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Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

December 17, 2007

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

RE: Bay Point Plantation
- HOA Declaration of Covenants, Conditions and Restrictions
- Final Plat
- Conservation Easement

Dear Ms. Davis:

Thank you for providing the most recent draft of the Bay Point Plantation Declaration of Covenants, Conditions and Restrictions and the Final Plat for our review. Commission staff reviewed these documents for consistency with the Critical Area Commission's conditions of approval and other previously reviewed project information. We have the following comments:

HOA Document

1. Article I, Definition 1.20 refers to a Marina Condominium and a Marina Condominium Declaration that will be recorded with the HOA documents. Please confirm that the community pier and slips will perpetually be operated in a manner consistent with §NR3-124(h).
2. Article VI, Section 6.2.2 (on page 14) discusses clearing of mature trees on lots at the time of lot development. Please note that the Critical Area Commission's approval of the Buffer Management Area designation on Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 22 included a condition that requires a two-phase Buffer Management Plan. The first phase has been completed while the second requires the 1.5% construction cost (as mentioned in Section 6.2.1) as well as one-to-one replacement for natural vegetation removed within the Buffer (and outside of the 25-foot and 50-foot setback) for each specific lot. Section 6.2.2 currently does not mention the need for this one-to-one replacement of natural vegetation removed for lot development.

Ms. Janet Davis
December 17, 2007
Page 2 of 2

3. Section 8.40 includes a statement about "unattractive growth" on lots and a prohibition of "growth in lawn areas" to exceed six inches in height. Given the naturalized condition of most Buffer areas and the heavy reliance on natural regeneration for establishment of the applicable Buffer in natural vegetation, we recommend that this section be more specific in terms of not applying to any Buffers (either the Critical Area Buffer or nontidal buffer).
4. We recommend that Article IX include a specific requirement that the deed for every waterfront lot contain a reference to the approved Buffer Management Plan and a prohibition on any clearing of vegetation within the Buffer without a modification to the approved plan.

Final Plat (Rev. 12/06/07)

5. As indicated on comments provided on the Buffer Management Plans, we recommend that the proposed Critical Area signs should be located to ensure protection of nontidal buffers as well as the Critical Area Buffer. Placing the signs at the Critical Area Buffer limits may imply that clearing up to the sign is permitted when, in reality, clearing or any other disturbance in the nontidal buffer is prohibited. (See, for example, Lot 23.)
6. We recommend signage along the lots which back up to the FIDs conservation areas to help prevent encroachment by future property owners.

Conservation Easement

7. We have received correspondence from Mr. Tudor related to the recordation of the conservation easement and the issues caused by our mutual staff turnover. We have reviewed the conservation easement and found no cause to require any amendments.

Thank you for providing this information for our review. Based on our discussion on Monday, December 17, 2007 and notwithstanding the above comments, the remaining item of review is an additional sheet to the plat showing areas that are subject to Buffer Management Plans. This sheet should be recorded with the subdivision to satisfy Commission condition #4 of the growth allocation approval. Please forward this sheet when it is prepared and we will expedite the review to the extent possible. Thanks again for your assistance in completing review of this project. Please contact me if you have any questions or concerns at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Science Advisor

cc: WC711-06

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December 7, 2007

Michael W. Bozman, P.E.
Maryland Port Administration
Manager of Permits & Special Projects
2310 Broening Highway
Baltimore, MD 21224

RE: Masonville DMCF – Cofferdam Construction and Waterline Relocation

Dear Mr. Bozman:

At its meeting of December 5, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed cofferdam and waterline relocation associated with the Masonville Dredged Material Containment Facility (DMCF). They specifically gave conditional approval to 4.09 acres of impact within the Buffer plus an additional 1.5 acres of disturbance within the Critical Area. The Commission granted conditional approval with one condition as follows:

(1) Prior to commencement of construction, the Maryland Port Administration shall obtain all necessary authorizations from the Maryland Department of the Environment.

Please forward a copy of necessary approvals from MDE for our files when they are received. Also, please note for your records, that measures proposed to mitigate for the proposed impacts include mitigation at a 3:1 ratio for all disturbance within the Buffer (totaling 12.27 acres) to be handled as part of the overall Mitigation package and a debit of 7.27 lbs. of Phosphorus to the Port's Institutional Stormwater Management Plan.

We appreciate the assistance of Pete Kotulak, Kristin Gaumer and Paul Nevenglosky of Moffatt & Nichol 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: Pete Kotulak, M & N
DOT16-06



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November 27, 2007

Ms. Michele Bynum
Critical Area Planner
Harford County Department of Planning and Zoning
220 South Main Street
BelAir, Maryland 21014

RE: Harborside III, 520 – 548 Jenna Way, Revised Stormwater Management Plans

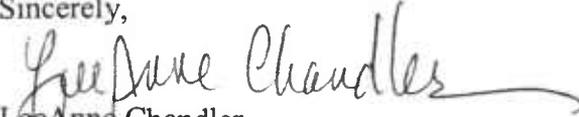
Dear Ms. Bynum:

Thank you for providing the revised stormwater plans and calculations for the above-referenced project. The site is six (6) acres in size, entirely within the Critical Area designated IDA. I have reviewed the revised information provided.

The 10% pollutant reduction requirement appears to have been adequately addressed through the proposed bioretention areas and pocket ponds. Please ensure that the County SWM review authority approves the design, sizing, and layout of the proposed BMPs; and confirm that they have adequate volume to treat the first inch of runoff from the drainage areas as claimed in the 10% calculations. We have no further Critical Area concerns on this site plan.

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: HC324-07





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November 21, 2007

Mr. Edward A. Tudor, Director
Worcester Co. Planning, Permits, & Inspections
One West Market St., Room 1201
Snow Hill, Maryland 21863-1070

RE: Bay Point Plantation, Conservation Easement

Dear Mr. Tudor:

As you are aware, the Critical Area Commission approved the Bay Point Plantation growth allocation request with 10 conditions in September 2004. Since that time, Commission and County staff have been working together in reviewing the subdivision plat, stormwater plans and Buffer Management Plans. In working toward final subdivision plat approval and subsequent recordation, Commission staff determined that the conservation easement for the balance of the property was recorded without review and approval by Commission staff. This approval was required by Commission condition one (1) which stated, "A conservation easement shall be placed over all lands not included within the developed area of the subdivision and shall include the FIDs habitat areas. The conservation easement for this area shall include provisions that ensure its viability as FIDs habitat and shall be submitted to Commission staff for review and approval."

While the easement itself appears to be satisfactory (pending our counsel's review), we are hoping to determine the source of this oversight so we can jointly ensure it does not happen in the future. We would appreciate an explanation into how this might have occurred.

Thank you for your assistance with this matter. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


Lee Anne Chandler
Science Advisor

cc: Chris McCabe
Janet Davis



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November 19, 2007

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

RE: Bay Point Plantation – 10% Pollutant Reduction Requirement

Dear Ms. Davis:

Thank you for providing the most recent stormwater management and 10% calculations to us for our review and approval. As you are aware, review and approval of these documents by Commission staff is required prior to final subdivision approval.

Commission staff reviewed the information provided. While not affecting the final result, there is a significant error in the 10% calculations. Specifically, in Step 1(A)1., the base site area for 10% purposes must be limited to areas designated IDA only, i.e., 38 acres instead of the 181.63 as shown. I have enclosed with this letter a copy of revised calculations for your file. You will see that the end result is a negative removal requirement (due to the overall low percentage of impervious surface). These, together with the plans for the wet ponds and the intent to require onsite stormwater management for each of the homes, are considered approved by Commission staff. Condition 3 of the Commission's growth allocation approval has been satisfied.

Thank you for providing this information for our review. 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: Carol Ann Beres (via e-mail)
WC711-06



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November 1, 2007

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

RE: Bay Point Plantation – Buffer Management Plans, Conservation Easement, etc.

Dear Ms. Davis:

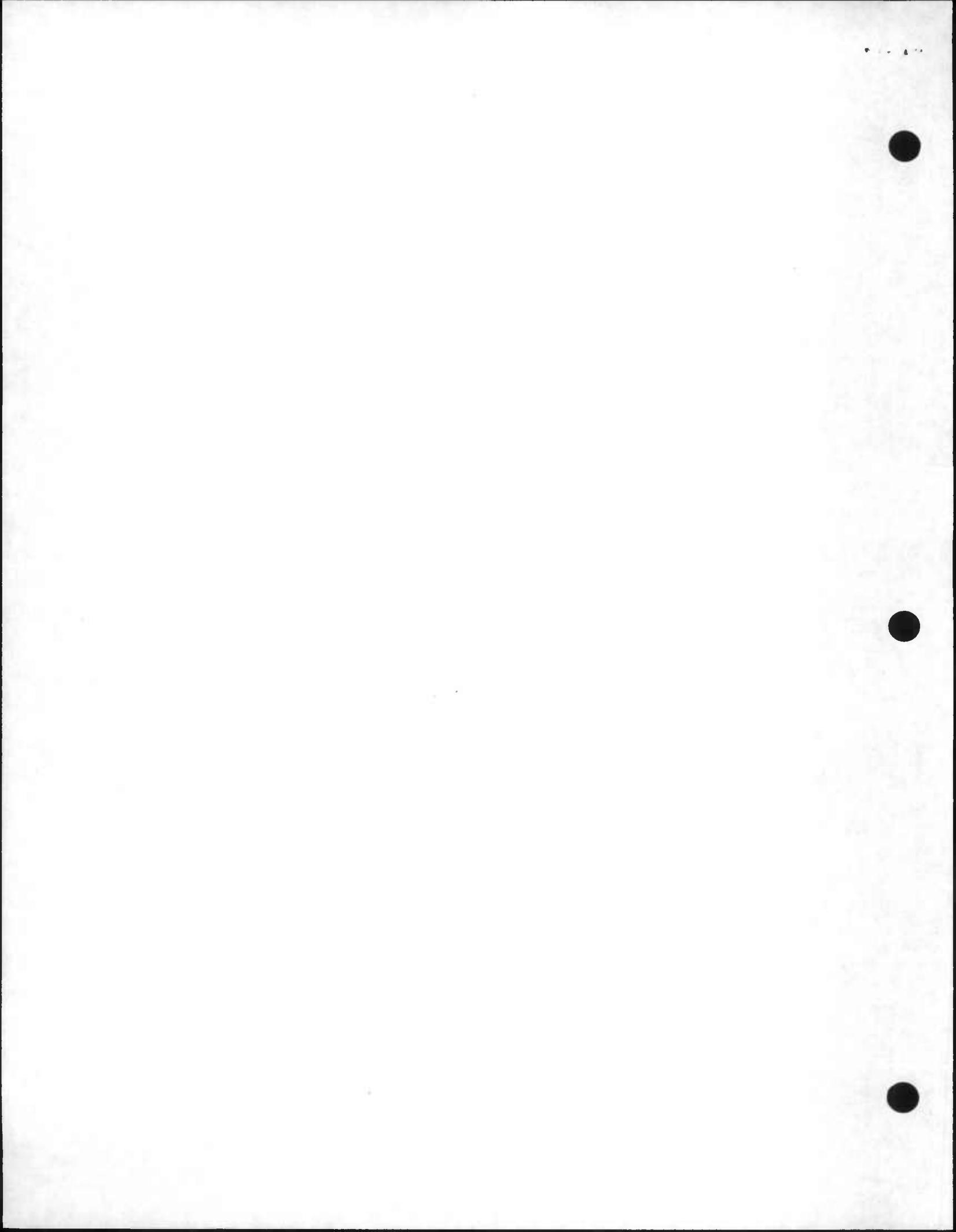
Thank you for providing the Buffer Management Plans, conservation easement and the final plat for Bay Point Plantation for our review. Staff turnover and unexpected absences have complicated the review of this already unusual project. I apologize that it has taken such a long time for us to provide comments. Commission staff has reviewed the information provided as well as the information contained in our files. Based on this review, we have the following comments:

1. Below is a table listing each Buffer Management Plan and the related comments. Summary comments follow the table.

Lot	Comments
B	Acceptable
C	Acceptable but legend on graphic (sheet 5 of 5) should be corrected to say, "Proposed impervious over existing impervious..."
D	Same as C above
1	Acceptable
2	Acceptable
3	Acceptable
4	Acceptable
5	Acceptable
6	Acceptable
7	Acceptable
8	Due to the heavy dependence on the long term viability of volunteer seedlings and very few mature trees, stronger language prohibiting removal of vegetation, regardless of size, may be appropriate.
9	Same as Lot 8 above. This issue may be even more important due to the dense stand of <i>Phragmites</i> that exists on this lot. Also, on page 3 of 6, it refers to Lot 8 instead of Lot 9.

TTY for the Deaf

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



Lot	Comments
10	Same as Lot 8 and 9 above.
11	Previous use of this area, along with the closed canopy, has prevented the establishment of an herbaceous ground cover such that some of it is bare soil. Natural vegetation, including tree seedlings, must be permitted to grow. Language regarding leaving leaf litter in place and a strong prohibition on removal of vegetation may be appropriate.
12	Same as 11 above.
13	Same as 11 above.
14	Same as 11 above.
18	Acceptable but on Sheet 5 of 5 the adjacent parcel is mis-labeled as Outlot C instead of Outlot D.
19	Acceptable
20	Although the Buffer is fully vegetated, there is no canopy coverage and few mature trees. Again, strong language regarding allowing natural growth and maturation of existing seedlings should be provided.
21	Similar to 21 above.
22	Acceptable
23	Acceptable
24	Acceptable
25	Acceptable

The comments listed above are recommendations only. As the County ultimately is responsible for enforcing the plans, we defer to the County as to specifics of strengthening the language where needed. (We do feel that this is especially important given the clearing violation that has already occurred there, even before the lots have been sold.)

2. We recommend that sign placement be carefully considered on each lot. The signs may give the false impression that clearing or other development activities can occur up to the sign. The nontidal wetland buffer must also be protected. (See, for example, the sign placement on Lot 23.) Any additional impacts, beyond those already authorized, must be reviewed and approved by MDE.
3. Please verify that all existing piers have been removed and that all conditions of the MDE/Corps permit have been met prior to recordation of the final plat.
4. Thank you for providing the recorded Deed of Conservation Easement and the Declaration of Riparian Covenants. One condition of growth allocation approval was Commission staff review and approval of the conservation easement. Please check your files to determine if Commission staff approved the easement as I have been unable to find any record of it in our files. Please send us a copy of an approval letter if one exists. If not, please let me know and I will have our counsel review the recorded easement for any serious concerns.



Ms. Janet Davis
November 1, 2007
Page 3 of 3

5. Outlot C as shown on the Conservation Easement Plat was divided into Outlots C and D on the final plat. Please confirm with the County attorney that this is not a legal concern.
6. Another condition of approval of the growth allocation was Commission staff review and approval of the 10% calculations and stormwater management plan. I have been unable to find documentation of such an approval. Please send us a copy of an approval letter if one exists. If not, please follow up with me to ensure we have the most recent stormwater report and calculations so I can finalize our review.
7. Thank you for providing recent photos of the FIDs mitigation areas where natural regeneration appears to be progressing successfully. Natural regeneration, rather than implementation of a specific planting scheme, is acceptable for the FIDs mitigation required for this project.

Thank you for the opportunity to provide comments at this stage in the subdivision review process. Once signed, please provide a final copy of each of the Buffer Management Plans for our file. Also, please let me know about the conservation easement and 10% questions above so there is no further delay. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,


LeeAnne Chandler
Science Advisor

cc: Carol Ann Beres (via e-mail)
Spencer Rowe (via e-mail)
Bob Hand (via e-mail)
WC711-06



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October 25, 2007

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

RE: Corsica River Sailing Center – Revision #2

Dear Ms. Rhodes:

Thank you for submitting revised plans for the Corsica River Yacht Club proposed pier and access project. The site is owned by the County and leased by the Club. As stated in the previous letter from this office, 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. We are still awaiting a submission from the County, either requesting confirmation of consistency with the County Critical Area Program, or stating that the County will seek a conditional approval from the Critical Area Commission per 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. If the County wishes to submit the project as a "public beach or other water-oriented recreation or education area," it must be documented that the project is consistent with Chapter 14:1-46. Such facilities may be permitted in the Buffer in the RCA if conditions of County Code § 14:1-46.B 1-5 are met. Additionally, 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.
2. 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.

3. Please confirm that all proposed improvements are shown on the site plan. Please note that there is no access path to the pier through the Buffer.
4. Please submit documentation that any requirements of the Wildlife and Heritage Service for waterfowl concentration areas have been met by the proposal as requested in the submitted DNR letter.
5. Impacts to the Buffer must be minimized and any permitted impacts mitigated on a minimum 2:1 ratio for the footprint of disturbance. A Buffer mitigation plan must be provided, including details of the restoration plan for the area of *Phragmites* control.
6. 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, the dead or dying trees should be replaced.

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,



for Marshall Johnson
Natural Resources Planner

cc: . Tressa Ellis, MDE
QC721-06

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October 25, 2007

Ms. Michele Bynum
Critical Area Planner
Harford County Department of Planning and Zoning
220 South Main Street
BelAir, Maryland 21014

RE: Harborside III, 520 – 548 Jenna Way, Revised Plans

Dear Ms. Bynum:

Thank you for providing the revised plans and documentation for the above-referenced project. The site is six (6) acres in size, entirely within the Critical Area designated IDA. I have reviewed the information provided and have the following comments:

1. The revised Preliminary Plan (dated 9/14/07) indicates proposed impervious surface is 2.87 acres while the 10% calculations show 2.75 acres of impervious proposed. Please correct as necessary.
2. The site layout shown on the conceptual landscape plan needs to be revised to match the Preliminary Plan. Also, please provide a complete landscaping schedule that includes species, size and spacing of chosen plantings.
3. Please provide complete planting plans for the bioretention areas since the plantings are an integral part of their pollutant removal function.
4. There are errors in Step 5 of Worksheet A of the 10% calculations. When determining the load removed by each best management practice (BMP), the percentage of drainage area served should be the area treated by the specific BMP divided by the entire IDA site area (in this case, 6 acres). These calculations should be corrected to reflect this change. Additional pollutant removal may be needed to meet the 10% requirement.
5. Notwithstanding the above issue, please ensure that the County SWM review authority approves the design, sizing, and layout of the proposed BMPs; and confirm

Ms. Michele Bynum
October 25, 2007
Page 2 of 2

that they have adequate volume to treat the first inch of runoff from the drainage areas as claimed in the 10% calculations.

6. We have received a copy of a 1994 memo regarding this project, specifically related to using plantings to meet the 10% pollutant removal requirement. While plantings are still considered an acceptable offset, only those plantings that are above and beyond what otherwise would be required (under a landscaping ordinance for example), should be considered as credit towards the 10% requirement.

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

Enclosure

cc: HC324-07

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October 19, 2007

Ms. Amy Moredock
Kent County Dept. of Planning & Zoning
400 High Street
Chestertown, Maryland 21620

RE: Consistency Report - Bayside Public Landing – Relocation of Bathhouse

Dear Ms. Moredock:

Thank you for providing information on the above referenced project. The County proposes to tear down the existing bathhouse at Bayside Public Landing and replace it with a new building outside of the Buffer. It is our understanding that the property is 1.44 acres in size and is designated IDA.

Based on the information provided, along with revised 10% calculations and a planting plan, the proposal appears consistent with the Town's Critical Area Program. The small pollutant removal requirement (0.035 lbs) will be addressed through planting 4 trees and 6 shrubs on the site. The new location of the bathhouse is outside of the Buffer. The old location in the Buffer will be made pervious and planted with grass, allowing some Buffer function to return. There are no other Critical Area issues of concern.

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

Sincerely,

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

LeeAnne Chandler
Science Advisor



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October 4, 2007

Mr. John Moulis, Eastern Region Mgr.
DNR – Wildlife & Heritage Service
P.O. Box 68
Wye Mills, MD 21679

RE: Maryland Marine Properties WMA – Upland Berm and Buffer Mitigation

Dear Mr. Moulis:

At its October 3, 2007 meeting, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed upland berm and Buffer mitigation at the Maryland Marine Properties WMA. The project was approved without conditions.

Please notify Commission staff when the project is complete and the plantings installed. We will follow up with a site inspection after the first two growing seasons. Please contact me at (410) 260-3477 if you have any questions.

Sincerely,

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

LeeAnne Chandler
Science Advisor



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September 19, 2007

Mr. Doldon Moore, State Wetlands Administrator
Board of Public Works
Louis L. Goldstein Treasury Building
80 Calvert Street
Annapolis, MD 21401

RE: 07-0571, Maryland Environmental Service – Poplar Island Land Base

Dear Mr. Moore:

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (CAC) approved the proposed development of a new land base for Maryland Environmental Service's (MES') Poplar Island Environmental Restoration Project on November 1st, 2006. The project was reviewed under COMAR 27.02.05 as a State Agency Action on State-owned Land. As a project in an area of intense development, the primary Critical Area issues were stormwater management to achieve the required 10% pollutant reduction and protection of the 100-foot Critical Area Buffer.

The subject site was previously developed as a single-family residence. It contains a house, shed and a driveway to an existing pier. The proposed development includes construction of a stabilized semi-pervious gravel parking lot for use by personnel associated with the Poplar Island project and to accommodate buses which bring a significant number of visitors to tour the island. Other than removal of a portion of the existing driveway, no activities are proposed within the 100-foot Buffer.

The proposed parking lot will be constructed with a semi-pervious paving system. Within the Critical Area in an area of Intense Development, a 40% perviousness credit is sometimes given for these paving systems, if site conditions are appropriate. Given the impermeable soils on this site and the high water table, credit for use of this paving system (which does provide storage for the first inch of rain) was reduced to a 20% perviousness credit. With the credit, the 10% pollutant reduction requirement amounts to removal of approximately 0.53 pounds of Phosphorus per year. Due to space limitations and soil constraints, the installation of a best management practice to address this requirement on site is not feasible. The applicable regulations allow the use of "offsets" in such situations. Pursuant to guidance published by the

Mr. Doldon Moore
September 19, 2007
Page 2 of 2

CAC, MES proposed the use of offsets in the form of riparian Buffer plantings to offset this stormwater management requirement. The 100-foot Critical Area Buffer will be converted from a residential lawn to a forested Buffer through installation of approximately 200 shrubs and trees.

In summary, the Critical Area requirements for stormwater management will be addressed through the use of the semi-pervious paving system (which will provide storage for the first inch of rain) and through establishment of a forested 100-foot Buffer for water quality benefits. There were no other Critical Area issues of concern.

Please contact me if you have any questions or would like additional information. I can be reached at (410) 260-3477 or lchandler@dnr.state.md.us.

Sincerely,



LeeAnne Chandler
Science Advisor

cc: MES 56-06

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August 23, 2007

Mr. Chris McCabe, Natural Resources Administrator
Worcester Co., Development Review & Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Mount Property – Tax Map 73, Parcels 28 & 42
Revocation of Growth Allocation

Dear Mr. McCabe:

At its meeting of August 1, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays received notice of the County's action regarding the revocation of the Growth Allocation given to the above referenced property in 2004. Specifically, the Commission was notified of Resolution 07-19 passed by the Worcester County Commissioners on July 3rd, 2007. Our growth allocation accounting records will be updated to return 8.1 acres to the County's reserve for the Coastal Bays watershed.

Thank you for your timely notification of the County's actions. If you have any questions regarding this matter, please contact LeeAnne Chandler at (410) 260-3477.

Sincerely,

A handwritten signature in cursive script that reads "Margaret G. McHale".

Margaret G. McHale
Chair

cc: Mount amendment file, WCA-4

A handwritten note in cursive script that reads "LeeAnne - reader file".



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August 16, 2007

Mr. John Hoffman
8916 Chesapeake Avenue
P O Box 99
North Beach, MD 20714

RE: Bay Avenue & Third Street Condominium site plan

Dear Mr. Hoffman:

This office has received information regarding the above referenced project. The applicant proposes to redevelop a site with a condominium building with associated parking. The site is located within an Intensely Developed Area (IDA), is not waterfront and is approximately 0.69 acres in size.

The primary Critical Area requirement is the 10% pollutant reduction over existing conditions. The applicant is using "Stormfilters" a propriety stormwater management device that has been accepted by MDE. While these best management practices are acceptable for meeting the 10% requirement, they do require substantial maintenance. The Town must require the applicant to execute an inspection and maintenance agreement binding on all subsequent owners for these devices. In addition, please be aware that the proposed Stormfilters do not fully address the 10% requirement. Additional landscaping was added to the plans to make up the small deficit. A guarantee for these plantings should be provided to the Town to ensure long term survival.

Provided the above maintenance concerns are addressed by the Town at site plan approval, it appears the proposal is consistent with the Town's Critical Area Program.

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

Sincerely,

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

LeeAnne Chandler
Science Advisor

cc: NB44-07



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

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

August 6, 2007

Mr. Donald Sparklin
SHA – Project Planning Division
707 North Calvert Street
Baltimore, MD 21202

RE: Noise Abatement Wall, I-695 from Chesaco Ave. to Amtrak Bridge, Baltimore County

Dear Mr. Sparklin:

Thank you for providing information on the above referenced project. It is our understanding that SHA is proposing to construct a noise wall on I-695 between Chesaco Avenue and the Amtrak Bridge in southeastern Baltimore County. The wall is proposed along approximately 5,000 linear feet of I-695 within the existing right-of-way. The right-of-way area within the Critical Area is approximately 2.97 acres while the limit of disturbance within the Critical Area includes an area of approximately 0.234 acres. The noise wall will increase impervious surfaces by 0.07 acres.

Based on a review of the information provided, it appears that impacts to Critical Area resources are minimal. In reviewing the 10% pollutant reduction calculations, it is noted that impervious surfaces within the right of way will increase just 6% over existing impervious coverage. This would qualify as a minor project under the MOU but would entail a removal requirement of 0.43 pounds. When looking only at the limits of disturbance as the project area, it increases impervious cover by 29% but requires pollutant removal of 0.07 pounds. In discussing this proposal amongst Commission staff, it seems reasonable to use just the LOD as the project area since no work on the roadway itself is proposed.

While this project does not meet the strict definition of a minor project based on the increase in impervious area within the LOD, it does meet all the conditions of the MOU for minor projects. It satisfies the 10% requirement and no impacts to Habitat Protection Areas are proposed. Commission staff is considering this project eligible for general approval under Part D of Exhibit B1 of the MOU, which allows consideration of other minor projects as determined on a case by case basis through Department and Commission staff discussion. No further review by this office is necessary unless the project changes in scope or purpose.

Mr. Donald Sparklin
August 6, 2007
Page 2 of 2

Thank you for your continued coordination with our office. If you have any questions or concerns, please contact me at (410) 260-3477 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler". The signature is written in black ink and has a fluid, connected style.

LeeAnne Chandler
Science Advisor

cc: Gary Green, SHA-PPD
Dan Reagle, SHA-PPD
DOT44-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 26, 2007

Ms. Olivia Vidotto
Calvert Co Planning & Zoning
150 Main Street
Prince Frederick, MD

RE: Subdivision Review – Lawrence Bowlby, Lot 3 Resubdivision, TM 38A, P 83

Dear Ms. Vidotto:

Thank you for providing information on the above referenced subdivision. The applicant proposes to resubdivide an existing 4.773 lot into a total of five (5) lots. The property is designated LDA and currently contains one dwelling and two accessory structures. Commission staff have the following comments:

1. The impervious surface table and note #14 are not entirely correct. Because Lot 3-R is over one (1) acre in size, it is limited to 15% impervious surface limit regardless of the fact that the subdivision overall is compliant as shown. The flexibility to increase impervious to 25% is available for only lots less than one (1) acre. Therefore, the impervious limit for Lot 3-R is 11,278 square feet.
2. While note #13 indicates 0.53 acres is forested within the Critical Area and that 0.23 acres will be planted, it is not shown graphically on the plat. We recommend that it be shown both to notify future lot buyers and as a means of enforcement should any clearing occur.

Provided the above issues are addressed, it appears that the subdivision can be made to be consistent with the County's Critical Area Program. If you have any questions or concerns regarding these comments, please contact me at (410) 260-3477.

Sincerely,


Lee Anne Chandler
Science Advisor

cc: CA412-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

July 26, 2007

Ms. Olivia Vidotto
Calvert Co Planning & Zoning
150 Main Street
Prince Frederick, MD

RE: Lot line revision – Loew, Replatting TM 28A, Lots 35R & 36R

Dear Ms. Vidotto:

Thank you for providing information on the above referenced subdivision. The applicant proposes to replat two lots to create one new lot. The property is designated LDA and is a total of 22,750 square feet in size. Commission staff have the following comments:

Provided that all Critical Area requirements are addressed during development, this office has no comment on the proposed replatting.

Thank you for the opportunity to comment. 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: CA417-07

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
Chair

Ren Serey
Executive Director

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July 26, 2007

Ms. Roxanna Whitt
Calvert County Department of Planning & Zoning
150 Main St.
Prince Frederick, MD 20678

RE: Variance 07-3448, William and Denise Mullican

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the steep slope requirements to allow construction of a patio and deck. The property is designated LDA and is 5.84 acres in size.

The plans provided do not show the steepness of the slopes that will be impacted and state that the deck will be detached from the dwelling. We do not oppose the modest patio proposed at the back of the house. However, we do oppose the detached deck (if it is in fact detached) and we also recommend that the 20 by 20 foot deck be made smaller to reduce impacts on the steep slopes. From the plans, it is difficult to assess if there are opportunities to redesign the deck such that the square footage could remain the same. Regardless, more specific information on the slopes in the immediate vicinity of the house should be provided. Clearing on any slopes must be minimized to limit future erosion problems. Lastly, it appears from the topography that the house site may be within an expanded Buffer to St. John's Creek. If it is, an additional variance to the expanded Buffer is required for the proposed construction. If the variance is granted, we recommend mitigation at a minimum 1:1 ratio for any clearing.

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

Sincerely,

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

LeeAnne Chandler
Science Advisor

cc: CA421-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

July 26, 2007

Ms. Roxanna Whitt
Calvert County Department of Planning & Zoning
150 Main St.
Prince Frederick, MD 20678

RE: Variance 07-3446, John & Jennifer Haughton

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer requirements to allow conversion of a deck to a sunroom. The property is designated LDA and is 8,107 square feet in size.

Provided impacts are minimized and all other Critical Area requirements are met, this office does not oppose the conversion of a portion of the existing deck into a sunroom. The application seems to indicate that there will be no increase in impervious cover. This should be confirmed as decks are often considered pervious, while sunrooms are considered impervious. The impervious surface limit for this lot is 2,533 square feet with 2,176 square feet existing. The size of the sunroom was not indicated on the application. If it is in fact converting a pervious deck to an impervious sunroom, it can be no larger than 357 square feet. We recommend mitigation for the sunroom at a 3:1 ratio. Stormwater from the new roof should be managed to flow away from the shoreline.

