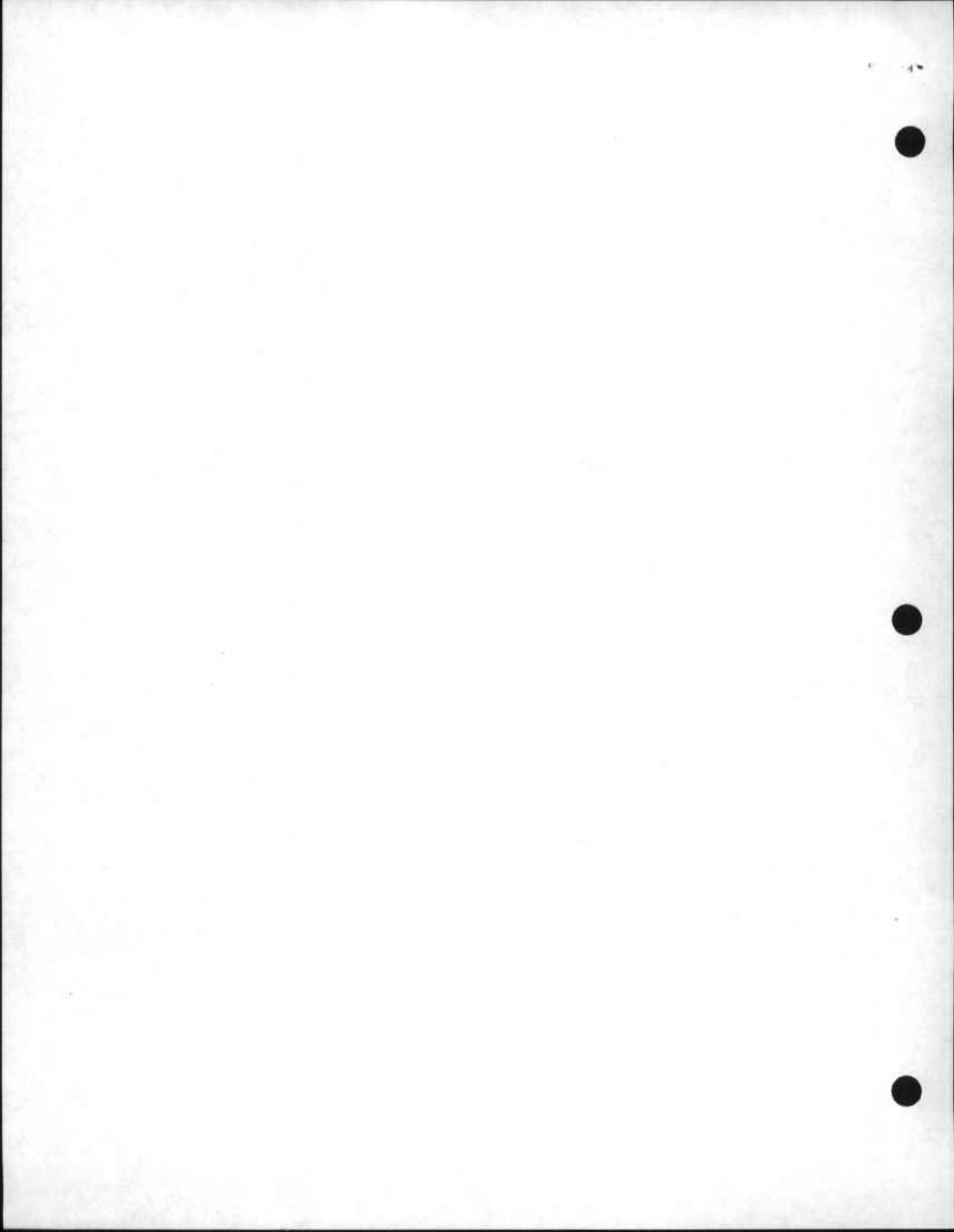
I hope this information is sufficient and will allow the Board to move forward with their review of this variance. If I can provide further assistance, please call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief  
Program Implementation Division

cc: Mr. Gary Coldsmith  
Mr. Eric Blitz, Webb and Blitz



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

The Honorable Francis Jack Russell  
St. Mary's County Government  
Board of County Commissioners  
P. O. Box 653  
Leonardtown, Maryland 20650

**RE: Correction of Critical Area Mapping Mistake  
St. Mary's – Ryken High School**

Dear President Russell:

Thank you for writing regarding the referenced map amendment proposal, which involves a change in the Critical Area designation of the Ryken High School Property. The property is identified as Parcel 7 on Tax Map 41, Grid 7, and the proposed amendment would change the Critical Area classification of 75.024 acres from Resource Conservation Area (RCA) to Intensely Developed Area (IDA). The County has approved this change on the basis that a mistake was made at the time of the original Critical Area mapping. The Commission staff will move forward with processing the map change. 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: Dennis Canavan, St. Mary's County  
Marianne Dise  
Ren Serey  
Sue Veith, St. Mary's County



Robert L. Ehrlich, Jr.  
Governor



Martin G. Madden  
Chairman

Michael S. Steele  
Lt. Governor

Ren Serey  
Executive Director

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CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

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January 12, 2007

Mr. Steve Dodd  
Dorchester County Planning and Zoning Office  
P.O. Box 107  
Cambridge, Maryland 21613

**RE: James Allen Todd Property  
Tax Map 102, Grid 15, Parcel 81**

Dear Mr. Dodd:

I have reviewed a copy of the deed for the referenced property recorded in the Dorchester County Land Records, Liber 162, Page 215 and a copy of the property survey for the property dated November 12, 1997. The deed did not include a metes and bounds description of the property, but did describe the location of the property and the language "... containing five acres of land, more or less." It is my understanding that pursuant to Dorchester County Circuit Court action in Case No. C5890, Todd et al. vs. Chitlik, property lines were established, and a subsequent survey revealed that the parcel described in the deed actually contained 14.43 acres.

Based on my review of the information provided, I believe the County can determine that the deed identified a parcel of land that can be considered a "grandfathered lot" based on the date of September 24, 1969 included in the deed. Although the acreage mentioned in the deed does not match the acreage surveyed, if the County determines that the survey was properly conducted in accordance with the Court's order, the Commission does not object to the entire 14.43 acres being considered a grandfathered lot.

In accordance with the provisions of §8-1808.2 of the Natural Resources Article of the Annotated Code of Maryland (Intrafamily Transfers), "A parcel that is 12 acres or more and less than 60 acres in size may be subdivided into 3 lots." The applicant should be advised that a "bona fide intrafamily transfer means a transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member. Immediate family means a father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter."

If you have any questions, please feel free 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

cc: Janet Emerson, Phyllis James and Associates



Robert L. Ehrlich, Jr.  
Governor



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January 8, 2007

Mr. Blaine Smith  
Town of Ocean City  
P.O. Box 158  
Ocean City, Maryland 21843

**RE: Building Permit for Single Family Dwelling – Pamela Fields (#12324)  
OC 822-06**

Dear Mr. Smith:

I have reviewed the information submitted for the referenced project, and I have the following comments:

1. The project is in compliance with the required 5-foot setback; however, the owner is encouraged to locate some of the proposed plantings close to the lagoon or to provide supplemental planting in this area.
2. Based on the landscape material values that you provided in a letter to Chris Clark dated August 18, 2006, it appears that the proposed plantings will meet the required \$ 2,000.00 threshold. The applicant should be advised that the small trees shall be 1" – 1 1/2" caliper, and that larges shrubs shall be 36" tall or wide or 3-gallon size.
3. The site plan includes a rain garden and swales to address compliance with the 10% pollutant reduction requirement.

Thank you for the opportunity to comment on this project. 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



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*Governor*

Michael S. Steele  
*Lt. Governor*



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January 8, 2007

Ms. Mary Alves  
Historic St. Mary's City Commission  
P.O. Box 39  
St. Mary's City, Maryland 20686

**RE: Dove Bank Marsh Creation**

Dear Ms. Alves:

I am writing to officially notify you of the Critical Area Commission's action on the proposed Dove Bank Marsh Creation Project at Historic St. Mary's City. On January 3, 2007, the Commission voted to approve the project. As you are aware, no work should begin until all State and federal authorizations and permits are received.

Thank you for your assistance with this project, and 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*



Martin G. Madden  
*Chairman*

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*Lt. Governor*

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January 4, 2007

The Honorable Robert L. Herbert  
Town Hall  
Town of Church Creek  
P.O. Box 52  
Church Creek, Maryland 21622-0052

**RE: Gordy Jones Subdivision and Building Permit Request**

Dear Mayor Herbert:

I am writing to follow up on a request for additional information that the Critical Area Commission received from Mr. Gordy Jones, Jr. regarding authorization to build a single family dwelling on a newly subdivided lot at 1847 White Haven Drive in the Town of Church Creek. Mr. Jones provided the Commission with a portion of a plan showing the lot and a copy of your letter dated November 20, 2006.