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

Sincerely,

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

LeeAnne Chandler
Science Advisor

Cc: CA420-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 19, 2007

Mr. Nathaniel Brown
Maryland Port Administration
2310 Broening Highway
Baltimore, MD 21224

RE: Phase I Landside Cleanup at Masonville Cove

Dear Mr. Brown:

At its meeting of July 11, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays approved the proposed Phase I landside cleanup at Masonville Cove. They specifically gave conditional approval to 0.2 acres of temporary roadways within the Buffer plus an additional one acre of temporary roadway and stockpile area on the Masonville Cove property. The Commission granted conditional approval with two conditions as follows:

- (1) Those portions of the temporary roads which will become a permanent part of the trail system will be mitigated at the appropriate ratio at the time the environmental center and trail system are finalized and submitted to the Commission for review and approval; and
- (2) Prior to the commencement of the project, all necessary approvals shall be obtained from the Maryland Department of the Environment, including approval of an erosion and sediment control plan.

Please forward a copy of necessary approvals from MDE for our files when they are received.

We appreciate the assistance of Pete Kotulak of Moffatt & Nichol 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: Pete Kotulak, M & N
Michael Bozman, MPA
DOT16-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 18, 2007

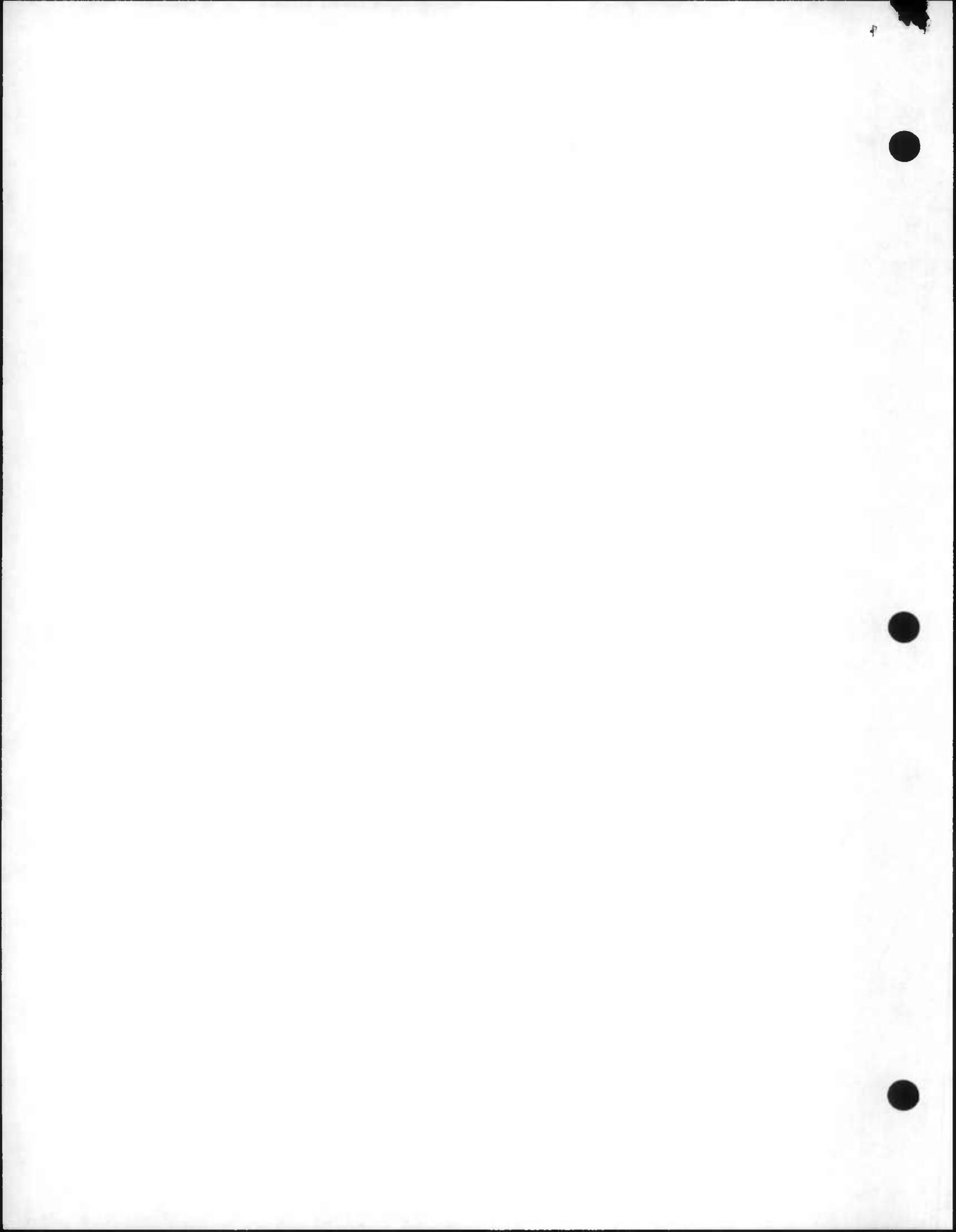
Ms. Aimee Dailey
Charles Co., Dept of Planning & Growth Management
PO Box 2150
La Plata, MD 20646

RE: Preliminary Subdivision Plan – XPN 07-0001
Key Pointe Woods – FIDs Conservation Plan

Dear Ms. Dailey:

I have reviewed the information provided on the conservation of Forest Interior Dwelling Bird (FIDs) habitat in the Key Pointe Woods Subdivision. Notwithstanding the outstanding issues raised in the letter sent by Julie Roberts on July 6, 2007, Commission staff has the following comments on the FIDs information provided:

1. Staff reviewed all available aerial photographs of the property. Many of the forest openings that are shown on the plan are not visible on the high resolution aerials from 2004 through 2006. Unless there has been clearing in the very recent past, most of these openings should be deleted from the plans and the FIDs statistics adjusted accordingly. (Please see attached aerial photographs.)
2. There is some interior forest within the Critical Area that is not properly identified nor accounted for in the statistics. Specifically, the area parallel to Fenwick Road has some forest that is at least 300 feet from the road but still within the Critical Area. This area should be shown as interior on the plans and the FIDs statistics adjusted accordingly.
3. As can be seen on the aerial photos, the most obvious area of edge habitat is within 300 feet of the cleared area on Parcel 546.
4. All Critical Area development should be kept within any edge that might exist or at the outermost portion of the Critical Area. Once septic systems for non Critical Area lots are moved out of the Critical Area, there will be further opportunity to cluster the lots along the Critical Area boundary.



Ms. Aimee Dailey
July 18, 2007
Page 2 of 2

5. Once revised information is provided, mitigation should be calculated and a mitigation site designated. Mitigation for FIDs impacts must result in at least 1:1 replacement of direct loss of habitat.

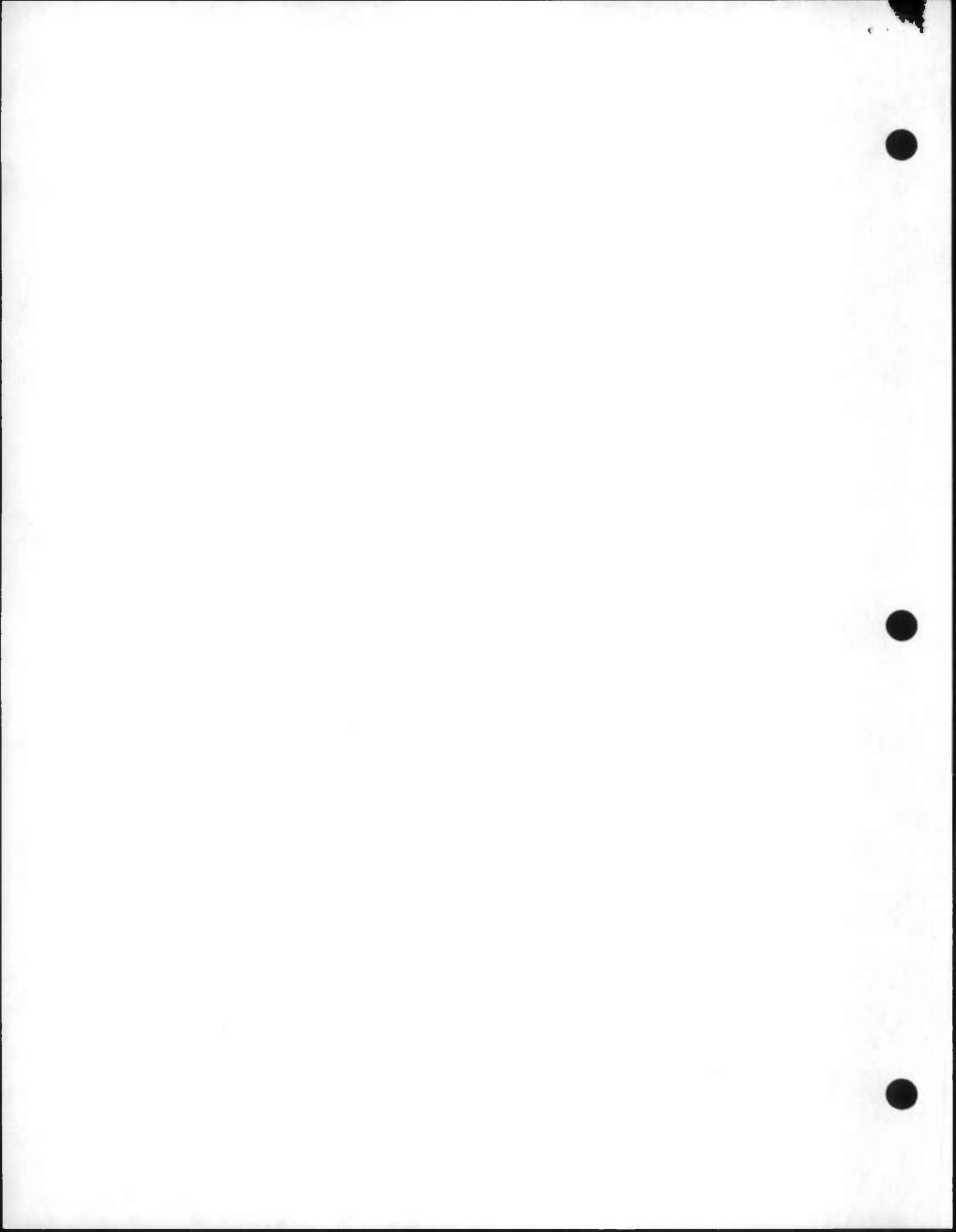
Thank you for the opportunity to provide comments on the FIDs Conservation Plan. If you have any questions or concerns, please contact me at (410) 260-3477.

Sincerely,



LeeAnne Chandler
Science Advisor

cc: CS98-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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July 13, 2007

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

RE: Village Down River

Dear Mr. McKenzie:

As we recently discussed, the developers of Village Down River started work on the site related to filling of the nontidal wetlands and the stream restoration project. As you know, the Commission approved the growth allocation with several conditions, which have not yet been met.

In your e-mail to Kerrie Gallo on July 12th, 2007, you indicated that the two of you discussed work on the nontidal wetlands. You stated that Kerrie approved work on the nontidal wetlands provided that no work was done in the 100 foot tidal buffer. In a subsequent discussion, Kerrie has indicated to me that the work on the pier (i.e., the tidal work) was the only activity that she agreed could proceed, and that her decision was based on the fact that the pier was outside the scope of the Commission's growth allocation approval and conditions. The nontidal work that she discussed with you was largely occurring in the expanded Buffer, which was what made it problematic from a Critical Area standpoint in the first place. Condition 5 clearly states, "A Buffer Management Plan shall be submitted to Commission staff, and if necessary, to the full Commission detailing any proposed impacts to the 100-foot and expanded Buffer. The plan shall include, but is not limited to, details regarding proposed trails or pathways, shore erosion control measures and any clearing activities." Absent an approved Buffer Management Plan or modification to the conditions, Kerrie does not have the authority to modify the requirements set by the Commission.

We received a copy of the sediment and erosion control plans on July 6th as requested during the conference call on June 5th, 2007. We are reviewing those plans along with the latest Buffer Management Plan. Until the conditions of approval are met, no further work other than vegetative stabilization of disturbed areas can occur on the project site.

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

Sincerely,

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

LeeAnne Chandler
Science Advisor

cc: Walt Maizel
Kerrie Gallo

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
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

July 13, 2007

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

RE: South River Crossing/Hardesty Tract Lot 2R
S 02-089, P 2004-0212, C 06-0100

Dear Mr. Burke:

This office is in receipt of revised stormwater management calculations and drainage area map for the above referenced project. The applicant proposes a new commercial building on a parcel that includes all three Critical Area designations. The outstanding Critical Area issue to date is compliance with the Critical Area pollutant reduction requirement for the IDA portion of the site.

Review of the 10% calculations indicates that the applicant is providing treatment for the IDA drainage via a dry swale and a bioretention area. While treatment of onsite areas only does not meet the requirement, inclusion of drainage from Mayo Road as treatment of an offsite area does provide the necessary pollutant removal to meet the 10% requirement. The project appears consistent with the County's Critical Area Program.

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

Sincerely,


LeeAnne Chandler
Science Advisor

cc: Terry Schuman, Bay Engineering
AA557-02



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Executive Director

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July 12, 2007

Chesapeake Bay Trust
60 West Street, Suite 405
Annapolis, MD 21401

Re: Adkins Arboretum *Green Book* project

To Whom It May Concern:

This letter is in support of the grant application submitted by Adkins Arboretum to the Chesapeake Bay Trust Stewardship Grants Program to fund the printing of the Shore Land Stewardship Council's *Green Book*.

The proposed project is the publication and marketing of the *Green Book*, a publication that will provide citizens with both land stewardship and regulatory information in a useful, attractive format. Complex Critical Area regulations and current best management practices will be presented using a "good-better-best" format to promote stewardship, compliance with the law and encourage people to go beyond the minimum requirements. A concurrent marketing campaign, including brochure and outreach activities, will ensure that the *Green Book* reaches the target audience.

This unique publication will facilitate not only public education, but also training of the professionals that work in the Critical Area, including marine contractors, arborists, landscaping professionals, engineers, and others. County and municipal planning departments will use the *Green Book* in providing technical assistance to the multitude of citizens wishing to develop or redevelop their properties.

Our agency has joined with other public agencies, professionals and private business owners from throughout the Upper Shore, to serve on the Shore Land Stewardship Council, an initiative spearheaded by Adkins Arboretum in August 2006. It is through this collaborative process that the tools are being developed to inform and mobilize landowners to take action to protect and enhance the region's sensitive shoreline. The project participants are committed to implementing direct and effective actions to engage landowners in solving the environmental problems in the Critical Area. The project will serve as a model for other regions of the Bay watershed, as well as other watersheds.

TTY for the Deaf

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

Chesapeake Bay Trust

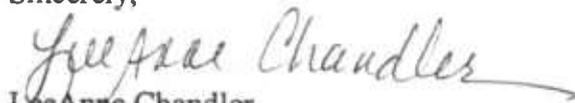
July 12, 2007

Page 2 of 2

From the Critical Area Commission standpoint, this endeavor is sorely overdue. The Critical Area Law is now over 20 years old. The Program has evolved significantly. While public education was a priority to both the State and local governments in the early days, recent development pressure and staff shortages have eliminated many public education efforts. This project will go a long way towards filling this need. I strongly support this collaborative effort to promote stewardship and hope that funds from the Chesapeake Bay Trust can help do this.

I look forward to your approval of the proposal.

Sincerely,

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

LeeAnne Chandler

Science Advisor

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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(410) 260-3460 Fax: (410) 974-5338
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July 5, 2007

Mr. Ben Carr
Environmental Systems Analysis, Inc.
48 Maryland Avenue, Suite 400
Annapolis, MD 21401

RE: Homeport on Winchester Creek Buffer Management Plans

Dear Mr. Carr:

Dr. Cherry Keller of the US Fish and Wildlife Service and I have reviewed the draft overall Buffer Management Plan for the Homeport community in Queen Anne's County. Essentially the draft plan proposes planting 10-foot wide strip along the existing woods line around the entire perimeter of the property and the planting of an open space lot (Lot 18). This would be done in conjunction with active management (i.e., regular mowing) of the balance of the environmental easement area on most lots. Specifics would be handled on a property by property basis.

As we have discussed, there are overlapping areas of concern, the 100-foot Critical Area Buffer and the Delmarva Fox Squirrel (DFS) environmental easement area. On some lots, the environmental easement area far exceeds the extent of the 100-foot Buffer. On others, the two areas are similar in extent. The width of existing woods around the perimeter of the subdivision also varies. These factors will play a part in how a Buffer Management Plan for each property is analyzed. The 10-foot strip may be sufficient to protect the DFS on some properties but additional plantings for Buffer establishment may be required on others. It will depend on the lot-specific analysis of existing and proposed conditions.

If further clarification of Buffer Management Plan requirements is needed, please contact me at (410) 260-3477.

Sincerely,

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

LeeAnne Chandler
Science Advisor

cc: Cherry Keller, USFWS
Steve Cohoon, Queen Anne's County
Jim Barton, Queen Anne'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
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
mdise@oag.state.md.us

December 20, 2007

Ms. Joan S. Kean, Director
Somerset County Department of
Technical and Community Services
11916 Somerset Avenue, Suite 211
Princess Anne, Maryland 21853

RE: Request for Assistance from the Attorney General's Office - Bunting Case

Dear Ms. Kean:

Thank you for your letter of December 14, 2007 requesting assistance with an enforcement matter in the Critical Area of Somerset County. I have spoken with Mr. David Lloyd of your office, and he agreed to send me the recent material from the County's enforcement file on the pending citations issued to Mr. Bunting.

Your letter notes that the County's citations are set for trial in District Court on February 28, 2008. Your County Attorney, Mr. James Porter, is no doubt aware of the trial date. I will contact Mr. Porter directly to determine the level of assistance that he requires from staff of the Critical Area Commission, and from this Office.

If you have any questions about this matter, please do not hesitate to contact me.

Very truly yours,

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

Marianne E. Dise
Assistant Attorney General

MED/jjd

cc: Daniel W. Powell, County Administrator
James Porter, Esq.
Mr. David Lloyd
The Honorable Margaret McHale, Chair, Critical Area Commission
Mr. Ren Serey, Executive Director, Critical Area Commission
Ms. Kerrie Gallo, Regional Program Chief



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
mdise@oag.state.md.us

December 17, 2007

HAND-DELIVERED

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

Re: *AES Sparrows Point LNG, LLC v. Critical Area Commission for the Chesapeake and Atlantic Coastal Bays*,
Case No 02-C-07-123926 (TRANSFERRED TO BALTIMORE COUNTY on
November 30, 2007).

Dear Mr. Duckworth:

Enclosed please find for information in the above-referenced case a copy of the Defendant State of Maryland Critical Area Commission's Renewed Motion to Dismiss Amended Complaint and copy of Memorandum in Support of Motion, and Proposed Order. These documents were filed in Baltimore County, where the case was transferred by order of Judge Harris on November 30, 2007 (copy enclosed).

Thank you for your assistance.

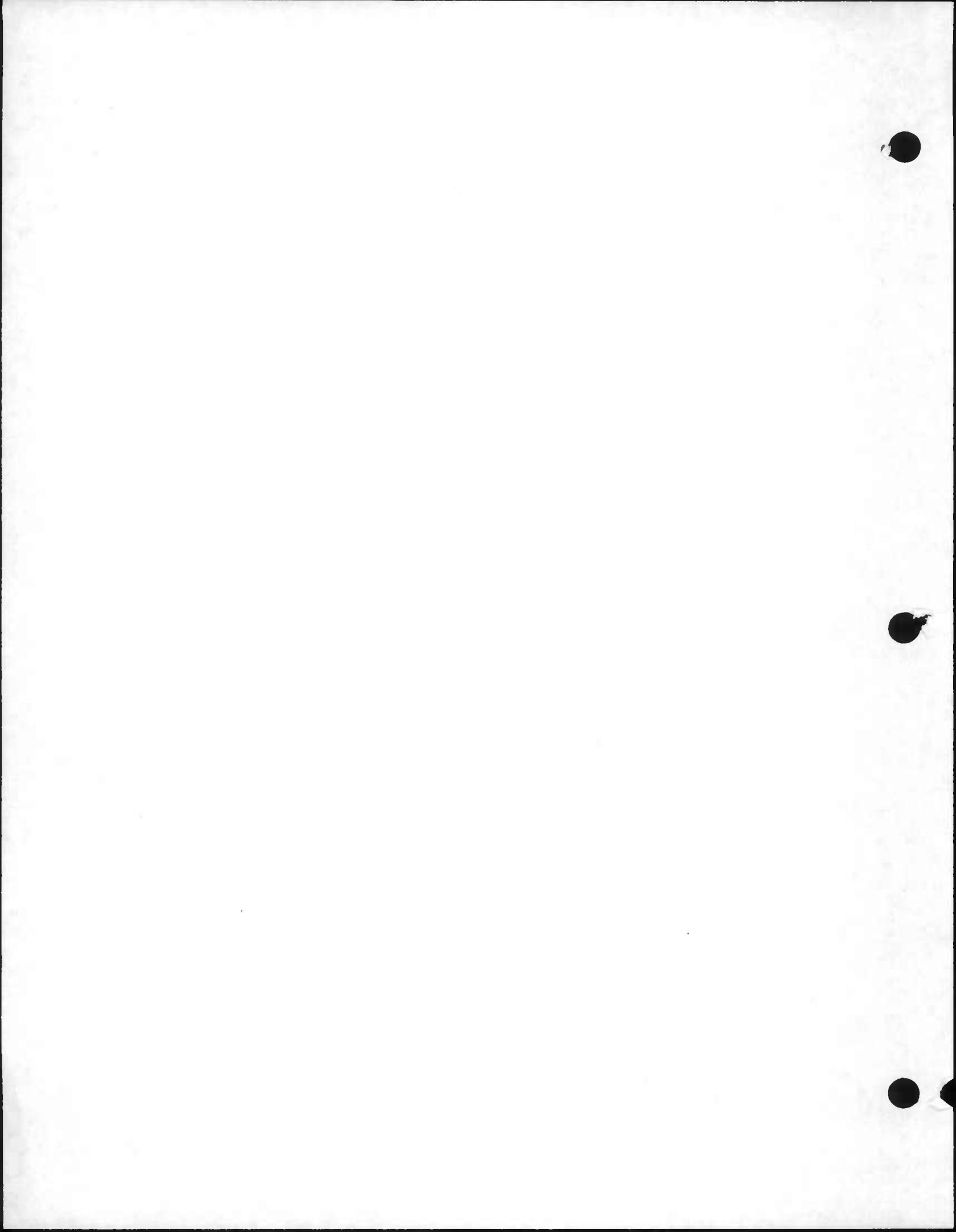
Very truly yours,

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

Marianne E. Dise
Assistant Attorney General

Enclosures

cc: All Counsel



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
mdise@oag.state.md.us

December 17, 2007

Ms. Suzanne Mensh, Clerk of the Court
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204-0754

Re: *AES Sparrows Point LNG, LLC v. Critical Area Commission for the Chesapeake and Atlantic Coastal Bays*,
Case No. _____

Dear Ms. Mensh:

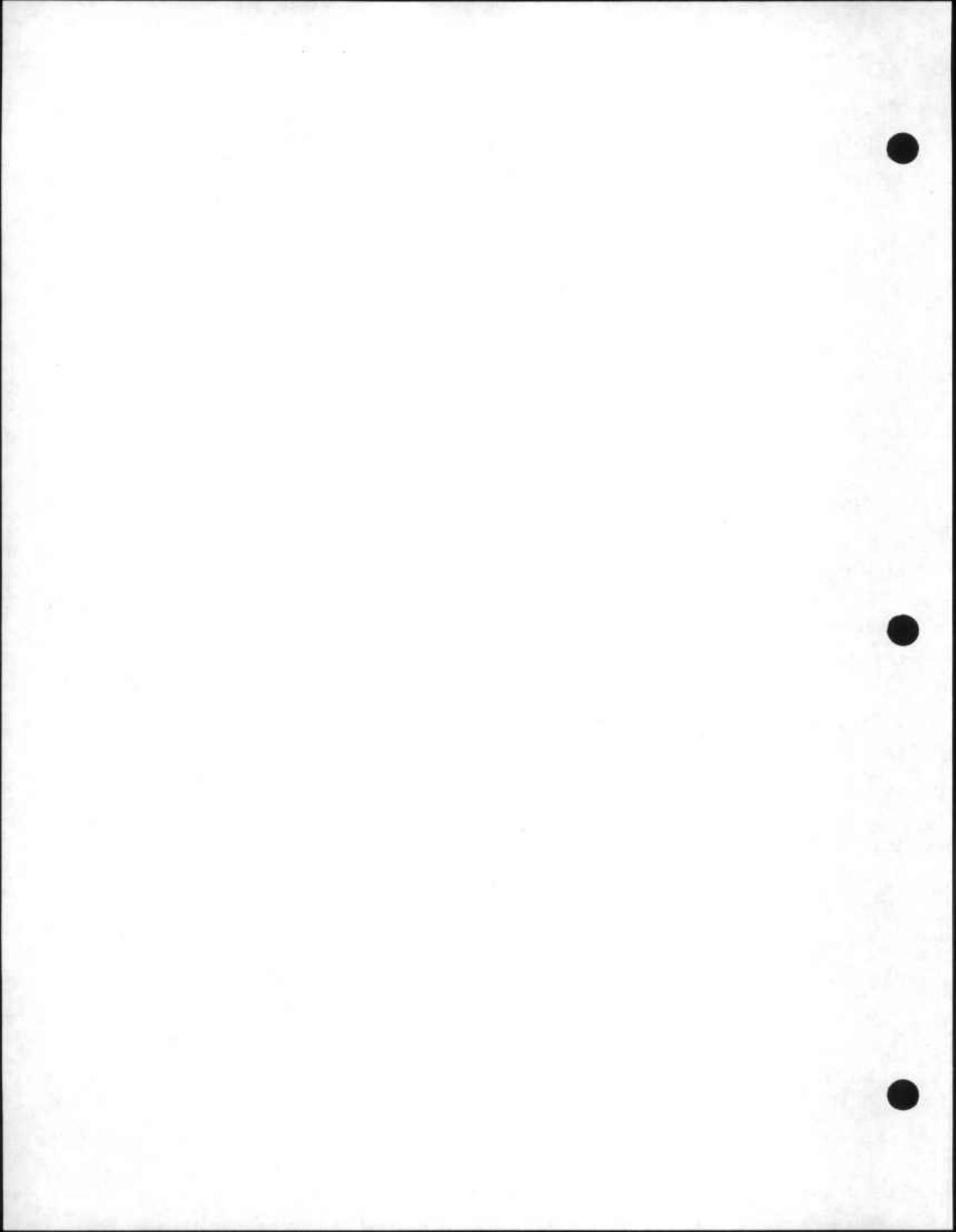
Enclosed please find for filing in the above-referenced case a copy of the Defendant State of Maryland Critical Area Commission's Renewed Motion to Dismiss Amended Complaint and copy of Memorandum in Support of Motion, and Proposed Order. This case was transferred from Anne Arundel County Circuit Court (no. C-07-123926) by order of Judge Harris on November 30, 2007 (copy enclosed).
Thank you for your assistance.

Very truly yours,

Marianne E. Dise
Marianne E. Dise
Assistant Attorney General

Enclosures

cc: All Counsel



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

December 5, 2007

Mr. Stephen V. Hales, Clerk of the Court
Circuit Court for Worcester County
Court House
P.O. Box 40
1 West Market Street
Snow Hill, Maryland 21863

Re: *Petition of Margaret McHale, Chair, Critical Area Commission for the Chesapeake and Atlantic Coastal Bays for Judicial Review of Decision of the Worcester County Board of Appeals, In the Case of: Denise Venable, BZA Case No. 107327*

Dear Mr. Hales:

Enclosed please find for filing in the above-referenced case a Petition for Judicial Review from Margaret McHale, Chair of the State of Maryland, Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

I have enclosed a copy of the Petition for the Board of Appeals, pursuant to Rule 7-202(d), and a copy of the petition for you to date-stamp and return to me in the enclosed self-addressed, stamped envelope. The State of Maryland is exempt from filing fees in the circuit court.

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

1804 West Street, Suite 100
Annapolis, Maryland 21401



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
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mdise@oag.state.md.us

November 5, 2007

Gwen Tromley, Esquire
The Women's Law Center of Maryland, Inc.
305 West Chesapeake Avenue Suite 201
Towson, Maryland 21204

Dear Ms. Tromley:

Thank you for your kind invitation to appear before your Judicial Selections Committee for an interview. I am afraid that previous time commitments prevent me from accepting your invitation, but I wanted you to know that I appreciate the Women's Law Center's invitation.

Again, thank you for your letter.

Sincerely,

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

Marianne E. Dise



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

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mdise@oag.state.md.us

November 2, 2007

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Eric Sennstrom
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Preliminary/Final Plat – Lot 1 of Chesapeake Cove Estates

Dear Mr. Sennstrom:

I am writing regarding the above referenced proposed single-lot subdivision. As I understand, the applicant is seeking final approval of this subdivision plat.

The Action taken by the Critical Area Commission on October 9, 2007 applied to the Habitat Protection Provisions of the Cecil County Critical Area Program. The Commission found that these provisions contain a clear mistake, conflict, or omission and accordingly, the Commission sanctioned the Cecil County Critical Area Program. Given that this site contains a bald eagle's nest and, therefore, falls under the Habitat Protection Provisions of the Cecil County Code, I am advising you that any approval for this project will be null and void per Natural Resources Article Section 8-1809(1)(3). Accordingly, I would recommend that your office postpone any decision on this matter until the Critical Area Commission has removed the sanction.

Thank you for your attention. If you have any questions, please contact me at (410) 260-3460.

Sincerely,

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

Marianne E. Dise
Assistant Attorney General

MED/jjd

cc: The Honorable William C. Manlove, President, Cecil County Commissioners
Mr. Norman Wilson, County Attorney



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

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mdise@oag.state.md.us

October 22, 2007

VIA FACSIMILE AND FIRST CLASS MAIL

Todd R. Chason, Esquire
Gordon, Feinblatt, LLC
233 East Redwood Street
Baltimore, Maryland 21202-3332

RE: Village DownRiver

Dear Mr. Chason:

I am writing in response to your letter of October 4, 2007 to Julie Roberts, a member of the Critical Area Commission staff. As counsel to the Commission, I request that all future correspondence from you to any member of the Commission staff be addressed to me.

Enclosed you will find a letter sent on October 18, 2007 from Ms. Roberts to Frank McKenzie of the Wicomico County Planning and Zoning Department. This letter addresses the status of the Critical Area Commission's review of the Village DownRiver matter. As you know, the County requested Commission approval of a proposed change to the County's Critical Area program to award growth allocation to the Village DownRiver project. The Commission placed several conditions on its approval of that request. Accordingly, the Commission staff will continue to correspond directly with the County as this matter moves forward.

If you wish to discuss this letter, please contact me directly. Thank you.

Very truly yours,

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

Marianne E. Dise
Principal Counsel

cc: Julie Roberts
Ren Serey
Frank McKenzie

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)

October 15, 2007

MEMORANDUM

TO: Attorney General Gansler
FROM: Marianne E. Dise *MED*
RE: Talking Points for MPT Interview

You have asked for a few 'talking points' to use in your upcoming interview for MPT on the Critical Area law. The questions sent to me by Raquel and Erin, and my thoughts on each one, follow:

- 1. Is the Critical Area Law, in your view, a good law? What are successes, if any, of the current law? What are the problems, if any, with the current law?**

The Critical Area law was an innovative attempt in the 1980's to tackle a complex problem. Innovative, because, at that time, Maryland's land use was just about totally controlled by local governments – counties and towns. The regulation of land use was fragmented and inconsistent. I think that Governor Hughes and the General Assembly had the courage in 1984 to recognize this problem and to take a big step toward bringing some uniformity to the regulation of land use, at least within the "Critical Area", or 1,000 feet of the Bay and its tributaries. The law has been successful in giving the State a (limited) role in land use decisions. But the Bays (Chesapeake, Atlantic Coastal) are state-wide resources, and I think that the time has come for us to recognize this fact. This means that the law has to be changed in a fundamental way.

- 2. Do you think that there need to be changes to the law?**

Yes, I do. First, we need to recognize that in the 23 years since the law was enacted, a lot has changed in Maryland. More people are moving to Maryland every day. More people want to live close to the water. The closer that land is located to the water, the more valuable the land has become, and there is incredible pressure on local governments to allow building in areas where building just should not take place. I think that more

people are willing to push the envelope and build without permits (look at the case of Daryl Wagner, the professional homebuilder who built a huge house, with a pool, gazebo and lighthouse on an island in the Magothy River without any permits; or Edwin Lewis, who built 7 buildings in the Critical Area buffer in Wicomico County on the Nanticoke River, again without any permits). The fines for illegal activity in the Critical Area are way too low. This creates a situation where it's cheaper to build first, then hope you don't get caught, and if you do get caught, just ask for after-the-fact permission (which both Wagner and Lewis did) and eventually, you may have to pay a minimal fine. Local enforcement is not always consistent, in part because the local governments don't have the tools they need – like boats. And the State does not have any Critical Area inspectors, because enforcement is, under the current law, left to the locals with the State playing an oversight role. As I said, I think that it's time that the law recognized that State regulation of these State-important resources is necessary.

3. Critics say that the law gives too much control to the local authorities and gives the State very little power. Do you agree? Does the State's role need to change?

Yes, I think that the State needs to step up and take a much more visible and active role to control what gets built in the Critical Area. I think that we have learned over the past 20+ years, that the State needs to have a more central role if we are going to make this law work. The Bay is not getting better under the current state of affairs, and something has to change. My office is taking on more enforcement cases in the Critical Area, (for example, in Prince George's County) where the counties do not take appropriate action. We also are offering assistance to the counties who may need more resources to do enforcement (for example, we are helping Wicomico County to enforce the county's order for Mr. Lewis to remove his 7 cabins from the Critical Area buffer). But we don't have primary authority for enforcement, so, many times, we are coming into these cases only after the local government has not done its job. And, as I mentioned, the fines for illegal activity are too small to be a deterrent.

We should never allow violators to get after-the-fact variances to legalize their unlawful construction. And under the current law, local governments can, and do, allow this. Then the Attorney General's office has to fight both the violator and the local government. Example: the Wagner case, where Anne Arundel County is supporting the violator and the county gave him permission to keep his illegal house and lighthouse. This is outrageous, and it sends absolutely the wrong message to everyone else out there who wants to do the right thing. We have similar cases in court in Queen Anne's County and in Cecil County right now.

4. Do you believe that some folks are taking the law into their own hands and just going out and doing whatever they want to do in complete violation of the law? If so, what if anything can the Attorney General's Office do from a law enforcement perspective?

The most visible cases of folks taking the law into their own hands are the ones I talked about - Lewis and Wagner. But there are lots more out there! Just last week, we had a

call about a homeowner who built a huge shed/barn in the 100-foot Critical Area buffer in Queen Anne's County. Now that the structure is built, we face a long court battle to try to get a judge to order the violator to remove it. We have another case in Caroline County where a man cut down over an acre of trees to build himself a road, all the way to the water, and meanwhile he installed a parking area for his camper - right next to the water in the 100-foot Buffer. So yes, I do believe that folks are taking things into their own hands. My Office is committed to strengthening enforcement, but we need to have the tools : much higher fines; no after-the-fact variances for violators; swift and sure prosecution of those who flout the law.

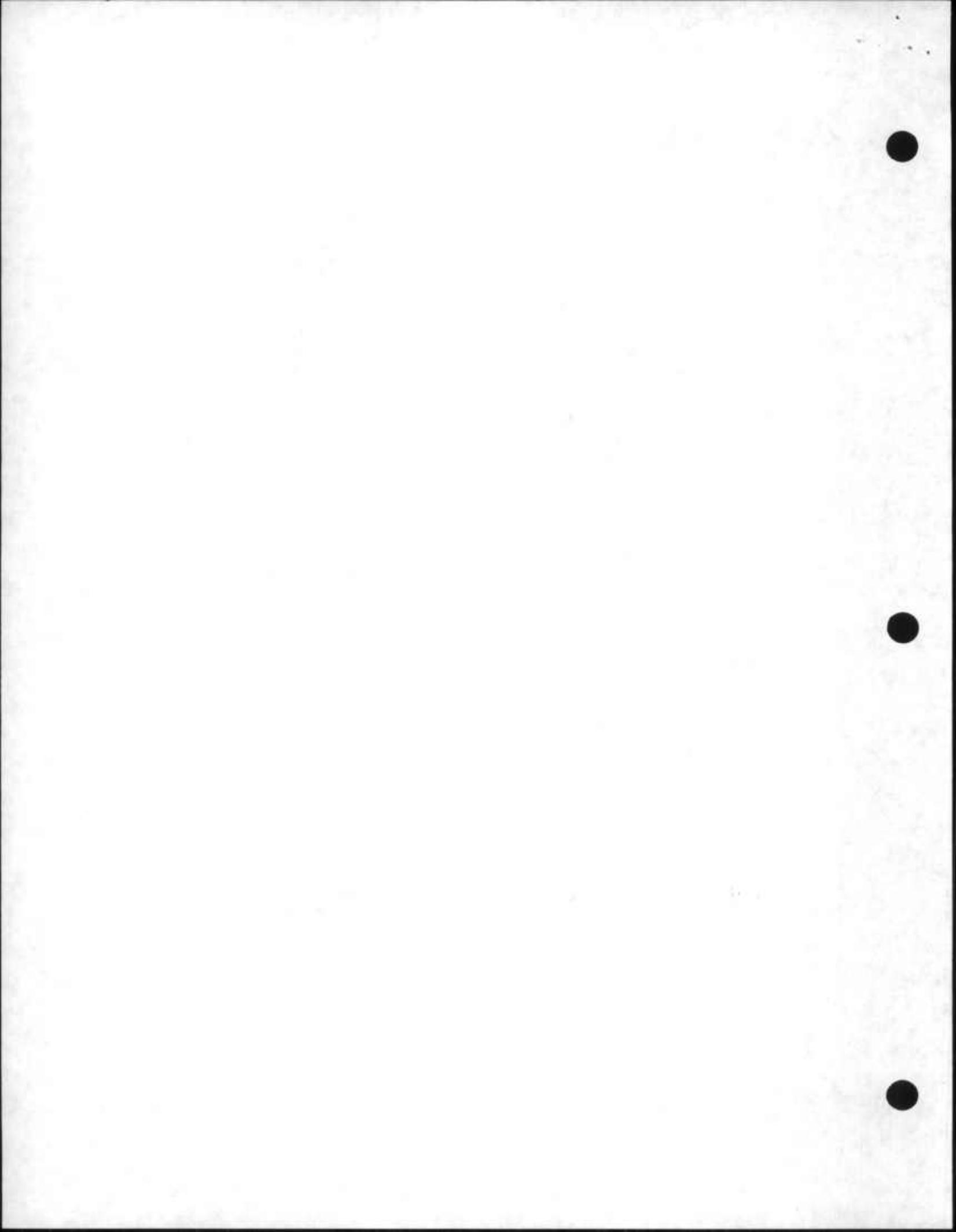
5. Critics say that the law has no teeth at all. Do you agree that the law should be made tougher?

I wouldn't say that the law has no teeth - but I think that it needs lots of fixing. The State needs to have a more direct role in enforcement, as we've discussed, and the fines need to be increased. I'll give you an example: in Somerset County, the fine for cutting down trees illegally in the 100-foot Buffer is **2 cents** a square foot. Now, that is not a meaningful fine!! Also, if local governments are going to continue to enforce the law then they have to be required to assess fines for each day of a violation. Right now, many of the towns and some of the counties say that they can't levy fines on a daily basis, so this means that a violator who cuts down a lot of trees may only get a \$150 fine, and the water view he gained is worth many times that amount. Another way that the law can be made to work better, and not many people know this, but the Critical Area Commission right now is the only State agency that can't promulgate its own regulations. They have to go to the General Assembly to get anything changed. No agency should have to operate with one hand tied behind its back.

6. The Critical Area law has been in place for 20 years and seems to be coming under new scrutiny. Why?

One reason for the increased scrutiny is the fact that the health of the Bay is not improving, so that tells me that we need to do things differently. Another reason is the publicly audacious acts of violators like Wagner, and the local governments who not only allow these violations to happen, but then support the violator. There is obviously a breakdown in the system. It's time to take the Critical Area Law to the next level, and give these State resources the State protection they deserve.

cc: Kay Winfree
Erin Fitzsimmons
Raquel Guillory



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

October 10, 2007

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

Mr. Tom Horton
304 Race Street
Vienna, Maryland 21869

RE: *Edwin Lewis v. Department of Natural Resources*

Dear Tom:

It was good to see you at the Attorney General's Environmental Council meeting last week. As you requested, I am enclosing a copy of the Court of Special Appeals' decision in the latest round of the Lewis case. Mr. Smethurst petitioned the State's highest court, the Court of Appeals, for a writ of certiorari, but the Court denied that petition on May 11, 2007. I have enclosed a copy of the State's response to that petition.

The Attorney General's Office is supporting Wicomico County as the County enforces its Critical Area program by ordering removal of the illegal hunting camp and restoration of the island. We are confident that, as we work together, this matter will be brought to a successful conclusion.

Please don't hesitate to contact me for further information.

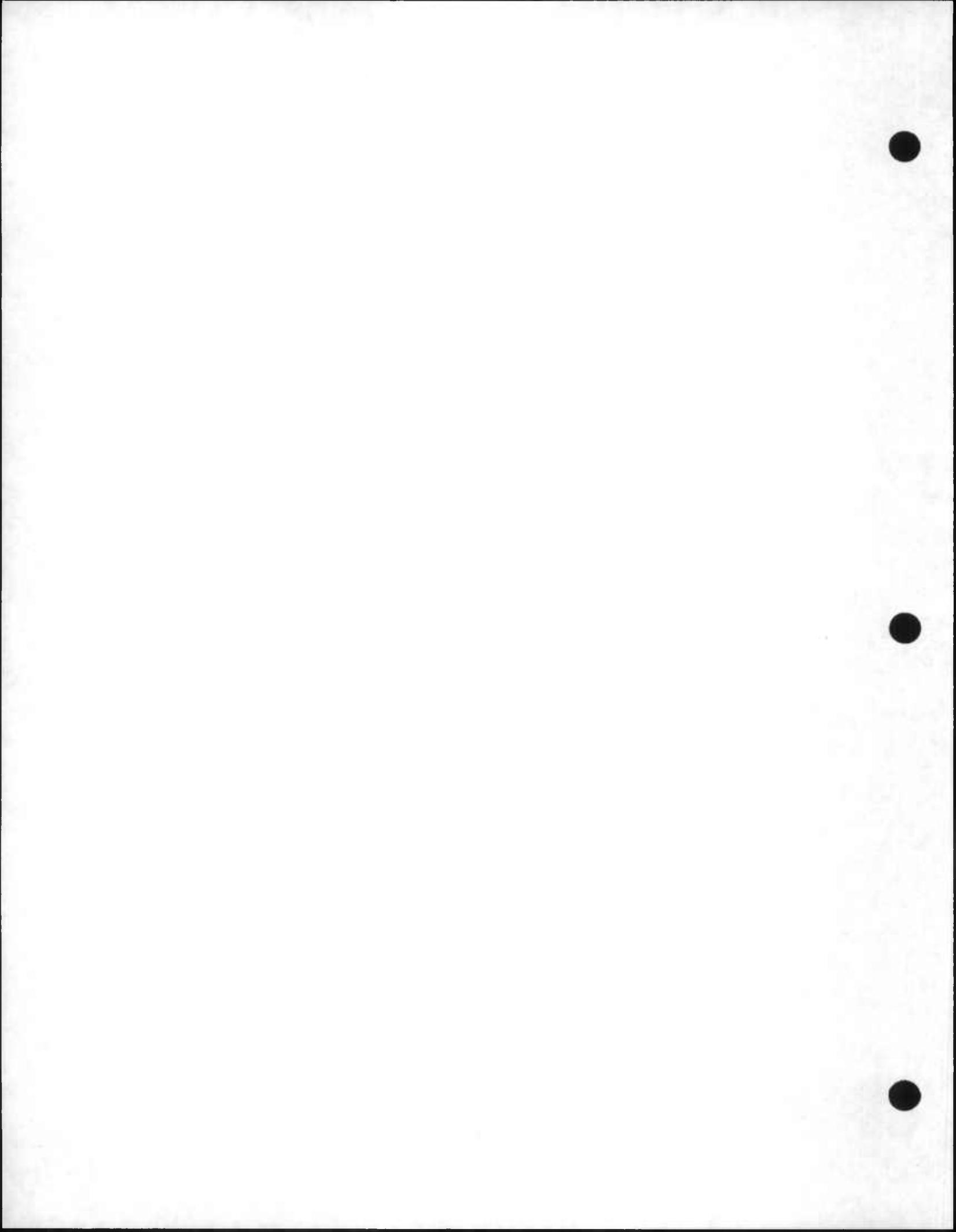
Sincerely,

A handwritten signature in cursive script, appearing to read "Marianne E. Dise".

Marianne E. Dise
Principal Counsel

cc: (without attachments)
Hon. Margaret G. McHale, Chair, Critical Area Commission
Katherine Winfree, Chief Deputy Attorney General
Mr. John Lenox, Wicomico County

1804 West Street, Suite 100
Annapolis, Maryland 21401



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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FAX NO. (410) 974-5338

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

September 26, 2007

VIA FACSIMILE AND U.S. MAIL

Mr. John F. Lenox
Director, Wicomico County Department of Planning and Zoning
Government Office Building
125 North Division Street Room 203
P. O. Box 870
Salisbury, Maryland 21803-0870

RE: Edwin Lewis - Phillips Island

Dear Mr. Lenox:

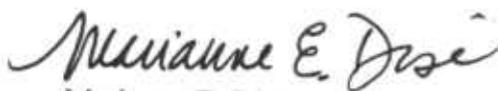
This letter follows up on our conversation of September 19, 2007 regarding the development activities on Phillips Island. As we discussed, the position of this Office is that no new permit or variance application may be accepted for processing until all of the illegal structures are removed and the site is restored (planted) in accordance with an approved Buffer Restoration and Management Plan. You have agreed that the County will enforce its order of August 23, 2007 requiring removal of the structures and restoration of the Island before entertaining any further application from Mr. Lewis for development activity on this site.

Since the Office of the Attorney General has represented the State and defended the Wicomico County Board of Appeals' decisions in this matter for over seven years, the Office is greatly interested in a final resolution to this situation. Over one month has passed since you issued the order for removal of the illegal structures. It appears that Mr. Lewis may be attempting to circumvent, or at least delay compliance with, your order by suggesting that one of the illegal buildings may now be converted to a 'residence.' Given the findings of the Board of Appeals in this case, as most recently affirmed by the Court of Special Appeals, this suggestion borders on the absurd.

I have discussed this matter with Chief Deputy Attorney General Katherine Winfree, and she has offered the assistance of our Office to ensure that immediate compliance is achieved on

this site. To that end, the Chief Deputy Attorney General has asked me to extend an invitation to you and County Attorney Baker to meet in the Attorney General's Office in Baltimore, within the next two weeks. I will be in contact with you to coordinate an acceptable date, and I look forward to seeing you at that meeting.

Very truly yours,



Marianne E. Dise
Principal Counsel

Copies to:

Attorney General Douglas F. Gansler
Chief Deputy Attorney General Katherine Winfree
Special Assistant to the Attorney General Erin Fitzsimmons
Margaret McHale, Chair, Critical Area Commission
Ren Serey, Executive Director, Critical Area Commission
Wicomico County Attorney Edgar A. Baker, Jr. (via facsimile and U.S. mail)
Critical Area Commissioner Stevie Prettyman

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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mdise@oag.state.md.us

September 21, 2007

William R. Varga, Assistant Attorney General
Open Meetings Compliance Board
c/o Attorney General's Office
200 St. Paul Place
Baltimore, MD 21202

RE: Supplemental Information in response to complaints of Craig O'Donnell
against the Critical Area Commission for alleged non-compliance with the
Open Meetings Act

Dear Mr. Varga,

The Open Meetings Compliance Board has asked the Critical Area Commission to address the specific allegations raised in Mr. O'Donnell's August 1 and August 6, 2007 complaints in the event the Board concludes that the Critical Area Commission Panel meeting in question is subject to the Open Meetings Act. In consultation with Assistant Attorney General Sandra Canedo, who attended the Panel meeting, I provide this letter to address each allegation in both letters in the order in which Mr. O'Donnell raised them.

Complaint dated August 1, 2007

This complaint contains four substantive allegations, and a fifth allegation which summarizes the complaint. *First*, the chair of the panel, Gary Setzer, did state that he was closing the meeting so the panel could seek legal advice and that this action was pursuant to the State Government Article 10-508(a)(7). *Second*, AAG Sandra Canedo did not stop Mr. Setzer nor did she provide any further guidance on closing the meeting. *Third*, Ms. Canedo provided Mr. O'Donnell with her business card when asked. However, Mr. O'Donnell did not ask to see any written statement at that time. He merely informed Ms. Canedo that he *could* ask to see it. *Fourth*, Ms. Canedo began to open her Open Meetings Act Manual, but she did not in fact consult the manual because Mr. O'Donnell then advised her that he would likely file a complaint. At no time did Ms. Canedo ask Mr. O'Donnell to wait while she retrieved a written statement. *Fifth*, although no motion was made to close the meeting and there was no vote taken, all members of the panel assented to the closure. Mr. Setzer did read a statement but did not sign it. Minutes were not taken of any part of the meeting, either the open or closed portion, but a Staff Report was prepared after the meeting.

As stated in our letter to the OMCB on September 5, 2007, the Commission has chosen to conduct its panel meetings as open to the public. While the law (Code, Nat. Res. II 8-1809) requires a panel to conduct a 'public hearing,' it is the Commission's understanding and practice that panels of the Commission are not "public bodies" subject to the Open Meetings Act.

Complaint dated August 6, 2007

This supplemental complaint contains five allegations. First, Mr. O'Donnell did not receive all of the requested information regarding the procedures for minutes by August 1, 2007. Staff sent the Panel Report to him, but the Commission has no way to verify the date on which Mr. O'Donnell received the Report. Second, the panel's meeting on August 1st was not closed at any time. Third, the Panel Report did not contain discussion of the closed session from the July 30th Panel meeting. Fourth, the Panel Report does not function as "minutes." Rather, the Critical Area Commission views a Panel Report as a summary report for the use of the panel members¹. Fifth, the Critical Area Commission does not post minutes on its website. Copies of the minutes are maintained with the agency's other public records, and are available for public inspection, at the Commission's offices.

I hope this additional information is helpful.

Sincerely,



Marianne E. Dise
Assistant Attorney General

cc: Craig O'Donnell
Gary Setzer
Margaret McHale, Esquire
Saundra K. Canedo, AAG

¹Mr. O'Donnell seemed aggrieved that the panel report he was given did not contain information that he anticipated. Panel reports are done mainly as an aide for the panel members. Certainly, these reports are made available to the public upon request. A panel report is not deficient merely because it does not contain information that a particular citizen at large would like to see in print. They are not written or intended to be a "courtesy" to the public; instead, the reports help to focus the panel so that they may make a well-founded recommendation to the full Commission for their vote.

DOUGLAS F. GANSLER
Attorney General

KATHERINE WINFREY
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
September 20, 2007

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

Ms. Betsy Vennell
Town of North East
PO Box 528, 106 South Main Street
North East, Maryland 21901-0528

Re: Buffer Variance Request - Nauti Goose Saloon

Dear Ms. Vennell:

I am writing on behalf of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays regarding the variance application submitted to the Town of North East by the Nauti Goose Saloon. The applicant is requesting an after-the-fact variance to the Critical Area Buffer requirements to legalize an accessory structure (expanded deck) in the 110-foot Buffer. It is the position of the Attorney General's Office that the Town of North East may not process a variance application for this structure.

The site is located in the Intense Development Area (IDA) and is developed with a commercial restaurant facility. The applicant recently constructed a bulkhead and boardwalk that exceeded the scope of a permit for in-kind replacement issued by the Maryland Department of the Environment (MDE). The deck extension, which is the subject of the after-the-fact Buffer variance, was constructed on top of the new fill and up to the edge of the new bulkhead. For the violations of the MDE permit, MDE has issued Site Complaint No. SC-O-08-0582 (August 29, 2007). The Site Complaint requires corrective action within 30 days, including removal of the expanded deck, the new bulkhead, and the fill that was placed in tidal waters.

To reiterate, the applicant illegally expanded the pre-existing deck, and now seeks a variance from the Town in the face of an order from the State to remove the illegal structure. It is the position of this Office that the Town may not entertain this application while the State is pursuing enforcement action against this applicant.

Very truly yours,

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



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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FAX NO. (410) 974-5338

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

September 17, 2007

VIA FACSIMILE AND U.S. MAIL

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

Re: Roes Property - 11672 Greensboro Road, Caroline County, MD

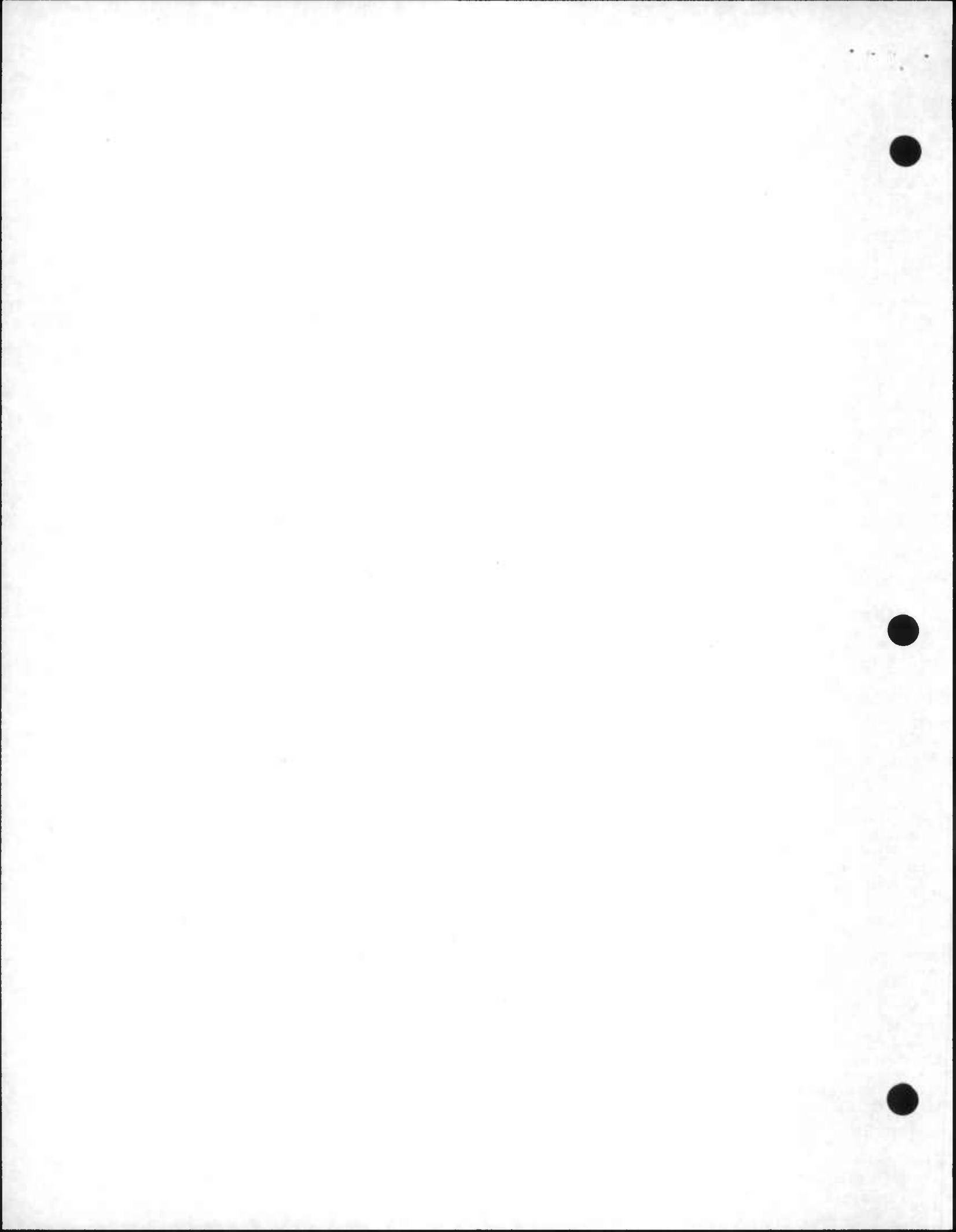
Dear Mr. Gabler:

Thank you for your recent correspondence regarding the proposal ("Plan") submitted by your client. As you mentioned, the Critical Area Commission staff's review¹ of the Plan has occurred over the course of several weeks. At the conclusion of the staff review, it is apparent that the Plan is inadequate to accomplish the necessary remediation of the Roes site.

I. Forest Interior Dwelling Bird Species Habitat (FIDS)

The Plan's FIDS assessment is not correct, primarily because the Plan erroneously asserts that Mr. Roes' activities caused no impact to FIDS habitat. FIDS habitat mitigation is required for all impacts to FIDS habitat from the unpermitted clearing and other development activity conducted by Mr. Roes on the site. Photographs and inspection reports in the County's and the Commission's files provide documented evidence of the impact to FIDS habitat caused by the roadway clearing. Moreover, the adverse impact is not limited to the cleared area along the road. Mitigation must be accomplished for the area of interior and riparian habitat destroyed, as well as

¹The technical comments summarized in this letter were provided by Commission staff members, as well as the Commission's Science Advisor.



the edge habitat that was isolated, and the interior habitat that was converted to edge habitat. Mitigation ratios and locations must meet the standards set forth in the 2000 FIDS Guide manual. Your consultant should have a copy of this manual.

II. Critical Area Buffer

The 100- foot Buffer must be accurately defined by a survey and a tidal/nontidal wetlands delineation to identify the area of the Buffer with accuracy. The wetlands delineation must be documented, and must be performed by a qualified individual. All gravel must be removed from the Buffer, and the disturbed area (disturbed by placement or maintenance of gravel, or clearing, or vehicle parking/storage, etc.) must be mitigated at a 3:1 ratio. Grass seeding in the Buffer is not appropriate. Rather, the Critical Area Criteria require the Buffer to be maintained in "natural vegetation." Thus, plantings should include native ground cover species, shrubs, and, where appropriate, understory trees.

There can be no continued maintenance of the cleared areas within the Buffer, except for a minimal pathway for access to the pier. Any path through the Buffer should be pervious, a maximum of 6 feet in width, and perpendicular to the river. The Buffer may not be used as a parking lot for vehicles, including the Airstream. See COMAR 27.09.01.C (3). There is no credible evidence that a roadway existed in the Buffer before Mr. Roes began his activities on the property. Moreover, even if a roadway had existed at some time in the past, its use was clearly abandoned long ago, and there is no "grandfathering" for such a use in the Buffer.

Your consultant should contact Ms. LeeAnne Chandler, the Commission's Science Advisor at (410) 260-3477, for specific information regarding the technical requirements that should be incorporated into a revised Plan. Pending completion of an acceptable revised Plan, this Office expects your client to cure the Buffer violations (discussed below) immediately.

III. Buffer Violations

It is quite clear that Mr. Roes' development activity in the Buffer (grading; removal of ground cover and understory vegetation; placement of gravel; and creating a maintained, cleared area, including parking for the Airstream and other vehicles) has occurred in violation of the Critical Area law. As you know, the State law provides that, *in addition to* any other penalty under State or local law, a person who violates a provision of the Critical Area law is subject to a fine of up to \$10,000. Code, Nat. Res. II §8-1808(c)(xiv). Mr. Roes has been advised, on numerous occasions, by both the County and the State, that his activities in the Buffer constitute violations of the County's and the State's Critical Area programs.

There is no credible explanation for the fact that Mr. Roes has not yet ceased his unauthorized activities in the Buffer. Nor is there a reason why Mr. Roes cannot perform the



Letter to Mark F. Gabler
September 17, 2007
Page 3

required Buffer mitigation during the fall of 2007. The continued existence of these violations will leave the Attorney General's Office no choice but to seek a remedy through the courts, including fines and injunctive relief.

Please contact me directly if you have any questions about this letter.