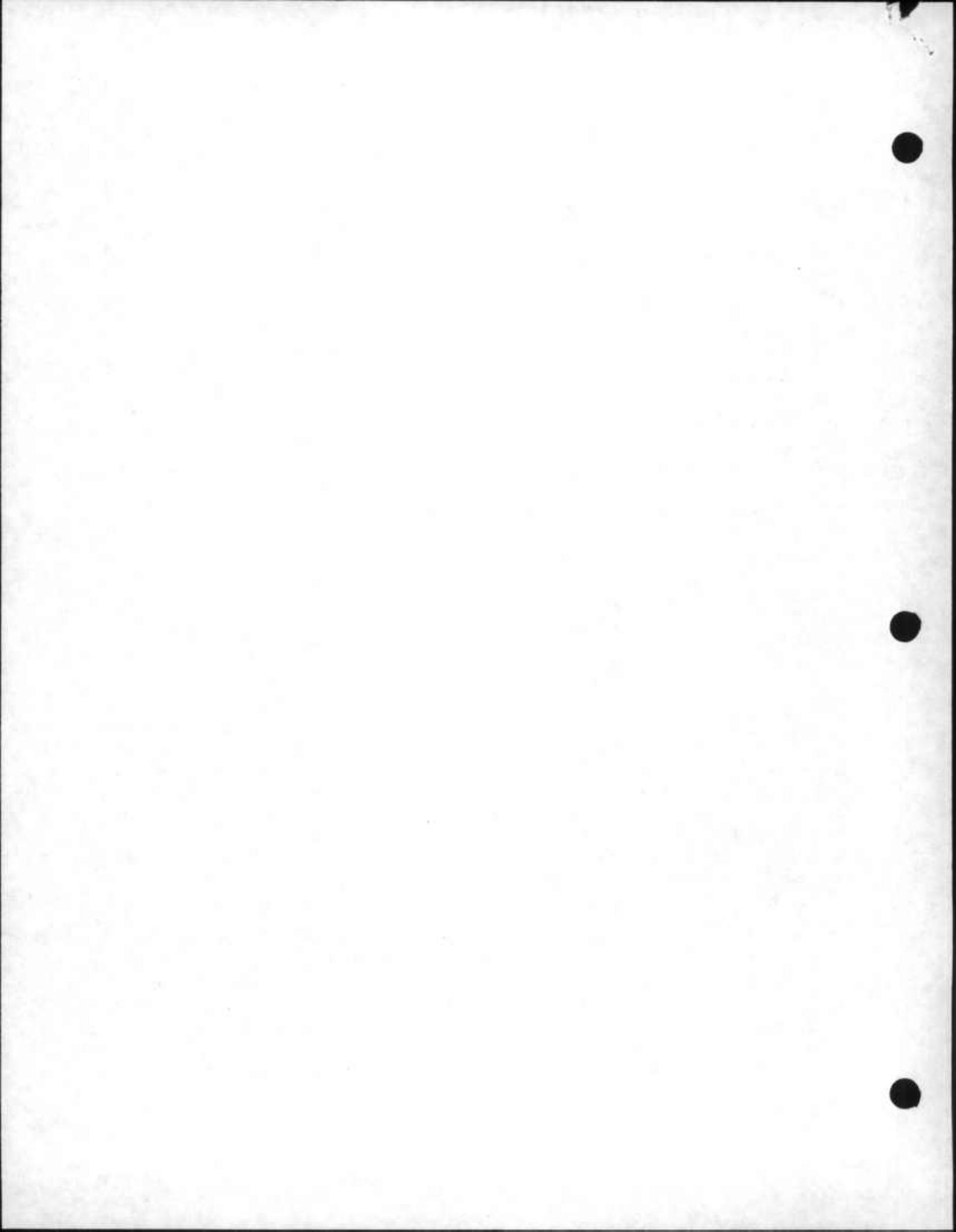
As you are probably aware, on December 13, 1999, the Town approved a revised Resolution regarding exclusion of the Town from the Critical Area and agreeing to comply with the Dorchester County Critical Area Program insofar as possible. This Resolution included "Critical Area Requirements for the Town of Church Creek" and specified that the Maryland Office (Department) of Planning Circuit Rider or other designee would review development and redevelopment proposals in the Critical Area. I believe that the intent of this resolution was to allow the Maryland Department of Planning Circuit Rider to review and approve building permits within the Critical Area of Church Creek through the application of the standards in the resolution, which are generally consistent with the County's Critical Area Program.