Very truly yours,



Marianne E. Dise
Assistant Attorney General

cc: Margaret McHale, Chair, Critical Area Commission
Kevin Clark, Caroline County Codes Enforcement
Ren Serey
Marshall Johnson
Paul Cucuzzella, 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

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
mdise@oag.state.md.us

September 5, 2007

William R. Varga, Assistant Attorney General
Open Meetings Compliance Board
c/o Attorney General's Office
200 St. Paul Place
Baltimore, MD 21202

RE: Complaints of Craig O'Donnell filed August 1 and 6, 2007 against a Panel of the Critical Area Commission for alleged non-compliance with the Open Meetings Act

Dear Mr. Varga,

I write in response to your letters of August 1, 2007 and August 6, 2007 to Gary Setzer, an employee of the Maryland Department of the Environment who sits as the designee of the Secretary of Environment on the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (the "Commission"). Apparently, the letters were addressed to Mr. Setzer because he chaired a panel of Commission members in connection with the Drayton Manor growth allocation application ("Drayton Manor panel"). Both letters included, as attachments, complaints filed with the Open Meetings Compliance Board ("the Board") by Mr. Craig O'Donnell, alleging violations of the Open Meetings Act by the Drayton Manor panel. Your letter of August 6, 2007, received in the Critical Area Commission offices on August 8, 2007, states that the Board would treat both complaints as a single matter. Accordingly, this response addresses both complaints as a single matter ("the Complaint").

The Complaint alleges that the July 30, 2007 meeting of the Drayton Manor panel was improperly closed for legal advice, and that no minutes were taken during the closed meeting. The Complaint also alleges that the August 1, 2007 Report from the panel to the full Critical Area Commission is deficient. The Complaint alleges numerous other violations, but this letter will not respond to the substance of any of the allegations. The short answer to the Complaint is that panels of Commission members are not "public bodies" and accordingly are not subject to the Open Meetings Act.



William R. Varga, Esquire
Re: Complaint of Craig O'Donnell
Page 2

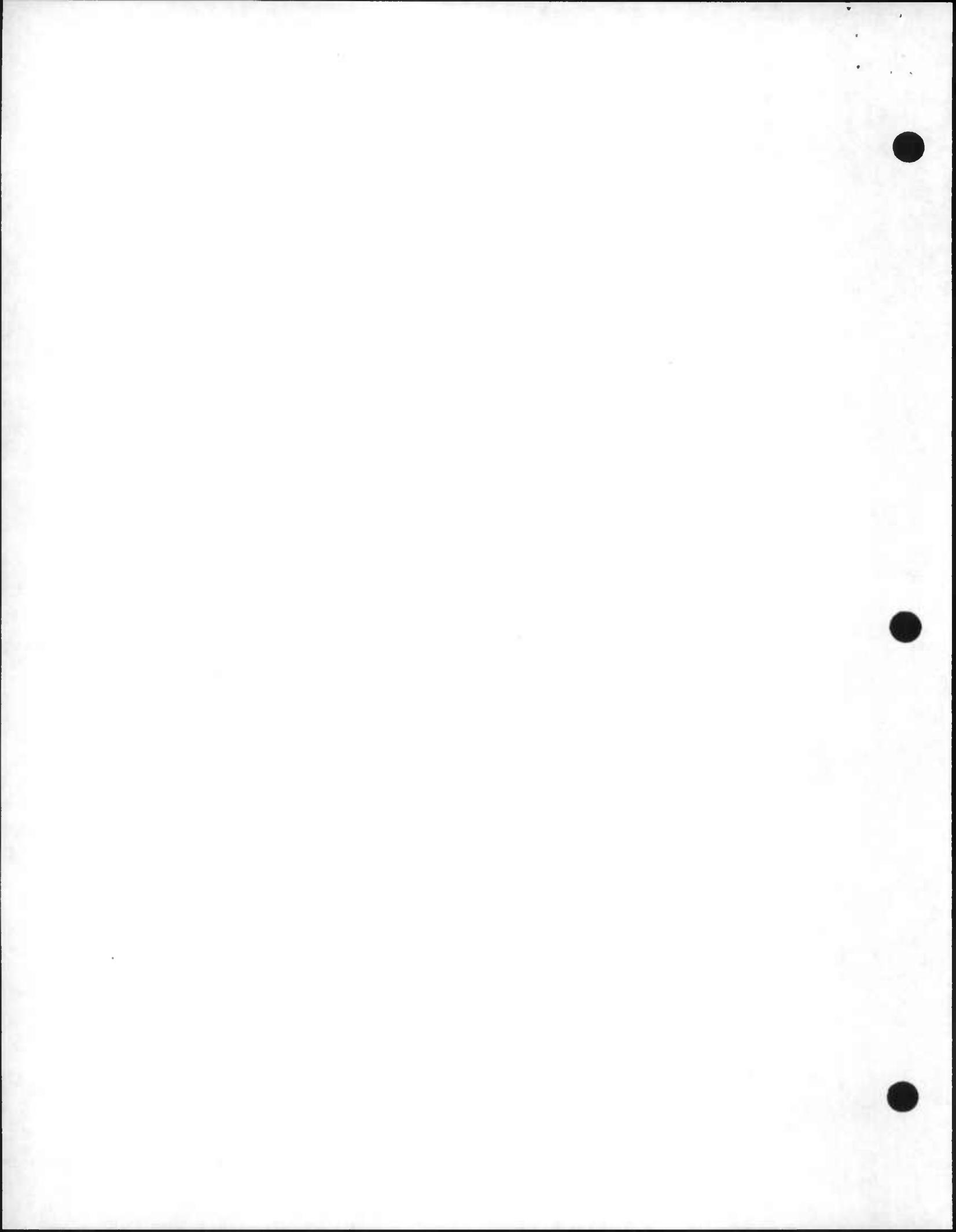
As you know, the Open Meetings Act, Code, SG §10-502(h), provides that a "public body" is an entity that: "(i) consists of at least 2 individuals; and (ii) is created by ... a State statute. ..." "Public body" includes: (i) any multi-member board, commission, or committee appointed by the Governor or the chief executive authority of a political subdivision of the State, or appointed by an official who is subject to the policy direction of the Governor or chief executive authority of the political subdivision, if the entity includes in its membership at least 2 individuals not employed by the State or the political subdivision."¹ The Critical Area Commission is a 29-member body created by State statute (Code, Nat. Res. II §8-1803(a)) whose members are appointed by the Governor (Code, Nat. Res. II §8-1804(a)). Under the Open Meetings Act, the Critical Area Commission is a "public body."

By contrast, a panel of Commission members is not a "public body." Code, Nat. Res. II §8-1809(d) provides that "the Commission shall appoint a panel...to conduct...a public hearing" on proposals by local jurisdictions to adopt or to amend local critical area programs. By definition in the Open Meetings Act, in order for a panel of Commission members to be a "public body," the panel would need to be appointed by the Governor, the chief executive authority of a political subdivision of the State or an appointed official subject to the direction of the Governor or chief executive authority. The law is very clear that the Commission, not the Governor nor the Commission Chair, appoints the panel.

Commission panels conduct the required public informational hearing but, once the hearing is concluded, the panels have no additional function assigned by statute, resolution, or regulation.² All decisions on proposed local critical area program amendments are made by the full Commission. A panel's only role is to hold a public hearing. Code, Nat. Res. II §8-1809(o) is very clear that action or decision occurs by the full Commission: "the Commission shall act on the proposed program amendment. . . the Commission shall determine if the proposed amendment is consistent with the purposes, policies, goals, and the provisions . . . In accordance with the Commission's determination, ... the Commission shall...approve the proposed amendment; deny the proposed amendment; approve the proposed amendment with conditions;

¹ Panels appointed by the Commission are not restricted to non-government employees. Often, panels consist primarily of State or local government employee-members of the Commission.

² Proposed amendments to a local jurisdiction's Critical Area program (including the Drayton Manor growth allocation application) are not "zoning matters." *Kent Island Defense League v. Queen Anne's County Board of Elections*, 145 Md. App. 684 (2002); *North v. Kent Island Limited Partnership*, 106 Md. App. 92 (1995). Thus, the Complaint's suggestion, that the panel's meeting concerned a zoning matter, is unfounded.



William R. Varga, Esquire
Re: Complaint of Craig O'Donnell
Page 3

or return the proposed amendment to the local jurisdiction.”

Although meetings of panel members are not subject to the Open Meetings Act, the Critical Area Commission recognizes that public trust in government is vitally important, and thus, by custom, the Commission members who serve on panels have met at times and in places that are available to the public. By custom, the public is welcome to attend, with the same restrictions applicable to meetings which are subject to the Open Meetings Act. A similar practice was recognized favorably in the Open Meetings Compliance Board Opinion # 00-9, (October 11, 2000).

The Complaint asked for information about the Commission's practice regarding the minutes of Commission meetings. As explained above, any action on a proposed amendment to a local critical area program occurs at a meeting of the full Critical Area Commission. These meetings are open to the public, and minutes are taken and maintained as required by law. The minutes are available for inspection at the Commission office, and copies may be requested by any interested person. Any memorandum or report prepared by a Commission panel is likewise maintained in the Commission's office.

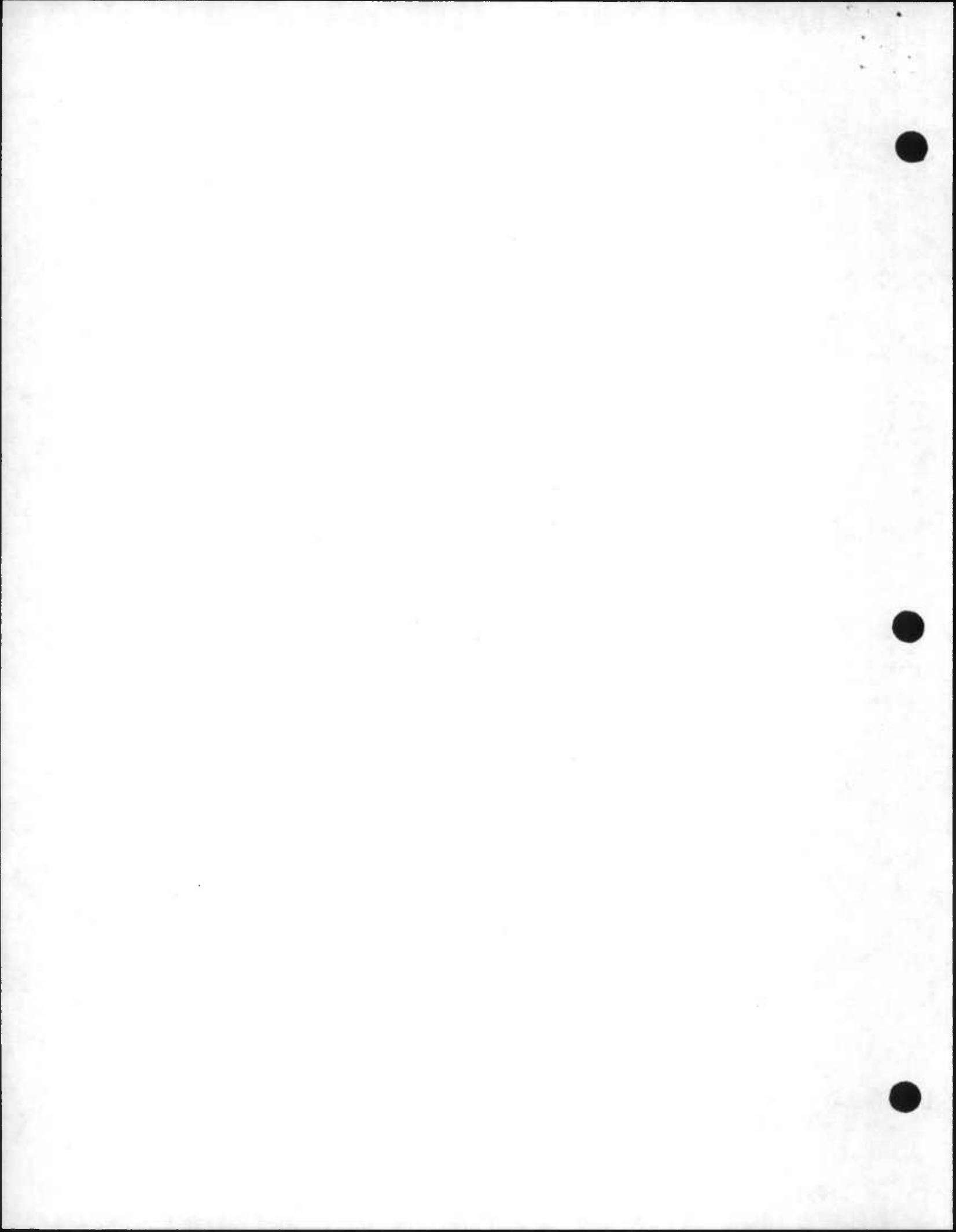
This letter is not a formal Opinion of the Attorney General. Please contact me for any further information you may require.

Sincerely,



Marianne E. Dise
Principal Counsel

cc: Craig O'Donnell
Saundra K. Canedo, Assistant Attorney General
Margaret McHale, Chair, Critical Area Commission
Gary Setzer



DOUGLAS F. GANSLER
Attorney General

KATHERINE WINFREY
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
mdise@oag.state.md.us

September 5, 2007

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

Re: *AES Sparrows Point LNG, LLC v. Critical Area Commission for the Chesapeake
and Atlantic Coastal Bays,*
Case No 02-C-07-123926

Dear Mr. Duckworth:

Enclosed please find for filing in the above-referenced case the signed copy of the Circuit Court for Anne Arundel County's Scheduling Order.

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

Enclosure

MED/jjd

cc: All Counsel



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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mdise@oag.state.md.us

July 25, 2007

VIA FACSIMILE AND U.S. MAIL

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

Re: Roes Property - 11672 Greensboro Road, Caroline County, MD

Dear Mr. Gabler:

Thank you for your recent correspondence regarding the completion of the survey work on the Roes property. I appreciate your continuing to encourage your clients to develop a mitigation plan and a buffer management plan ("the Plan") as outlined in my letter of June 18, 2007. I expect the Plan to contain both a mitigation plan for the forest clearing violation, and a Buffer Management Plan, which should address both the re-planting of the Buffer along with new planting in the Buffer in mitigation for the Buffer violation. Pending receipt of the Plan, I request your prompt written confirmation that your clients have removed the vehicles, tires, and all impervious surfaces from the Buffer on their property.

Given your stated expectation that you will provide a Plan to me in the next week, I have requested the Office's litigation section to refrain from initiating any action until I review your clients' Plan. Thank you for your assistance in obtaining a satisfactory resolution of this matter.

Very truly yours,

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

Marianne E. Dise
Assistant Attorney General

1804 West Street, Suite 100,
Annapolis, Maryland 21401

cc: Margaret McHale, Chair, Critical Area Commission
Kevin Clark, Caroline County
Ren Serey
Marshall Johnson
Paul Cucuzzella, Esquire

DOUGLAS F. GANSER
Attorney General

KATHERINE WINFREY
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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mdise@oag.state.md.us

July 23, 2007

Hon. John W. Sause, Jr.,
Circuit Court for Talbot County
P.O. Box 70
Centreville, Maryland 21617
and
11 North Washington Street
Easton, Maryland 21601

RE: Notice of Hearing in *Bedford v. Madden*, No. 20-C-06-005699

Dear Judge Sause:

On July 17, 2003, I received from the Assignment Clerk at the Circuit Court for Talbot County a Notice of Hearing in the above-captioned case. The hearing is set for August 15, 2007. Since the complaint in this matter was dismissed on June 12, 2007 ("Declaratory Judgment and Dismissal of Complaint as to all Other Claims for Relief"), I am writing to confirm that this Notice of Hearing was sent in error.

If there is a hearing scheduled in this case, I respectfully request information as to the subject of the hearing. Thank you.

Sincerely,

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

Marianne E. Dise
Assistant Attorney General

Copies to all counsel of record



DOUGLAS F. GANSEER
Attorney General

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

July 5, 2007

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

*Re: Petition of Margaret McHale for Judicial Review of Decision of Anne Arundel
County Board of Appeals in DCW Dutchship, LLC, Civil No. C-07-119778*

Dear Mr. Duckworth:

Please find enclosed for filing a Notice of Substitution of Party, and a Response to
Motion to Dismiss Petition.

Thank you for your assistance in this matter.

Sincerely,

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

Marianne E. Dise
Assistant Attorney General



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

December 28, 2007

Thomas B. Peregoy, President
Queenstown Commissioners
PO Box 4
Queenstown, MD 21658

**RE: Town of Queenstown – Critical Area Map Changes and Text Amendments for:
2004 and 2006 Legislation, Impervious Surface Regulations and Growth Allocation
Relocation; Ordinances 06-02, 06-05, 06-06, 07-05 and 07-06; Revised Map**

Dear Mr. Peregoy:

Thank you for providing information on the referenced text changes and map amendment proposals. The text changes reflect the 2004 and 2006 State legislative changes, impervious surface regulation changes, and methodology for allowing relocation of growth allocation. The map amendments reflect an annexation, establishment of two new zoning districts and pre-map a growth allocation relocation area. Some of the program text and map amendments were previously discussed with the Town of Queenstown at Program Subcommittee meetings of the Critical Area Commission. The Critical Area Commission is accepting the materials forwarded by the Town for processing. The Critical Area Commission Chair 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.

If you have any questions, please feel free to call me at (410) 260-3479.

Sincerely,

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

Marshall Johnson
Natural Resources Planner

cc: Roby Hurley, MDP
Don Regenhardt, Queenstown Planning Commission Chairman
Amy W. Moore, Queenstown Town Clerk and Treasurer
Case File QT 647-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 28, 2007

Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, MD 21617

**RE: File MISP # 04-07-10-0012-C
Chesapeake Bay Beach Club, LLC**

Dear Ms. Tompkins:

I have reviewed the information submitted for the Pub and Sunset Ballroom expansions of the Chesapeake Bay Beach Club. This site is in the Critical Area Intensely Developed Area (IDA) and is designated a Buffer Exempt Area by the County. Please find comments regarding the proposal below.

1. The applicant has submitted 10% Rule calculations of the pollutant removal requirement for the additions, and has proposed to fulfill this requirement with a fee in lieu. This office has concurred that the \$2,640.00 fee in lieu proposed is appropriate as described in a December 20, 2007 letter from DMS & Associates, in which an 0.06 acre increase in impervious surface results in a requirement of 0.132 pollutant removal at a fee rate of 1 lb for \$20,000.
2. Due to the constraints of the site and the multiple additions that have occurred as part of the Beach Club development, any future development activity must meet the 10% Rule as redevelopment. Excepting the current proposed 0.06 increase in impervious surface, as of the date of this letter no future expansion on this site may be calculated as new development. Specifically, if additional impervious surface is proposed on the site in the future, the impervious surfaces at that time must be calculated as the existing impervious on worksheet A of the 10% Manual, and the site must have a 10% reduction in Phosphorous following the subsequent additions. The existing stormwater management elements on site may be incorporated into the calculation at that time as prescribed in the 10% Manual, but the fee in lieu that have been used to meet 10% requirements may not be used in those calculations.

3. This site is in the IDA and is designated a Buffer Exempted Area; therefore, County Code § 14:1-53 applies. However, stormwater management facilities, such as raingardens, are not allowed in the Buffer Management Area 50-foot setback. Please note that mitigation plantings required for new impervious surface in the Buffer should be installed in the available area of the 50-foot setback.
4. A planting plan for mitigation was received on December 27, 2007. The plan proposes switch grass as a substitute for some of the required mitigation where native trees and shrubs should be required. However, we concur that the switch grass substitution may be acceptable at this specific location if the applicant has determined to the County's satisfaction that survivability of trees and shrubs is an issue along the direct Bay frontage due to intense conditions specific to that location. We recommend that wherever else it is possible, native trees and shrubs should be installed at the County's typically required mitigation planting standard. For example, it may be feasible to plant native trees and shrubs in the area on the setback that does not directly front on the Bay.
5. Fee in lieu for 10% Rule requirements should follow the guidance of the Critical Area Commission 10% Pollution Reduction Manual, Section 6. The previous fee in lieu from this site was processed through the County and used to help fund stormwater management at the Chesapeake Bay Environmental Center. Critical Area Staff has reviewed the project at the Center and determined that the guidelines have been appropriately followed. This newly proposed fee in lieu will likely be used for additional stormwater management at the same facility. However, the County should accept the money from the applicant for processing prior to use at the Center, in order to ensure that the County maintains responsibility for the use of the fee in lieu.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: QC 755-04

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

December 28, 2007

Ms. Jennifer Jackson
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

Re: 005-07-12-0004-C, 515 Black Beard Rd, Queenstown, Robert Calvert, Jr.

Dear Ms. Rhodes:

Thank you for providing information on the above referenced project. The applicant proposes to reconfigure two existing parcels located in the Resource Conservation Area (RCA). Only one parcel currently has frontage on the Chester River. The site area of the combined parcels is approximately 24.4 acres. There are existing structures on the site including a dwelling, barn and another building.

County Code §14:1-39.C and State law limit the density of land designated RCA to one dwelling per 20 acres. The site appears to currently exceed density limits; however, assuming the current lots were lots of record prior to establishment of the Critical Area program, the development on this site has grandfathered non-conforming status. Without grandfathered status, the area of the site would only allow density of one dwelling. County Code § 14:1-22.D encourages reconfiguration of individual lots under single ownership to a permitted residential use only when doing so enables development to more closely comply with applicable Critical Area development standards. Reconfiguring grandfathered lots to create additional developable waterfront lots conflicts with § 14:1-22.D because the proposal does not enable development on the site to more closely comply with the County Critical Area Program. For example, it creates a new riparian access right which results in an increase in development impact to water quality, wildlife habitat, the Critical Area Buffer and other habitat protection areas. The County should not allow the reconfiguration as proposed. Additional comments have been provided below regarding the submitted plan.

1. The plans show one structure existing on the site labeled "dwelling." Also on the plans are a structure labeled as a "barn" attached to additional structure labeled "building." Please submit documentation as to the classification of the use of the structure labeled "building." Due to the density issues of this proposal, documentation would require an inspection and a letter stating the determination by the County.

TTY for the Deaf

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



2. There should be a professional wetland delineation to determine the actual areas available for reconfiguring the site and to determine the actual location of the Critical Area Buffer. Please have the applicant document who has delineated the wetlands along the eastern portion of the site, and what method was used for the delineation of tidal versus non-tidal wetlands. Please note that the 100-foot Critical Area Buffer extends landward from the extent of any tidal wetlands present.
3. The Buffer shown on the plans may need to be expanded for environmental features contiguous to the Buffer as required by County Code Section 14:1-52. This includes Buffer expansion for the following when they are contiguous to the Buffer: the extent of all non-tidal wetlands, any slopes 15% or greater, hydric soils and highly erodible soils with a K value greater than 0.35. It appears that this site may have one or more of these characteristics warranting Buffer expansion. Please have the applicant address this standard and show the expanded Buffer where necessary.
4. The Code of Maryland Regulations Title 27.01.09.01C(6) requires that the entire 100-foot Buffer of the site must be established in natural vegetation when the use changes from agriculture to another use. The site appears to be in agricultural use. Alteration of the existing lots requires that the 100-foot Buffer on both lots must be completely planted. Please have the applicant revise the plan to show the Buffer plantings to meet this standard and ensure that the applicant will meet Title 27.01.09.01C(6).
5. Queen Anne's County Code § 14:1-39.E requires compliance with § 14:1-38.D(6)(a) which 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. The location of the afforested area shall be designed to protect habitats or to provide continuity with forested areas on adjacent sites. Please have the applicant demonstrate compliance with this requirement prior to final plat approval.
6. Queen Anne's County Code §14:1-38.D(2) (Site Development Standards) requires that site development shall be designed to assure that Habitat Protection Areas are not adversely affected. Our records indicate that this site may be within a sensitive species project review area. The applicant must contact the DNR Wildlife and Heritage Service for information and meet any requirements concerning the subject site. Please have the applicant address §14:1-38.D(2) and any related comments from DNR Wildlife and Heritage Service.

Thank you for the opportunity to comment. Please call me with any questions:(410) 260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: QC 742-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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CHESAPEAKE AND ATLANTIC COASTAL BAYS

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December 27, 2007

Ms. Cathy Maxwell
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

RE: CU 120003 - Mike and Polly Irons pier

Dear Ms. Maxwell:

Thank you for providing information on the above referenced conditional use application for a pier that exceeds standards for length. The site is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. Although this office does not oppose the conditional use request, the following comment applies to the proposed pier project.

An accessway to the pier proposed on this property above mean high water and any development or disturbance on this property above mean high water and in the Critical Area requires compliance with the County Critical Area Program and COMAR Title 27. In this case, a permanent access/walkway to the pier in the 100-foot Critical Area Buffer requires mitigation at a ratio of 2:1 for the permanent Buffer disturbance. Any vegetation removed or other temporary development disturbance for the project must be mitigated at a ratio of 1:1. Plantings should consist of native trees and shrubs planted in the Buffer on site.

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: QC 749-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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December 19, 2007

Ms. Dawnn McCleary
Maryland Transit Administration
6 St. Paul St.
Baltimore, MD 21202-1614

**Re: MTA Bridge 9.65 over Marshyhope Creek
T-0213-1940**

Dear Ms. McCleary:

I have reviewed the above-referenced project to repair the cracked vertical stiffener on the south side of girder 2 of Bridge No. 9.65 over Marshyhope Creek at Federalsburg. It is our understanding that these are minor repairs and that no site grading, clearing, tree removal or new impervious area will be proposed. There does not appear to be any Critical Area disturbance proposed. Permits from the Maryland Department of the Environment for sediment and erosion control and stormwater management are not required.

Based on the information provided, this action proposed by the Maryland Transit Authority does not constitute a development activity and does not require approval by the Commission.

This office supports the Maryland Transit Authority's efforts in repairing existing railroad bridges on State lands. In addition, we appreciate your continued efforts to provide Commission staff notice of these projects.

Thank you again for forwarding this request to this office. Please telephone 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 Resource Planner

cc: 49-07 DOT



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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December 17, 2007

Joe Kincaid
MDE - Eastern Shore Regional Office
407 Race Street
Cambridge, MD 21613

**RE: 200765082/80-wl-0528, Choptank Electric Cable Line
Worcester County**

Dear Mr. Kincaid,

The project appears to involve impacts on State land; therefore, this project may require Critical Area Commission review and approval. Please have the applicant provide information on the area of proposed development disturbance limits (vegetation removal, surface soil disturbance, machine maneuvering and stockpiling/staging areas) on State land so that we may determine what level of Critical Area Commission review is necessary.

Please have the applicant show the Critical Area Buffer on plans, as determined by field delineation of the mean high water line and the extent of tidal wetlands, and expanded for any contiguous non-tidal wetlands. The applicant must provide information on the amount of disturbance, and show the location of proposed development disturbance in relation to the Critical Area Buffer. We strongly recommend that all disturbance for the directional drill be outside of the Critical Area Buffer.

Our records indicate that the site is located within a State sensitive species project review area and is potentially Forest Interior Dwelling Species (FIDS) habitat. Please be aware that DNR Wildlife and Heritage Services should be contacted to determine if additional

Letter to Mr. Kincaid
December 17, 2007
Page 2 of 2

protection measures are required for this project. Any potential FIDS impacts must be coordinated through this office.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: Lori Byrne, DNR
Roland Limpert, DNR

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

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December 14, 2007

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

**Re: MD 404 Dualization
Queen Anne's County and Caroline County**

Dear Mr. Reagle,

Notification of a proposed MD 404 dualization project by SHA has been received. The proposed expansion of the road, including the removal of the railroad bridge and construction of dualized crossing of the Tuckahoe Creek is not within the scope of the Memorandum of Understanding (MOU) between MDOT and the Critical Area Commission. The project will require formal Critical Area Commission review and conditional approval. Please submit the project application materials as explained in Exhibit A of the MOU.

It appears that the only portion of the project within the Critical Area is at the Tuckahoe Creek crossing. However, if there are additional sections of the project proposed in the Critical Area, please indicate those areas as well. It is not necessary to send plans for the entire length of the project, only the sheets where Critical Area exists.

It is not clear whether the plans submitted incorporate the latest determination of the location of tidal areas at the Tuckahoe Creek crossing and an accurate location of the Critical Area 100-foot Buffer, which must be field delineated and clearly labeled on the plans. Please note that mitigation for Critical Area Buffer impacts will be necessary and

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Letter to Gary Green
December 14, 2007
Page 2 of 2

must be provided at a 3:1 ratio. In addition, SHA must demonstrate compliance with the 10% Pollutant Reduction Rule and provide all pertinent calculations and proposed storm water management information along with the project application.

Thank you for submitting information on this project. If you have any question, please do not hesitate to contact me at (410)260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: DOT 67-07

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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December 12, 2007

Ms. Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, MD 21617

**Re: Bay East Development Corporation
#CP #04-05-07-0005-C**

Dear Ms. Tompkins:

Thank you for forwarding revised plans and information on the above referenced concept plan. The applicant proposes to create a multiuse development on a 7.934 acre site that is located in the Intensely Developed Area and in a Buffer Exemption Area. Comments from the previous letter from this office have not been adequately addressed. Please see the comments below.

1. The proposed walkways do not meet Queen Anne's County Code section 14:1-53. This office would agree that a feasible alternative along the east side of the site would be to provide a 50-foot setback measured from the landward edge of the public walkway with a minimized width and pervious surface or stormwater directed to a BMP, as stated in the previous letter from this office. The proposed private boardwalk along the north side of the site should not be continuous along the shore. A minimized pervious perpendicular riparian accessway is acceptable. Documentation of findings by the Planning Director that there is no feasible alternative and that intrusion into the Buffer is the minimum necessary is required in order to allow any development in the Buffer. Documentation of these findings must be submitted to this office as required by the County Code section 14:1-53.
2. Queen Anne's County Code section 14:1-53.E (1) requires that the extent of the lot or parcel shoreward of the development shall be required to be established in natural vegetation on this site. In order to meet this requirement, the area of the 50 foot setback must be planted with native vegetation. Lawn can not be placed anywhere in the 50 foot setback area, and regular mowing will not be allowed.

Letter to Holly Tompkins
December 12, 2007
Page 2 of 2

3. The applicant has provided existing and proposed impervious surface for the site which would appear to result in a pollutant removal requirement of 6.63 lb/year P. The applicant should address the requirement in order to ensure that the pollutant removal measures may be incorporated into the design of the site. A concept plan for the site that fails to incorporate pollutant removal measures should not be approved, as the stormwater treatment measures potentially require significant changes to the plans.

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

Sincerely,



Marshall Johnson
Natural Resource Planner

cc: QC 471-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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December 10, 2007

Holly Tompkins
Queen Anne's County
Dept. of Land Use, Growth Management & Environemnt
160 Coursevall Drive
Centreville, Maryland 21617

**RE: 02-07-09-0003-C; Sharretts Transfer of Development Rights
260 Primrose Point Farm Lane, Chesterton**

Dear Ms. Tompkins:

Thank you for providing resubmitted plans and information on the above referenced proposal. The lot is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant has revised the proposal to place a deed restriction on 20 acres of the RCA portion of the site in order to transfer one RCA density development right to another property.