The standards in the resolution are very basic and are designed to accommodate reasonable residential development on existing grandfathered lots. The resolution does not address subdivision or the creation of new lots because these types of activities were not contemplated as potentially occurring in the Critical Area of Church Creek. In fact, it was the Commission's understanding that the Town did not have the legal authority to approve subdivisions resulting in the creation of new lots. Had the Commission been aware of the Town's intention to approve this type of activity within the Critical Area, it is likely that a substantially different type of resolution would have been required.

It is my understanding that a "subdivision plat" has been recorded in the Land Records of Dorchester County; however, it does not appear that without further reviews regarding sewage disposal, access,

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





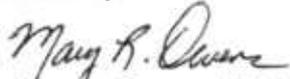
and Critical Area requirements that the newly created lot can be recognized as a legally buildable lot and a building permit issued. In accordance with COMAR 27.03.01.03.A (1) and (2) and the Dorchester County Critical Area Program, this project involves a subdivision and appears likely to result in physical disturbance to the Buffer; therefore, the local approving authority or the applicant is required to send the application to Dorchester County and the Critical Area Commission for review and comment. IN addition, the provisions of COMAR 27.03.01.02.E and F state,

- E. After receipt of a copy of an application from the applicant or local approving authority, the Commission shall send written notice of receipt to the applicant and to the local approving authority before the close of the next business day. A failure of the Commission to send a timely notice shall render §F of this regulation inapplicable as to that application.*
- F. The local approving authority may not process an application which has been sent to the Commission for notification until it has received notice of receipt from the Commission. To expedite this process, the local jurisdiction may telephone the Commission to verify receipt of any given application. Any action of the local approving authority in violation of this section shall be void.*

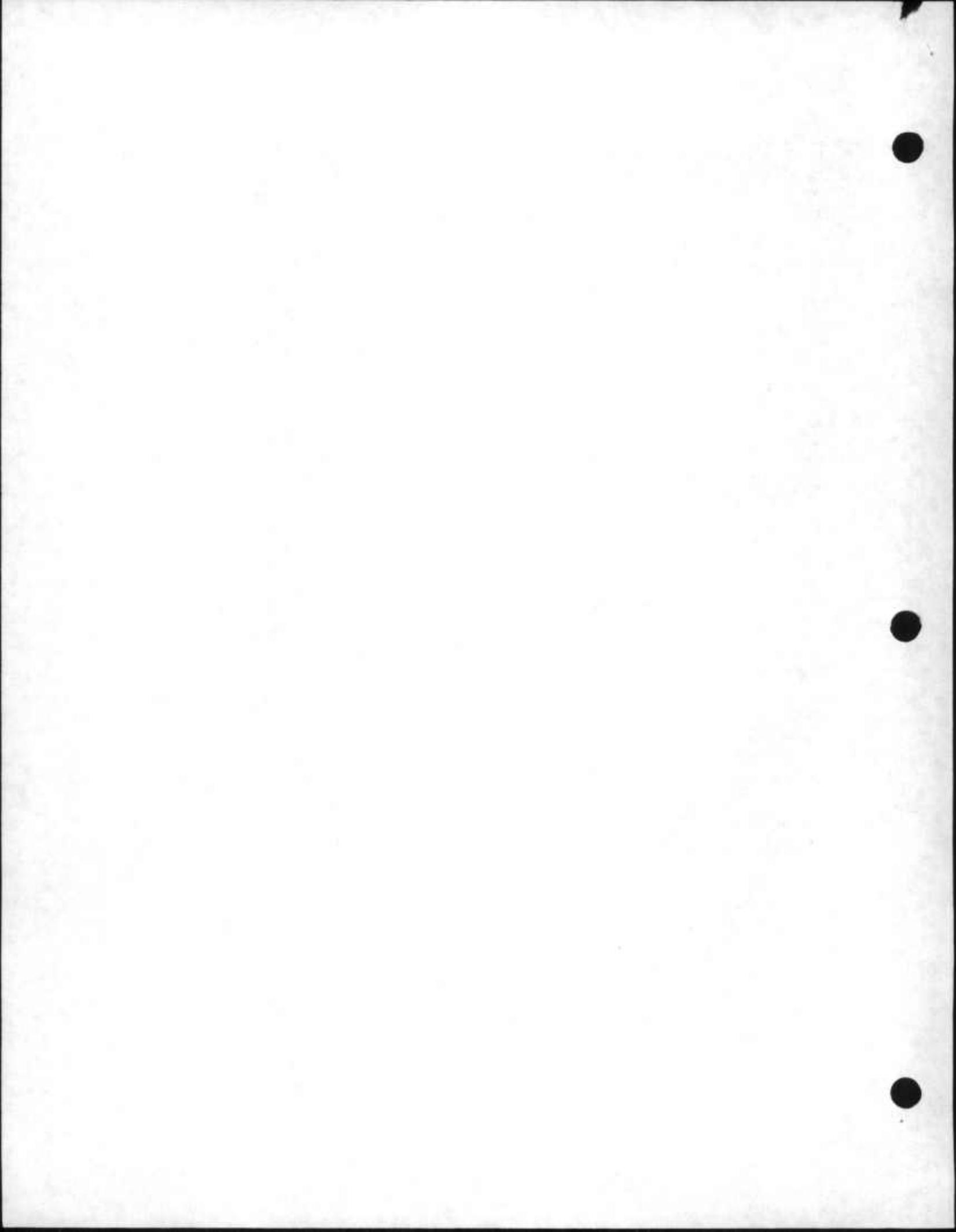
It is not clear exactly how the referenced project has proceeded to the point whereby the property owner is now requesting a building permit when the property has not been properly and legally subdivided. In your letter to Mr. Jones, you state that the Town Commissioners are allowing construction within the 100-foot Buffer of the new lot; however, the Buffer Exemption Area provisions that are applicable to the existing lot do not automatically transfer to the new lot when subdivision takes place. To allow this type of intensification of development within the Buffer requires that local governments include specific provisions in their Critical Area Programs to address the water quality and habitat impacts of the intensification.