1. As stated in the September 18, 2007 letter from this office, prior to final approval of the application of the transfer of development rights (final approval of use), the County should ensure that all of the standards of County Code §18:1-106 and Queen Anne's County Code section §14:1-39.C have been met.
2. The applicant has proposed to place 20 of the approximately 53.5 acres of RCA on this site into the deed restriction, which would leave approximately 33.5 acres of RCA outside of the deed restricted area. If these remaining acres are used for additional transfer, the deed restriction must cover the entire remaining area of RCA on the subject site, as explained in the previous letters from this office.

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,

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

Marshall Johnson
Natural Resources Planner

cc: QC 546-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 7, 2007

Mr. George Mayer
Town of Federalsburg
PO Box 471
Federalsburg, MD 21632

**Re: Town of Federalsburg, Marina Park
Playground Phase I**

Dear Mr. Mayer:

I have received the planting agreement and plan associated with Phase I of the playground facility and am writing to confirm that the proposed plantings fulfill the mitigation requirement associated with our February 15, 2007 determination of consistency. Please contact me at (410) 260-3479 if you have any questions.

Sincerely,

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

Marshall Johnson
Natural Resources Planner

cc: FE 67-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 7, 2007

Mr. George Mayer
Town of Federalsburg
PO Box 471
Federalsburg, MD 21632

**Re: Town of Federalsburg, Marina Park
Playground Phase II**

Dear Mr. Mayer:

I have received the materials showing the proposed Phase II of the Marina Park playground facility to be placed outside of the Critical Area Buffer. The project proposes to construct a children's playground area with a total footprint of 1,024 square feet. We note that the town has proposed to place rubber mulch within the footprint of the project. Based on the information provided, 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) 260-3479 if you have any questions.

Sincerely,

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

Marshall Johnson
Natural Resources Planner

cc: FE 589-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 6, 2007

Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: MSIP#04-07-11-0003-C; Juleo, LLC Site Plan
Island Plaza Drive, Stevensville**

Dear Ms. Tompkins:

Thank you for providing the site plan and information on the above referenced project. The applicant proposes to develop a property located in the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area with commercial development. This office has the following comments.

As stated in the previous letter from this office to Mr. James Barton at the County dated March 5, 2007, a Critical Area violation has occurred on the site and development should not be permitted until it has been resolved. Please provide documentation of the status of the violation explaining how the site has been brought into compliance with the County Critical Area Program regulations. No permits for development on this site should be approved until the violation and additional issues outlined in the March 5, 2007 letter have been resolved, as requirements for compliance may require alteration of the proposal.

Please note that the 100-foot Critical Area Buffer includes the extent of the non-tidal wetland on the western portion of the site.

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 300-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 3, 2007

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

RE: MD 304 pipe culvert replacement, Queen Anne's County

Dear Mr. Reagle,

Thank you for submitting mitigation plans as requested. As stated in the previous letter from this office, the project is consistent with the MOU, Exhibit B2, section E (Other Minor Projects – of the April 30, 2004 amendment) provided conditions of Exhibit B2, Section B) 2 are met for Buffer mitigation. The proposed mitigation meets the condition; therefore, this project meets the MOU, Exhibit E2, section E.

If you have any question, please do not hesitate to contact me at (410) 260-3479.

Sincerely,

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

Marshall Johnson
Natural Resources Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 3, 2007

Ms. Jennifer Jackson-Rhodes
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, MD 21617

**Re: Dixon Furniture
#07-07-10-0004-C**

Dear Ms. Jackson-Rhodes:

Thank you for forwarding revised plans and information for the above referenced subdivision request. The applicant proposes to revise the boundary lines between parcels 2, 131 and 132 of tax map 6. All three parcels are partially in the Resource Conservation Area. Please see my comments below.

1. The allowable 15% impervious surface limits for each parcel have been shown on the plat plan, and should be shown on the final plat. The limits should also be stated in the individual deeds. The note should include that all surfaces, including gravel driveways, are included in the calculations.
2. As stated in the previous letter from this office, the request shall not be finalized until the letter from the Department of Natural Resources is received to confirm whether there are any threatened or endangered species that require protection since this type of information could affect the lot line revisions.

Thank you for the opportunity to provide comments. Please telephone 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 Resource Planner

cc: QC 640-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 28, 2007

Ms. Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

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

Dear Ms. Tompkins:

The 100-foot Critical Area Buffer line is shown correctly on the plat plan labeled "11/7 Rev C.A. Buffer" because it is 100 feet landward from the edge of the tidal wetland adjacent to the revetment. As stated in the previous letter from this office dated October 17, 2007, the MDE Wetlands and Waterways Program Tidal Wetlands Division Chief specifically determined that all wetlands between the mean high water line and the riprap revetment are tidal wetland. Please have the applicant correct the plan prior to final plat approval to reflect the correct designation of the wetland between mean high water and the revetment as a tidal wetland.

Please provide this office with a copy of the final approved subdivision plat.

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

Anthony G. Brown
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Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 28, 2007

Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
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 the revised plans and 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. The new configuration of Lots 2, 3 and 4 includes additional portions of the Critical Area Buffer in those lots. No development activity is allowed in the Critical Area Buffer as stated in County Code § 14:1-51 and Code of Maryland Regulations 27.01.09. This office opposes approval of lots that will require a variance for development. It is strongly recommended that the proposed lots should not include portions of Critical Area Buffer. Please have the applicant revise the plan to include only non-Critical Area Buffer portions of the site within the boundaries of Lots 1, 2, 3 and 4. The Buffer portions of the site can be placed within a separate open space tract.
2. The note #2 on page 4 of the plat is incorrect and should be revised to state the specific language of County Code § 14:1-51 A, B, C and D. Otherwise, it should state that no development activity is permitted in the Critical Area Buffer.
3. As stated in the previous letter, the applicant's proposal must meet County Code §14:1-54. (Woodland reforestation and afforestation standards in Critical Area District). All requirements for planting, ongoing management, performance guarantees, and restrictive covenants or easements must be met by the applicant. For off-site afforestation, prior to

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final plat approval, the applicant must submit a copy of a recorded Conservation Easement document and plat of the afforestation property that ensures that forest created through afforestation shall be maintained through restrictive covenants or easements (per County Code §14:1-54.E).

4. As stated in the previous letter, the plans and materials submitted show 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. The plans indicate that a jurisdictional determination was made for this site by the Corps in 1995. The Corps determination must be no more than five years old. Please provide an updated jurisdictional determination. This is necessary to confirm, among other things, whether the proposed land division will result in developable lots. This office opposes approval of lots that require a variance.
5. The plans indicate that the extent of tidal wetlands was established by Environmental Concern, Inc. Please have the applicant submit information describing what methods were used to determine the location of tidal versus non-tidal wetlands.

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 724-04

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 28, 2007

Ms. Betsy Walk
Planning & Codes Administration
Caroline County
403 S. 7th Street, Suite 210
Denton, MD 21629-1335

Re: Minor Subdivision and Line Revision – CCB-CDG, LLC

Dear Ms. Walk:

Thank you for submitting the revised plans for the above referenced proposed subdivision. The site is partially within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. Some of the requirements listed in the July 24, 2006 letter from this office regarding the proposal have not been adequately addressed and must be met prior to plat approval. The following comments apply to the proposed subdivision.

1. The letter from DNR Wildlife and Heritage Service dated November 3, 2006 states that there is a bald eagle nest in the vicinity and FIDS habitat at this site. Both are habitat protection areas, for which there are additional requirements under the Critical Area Law. The guidelines described in the letter must be followed for this proposal. Please have the applicant address the guidelines in a Habitat Management Plan and show on the subdivision plans that they will be met by future development activity on this site.
2. Natural Resource Article section 8-1810(a), the Code of Maryland Regulations (COMAR) Title 27 and State Critical Area Law (Natural Resource Article 8-1808) state strict density limits for development in the RCA. Specifically, subdivision in the RCA is restricted to one dwelling unit per twenty acres. The applicant has proposed to divide portions of the RCA on the site into several new and separate lots. The subdivision of the existing 12 acre RCA parcel is not permissible as proposed as insufficient density exists to support such a division.

Further division of the RCA on this site creates an increased nonconformity within the RCA, results in a negative impact on the character of RCA land and is not consistent with the Critical Area Law and density restrictions. Please have the applicant revise the subdivision so that all of the RCA area on the site remains within one lot.

3. The environmental assessment report that was submitted appears to include only page 1 and 6, plus figures and a copy of the DNR Wildlife and Heritage letter, without the copy of a map showing location of the bald eagle nest. The report incorrectly states that the site is LDA. Please have the applicant submit a corrected and complete copy of the environmental report.
4. Any proposed impacts to non-tidal wetlands on this site must receive prior approval from the Maryland Department of the Environment.

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

Sincerely,



Marshall Johnson
Natural Resources Plan

cc: CR 465-06

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 27, 2007

Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

Re: MSIP#04-07-11-0002-C; Costlow Site Plan

Dear Ms. Tompkins:

Thank you for providing the site plan and information on the above referenced project. The applicant proposes to develop a property located in the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area with a commercial building and parking lot. This office has the following comments.

1. The proposed use of grass channels for stormwater credit has met the Critical Area 10% pollution reduction requirement. Please note that the proposed stormwater management must also meet the criteria for Maryland Department of the Environment (MDE). Please ensure that the calculations are based on the correct for MDE designation of development versus redevelopment. If the applicant has based the calculations on the wrong designation, and the proposed stormwater management system is changed, the applicant must also confirm that the Critical Area 10% requirement is met by the revised plan.
2. Our records indicate that this site is partially within a State Sensitive Species Project Review Area. Please contact the Wildlife and Heritage Service of DNR at (410)260-8573 to determine whether this site requires additional conservation measures. The State Sensitive Species Project Review Areas are Habitat Protection Areas and must meet additional requirements under the County Critical Area Program. Please submit a copy



Holly Tompkins
November 27, 2007
Page 2 of 2

of a letter from Wildlife and Heritage Service of DNR regarding the status of this site as a State 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,



Marshall Johnson
Natural Resources Planner

cc: QC 461-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 26, 2007

Ms. Cathy Maxwell
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

RE: V-100008; 110 Starboard Court - Homeport on Winchester Creek

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance request. The lot is located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The proposal to increase the number of slips to 16 does not conform to the Critical Area Law § 8-1808.5 or Queen Anne's County Code § 14:1-43, which limit the number of slips allowed for this site to 15. The applicant has requested a variance to exceed the number of slips allowed.

The Queen Anne's County Ordinance permits community piers in new subdivisions, and bases the number of slips on either the length of shoreline in the subdivision or the number of platted lots or dwellings in the Critical Area, whichever is the lesser of the two. In this case, the applicant is requesting an increase in the number of slips for a subdivision that was approved after the adoption of the County Critical Area program. Based on the reasons outlined below, the applicant has not met all of the required variance standards, and therefore, the variance request should be denied.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot.

The variance to the slip limitation standard cannot be granted unless the applicant proves, and the Board finds, that without the variance, the applicant would suffer an unwarranted hardship, that is "denial of reasonable and significant use of the entire parcel or lot." We do not believe that the standard above is met in this case, and accordingly the variance should be denied. As further explained below, several of the variance standards are not met by the applicant's proposal.

The applicant has a reasonable use of this property for development purposes. This office would not support similar variance requests to design a new subdivision with more slips than allowed for a community marina. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed. Further, granting of a variance will not confer upon an applicant any special privilege that would be denied others in the Critical Area. The development on this site occurred after the Critical Area law and the County Critical Area Program were established. The applicant is not denied reasonable and significant use of the entire property without the variance. 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. The need for a variance to the number of slips in a community marina is directly the result of the applicant's actions in designing the proposed subdivision.

Granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The intent is to provide special regulatory protection for the natural resources in the Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. All approved development activity must make specific findings that it is consistent with the goals and objectives of the County Program. Given that there is ample opportunity to meet the above standard, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the application for variance request to increase the number of slips.

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: QC 650-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 19, 2007

Mr. Kevin Clark
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

Re: Edward Patterson Variance - 20790 Frazier Point Lane, Preston

Dear Mr. Clark:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to permit disturbance within the 100-foot Buffer. The applicant proposes to remove an existing building and build a new pole barn building partially in the same location and partially in a newly disturbed forested area. The property is currently developed with a single family dwelling and it is classified as a Resource Conservation Area (RCA).

This office opposes granting the requested variance on this site because the applicant can construct the proposed structure outside of the 100-foot Buffer. The materials submitted state that the site is limited due to farming in practice on the site, however, based on the information presented, there appears to be adequate space on the site to construct a similar sized building outside of the Buffer where farming is not occurring. The following is an analysis of the requested variance for this project in the context of the variance standards.

Disturbance to Steep Slopes, Grading and Structures in the 100-foot 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, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. Through Natural Resource Article section 8-1810(a), the Code of Maryland Regulations (COMAR) Title 27 and State Critical Area Law variance standards apply to variance requests in Caroline County. The State law provides that variances in the Critical Area may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the variance standards.

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

Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. The State law, including the presumption of non-conformance, applies to all variance decisions in the Critical Area. [2007 Laws of Maryland, Chapter 221 (2)]. The Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development. The applicant's request for a variance to allow new construction of a building with disturbance to the 100-foot Buffer is in direct conflict with COMAR regarding new structures in the Buffer. COMAR 27.01.09 provides that only structures that are water dependent facilities may be located in the Buffer, and prohibits any disturbance in the Buffer that is not for erosion control or to enhance the Buffer function. The proposed disturbance within the Buffer should not be permitted with a variance because it is in conflict with the Buffer management goals of the Critical Area law and will create unnecessary adverse impacts to water quality and habitat. Accordingly, we believe that the applicant has failed to meet the Critical Area variance standards and we oppose this variance request. Below I have discussed each of the applicable standards as it pertains to this case.

Relevant Variance Standards

(1) That findings are made by the local jurisdiction which demonstrate that special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program, would result in unwarranted hardship;

The General Assembly defined "unwarranted hardship" to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. There are no conditions that are peculiar to this property that would require the applicant seek a Buffer variance. There appears to be adequate space on which to locate the proposed structure outside of the Buffer. The applicant suffers no hardship from not being able to locate a new dwelling in the Buffer because the applicant is not prevented from building the proposed dwelling outside of the Buffer.

(2) That a literal interpretation of this subtitle or the local Critical Area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction;

A literal interpretation of regulation of the Buffer will not deprive the applicant of a right commonly enjoyed by other properties in similar areas because this office does not support variances for development where the proposed development can be constructed in conformance with the law. There is not right to build a structure in the Buffer. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. This

office would not support a similar variance request to disturb the Buffer. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the requested variance does not conform to the Critical Area Law. The applicant has not submitted adequate information to overcome this burden.

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

It does not appear that the variance is based upon conditions or circumstances that are the result of actions by the applicant.

(5) That 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 adopted in this subtitle; and

In contrast with the above standard, granting the requested variances is not in harmony with the general spirit and intent of the Critical Area law and regulations. The proposed building footprint within the Buffer beyond the existing building footprint would prevent establishment of a vegetated Buffer in that area and such vegetation would provide benefits to fish, wildlife, and plant habitat. The law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay. The Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development. This proposal not only further reduces the functions provided by the Buffer on this site, but would contribute to the individual impacts of development on the Bay.

This letter has addressed five of the relevant variance standards. Based on the information provided, only one of the five standards is met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. The applicant has not met each one of the variance standards, therefore we recommend that the variance request should be denied and that the applicant should be required to locate any proposed structures and construction disturbance outside of the 100-foot Buffer.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3479.

Sincerely,



Marshall Johnson
Natural Resource Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 19, 2007

Mr. Kevin Clark
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

Re: Variance Request for Living Waters Assembly, Caroline County

Dear Mr. Clark:

Thank you for providing information regarding the Living Waters Assembly variance request. The site is classified as a Limited Development Area (LDA) of the Chesapeake Bay Critical Area for which the Code of Maryland Regulations (COMAR) limits impervious surfaces to 15% of the site. The property is currently developed with a church, gravel parking lot and paved basketball court totaling approximately 22.5 % impervious surface. The applicant proposes to redevelop the site by replacing an area currently covered by gravel parking lot with an addition to the building and a paved parking lot. The proposed impervious surface for the site would be approximately 21.4%, which represents a minor reduction, but still exceeds the allowed 15%. The site was developed in violation of the Critical Area impervious surface limits, resulting in non-conformance that that would persist with the requested variance. Therefore, this office opposes the variance request.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. Through Natural Resource Article section 8-1810(a) and the Code of Maryland Regulations (COMAR) Title 27, State Critical Area Law variance standards apply to variance requests in Caroline County. The State law provides that variances in the Critical Area may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the variance standards. 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 Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

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Through Natural Resource Article section 8-1810(a), the Code of Maryland Regulations (COMAR) Title 27.01.02.04.C(7) and State Critical Area Law (Natural Resource Article 8-1808.3) regarding impervious surface limits apply to this proposal. In this instance, the applicant's proposal for expansion of the structure and the associated parking seeks to further exceed the impervious surface limit of the applicable regulations. It is our view that award of a variance on this site is not appropriate, would compromise the integrity of the LDA, would not be consistent with the goals of the Critical Area regulations, and is not in keeping with the spirit and general intent of the Critical Area Law. Rather, the use of the growth allocation process would be the appropriate mechanism for the proposed project. It is the position of this office that the Board should deny the variance and recommend that the County request growth allocation from the County Council. Conversion to Intensely Developed Area (IDA) would ultimately result in greater flexibility to the applicant, would remove the limit on impervious surface area, and would ensure consistency throughout the County and State with the goals of the Critical Area law. Regardless of the County's decision to pursue the growth allocation process, the variance request should be denied, and any redevelopment or future development activity on this site should include compliance with the 15% impervious surface limit for the site.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3479.

Sincerely,



Marshall Johnson
Natural Resource Planner

CR 688-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 19, 2007

Mr. Kevin Clark
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

**RE: Tax Map 41, Parcel 53 (23390 Gilipin's Point Road, Preston)
Thomas Egeberg**

Dear Mr. Clark:

The additional information requested in the letter dated September 10, 2007 from this office has not been provided. As stated in that letter, this office strongly opposes the variance. The site is located within the Resource Conservation Area (RCA) of the Chesapeake Bays Critical Area. The property is currently developed with a mobile home, septic system and driveway. As required by the Code of Maryland Regulations (COMAR) 27.01.09, there is a Critical Area Buffer on this site. The applicant has proposed to build a new house within the 100-foot Critical Area Buffer, and to locate a sewage disposal area outside the 100-foot Critical Area Buffer. The proposal does not conform to the Critical Area law, because COMAR prohibits new, non-water dependant development in the Buffer. The applicant has requested a variance to allow the new house within the Buffer.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake Bay Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to Critical Area regulations may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. The site appears to have adequate space outside of the Buffer to construct a house of at least the same size and accessibility as on the proposed plan; therefore, the applicant is not denied reasonable and significant

use of the entire property without the variance. Since the applicant is unable to meet the variance standards, this office can not support this variance request. The following comments apply to the proposed development on the site.

Our records indicate that this site is within a sensitive species project review area and potentially within a forest interior dwelling bird habitat protection 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 and whether forest interior dwelling bird habitat requires protection measures on this site for any future development activity.

There should be a professional wetland delineation to determine the correct location of the Critical Area Buffer. Please have the applicant provide this information on the plan and document who delineated the wetlands. The Critical Area Buffer shown on the plans should be further expanded for environmental features contiguous to the Critical Area Buffer, as required by COMAR 27.01.09. If the wetland delineation indicates the presence of non-tidal wetlands or hydric soils that require Buffer expansion per COMAR 27.01.09, please have the applicant revise the plan to show the Critical Area Buffer expanded. The Critical Area Buffer must be expanded to the upland limit of the non-tidal wetlands, hydric soils, soils with hydric properties and highly erodible soils whose development or disturbance may impact streams, wetlands, or other aquatic environments within the Critical Area. The label for the Buffer line should be "Critical Area Buffer" and it should be shown where it exists along the entire length of the subject site. Sewage disposal areas must be located outside of any Critical Area Buffer on 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

cc: CR 518-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 16, 2007

C/O Mary Tolodziecki
James W. Price, Director
Program Open Space
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

**RE: DNR Clearinghouse Review of Local POS # 5258-22-193;
Showell Park Improvements, Worcester County**

Dear Mr. Price:

The site is not within the Critical Area. Thank you for the opportunity to comment. 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
Natural Resources Planner



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 15, 2007

Joe Kincaid
MDE - Eastern Shore Regional Office
407 Race Street
Cambridge, MD 21613

**RE: 200763680/80-wp-0127, Maryland Stone Inc, maintenance dredge
Pocomoke, Worcester County**

Dear Mr. Kincaid,

Our records indicate that the site is located within a state sensitive species project review area. Please be aware that DNR Wildlife and Heritage Services should be contacted to determine if additional protection measures are required for this project.

Thank you for the opportunity to comment. 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



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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November 14, 2007

Joe Kincaid
MDE - Eastern Shore Regional Office
407 Race Street
Cambridge, MD 21613

**RE: 200762396 T62416, Bloom property
25210 Smith Landing Road, Caroline County**

Dear Mr. Kincaid,

The site is located at 25210 Smith Landing Road, Caroline County. The applicant proposes to construct approximately 332 linear feet of stone revetment along the base of the existing slope at the shoreline. The total channelward encroachment of the shoreline improvements would be 10 feet from the existing mean high water line. The plans appear to propose significant excavation and slope alteration within the Critical Area Buffer which would involve significant tree and understory vegetation removal. These activities exceed that which is necessary to effectively stabilize the shoreline. As such, this office opposes the project as proposed. The following comments apply to the proposal.

1. In order to comply with Critical Area requirements of the Code of Maryland Regulations (COMAR), all development related activity must be outside of the 100-foot Buffer, except for the minimum necessary for placement of approved shore erosion control measures at significantly eroding areas. Please note that at this site, COMAR 27.01.09.01C(7) applies and the Buffer must be expanded beyond 100 feet to include slopes of 15 percent or greater, such that the Buffer is expanded four feet for every one percent of slope, or to the top of the slope, whichever is greater in extent. It is our position that the proposed activities significantly exceed that which is necessary for shoreline erosion control.
2. Code of Maryland Regulations (COMAR) defines significantly eroding areas as shoreline areas where there is documented erosion of at least two feet or more per year [COMAR 27.01.01.01(63)]. Although the applicant has not documented that significant erosion is occurring on the site, an assessment of the erosion was made on 10/16/07 at the site by MDE that significant erosion is not occurring at this site

due to existing riprap along the shoreline and other factors. It is possible that some erosion is occurring for a 50 or 60 foot length of shoreline approximately equally divided on either side of the pier. If MDE approves any riprap for this site, it would be at that location, and the applicant must provide a proposal indicating how many trees and large shrubs will be damaged or removed in the Critical Area Buffer. The proposed disturbance to the Buffer must meet COMAR requirements for minimizing impact and include mitigation plantings as explained in the following comments.

3. Disturbance in the Buffer, including cutting trees, may be permitted only where necessary to provide access to install or construct an approved shore erosion protection device or measure. The project must have received all necessary local, State and federal permits, including the MDE permit for the shore erosion control measure. Buffer disturbance and tree cutting will not be allowed if the applicant can not demonstrate that the proposed Buffer impacts are necessary for the purpose of shoreline erosion control. [COMAR 27.01.09.01.C(5)(c)]
4. Once an acceptable shoreline erosion control plan is submitted and approved, the mitigation for installation of shore erosion control works must be based on the number of trees removed, and must be provided at a ratio of 1:1 (which is one tree planted for each tree removed). Large shrubs that are removed must be replaced as well using at least a three-gallon potted shrub.
5. The mitigation requirement must be met with plantings that are native species and are appropriate for the location. The mitigation trees must be two-inch caliper. The mitigation must be placed in the Critical Area Buffer on the site.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: Kevin Clark, Caroline County
Caroline County General File

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 13, 2007

Joe Kincaid
MDE - Eastern Shore Regional Office
407 Race Street
Cambridge, MD 21613

**RE: App # 200763025, T63036 - Unger property
Tax Map 46, Parcel 9, Caroline County**

Dear Mr. Kincaid,

The applicant proposes to install 97 feet of riprap revetment for shoreline protection at Caroline County Tax Map 46, Parcel 9. The proposal includes removal of trees and vegetation within the Critical Area Buffer. It is our view that the proposal and associated impacts to the Critical Area Buffer is excessive for the amount of shoreline erosion occurring at this site; therefore, this office opposes the project as proposed. The following comments apply to the proposal.

1. In order to comply with Critical Area requirements of the Code of Maryland Regulations (COMAR), all development related activity should be outside of the 100-foot Buffer, except for the minimum necessary for placement of approved shore erosion control measures at significantly eroding areas.
2. COMAR defines significantly eroding areas as shoreline areas where there is documented erosion of at least two feet or more per year [COMAR 27.01.01.01(63)]. Although the applicant has not documented that significant erosion is occurring on the site, an assessment of the erosion was made on 10/16/07 at the site by Maryland Department of the Environment that significant erosion is occurring only at a portion of the applicant's shoreline, beginning at the western most point of shoreline on the property and extending a maximum of 45 feet along the shoreline. If MDE approves riprap revetment for this portion, then the applicant must propose a Critical Area Buffer disturbance area. The Buffer disturbance area must meet COMAR requirements for minimizing impact and include mitigation plantings as explained in the comments below.
3. Disturbance in the Buffer, including cutting trees, may be permitted only where necessary to provide access to install or construct an approved shore erosion protection device or measure.

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4. The project must have received all necessary local, State and federal permits, including the MDE permit for the shore erosion control measure.
5. Buffer disturbance and tree cutting will not be allowed if the applicant can not demonstrate that the proposed Buffer impacts are necessary and directly associated with the approved shoreline erosion control measures. [COMAR 27.01.09.01.C(5)(c)]
6. In this forested setting where canopy and shrubs are present, any temporary or permanent disturbance must be designated by the applicant as the limit of disturbance / disturbance area. This area must include any proposed vegetation removal or soil disturbance as well as all machine access, maneuverability, stockpiling and staging areas.
7. Once an acceptable shoreline erosion control plan is submitted and approved, the mitigation for installation of shore erosion control works must be based on that area, and must be provided at a ratio of 1:1 (an equal amount of square feet of mitigation provided for square feet of disturbance area).
8. The mitigation planting requirement is one two-inch caliper tree and three two-gallon shrubs per 400 square feet of mitigation required. Plantings must be native species and appropriate for the location. The mitigation must be placed in the Critical Area Buffer on the site. Plantings should be distributed in groups of one tree and three shrubs per 20 by 20 foot space, to the extent possible.
9. As required in COMAR 27.01.09.01, any disturbance area beyond the minimum necessary must be mitigated at a ratio of 3:1 (three times the square feet of the disturbance area). Specifically, during the site meeting with the consultant it was apparent that the equipment proposed for this project is larger (front loader), and therefore requires more disturbance area, than smaller equipment (e.g. a Bobcat) that is also commonly used for such projects. Any disturbance area required by the front loader beyond what would reasonable be required for a Bobcat must be mitigated at a 3:1 ratio.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: Kevin Clark, Caroline County
Caroline County General File

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 18, 2007

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

**RE: Tax Map 200, Parcel 39, Snow Hill
TGSL, LLC Rezoning Application**

Dear Ms. Houtman,

Thank you for the notification of this proposed rezoning. As you know, the property currently has a Critical Area overlay classification of Resource Conservation Area (RCA) and Intensely Developed Area (IDA). Proposals on the property that are within the RCA designation must comply COMAR 27.01.02.05, including residential density and restrictions on zoning property to allow industrial or commercial development. Any development that exceeds the allowable density or does not meet use requirements of the RCA will require the use of growth allocation. Any development proposed on the IDA portion of the site must comply with the regulations for IDA development (COMAR 27.01.02.03), including the 10% pollution reduction stormwater requirement.

Thank you for the opportunity to provide comments on this proposal. 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 Resource Planner

cc: SN 574-07

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Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 18, 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, Saint John Street
Water Treatment Plant improvements**

Dear Mr. Bautz:

Thank you for forwarding the planting plan for the above-referenced project. The comments below relate to the planting plan and the consistency of this project with the Havre De Grace Critical Area Program.

The Havre de Grace Critical Area Program requires two forms of mitigation for development activities within the Buffer Exemption Areas. Mitigation shall be provided at two-to-one for the footprint of the development activity per § 49-11.E. The second mitigation requirement is § 49-11.G (1), which requires a 15 foot densely planted Buffer yard to be provided. The buffer yard requirement has been satisfied; however, the two-to-one requirement has not.

In order for this project to be consistent with the Havre De Grace Critical Area program, please revise the planting plan to reflect compliance with § 49-11.E. Native vegetation of an area twice the extent of the footprint of the development activity within the one-hundred-foot buffer should be planted on site in the buffer.

Please contact me at (410) 260-3479 if you have any questions.

Sincerely,

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

Marshall Johnson,
Natural Resources Planner

cc: HG 666-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 17, 2007

Ms. Holly Tompkins
Queen Anne's County
Department Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

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

Dear Ms. Tompkins:

The jurisdictional determination verification map of the US Army Corps of Engineers for this site shows an accurate location of mean high water, as noted on that map with the letters "MHW." However, Rick Ayella, Chief of the MDE Wetlands and Waterways Program Tidal Wetlands Division, has specifically determined that all wetlands between the mean high water line and the riprap revetment are private tidal wetland. Therefore, the 100-foot Critical Area Buffer line must be shown 100 feet landward from the edge of the wetland adjacent to the revetment. Please have the applicant revise the plans to reflect the correct location of the Buffer, and revise the Buffer management plan for the proposed lot 83-C according to the correct location of the Buffer. A subdivision plat cannot be approved unless it shows sufficient area to construct a dwelling without the need for Critical Area variances.

As stated in the letter from this office dated July 18, 2007, the State regulates and holds jurisdiction of wetlands on this site. The MDE License # 07-GL-0704, which approved the revetment, did not approve disturbance within the Critical Area Buffer. Disturbance within the Critical Area Buffer on this site is prohibited and would constitute a violation of Queen Anne's County Code §14:1-53 (Specific provisions for Buffer exempted areas) and Code of Maryland Regulations 27.01.09.01.C (Buffer Criteria).

Please notify this office of the decision by the County on this matter and provide a copy of the final approved subdivision plat.

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

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 17, 2007

Thomas L. Riddlerberger, Mayor
Town of Greensboro
PO Box 340
Greensboro, MD 21639

RE: Greensboro Program Text Amendments and Map Drafting Error Corrections

Dear Mr. Riddleberger:

At its meeting on October 3, 2007, the Critical Area Commission concurred with the Chair's determination that the above referenced Critical Area map and text amendments could be reviewed as a refinement to the Greensboro Critical Area program. The Critical Area Commission recommended that the Chair approve these changes as submitted. On October 17, 2007 the Chair approved these changes.