In summary, please ensure that no further approvals or authorizations for development activity, including the issuance of building or grading permits, take place until this matter is resolved. Please contact me at (410) 260-3480, so that we can arrange a meeting to discuss this matter with the Commission's legal counsel and identify an appropriate resolution.

Sincerely,

  
Mary R. Owens, Chief  
Program Implementation Division

cc: Marianne Dise, OAG – CAC  
Steve Dodd, Dorchester County  
Tracey Gordy  
Roby Hurley  
Gordy Jones  
Ren Serey





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February 20, 2007

Mr. Steve Dodd  
Dorchester Co. Planning & Zoning Office  
County Office Building, P.O. Box 107  
Cambridge, MD 21613

Re: Willey, Robbie and Guy, Variance # 2319

Dear Mr. Dodd:

This office has received a variance request for the above referenced project. The applicant has requested a variance to allow a dwelling and driveway with less expanded Buffer than required. The property is designated a Resource Conservation Area (RCA) and is currently undeveloped.

This office generally does not oppose variances on grandfathered lots; however, it appears the applicant can minimize Buffer impacts by relocating the proposed dwelling closer to the existing road. While we recognize the majority of the applicant's property is within the expanded Buffer, the variance standards require that minimization be shown, and the variance granted is the minimum necessary to provide relief.

Therefore, we recommend the development site be sited closer to the road and that mitigation in the form of plantings at a 3:1 ratio for the total area of impacts from grading, forest clearing, and building footprint is 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,

Amber Widmayer  
Natural Resources Planner

cc: DC 72-07



Martin O'Malley  
Governor

Anthony G. Brown  
Lt. Governor



Margaret G. McHale  
Chair

Ren Serey  
Executive Director

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June 21, 2007

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

Re: Joe Dial Mitigation Plan

Dear Mr. Watson:

This letter is in response to your request for comments regarding the above referenced mitigation plan. I have had a chance to review the plan as submitted and provide the following comments for consideration.

1. The amount of required mitigation appears to be stated inconsistently between the Town's letter to the Commission and the amount of mitigation stated on the planting plan. Specifically, you state that 7,974 square feet of clearing occurred. The planting plan states that 5,600 square feet of clearing was conducted. The amount of actual clearing needs to be determined and agreed upon before final approval of a planting plan.
2. It appears that the amount of plantings proposed by the applicant falls significantly short of that which is required under the Town's forest and developed woodland plan. Specifically, the Town's ordinance requires 3:1 mitigation for clearing in violation. Based on the applicant's assessment of 5,600 square feet of clearing, 16,800 square feet of plantings would be required. This calculation would require planting 42 canopy trees and 84 understory trees or 42 canopy trees and 126 shrubs. Based on my assessment of the plant schedule, the applicant has proposed the equivalent of approximately 4,500 square feet of plantings in total, leaving a deficit of 12,300 square feet. Substitution of understory trees for canopy trees may be possible as requested by the applicant, but the applicant bears the burden to demonstrate that the proposed plantings are consistent with the requirements of the Town's forest and developed woodland plan. Currently, the plan appears inconsistent.
3. In addition to the comments in #2 above, the method that the applicant has shown in the planting mitigation notes to calculate the required mitigation and obtain some credits for existing tree cover is confusing and should be simplified. We recommend that the planting plan be revised and that the applicant utilize the total required mitigation calculation as a starting point. From there, the Town

Bill Watson  
Dial Mitigation Plan  
June 21, 2007  
Page 2

could elect to give credit per existing canopy tree, understory tree, or shrub dependent upon the Town's determination that this method is consistent with forest and developed woodland plan.

Thank you for the opportunity to provide comments for this mitigation planting plan. Given the concerns regarding numerous inconsistencies with the Town's ordinance, we recommend that a revised mitigation and planting plan be required. If you have any questions about the content of this letter, please feel free to contact me at 410-260-3482.

Sincerely,



Kerrie L. Gallo  
Natural Resource Planner



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February 28, 2007

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

Re: POS# 5097-19-71  
Great Hope Golf Course Irrigation, Somerset County

Dear Mr. Price:

Thank you for forwarding this project to our office for review and comment. According to the Critical Area maps, the Great Hope Golf Course is partially within the Chesapeake Bay Critical Area and is designated a Resource Conservation Area (RCA). Therefore, any development activities, including replacement of the irrigation system, will be subject to the Critical Area requirements for Resource Conservation Areas as required by Somerset County Critical Area Program. These requirements include impervious surface and clearing limitations, as well as identifying all Habitat Protection Areas. In addition, the County is required to notify the Commission of any proposed development activities in the Critical Area.

Thank you again for the opportunity to comment on this project. If you have any questions, please call me at (410) 260-3476.

Sincerely,

Julie Roberts  
Natural Resource Planner

Cc: Joan Kean, Somerset County





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March 5, 2007

Mr. Reggie Graves  
Maryland Department of the Environment  
Water Management Administration  
1800 Washington Boulevard  
Baltimore, Maryland 21230

RE: 200665787/07-WL-0253 MICHAEL NOVAK

Dear Mr. Graves:

Please accept these comments on the above-referenced project located in Baltimore County. Mr. Michael Novak has applied to hydraulically maintenance dredge an area of approximately 9800 square feet to a depth of -5.0 feet at mean low water. The purpose of this project is to improve navigable access. The applicant proposes to deposit the approximate 740 cubic yards of dredged material on an approved upland disposal area. Provided the proposed dredging will not impact any aquatic habitats, this office does not oppose this request.

However, Critical Area requirements indicate that dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area (COMAR 27.01.03.04(6)). The spoil area map attached to the Permit Application Screening Form indicates that excavated material will be placed in an upland area greater than 100-feet from any tidal wetlands. Excavated material cannot be placed in the Buffer (from tidal wetlands, tidal waters, and streams) or in any designated Habitat Protection Area except as necessary for backfill for permitted shore erosion control measures, use in approved vegetative shore erosion control projects, placement on previously approved channel maintenance spoil disposal areas, and beach nourishment. The applicant should verify with the Baltimore County Department of Planning and Zoning that the proposed disposal area is not in the Buffer, an expanded Buffer for steep slopes, hydric or highly erodable soils, or a designated Habitat Protection Area.

Mr. Joseph R. Kincaid  
March 5, 2007  
Page 2

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie", with a long, sweeping horizontal stroke extending to the right.

Julie Roberts  
Natural Resources Planner

Cc: Kevin Brittingham, Baltimore County DEPRM