These changes shall be officially incorporated into the Town's Critical Area Program by updating the ordinance and reissuing the maps within 120 days of the date of this letter. Please provide a copy of the updated ordinance and revised map when they become available. If you have any questions, please do not hesitate to contact me at (410) 260-3479.

Sincerely,

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

Marshall Johnson
Natural Resources Planner

cc: File GRA-7



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 15, 2007

Ms. Jean Fabi
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: 05-07-07-0001-C
Chesterwyne Center**

Dear Ms. Fabi:

Thank you for providing information on the above referenced project. This site is not within the Critical Area. This office has no comments. 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 560-07



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

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

October 15, 2007

Jennifer Jackson-Rhodes
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

Re: 07-05-08-0001-C, Morris 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 Limited Development Area (LDA) into two lots. Please see my comments below.

1. Queen Anne's County Code §14:1-38.D(2) (Site Development Standards) requires that site development shall be designed to assure that Habitat Protection Areas are not adversely affected. The July 27, 2005 Environmental Assessment submitted for this proposal does not adequately address the habitat concerns laid out in the DNR Wildlife and Heritage Service letter of September 30, 2005. The applicant must submit documentation that habitat concerns have been adequately addressed, as described in the letter. The letter states that measures to protect Delmarva fox squirrel habitat may be warranted on this site. Any Delmarva fox squirrel habitat related concerns of the US Fish and Wildlife Service for development on this site must be met. Additionally an assessment, including description of methods used, must be submitted stating whether habitat for the species listed in the DNR letter is present. If the habitat is determined to be present the applicant must submit documentation that the proposal will meet the requirements of DNR and USFWS for protecting habitat of these species. Please have the applicant address §14:1-38.D(2) as described above.
2. The wetland delineation for non-tidal wetlands must be confirmed by MDE or the US Army Corps. Please have applicant contact either the Corps or MDE to arrange a



confirmation of the non-tidal wetland delineation and submit documentation that the wetland locations have been approved by either of those agencies.

3. The Critical Area Buffer must be shown on the plan to include the extent of any contiguous non-tidal wetlands. The line on proposed Lot 2 that represents the Critical Area Buffer must include the extent of the non-tidal wetland that is contiguous to the 100-foot Buffer. Please have the applicant revise the line to include the extent of the contiguous non-tidal wetland on Lot 2.

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 540-05

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 12, 2007

Mr. Kevin Clark
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

**Re: 200700025; Linchester Mill Restoration
3390 Linchester Road, Preston; Tax Map 59, Parcel 15**

Dear Mr. Clark:

Thank you for providing information on the above referenced variance request. The applicant proposes to create an eight foot wide walkway and a bridge for a trail system associated with the restoration of a historic mill. The site is within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. As proposed, 3,040 square feet of the disturbance and trail would be within the Critical Area Buffer. The applicant has requested a variance to allow a pathway and foot bridge in the Buffer. No information was submitted regarding the structural design or material proposed for the trail. This office does not oppose the variance request, however the following comments relate to the request.

1. COMAR 27.10.09 requires the establishment of a Buffer 100 feet from the banks of tributary streams, which must be expanded 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. The Buffer on this site must be expanded to include the extent of the wetlands adjacent to the 100-foot Buffer of the streams. Please have the applicant determine and indicate on the plat, the location of the 100-foot Buffer, including any necessary expansion beyond 100 feet to include the extent of the non-tidal wetlands. Please submit a survey showing the wetlands as professionally delineated and confirmed by MDE or the Army Corps, overlaid with the proposed trail location.
2. The area of disturbance for the creation of the trail within the RCA, but outside of the Critical Area Buffer will require mitigation at a 1:1 ratio.



3. Please inform the applicant that permits from Maryland Department of the Environment will be required for any disturbance of the non-tidal wetland or the non-tidal wetland buffer.
4. The extent of the path must be minimized to the extent possible. Particularly, the circular portions of the path proposed on the plans should be removed from the Buffer, and the portions that extend into the Critical Area Buffer and wetlands should be reduced where possible.
5. The trail should be constructed as a low impact wooden boardwalk that is pervious to stormwater.
6. Tree removal for the trail does not appear to be necessary and therefore should not be proposed. Vegetation removal and soil disturbance for the project should be minimized to the extent possible.
7. Mitigation must be provided for the portions of the trail within the 100-foot Buffer at a 2:1 ratio for the area disturbed for trail creation. Mitigation plantings for Buffer impacts should be placed within the Buffer on the site to the extent possible.

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 569-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 11, 2007

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

**RE: Tax Map 200, Parcels 906 and 907, Snow Hill
Bruce Young Subdivision**

Dear Ms. Houtman,

Thank you for submitting information on the above referenced subdivision. A portion of the site is within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. When development is proposed on the IDA portion of the site in the future, the development must meet all applicable requirements of the IDA, including the 10% pollutant reduction requirement for stormwater.

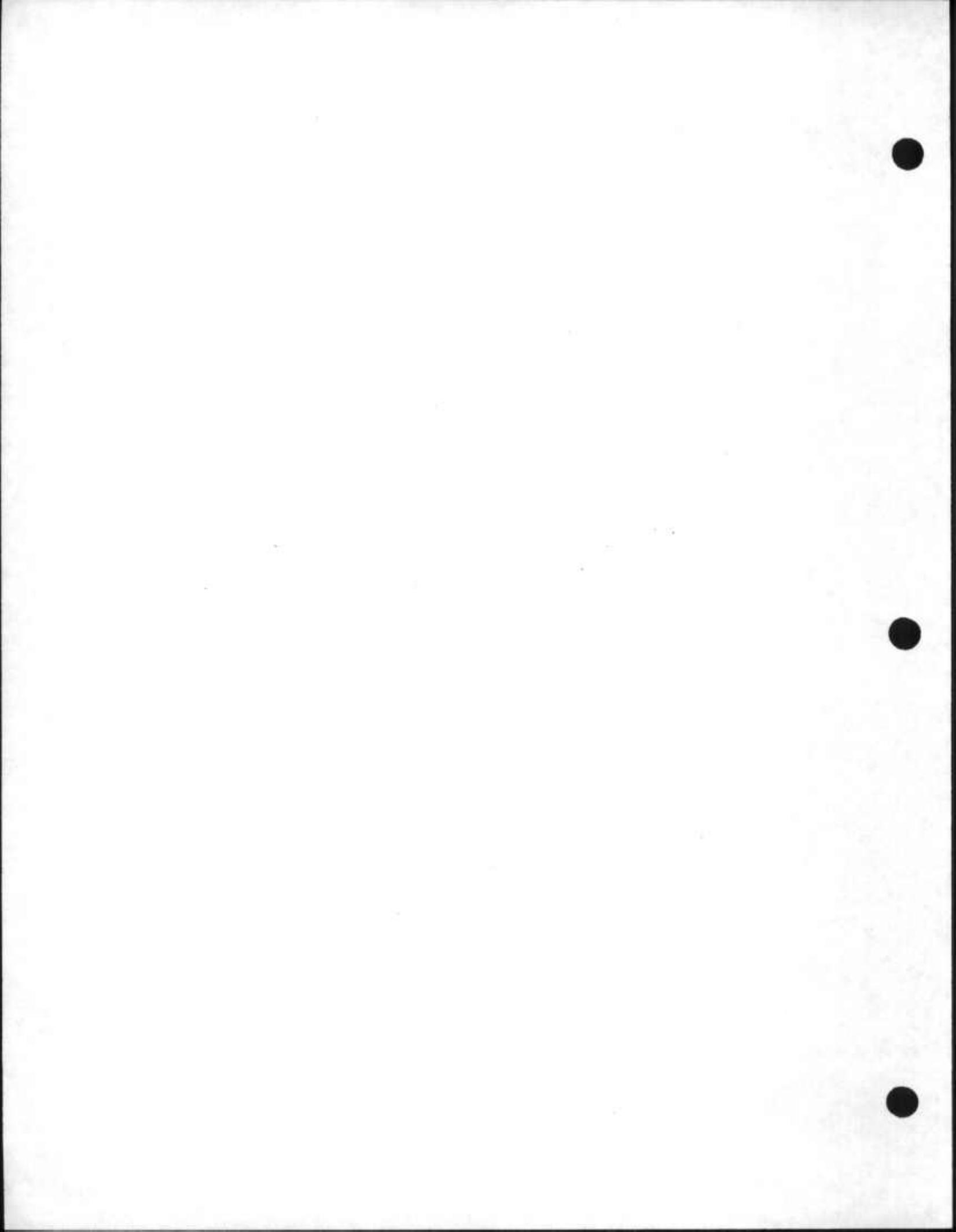
Please contact me if you have any questions at (410) 260-3479.

Sincerely,

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

Marshall Johnson
Natural Resource Planner

cc: SN 573-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 11, 2007

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

RE: MD 304 pipe culvert replacement, Queen Anne's County

Dear Mr. Reagle,

Revised materials for the above referenced culvert replacement project by SHA have been received. Based on the supplemental information, the proposed length of the conveyance system will be less than the existing pipe culvert. This project is consistent with the MOU, Exhibit B2, section E (Other Minor Projects – of the April 30, 2004 amendment) provided the following items are addressed. In order to meet the conditions of Exhibit B2, Section B) 2 must be met. This section of the MOU requires that any disturbance of the Buffer shall be mitigated by the establishment of forest vegetation of an area three times the extent of that disturbance. The submitted 10% pollutant reduction worksheet does not apply in this case; however, plantings to meet Exhibit B2, B) 2 must be provided. Please submit a revised planting plan and plant list showing the following:

- Indicate the correct location of the 100-foot Buffer line, drawn 100 feet from the edge of the stream (but not including the ephemeral portion of the stream)
- Calculate the area of mitigation required based on three times the area of disturbance within the Buffer shown on the plan
- Calculate the number of plants required based on the standard of one tree and three shrubs per 400 square feet of mitigation required
- State the plant numbers by species, spacing and stock size/type. Plantings installed should be, at a minimum: two inch caliper trees and two gallon pot shrubs

Letter to Mr. Reagle
October 11, 2007
Page 2 of 2

- Only native plants should be used
- The plantings should be planted in clusters of the one tree and three shrubs in a 400 square foot area, using an irregular pattern to provide structural variety amenable to wildlife habitat

Please resubmit the above information for a final staff review and concurrence that this project meets the MOU, Exhibit E2, section E.

Thank you for submitting information on this project. If you have any question, please do not hesitate to contact me at (410) 260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 9, 2007

Ms. Jennifer Rhodes
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: 05-07-09-0013-C, Waterman Administrative Subdivision
Tax Map 59, Parcels 22 and 23**

Dear Ms. Rhodes:

Thank you for providing information on the above referenced proposal. The applicant proposes to reconfigure two existing parcels by shifting a 0.047 acre portion from one parcel to the other. The site is partially within the RCA (Resource Conservation Area). The proposed change is not within the RCA portion of the site. Provided that no nonconformities are created and that all RCA development requirements are addressed with any future development activity within the RCA, this office has no comments.

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 571-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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

October 4, 2007

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

RE: Home Place Growth Allocation

Dear Mr. Watson:

Thank you for providing additional information on the referenced growth allocation. Revised stormwater management plans have been received, including plans reflecting reconfigured drainage systems to increase the treatment area. The Commission staff has accepted the materials forwarded by the Town 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 notify you of her determination and the procedures for review by the Critical Area Commission.

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



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 1, 2007

Ms. Cathy Maxwell
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

**RE: CU-090008; 365 Cinnamon Teal Dr, Corsica River Estates
Foreman**

Dear Ms. Maxwell:

Thank you for providing information on the above referenced application. The lot is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant proposes to construct a pier. The applicant has submitted documentation of approval for the project from the Maryland Department of the Environment. It appears that there is not activity proposed on this property above mean high water; therefore we have no comments on the request. However, please note that any development or disturbance on this property above mean high water in the Critical Area requires compliance with the County Critical Area Program. 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

QC 559-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 1, 2007

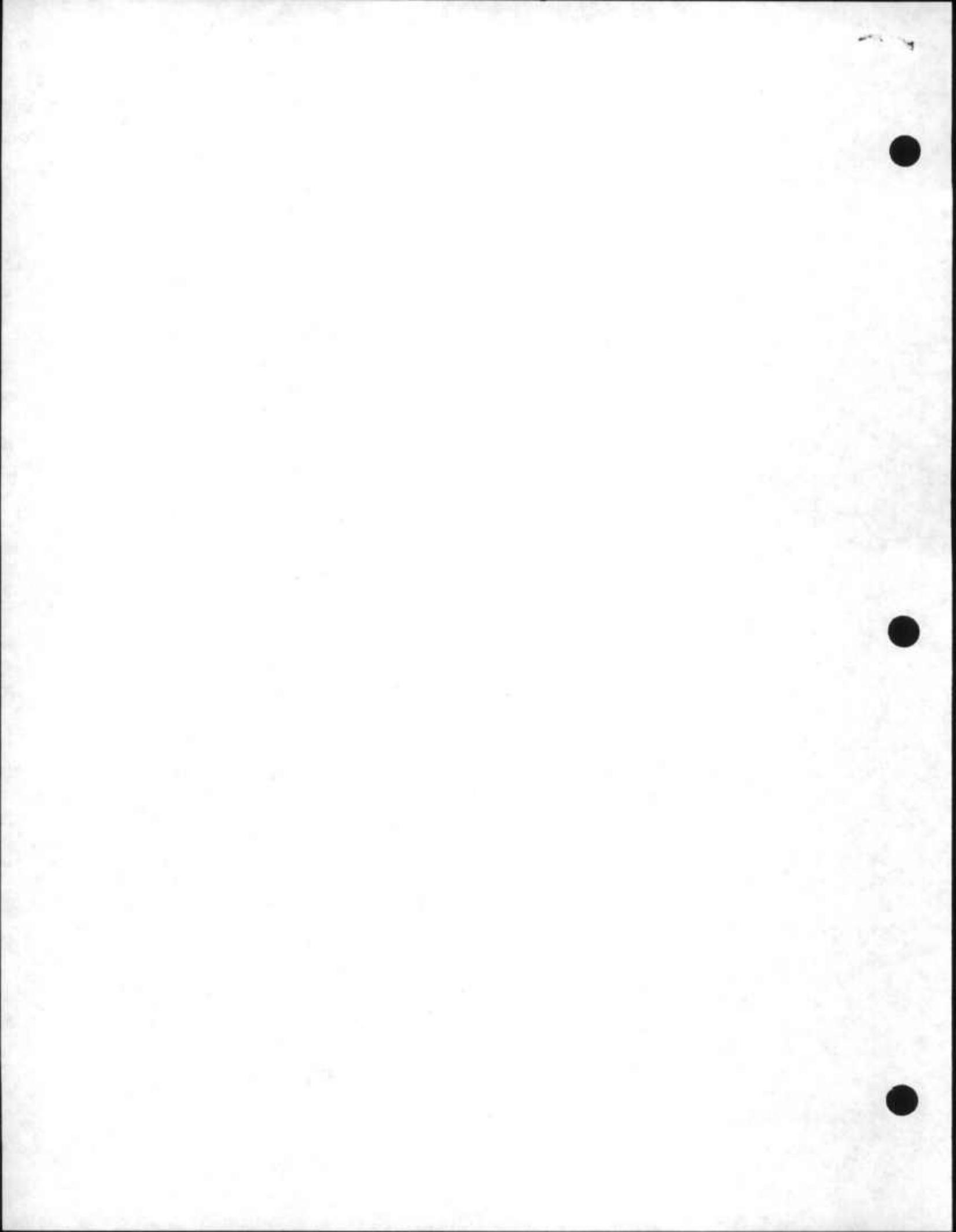
Holly Tompkins
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centerville, MD 21617

**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 the revised plans and 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. The proposed configuration of Lots 2, 3 and 4 has changed since the last review of the proposal by this office. The new configuration includes additional portions of the Critical Area Buffer in those lots. No development activity is allowed in the Critical Area Buffer as stated in County Code § 14:1-51 and Code of Maryland Regulations 27.01.09. This office opposes approval of lots that will require a variance for development. It is strongly recommended that the proposed lots should not include portions of Critical Area Buffer. Please have the applicant revise the plan to include only non-Critical Area Buffer portions of the site within the boundaries of Lots 1, 2, 3 and 4. The Buffer portions of the site can be placed within a separate open space tract.
2. The applicant's proposal must meet County Code §14:1-54. (Woodland reforestation and afforestation standards in Critical Area District). All requirements for planting, ongoing management, performance guarantees, and restrictive covenants or easements must be met by the applicant. For off-site afforestation, prior to final plat approval, the applicant must submit a copy of a recorded Conservation Easement document and plat of the afforestation property that ensures that forest created through afforestation shall be maintained through restrictive covenants or easements (per County Code §14:1-54.E).



Holly Tompkins
October 1, 2007
Page 2 of 2

3. The plans and materials submitted show 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. The plans indicate that a jurisdictional determination was made for this site by the Corps in 1995. The Corps determination must be no more than five years old. Please provide an updated jurisdictional determination. This is necessary to confirm, among other things, whether the proposed land division will result in developable lots. This office opposes approval of lots that require a variance.
4. The plans indicate that the extent of tidal wetlands was established by Environmental Concern, Inc. Please have the applicant submit information describing what methods were used to determine the location of tidal versus non-tidal wetlands.

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 724-04

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 28, 2007

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

**RE: Savannah Court Variance Request; Tax Map 17, Lot 75
Laber**

Dear Ms. Davis:

Thank you for providing information on the above referenced variance. The information submitted states that the lot is grandfathered in respect to the Critical Area. It is within the Limited Development Area (LDA) of the Atlantic Coastal Bays Critical Area. The property is currently undeveloped. The applicant proposes to construct a 2687 square foot house, and amenities including a patio, deck, porch and paved driveway within the Buffer of the Critical Area. The applicant is requesting a variance to allow development within the Critical Area 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 coastal bays 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 reduction of the size of the proposed house, driveway, deck, patio, porch and other disturbance. 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 "25.00' Buffer" line on the plan could be misinterpreted to imply that additional development activity could occur without review, which is not the case. Therefore, for clarity the line labeled "25.00' Buffer" on the plan should be removed. Instead an area should be shown and labeled as "Proposed Limits of Disturbance." The area of the Proposed Limits of Disturbance should include all portions of the site proposed for impervious surface, structures, grading, vegetation removal and any other construction activities. The entire area of the limits of disturbance will be calculated as development disturbance within the Buffer and will be used to determine the required 3:1 mitigation.

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2. 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.
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 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 410-260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: WC 548-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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September 26, 2007

Ms. Jennifer Jackson-Rhodes
Queen Anne's County
Department of Land Use, Growth Management & Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: 04-07-09-0010-C, Chappellear / Ricker Subdivision
Stevensville**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced project. The applicant proposes to alter the lot lines between two existing developed lots located in the Limited Developed Area (LDA) of the Chesapeake Bay Critical Area. Please see my comments below.

1. The subdivision to realign a portion of the two lots appears to be intended to facilitate the creation of an additional pier. Adjustment of the lot area should not result in any new non-conformities with the County Program, including impervious surface limits. Parcel 2 appears to be currently exceeding impervious surface limits. If the concrete pad is to be within the realigned area of Parcel 2 as part of this proposal, either a variance must be approved or an equal amount of impervious surface must be removed from Parcel 2 in order to avoid an additional non-conformity.
2. County Code § 14:1-38. D.(6)(a) 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." The 15% should be met on the lots for any development requiring project approval from the County. Please note that the 15% afforestation requirement can also be met through the Buffer plantings (see below).
3. The Critical Area Buffer must be established in natural vegetation on the site. A Buffer Management Plan should be submitted by the applicant meeting 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 provide a Buffer Management Plan that includes the following:

- Show the correct location of the 100-foot Buffer (please note that per County Code, there is a 100-foot Buffer on this site, while the Buffer exemptions status allows certain provisions within that 100-foot Critical Area Buffer)
 - Calculate the number of plants required based on this Buffer area, 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 - the trees should be at least 2 inch caliper and shrubs at least 2 gallon pots
 - 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
 - A 15% afforestation requirement can also be met by these Buffer plantings
4. Prior to final plat approval, the County should require that the applicant subdividing the property provide assurance for installing the plantings.

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 554-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 26, 2007

Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: CP #05-07-07-0012-C, Aspen Institute
Proposed Conference Center Expansion**

Dear Ms. Tompkins:

Thank you for providing revised plans and information on the above referenced project. The Aspen Institute proposes to expand its facilities in Queen Anne's County, including a new building, expansion of existing buildings and associated facilities and creation of a new trail system. The properties involved are wholly or partially located within the Critical Area, with a Resource Conservation Area (RCA) designation. As stated in previous letters from this office dated August 14, 2007, Queen Anne's County Code does not allow the proposed expansion in the RCA, unless the Planning Commission of the County allows it using certain County provisions. It does not appear that the Planning Commission could make the necessary findings of consistency with the County's Critical Area Program; therefore, approval by the County is not recommended by this office. If the County Planning Commission does approve the expansion, the current County Program should be amended in order to align decisions and the Program. Several issues related to the proposed development were discussed in the previous letter from this office. The applicant has addressed some of those issues in the narrative and revised plans received on September 20, 2007. Critical Area Commission staff has the following comments regarding the revised plans.

1. The resubmitted plans note that the trail would be approximately 12-foot wide. The environmental assessment dated July 18, 2007 described the trail as approximately 10 feet wide. On future plans, please clarify the maximum width proposed for the trail. In reference to the indication on the concept plan that one acre of woodland would be disturbed or cleared, the project should minimize impact to existing vegetation and forest. The applicant has proposed to minimize impacts to the Critical Area Buffer for necessary shoreline access. The maximum width of the path should be six feet, as explained in the Critical Area Commission guidance document. The path should be as perpendicular to the shore as possible.

TTY for the Deaf

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

It should also be pervious and should not involve removal of any significant vegetation or trees. For the proposed path that is not within the Buffer, but within the RCA, the width of the trail should be reduced and a single pathway should be used instead of a loop through the forest. To clarify comment 2 of the previous letter from this office (dated August 14, 2007), mitigation for the trail within the Buffer is a 3:1 ratio; however, the mitigation for the portion of the trail that is strictly access to the proposed pier through the Buffer is a 2:1 ratio.

2. The applicant has provided a copy of the updated letter from Wildlife and Habitat Services of DNR (attached). In order to comply with requirements for development in sensitive species habitat areas described by DNR and required for Critical Areas, the applicant should remove the trail from the protection zone of the heron rookery and bald eagle sites. Reducing the woodland impacts by reducing the width and extent of the path would further meet the protection requirement of the Delmarva Fox Squirrel habitat (page 1 comments 1, 3 and 5 of the Wildlife and Habitat Services of DNR letter), if those areas are determined to be habitat.
3. The current concept plan shows the trail within Zone 2 and directly adjacent to Zone 1 of the Heron colony. Even if the existing roadway is at that location, it is strongly recommended that the proposed recreational system not utilize the portion of the existing roadway within the Heron colony protection zones. The Great Blue Heron colony on the site requires conservation measures as described in comments 1-6, page 3 of the Wildlife and Habitat Services of DNR letter. In reference to comment 4, page 3 of the letter, the proposed trail location must be removed from Zone 2 (the 660 foot radius). It is understood that the applicant proposes to create a "water trail" and would allow clients to kayak around the point from the eastern kayak landing to the "narrows" kayak landing, which would allow passage close to the colony. The applicant must provide a description of how the Aspen Institute will ensure that its clients will be prohibited from entering Zone 1 (defined as 330 foot radius from the colony) during breeding season (2/15 – 7/31) as they walk, kayak or otherwise use the proposed trail, water trail or boating facilities. Human disturbance of the Great Blue Heron colony sites can result in significant mortality of eggs and chicks. Colony sites are rare; all of Maryland's Great Blue Heron population nests at fewer than 50 locations and the State's most recent surveys confirm that there is a colony on the Aspen Institute property. State and federal laws prohibit disturbance of colony sites that result in mortality of eggs or chicks.
4. Based on the Wildlife and Habitat Services of DNR letter, the proposed pavilion and trail would potentially impact Delmarva fox squirrel and FIDS habitat. Please have the applicant confirm whether the woodlands to be impacted qualify as either habitat type, and address the FIDS (pages 3-4 comments 1-15) and Delmarva fox squirrel guidelines outlined in the DNR letter. Coordination with the US Fish and Wildlife Service and DNR may be necessary.

5. The conceptual plan shows the path adjacent to what appears to be a non-tidal wetland that may be connected to the Critical Area Buffer. If wetland delineation determines that this feature is contiguous to the Critical Area Buffer, then Buffer expansion under County Code Section 14:1-52 must be applied. The County Planning Commission must determine whether expansion is necessary. If the County Planning Commission determines that such expansion is necessary, please have the applicant revise the plan to show the Critical Area Buffer expanded to the upland limit of the wetland, hydric soils, soils with hydric properties or highly erodible soils within the Critical Area. The expansion of this Buffer, if required, may affect the location of the proposed pathway.
6. The conceptual plan proposes mitigation with 4'-6' high trees, however, Critical Area mitigation should be planted at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of required mitigation, based on an aerial extent measurement of designated disturbance area (or limits of disturbance) for which the mitigation area is calculated using the required ratio. Mitigation plantings for Buffer impacts should be placed within the Buffer on the site.
7. As stated in the previous letter, the proposed pavilion building should not be directly adjacent to the 100-foot Buffer, as construction and ongoing use of the building will result in impacts to the Buffer area adjacent to the building. Please have the applicant designate a disturbance area surrounding the building, outside of which there will be no equipment maneuvering, staging, stockpiling or other construction activity. The applicant has proposed to address the requirement for expansion of the 100-foot Buffer according to County Code §14:1-52.C, and to propose the disturbance outside of any subsequent expanded Buffer.

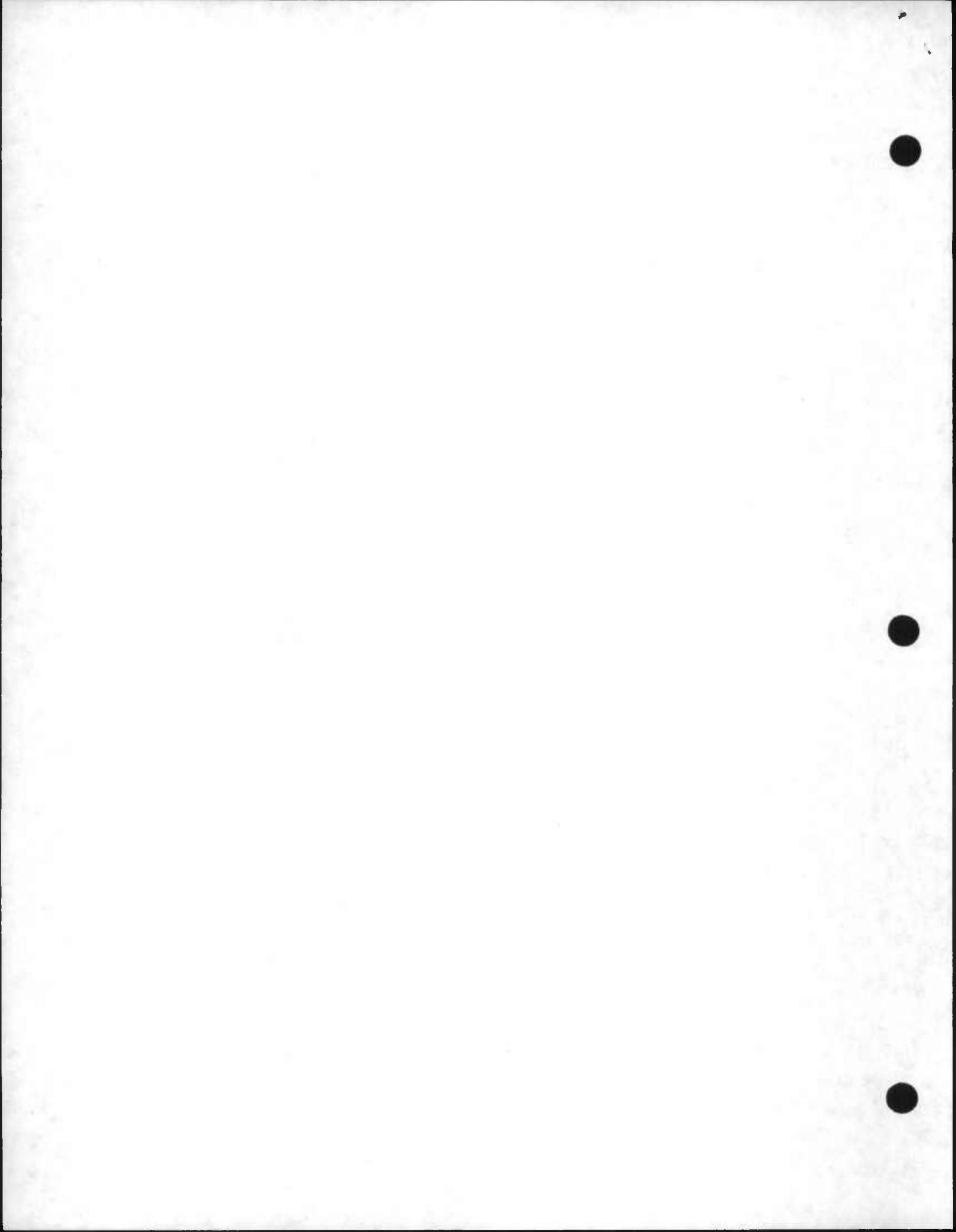
Thank you for the opportunity to comment. Please contact me at (410) 260-3479 if you have any questions.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: QC 452-07



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

1804 West Street, Suite 100, Annapolis, Maryland 21401

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

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

September 25, 2007

C/O Mary Tolodziecki
James W. Price, Director
Program Open Space
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

**RE: DNR Clearinghouse Review of Local POS # 5212-5-149;
Two Johns Landing improvements, Caroline County**

Dear Mr. Price:

Based on the information provided, access to the boat landing will be improved and picnic tables and trash facilities are proposed at the boat landing site within the Resource Conservation Area (RCA) of the Critical Area. In order to comply with Critical Area regulations, the overall impervious surface of the site must not exceed 15% after the project is completed. All development activity should be outside of the 100-foot Critical Area Buffer of the river and the adjacent stream. Any temporary or permanent disturbance proposed within the Buffers would require mitigation planting at a ratio of 3:1 (except for water-dependant facilities) based on disturbance area for the project in the Buffer and may require Commission review and approval. Typically mitigation would be planted in the Buffer on the site, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer mitigation area required. Additionally, the project should minimize impact to existing vegetation and forest within the RCA portion of the site that is not within the Buffer, which should be replaced on the site at an in-kind ratio of 1:1. 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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September 19, 2007

Ms. Cathy Maxwell
Queen Anne's County
Department of Land Use, Growth Management & Environment
160 Coursevall Drive
Centreville, Maryland 21617

**RE: CU-090002; 124 Dogwood Court
Golden**

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 property is currently developed with a single family dwelling. The applicant proposes to construct a 215 foot long timber pier with boat lift and a concrete boat ramp at the location of an existing earthen ramp. The applicant has submitted documentation of an approval for the pier and ramp by the Maryland Department of the Environment. Please note that any development or disturbance on this property above mean high water in the Critical Area requires compliance with the County Critical Area Program. 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

QC 541-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 19, 2007

Thomas B. Peregoy, President
Queenstown Commissioners
PO Box 4
Queenstown, MD 21658

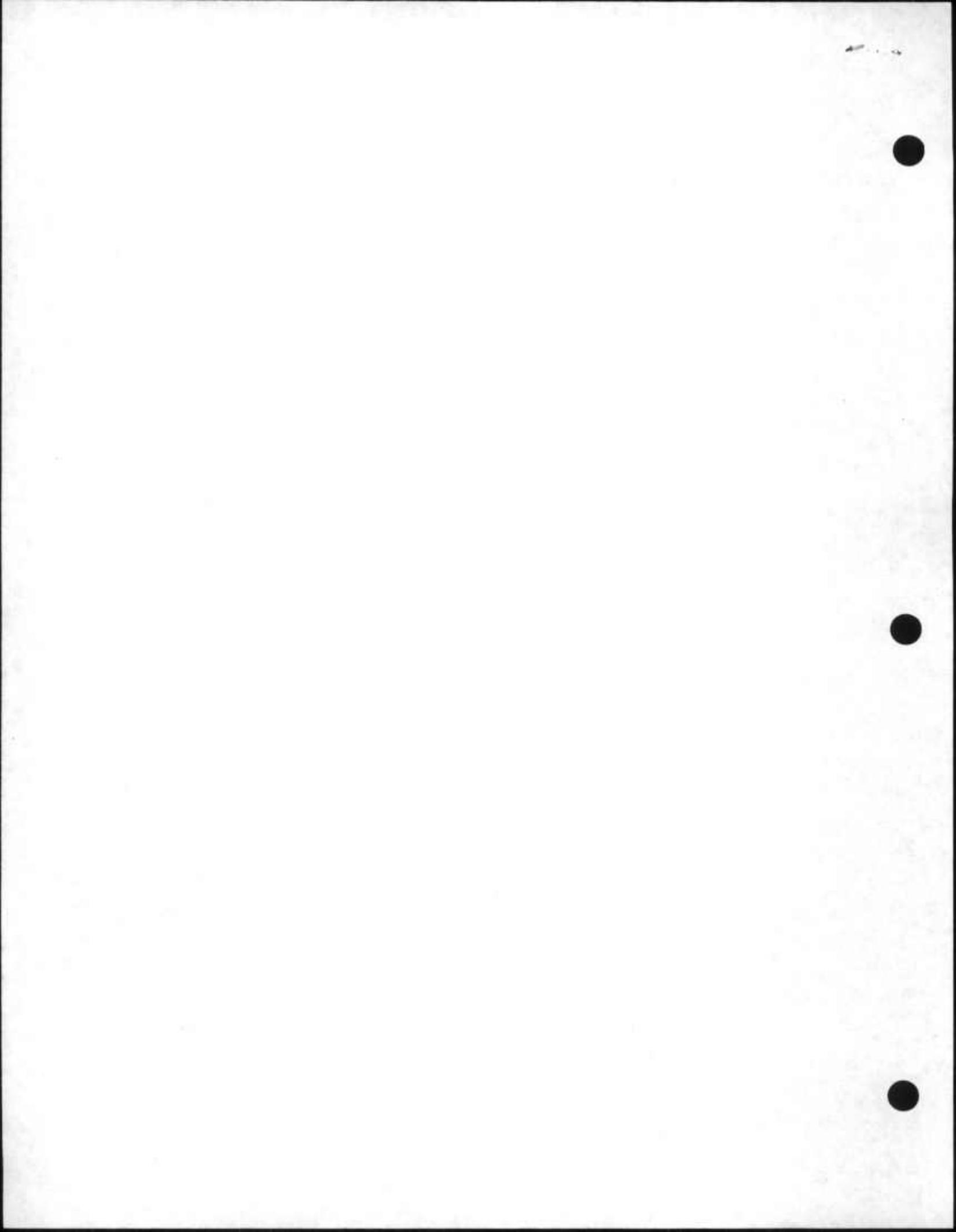
RE: Town of Queenstown – Queenstown Harbor Inn and Resort Growth Allocation

Dear Mr. Peregoy:

Thank you for sending representatives to the August 1, 2007 meeting of the Critical Area Commission. The purpose of that meeting was to discuss the Town of Queenstown and the Washington Brick and Terra Cotta Company proposal to develop an inn and resort on the Queenstown Harbor Golf Links property. A significant part of the discussion involved the proposal to relocate existing growth allocation that was previously granted for the project on the Queenstown Creek portion of the property. The Town and the developer have proposed to locate the project at a site on the Chester River side of the property.

The discussion on August 1, 2007 was primarily a presentation by Washington Brick and Terra Cotta Company on details of the proposed project design and conservation measures. After the presentation, the Subcommittee discussed the need for the proposal to address the current growth allocation standards in order to relocate the existing growth allocation.

The need for the Town to address the current locational guidelines was established by the Subcommittee. However, for past cases the Commission has determined that a local government may adopt specific provisions for growth allocation that may serve to accomplish the goals and objectives of the adjacency guidelines while providing necessary flexibility for a jurisdiction. These specific provisions allow local governments to address overall planning, preservation, and economic development goals while still comporting with the overall goals of the Critical Area Program. It was suggested that the Town establish such provisions which would be available for use by Washington Brick and Terra Cotta Company to allow the Queenstown Harbor Inn and Resort proposal to address the requirements of the locational guidelines. Such provisions would likely included standards that promote the water quality and habitat protection goals of the Critical Area Program, as well as requiring measures to mitigate the negative effects caused by higher intensity development. With that suggestion, the Subcommittee also recommended that the Town allow a streamlined process for reviewing the



growth allocation due to the fact that there is already an existing growth allocation that is proposed for relocation.

Additional issues that were discussed included:

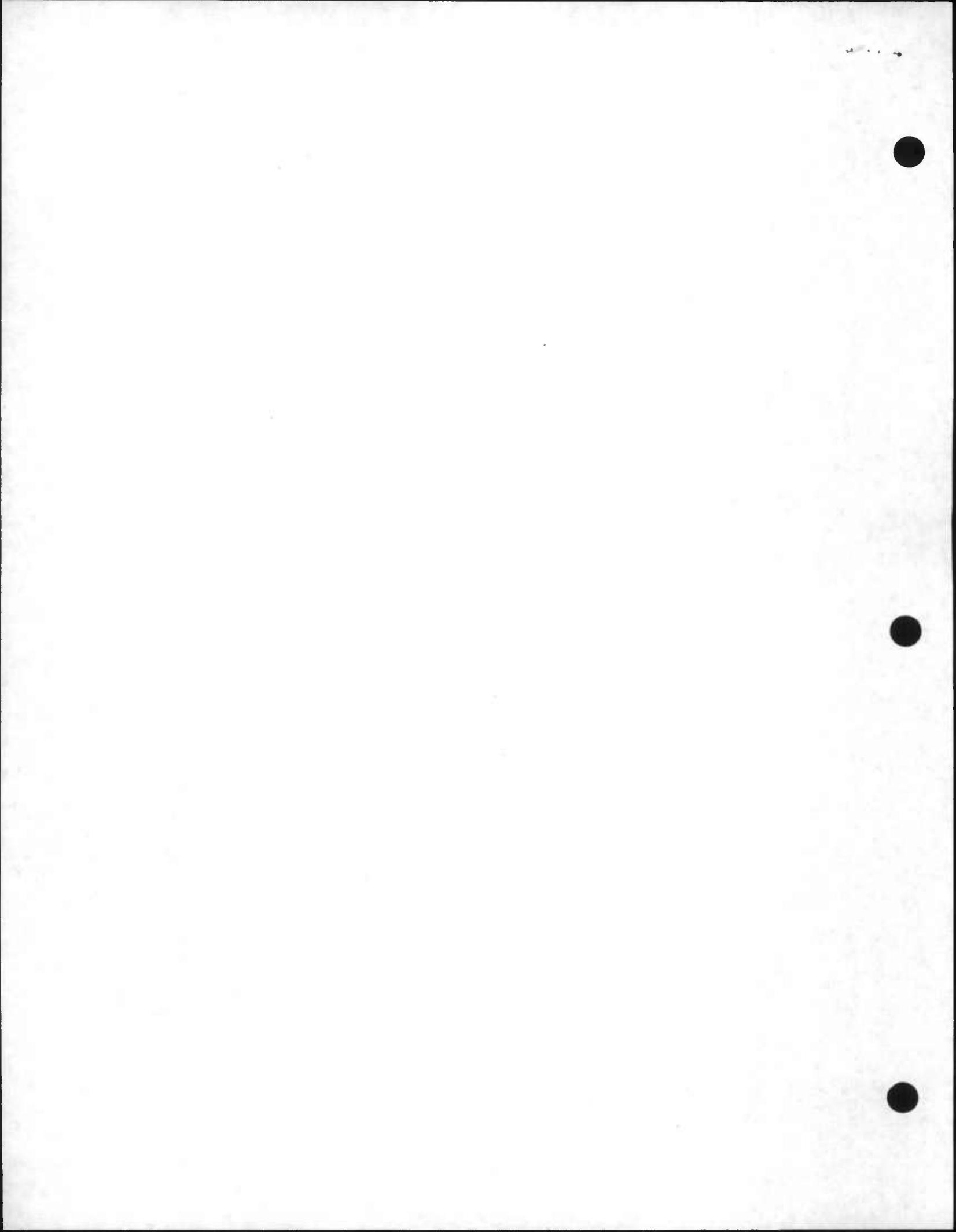
- The 100-foot Buffer, how it will be established and maintained
- The 300-foot setback, how it will be affected by the project and how it will be maintained
- Elements of the project and site that will be considered impervious surfaces
- Configuration and acreage of the development envelope
- Conservation easements on the site in relation to the project

Thank you for participating in the Program Subcommittee discussion on August 1, 2007 and your willingness to continue consideration of the important issues that warrant further discussion. If you have any questions at this time, please contact me at (410) 260-3479.

Sincerely,



Marshall Johnson
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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September 18, 2007

Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

RE: 02-07-09-0003-C; Sharretts Transfer of Development Rights
260 Primrose Point Farm Lane, Chesterton

Dear Ms. Tompkins:

Thank you for providing resubmitted plans and information on the above referenced proposal. The lot is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant proposes to place a deed restriction on 40 acres of the RCA portion of the site in order to transfer two RCA density development rights to another property. No information was submitted to this office indicating the location of the site to receive the development rights. The following comments apply to the proposal.

1. Queen Anne's County Code section §14:1-39.C (development standards for the RCA) include provisions for transferring RCA development rights. In order to do so, the applicant must show that all standards and requirements of the County Code Article XX in §18:1 of the subdivision regulations are met by the proposal. These standards include documentation that natural resources are protected on the combined parcels overall based on the requirements set forth in Chapter 18:1, Part 4, Article XI. It is assumed that the applicant is proposing to use County Code §18:1-100.D which allows a right to be transferred to a transferee prior to the time when its use for a specific receiving parcel has been finally approved in accordance with that article, only when the provisions of this section are met, including documentation that natural resources are protected on the combined parcels overall. Please have the applicant provide this information and forward it to this office prior to approval of the transfer of development rights by the County.
2. Prior to final approval of the application of the transfer of development rights (final approval of use), the County should ensure that all of the standards of

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

County Code §18:1-106 (Consideration of application for use) have been met for the receiving site.

3. The applicant has proposed to place 40 of the approximately 53.5 acres of RCA on this site into the deed restriction, which would leave approximately 13.5 acres of RCA outside of the deed restricted area. Land within RCA development areas may be developed at a density not to exceed one dwelling unit per 20 acres. In order to ensure that this standard is met for the site, the proposed deed restriction must cover the entire area of RCA on the subject site. Please have the applicant revise the plan to show the entire RCA portion of the site within the deed restriction area.

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 546-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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September 18, 2007

Reggie Graves
MDE
Water Management Administration
1800 Washington Blvd
Baltimore, MD 21230

**RE: 200763226 Shoreline erosion control – Mary Springer
Centreville, Queen Anne's County**

Dear Mr. Graves:

Thank you for providing information on the above referenced application. The applicant has proposed to place 140 feet of riprap within the Critical Area Buffer for shore erosion control measures. The work proposed is above mean high water. I concur with your recent correspondence to me on this matter that it is therefore within Critical Area jurisdiction and not in MDE jurisdiction. As a result the proposal must meet the requirements of the local Critical Area Program of Queen Anne's County, as well as the requirements of the Code of Maryland Regulations (COMAR) Title 27. I have forwarded this letter to Steve Cohoon at the Queen Anne's County Department of Land Use Growth Management and Environment to alert them that the application of these regulations to the proposed project is necessary.

The proposed project must meet Queen Anne's County Code § 14:1-51 (Buffer standards and requirements) in which new development activities are prohibited in the Buffer. Therefore, the proposed rip rap would require a variance to the County Code in order to proceed with this proposal if it is placed above mean high water. In order to comply with Critical Area requirements of COMAR Title 27, all development related activity should be outside of the 100-foot Buffer, except for the minimum necessary for placement of shore erosion control measures at significantly eroding areas. Significantly eroding areas are shoreline areas where there is documented erosion of at least two feet or more per year. If significant erosion has been documented by the applicant, then the applicant must demonstrate that the proposed measures are those that best provide for conservation of fish and plant habitat, and are practical and effective. In these cases, cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to install or construct a shore erosion protection device or measure, providing the device, measure, or facility has received all necessary State and federal permits (COMAR 27.01.09.01.C(5)(c)).

Any temporary or permanent disturbance must be designated by the applicant as the limit of disturbance. The designated area of disturbance that is within the 100-foot Buffer requires mitigation

Letter to Reggie Graves
September 18, 2007
Page 2 of 2

plantings. Mitigation for installation of shore erosion control works should be based on disturbance area for the project in the Buffer, and must be provided at a ratio of 1:1. The mitigation should be planted in the Buffer on the site, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer mitigation area required. The County should require a Buffer Management Plan for this project, which would be reviewed by this office. If the COMAR standards for shore erosion control are not met by the proposal as described above, the Critical Area Commission office may oppose County variance requested by the applicant.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: Queen Anne's County Department of Land Use, Growth Management and Environment

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 18, 2007

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

**RE: Tax Map 107, Parcel 299 (95 Sharp Road, Denton)
Gail Cooper**

Dear Ms. Walk:

Thank you for providing information on the above referenced proposal. The site is located within the Limited Development Area (LDA) of the Chesapeake Bays Critical Area. The property is currently developed with a house. The applicant has proposed to build a six foot wide stairway accessing a pier within the Critical Area Buffer. Although there is no objection to riparian access at this site, this office opposes the proposal based on the material submitted because there is not adequate information to assess the need for a stairway and platforms. Please see my comments below.

1. The information submitted does not provide existing site conditions or a description of the need for platforms and stairs. Riparian access through the Buffer should minimize impacts by using a narrow permeable pathway that is as perpendicular as possible to the shoreline. The accessway should be no more than six feet wide. The accessway should minimize removal of vegetation. Decks and platforms in the Buffer are not permitted. The plans indicate that platforms are proposed. Unless there is a site condition (such as a wetland or steep slope) that justifies the use of a stairway, the stairway and platforms proposed represent structures that are not permitted in the Critical Area Buffer. Please have the applicant either provide justification in the form of an environmental site condition report and adequate plans to justify the proposed development in the Buffer, or revise the proposal to minimize impacts as described above.

Letter to Ms. Betsy Walk
September 18, 2007
Page 2 of 2

2. The applicant should have an approved Buffer management plan with provisions for any required Buffer mitigation.

If you have any additional questions or if you would like to organize a site visit to discuss the comments above in relation to the subject site, please contact me at 410-260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: CR 517-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 18, 2007

Ms. Jennifer Jackson-Rhodes
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: 05-07-09-0004-C, 232 Prospect Bay Drive West, Grasonville
Wheatley Subdivision**

Dear Ms. Fabi:

Thank you for providing information on the above referenced project. The applicant proposes to subdivide this property located in the Limited Developed Area (LDA) into two lots. Please incorporate the following comments into the County review of this proposal.

1. The applicant has submitted a Buffer Management plan. The plantings proposed for the Buffer management plan must be located in a manner consistent with the definition of Buffer in the Queen Anne's County Code: "a naturally vegetated area or vegetated area established or managed to protect aquatic, wetland shoreline, and terrestrial environments from man-made disturbances. In order to comply with this definition, the plantings should be located to promote a vegetated buffer between the development and the shoreline. 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. Prior to final plat approval, the County should require that the applicant subdividing the property provide assurance for installing the Buffer plantings as described above.
2. Documentation must be submitted that the applicant's proposal addressed the

Letter to Jennifer Jackson-Rhodes
September 18, 2007
Page 2 of 2

requirements of the DNR Wildlife and Heritage Services for sensitive species. Please have the applicant document how any such requirements have been met.

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 547-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

September 18, 2007

STATE OF MARYLAND
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Chris Pajak
MDE - Water Management Administration
Nontidal Wetlands & Waterways Division
201 Baptist Street
Salisbury, MD 21801

**RE: 200763936 Reed Creek LLC – Road Crossing
Wrights Neck Road, Queen Anne's County**

Dear Mr. Pajak:

Thank you for providing information on the above referenced application. The applicant has applied for a land division with the County. I have also commented on that application through the County Department of Land Use, Growth Management and Environment (my letter to the County is attached).

I understand that the applicant has also requested permission for road improvements at this site, which would potentially impact a nontidal wetland and associated wetland buffer, and that this proposal is under review by your department. Once the applicant has submitted information confirming the correct location of the Critical Area Buffer, which may require expansion of the Buffer for a contiguous non-tidal wetland, the proposal may be required to address additional criteria of COMAR and the County Critical Area Program. Please see my attached letter for additional details. New development activities, including road improvements, are not allowed in the Critical Area Buffer, and will not be allowed by the applicant in this case if the Critical Area Buffer is in fact expanded to encompass the wetland area where the road improvements are currently proposed.

The site is within the Protection Zone of a Bald Eagle nest. The area surrounding this protected nest is a Habitat Protection Area, as designated on State maps. In addition, measures to protect Delmarva fox squirrel habitat may be warranted. The applicant should meet the requirements of the DNR Wildlife and Heritage Service and the US Fish and Wildlife Service concerning any development activity on the subject site. There also appears to be a Waterfowl Concentration area adjacent to the site, which may require additional development restrictions. I have requested that the County require the applicant to address County Code §14:1-38.D(2) whereby the applicant must show how the requirements of DNR Wildlife and Heritage Service for specific habitat protection will be met by this proposal.

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
Natural Resources Planner

CC: QC 521-07

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Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 18, 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 initial plans for the stormwater treatment project for Gravel Run South. The retrofit project will be located on a town-owned parcel directly adjacent to Gravel Run. As stated in the previous letter from this office, due to the project's location within the Critical Area Buffer, it will require Commission review and approval as required by COMAR 27.02.06. I understand that a full plan set will be submitted in the next month, at which time, this office will review the plans and make additional comments if necessary. The following comments pertain to the initial site plan we received on August 18, 2007.

1. The project is within the Critical Area Buffer and will require mitigation. Since the project will be treating stormwater and will establish the Buffer in native plantings, Commission staff will recommend mitigation at a 1:1 ratio. Due to the lack of significant natural vegetation currently on the site, the trees and shrubs proposed as part of the stormwater pond and wetland system will count toward that mitigation. If there is not adequate area within the system based on the design, it should be accommodated onsite within the Buffer to the extent possible. Please assess the mitigation needs and provide a Buffer management plan that addresses the mitigation requirements.

Mr. Clark
September 18, 2007
Page 2 of 2

2. Please submit a 10% stormwater pollution reduction worksheet in order to document that Centreville Code Section 1-106(c)(5) will be met by the proposal.

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) 260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: CV 490-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 18, 2007

Reggie Graves
MDE
Water Management Administration
1800 Washington Blvd
Baltimore, MD 21230

**RE: 200763112/07-WL-1831
Penns Beach Marina**

Dear Mr. Graves:

Thank you for providing information on the above referenced application. The site is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to reconfigure the existing marina. Provided the marina will continue to function as a commercial marina this office has no comment on the number of slips or reconfiguration since this is an existing marina.

The site plan attached to the notice labeled dated 8/10/07 and labeled 1 of 2 shows a swimming pool and gazebo and another structure on the area at the channelward side of the southern portion of the marina. The redevelopment of the marina was reviewed by my office previously, at which time the applicant was required to move the pool and structures from that area to another location. Please have the applicant remove the pool and structures from the plans that MDE approves so that there is no confusion about their approved location.

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
Natural Resources Planner

cc: Donald J. Bautz, Jr., City of Havre de Grace Department of Economic Development & Planning



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 11, 2007

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

**Re: 05-07-08-0018-C, 461 Pullman Crossing
Baytree Storage kent Island LLC – Minor Site Plan Amendment**

Dear Ms. Rhodes:

Thank you for providing information on the above referenced project. The applicant proposes to create an additional 14,810 square foot gravel impervious parking/storage area on a site already approved for development with a commercial building and parking area. The site is Lot 5 of the Grasonville Station subdivision. The subdivision site received growth allocation to change the Critical Area designation from LDA to IDA, at which time the developer provided information on the stormwater management facility proposed to manage runoff from the entire subdivision, based on it being developed at 80% impervious. Provided that all runoff from the proposed impervious surfaces on Lot 5 is properly directed to the stormwater facility, and that the 80% impervious surface area for development on the entire subdivision is not exceeded by this alteration to the plan, it appears that the project is consistent with the County Critical Area Program.

Thank you for the opportunity to comment. 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 545-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 11, 2007

To: Mr. Ray Dintaman, Director Environmental Review

From: Marshall Johnson, Natural Resources Planner

RE: Centreville Community Plan

Commission staff has reviewed those sections of the Centreville Community Plan that pertain to the Chesapeake Bay Critical Area. Chapter 6 of the plan includes the recommendation that the Town's Critical Area Program should be amended to include a provision for premapping of potential growth allocation areas. The plan suggests that identification of potential growth allocation areas should be based on the Land Use Plan described in Chapter 4 of the Plan. This office recommends that the premapping of potential growth allocation sites should be based on criteria pertaining primarily to environmental protection principles and the guidelines established by the Critical Area Commission, Code of Maryland Regulations and the Town Critical Area Program for locating growth allocation.

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



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 10, 2007

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

Re: Rezoning Case No. 390

Dear Ms. Wimbrow:

Thank you for the submission of the above referenced rezoning case for review. It is understood that the applicant is requesting removal of conditions placed on a rezoning approval for Worcester County Tax Map 26 as part of parcel 392 and lots 50-53 (now known as 50A). The property is within Critical Area and is designated as an Intensely Developed Area (IDA).

Since the applicant would still be required to comply with the 10% pollution reduction requirement and other IDA development standards when any improvements are proposed for the site, staff has no further comments on this proposal.

Thank you for the opportunity to comment on this case. If you have any questions you may call me directly at 410-260-3479.

Best regards,

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

Marshall Johnson
Natural Resources Planner

cc: WC 205-03
Janet Davis, Worcester County, Planner



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 10, 2007

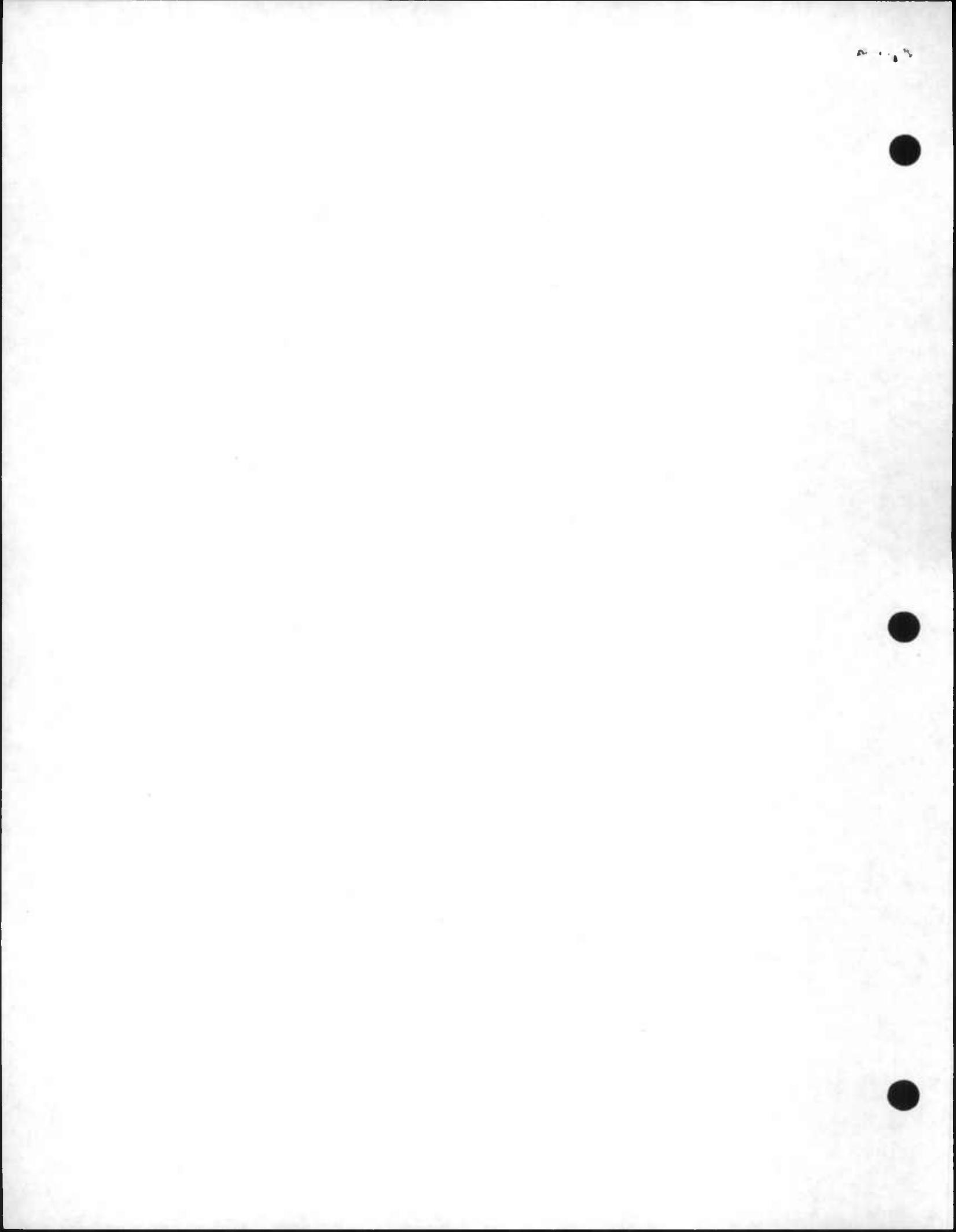
Ms. Betsy Walk
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

**RE: Tax Map 41, Parcel 53 (23390 Gilipin's Point Road, Preston)
Thomas Egeberg**

Dear Ms. Walk:

Thank you for providing information on the above referenced variance request. The site is located within the Resource Conservation Area (RCA) of the Chesapeake Bays Critical Area. The property is currently developed with a mobile home, septic system and driveway. As required by COMAR 27.01.09, there is a Critical Area Buffer on this site. The applicant has proposed to build a new house within the 100-foot Critical Area Buffer, and to locate a sewage disposal area outside the 100-foot Critical Area Buffer. The proposal does not conform to the Critical Area law or the County's Critical Area Program, because the County Code and COMAR prohibit new, non-water dependant development in the Buffer. The applicant has requested a variance to allow the new house within the Buffer.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake Bay Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. The site appears to have adequate space outside of the Buffer to construct house of at least the same size and accessibility as on the proposed plan; therefore, the applicant is not denied reasonable



and significant use of the entire property without the variance. Since the applicant is unable to meet the variance standards, this office can not support this variance request. The following comments apply to the proposed development on the site.

Our records indicate that this site is within a sensitive species project review area and potentially within a forest interior dwelling bird habitat protection 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 and whether forest interior dwelling bird habitat requires protection measures on this site for any future development activity.

There should be a professional wetland delineation to determine the correct location of the Critical Area Buffer. Please have the applicant provide this information on the plan and document who delineated the wetlands. The Critical Area Buffer shown on the plans should be further expanded for environmental features contiguous to the Critical Area Buffer, as required by COMAR 27.01.09. If the wetland delineation indicates the presence of non-tidal wetlands or hydric soils that require Buffer expansion per COMAR 27.01.09, please have the applicant revise the plan to show the Critical Area Buffer expanded. The Critical Area Buffer must be expanded to the upland limit of the non-tidal wetlands, hydric soils, soils with hydric properties and highly erodible soils whose development or disturbance may impact streams, wetlands, or other aquatic environments within the Critical Area. The label for the Buffer line should be "Critical Area Buffer" and it should be shown where it exists along the entire length of the subject site. Sewage disposal areas must be located outside of any Critical Area Buffer on the site.

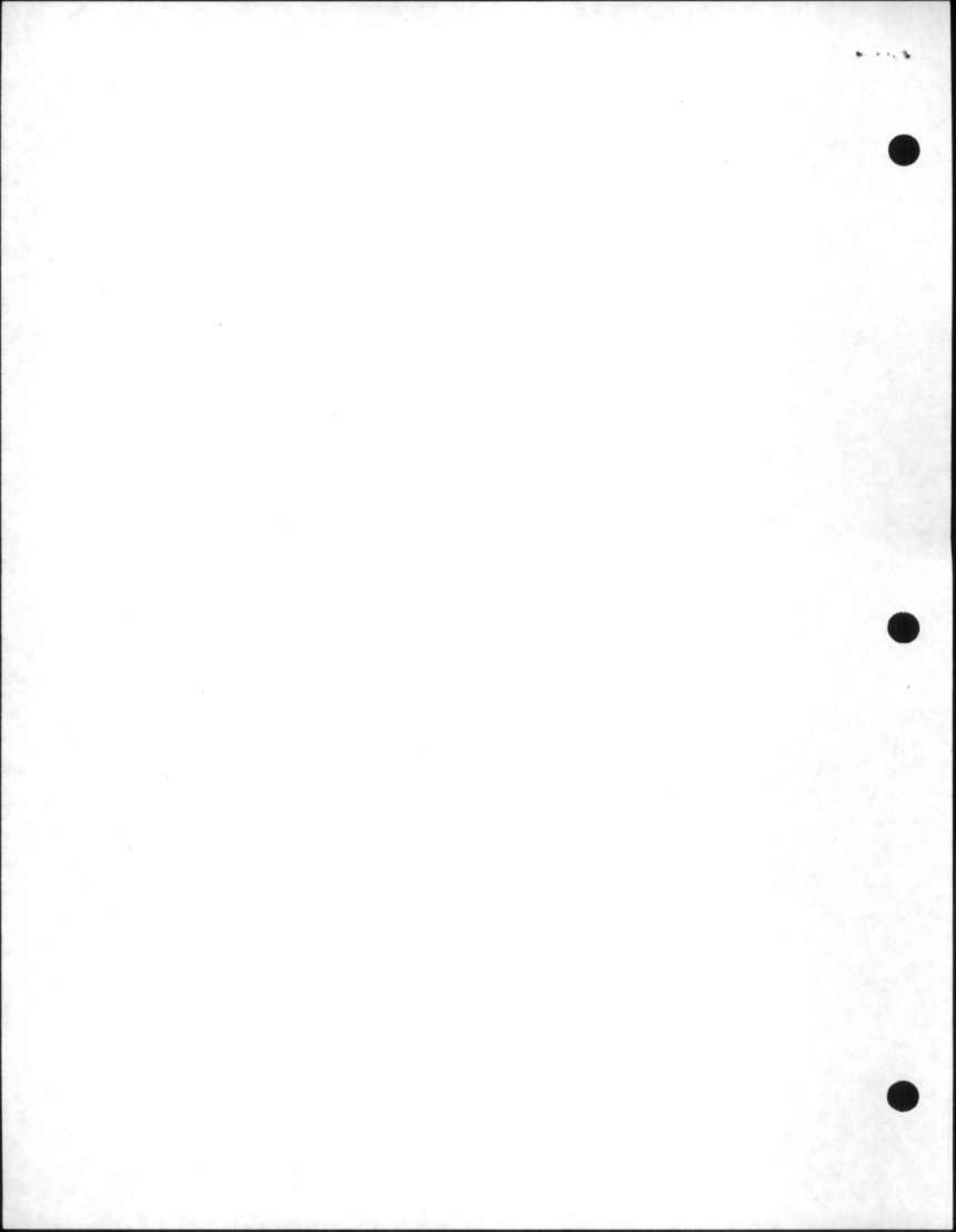
Thank you for the opportunity to provide comments on this variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: CR 518-07



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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September 10, 2007

Jeanette DeLude, Town Clerk/Treasurer
Town of Greensboro
PO Box 340
Greensboro, MD 21639

**RE: Town of Greensboro – 2006 Legislation and Growth Allocation Methodology
Text Amendments and Critical Area Map Drafting Error Corrections**

Dear Ms. DeLude:

Thank you for providing information on the referenced text changes and map amendment proposals. The text changes involve a change in the Critical Area Program text to reflect the 2006 State legislative changes and methodology to facilitate non-adjacent growth allocation. The map amendments involve the correction of two minor drafting errors and the addition of signature and revision blocks. The Town of Greensboro proposes to make these changes to the Program text as discussed in the July 11, 2007 Program Subcommittee meeting of the Critical Area Commission, and changes to the map on the basis that a mistake was made at the time of the original Critical Area mapping. The Commission staff has accepted the materials forwarded by the Town as a complete submittal. The Critical Area Commission Chair 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.

If you have any questions, please feel free to call me at (410) 260-3479.

Sincerely,

Marshall Johnson
Natural Resources Planner

cc: Roby Hurley, MDP
David Kibler, Town Manager
Mary Owens, CAC
File GRA-7



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 10, 2007

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

**RE: Tax Map 41, Parcel 93 (6701 Fowling Creek, Preston)
Donald Sterling**

Dear Ms. Walk:

Thank you for providing information on the above referenced variance request. Although Parcel 93 is partially within the Critical Area Resource Conservation Area (RCA), the parcel is divided into Lots 1 and 2. Lot 1 is within the RCA, whereas the proposed development is on Lot 2 which is outside of the RCA. Therefore, the proposed development is not located within the Critical Area. This office has no further comment regarding 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: CR 516-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 10, 2007

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

**RE: 04-07-07-0015-C; Blue Jay Court
Cracker Barrel Lot Reconfiguration**

Dear Ms. Tompkins:

Thank you for providing information on the above referenced lot reconfiguration proposal. Provided that no nonconformities are created and that all IDA development requirements are addressed, as determined in the review by this office of the proposed commercial development on this site, this office has no comment on the proposed lot reconfiguration.

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 "M. Johnson".

Marshall Johnson
Natural Resources Planner

cc: QC 96-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 7, 2007

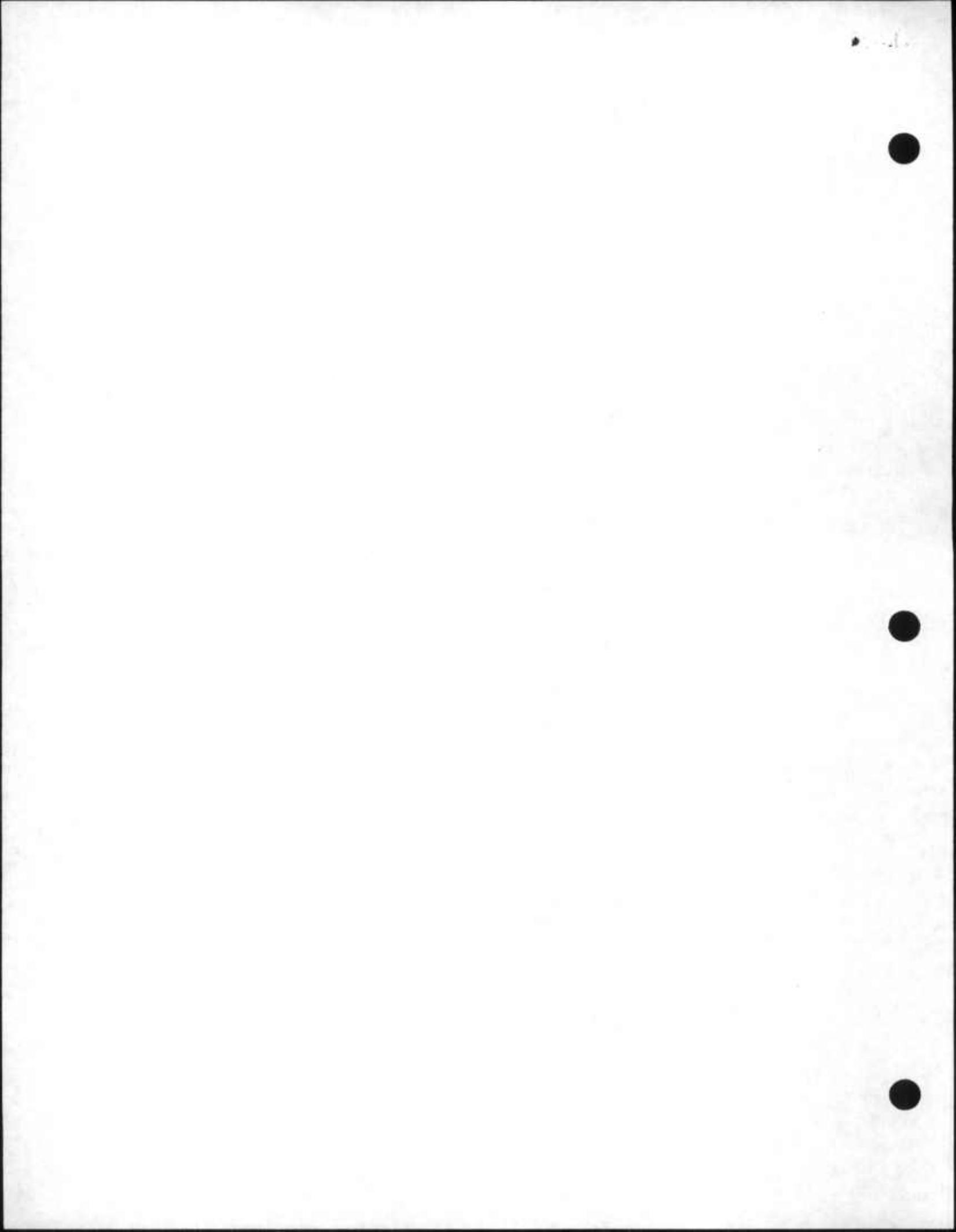
Ms. Jean Fabi
Queen Anne's County
Department of Land Use Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: 07-07-08-0014, Libersky Subdivision
711 Double Creek Rd, Chestertown**

Dear Ms. Rhodes:

Thank you for providing information on the above referenced subdivision proposal. The applicant proposes to subdivide an existing lot partially located in the Resource Conservation Area (RCA) into three lots. Please see my comments below.

1. County Code §14:1-39.C restricts density of the RCA to one dwelling per 20 acres. On this site no development activity or related facilities (septic, wells, decks, patios, etc) will be allowed within the RCA to support development outside of the RCA. To ensure that §14:1-39.C is met, the subdivision plan should be revised so that only one of the proposed lots contains all of the RCA on the site. There should be only one lot with area that is RCA.
2. Before the subdivision is approved, the applicant must show that the proposed lots will be able to meet the Queen Anne's County Code development standards of §14:1-38 for protection of forests and developed woodlands and for impervious surface limits. Building envelopes should be designated on the lot containing RCA, outside of which there will be no additional development disturbance, structures or impervious surfaces. The driveway to the residence from Deep Landing Road must be included inside of the building envelope. The entire area of the building envelope will be considered forest clearing (where forest exists) and impervious surface, for purposes of calculating compliance with §14:1-38 development standards in the RCA. This office will oppose creation of any lots that would require a variance for development.
3. There should be a professional wetland delineation to determine the correct location of the Critical Area Buffer. Please have the applicant provide this information on the plan



and document who delineated the wetlands. The Critical Area Buffer shown on the plans should be further expanded for environmental features contiguous to the Critical Area Buffer, as required by County Code Section 14:1-52. If the County Planning Commission determines that expansion of the Critical Area Buffer is necessary, please have the applicant revise the plan to show the Critical Area Buffer expanded to the upland limit of the non-tidal wetlands, hydric soils, soils with hydric properties and highly erodible soils within the Critical Area. The label for the Buffer line should be "Critical Area Buffer." SRAs should be located outside of any Critical Area Buffer on the site.

4. The stream on the site must also have 100-foot Buffer located from its mean high water line. In order to determine the correct location of the tributary stream Critical Area Buffer, the stream must be professionally delineated. Please have the applicant show the Critical Area Buffer on the plans and document who preformed the delineation.
5. Documentation must be submitted that the proposal has addressed any requirements of the DNR Wildlife and Heritage Services for sensitive species. Please have the applicant contact DRN Wildlife Heritage Services for a letter, and submit the letter as documentation. If there are any additional requirements, they should be incorporated into the proposal.

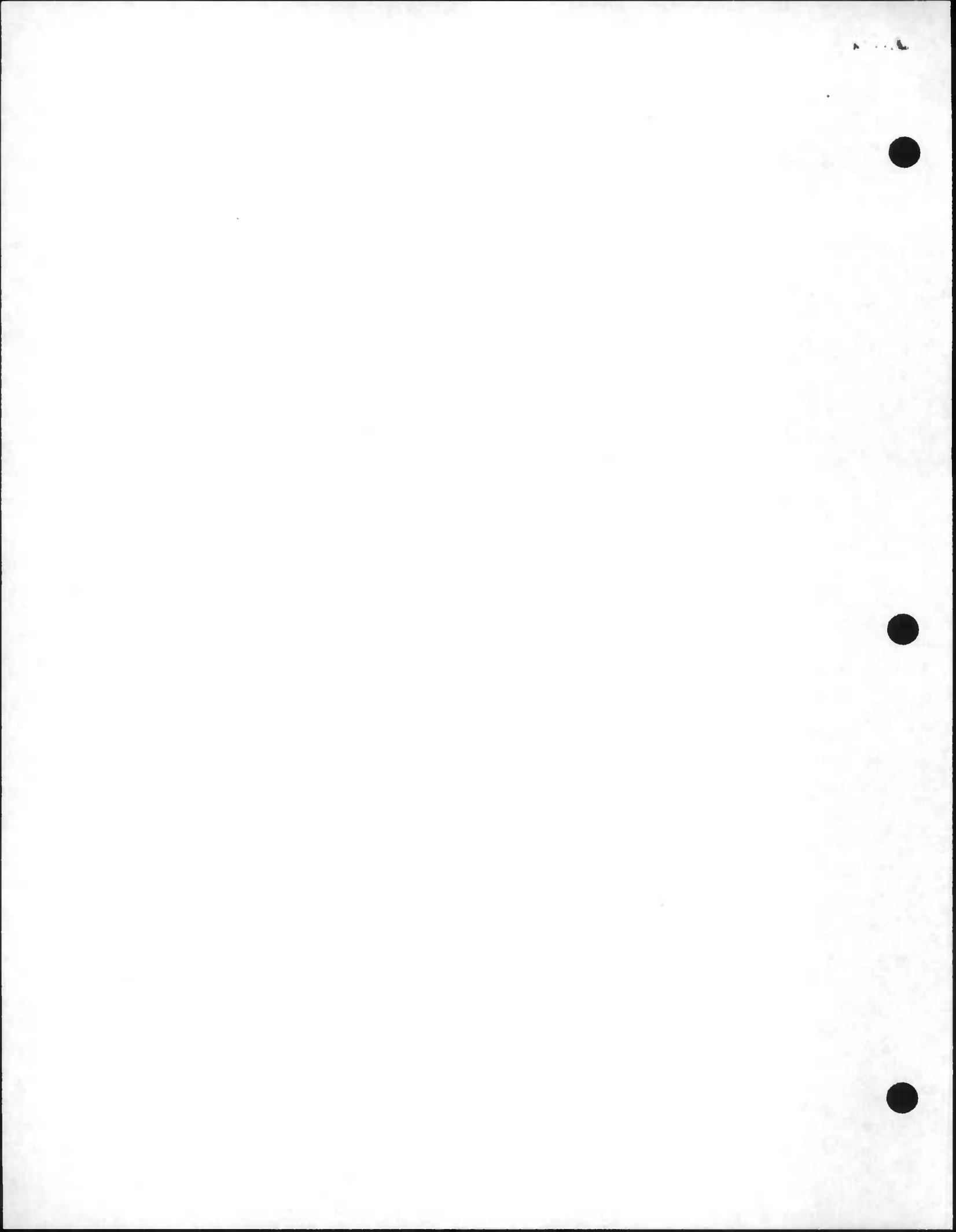
Thank you for the opportunity to comment on this proposed subdivision. Please contact me if you have any questions at (410) 260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: QC 520-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 7, 2007

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 plans 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. The revised plan has shown that the 100-foot Buffer on Lot 2 will be completely planted as required by County Code. This office has no further comment. 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 "M. Johnson".

Marshall Johnson
Natural Resources Planner

cc: QC 766-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 7, 2007

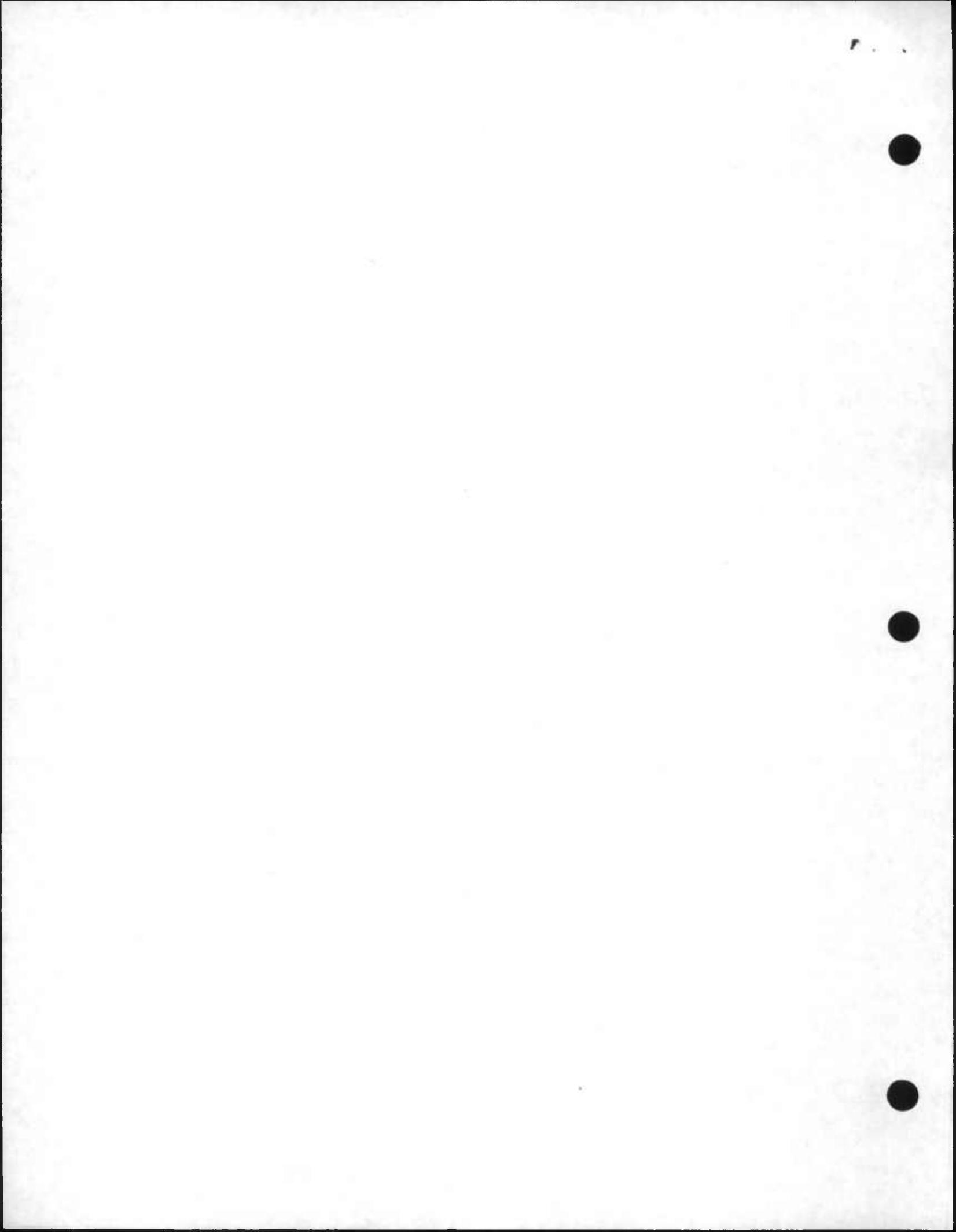
Ms. Jean Fabi
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centerville, MD 21617

**Re: 05-06-08-0018-C, 500 Chester River Beach
Lacrosse Homes**

Dear Ms. Fabi:

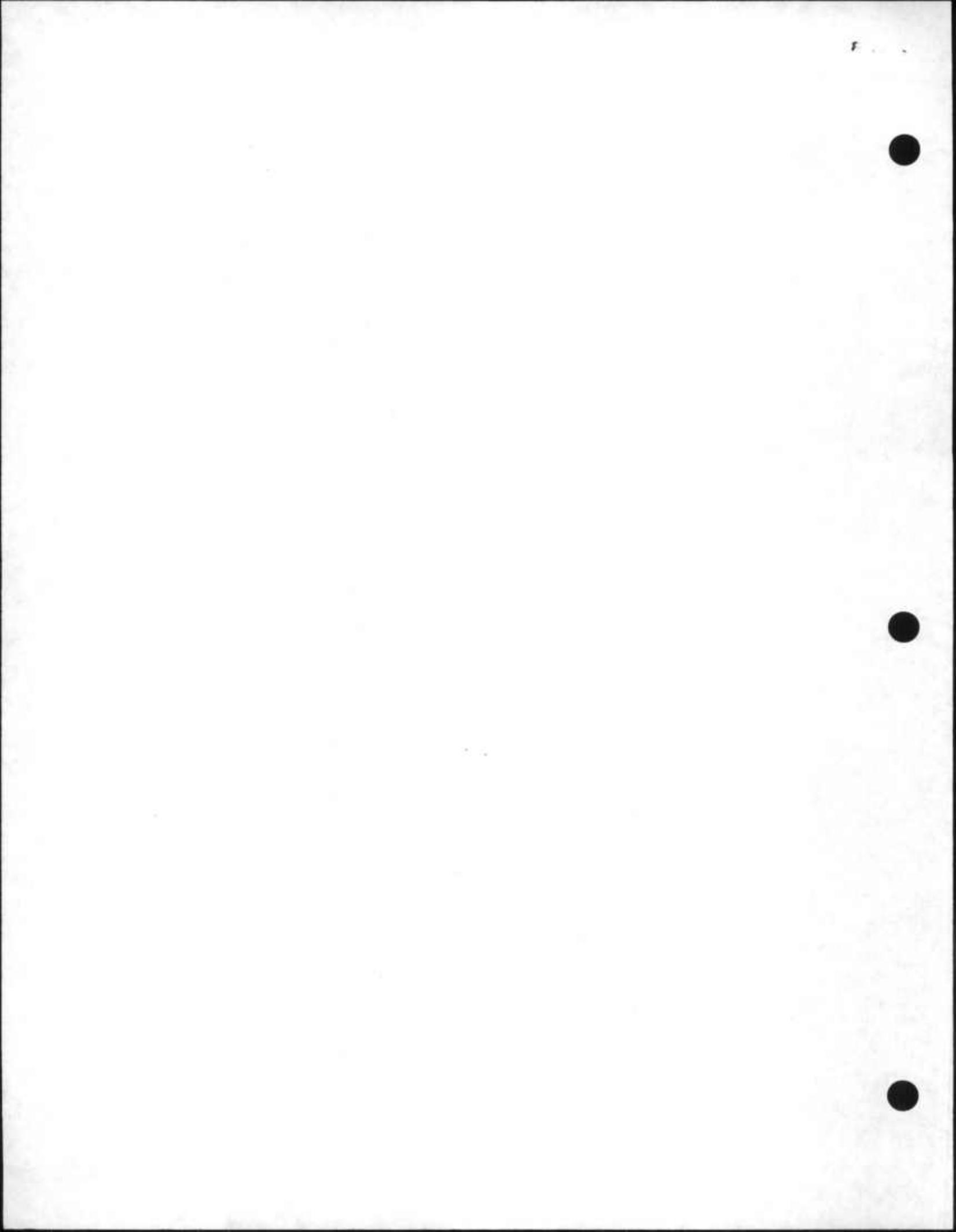
Thank you for providing information on the above referenced project. The applicant proposes to subdivide this property located in the Limited Developed Area (LDA) into three lots. Please see my comments below.

1. Queen Anne's County Code Title 14:53.C (Specific Provisions for Buffer Exempted Areas. Applicability) "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..." The proposed subdivision will create three new lots as of the date the plat is recorded and will therefore 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 the proposed 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. The Shoreline Buffer line shown on the submitted plan should be labeled as Critical Area Buffer and must be drawn 100 feet landward of the mean high water line. Please have the applicant correct the label and location of the Critical Area Buffer line.
2. The plans and materials submitted indicate that there are hydric soils and a nontidal wetland on the site. The Critical Area Buffer shown on the plans should be expanded for environmental features contiguous to the Critical Area Buffer, as required by County Code Section 14:1-52. The County Planning Commission must determine whether expansion is necessary. If the County Planning Commission determines that such expansion is necessary, please have the applicant revise the plan to show the Critical



Area Buffer expanded to the upland limit of the adjacent wetland, hydric soils, soils with hydric properties and highly erodible soils within the Critical Area.

3. New development activity, including removal of the existing house, or any of the work related to the Wetland License No. 07-0606 or WMA #06-NT-2007 is not permitted in the Critical Area Buffer unless a variance for Buffer impacts has been approved and mitigation has been provided. This office opposes approval of lots that require a variance.
4. If the Critical Area Buffer is expanded to the limits of the non-tidal wetland, no impacts to the non-tidal wetland are permitted unless a variance for Buffer impacts has been approved and mitigation has been provided. The MDE June 14, 2006 WMA #06-NT-2007 letter does not describe the extent of the non-tidal wetland impacts approved. The shaded area shown on the plan is labeled as authorized for wetland impacts; however no documentation has been provided regarding the type and extent of impact to the wetland that has received approval. Unless acceptable documentation is submitted, the plan should be revised to remove that label and shading.
3. Wetland License No. 07-0606 from MDE for the Board of Public Works and MDSPGP-32006-66940-13 permitted a 6-foot long timber bulkhead across the entrance of the 5-foot wide by 47-foot long by 3-foot deep drainage canal with backfill, and a 12-foot long timber bulkhead across the end of a 12-foot wide by 11-foot long boat ramp with backfill and to construct a grassed swale adjacent – all as depicted on the plans approved under those documents. These proposed impacts to the Critical Area Buffer must be depicted on the plans (or submitted as a separate project for review by the County for compliance with applicable regulations).
4. In relation to the comment above, Condition A of Wetland License No. 07-0606 explains that its authorization does not constitute authorization for any disturbance in the Critical Area Buffer. It further explains that the Critical Area Buffer disturbance associated with this work requires prior written approval, before commencement of any land disturbing activity, in the form of a Buffer Management Plan. Please have the applicant submit a Buffer Management plan for approved prior to final plat approval. The Buffer Management Plan must include the following:
 - Show the correct location of the 100-foot Buffer (see comments above)
 - Show proposed limits of disturbance for development activity
 - Show building envelopes that will contain all future structures and impervious surfaces for the lots
 - Calculate the number of plants required based on the corrected 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.

5. 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 afforestation area shown on the submitted plan should be relocated to provide continuity between planted areas on the new lots. In this case the habitat to be protected is located in the creek. In order to comply with this regulation, the afforestation plantings must be located in the Critical Area Buffer, across the width of the lots to promote a vegetated buffer between the development envelopes and the creek. 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. Please have the applicant revise the afforestation plan.
6. Documentation must be submitted that the applicant's proposal addressed the requirements of the DNR Wildlife and Heritage Services for sensitive species. Please have the applicant document how any such requirements have been met.
7. The plans and materials submitted show 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. As requested in the previous letter from this office, please provide the jurisdictional determination. This is necessary to confirm, among other things, whether the proposed land division will result in developable lots. This office opposes approval of lots that require a variance.

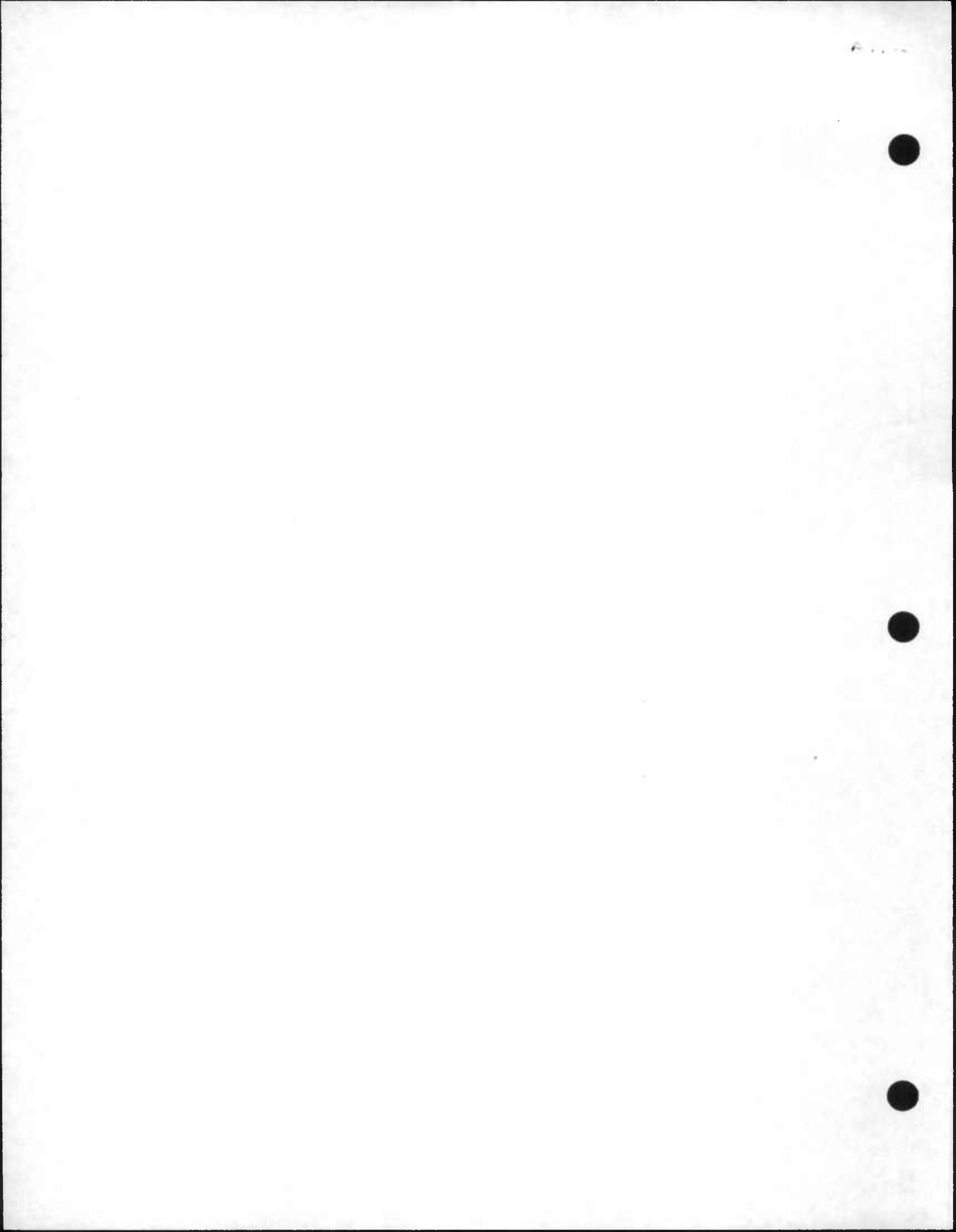
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: QC 562-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 7, 2007

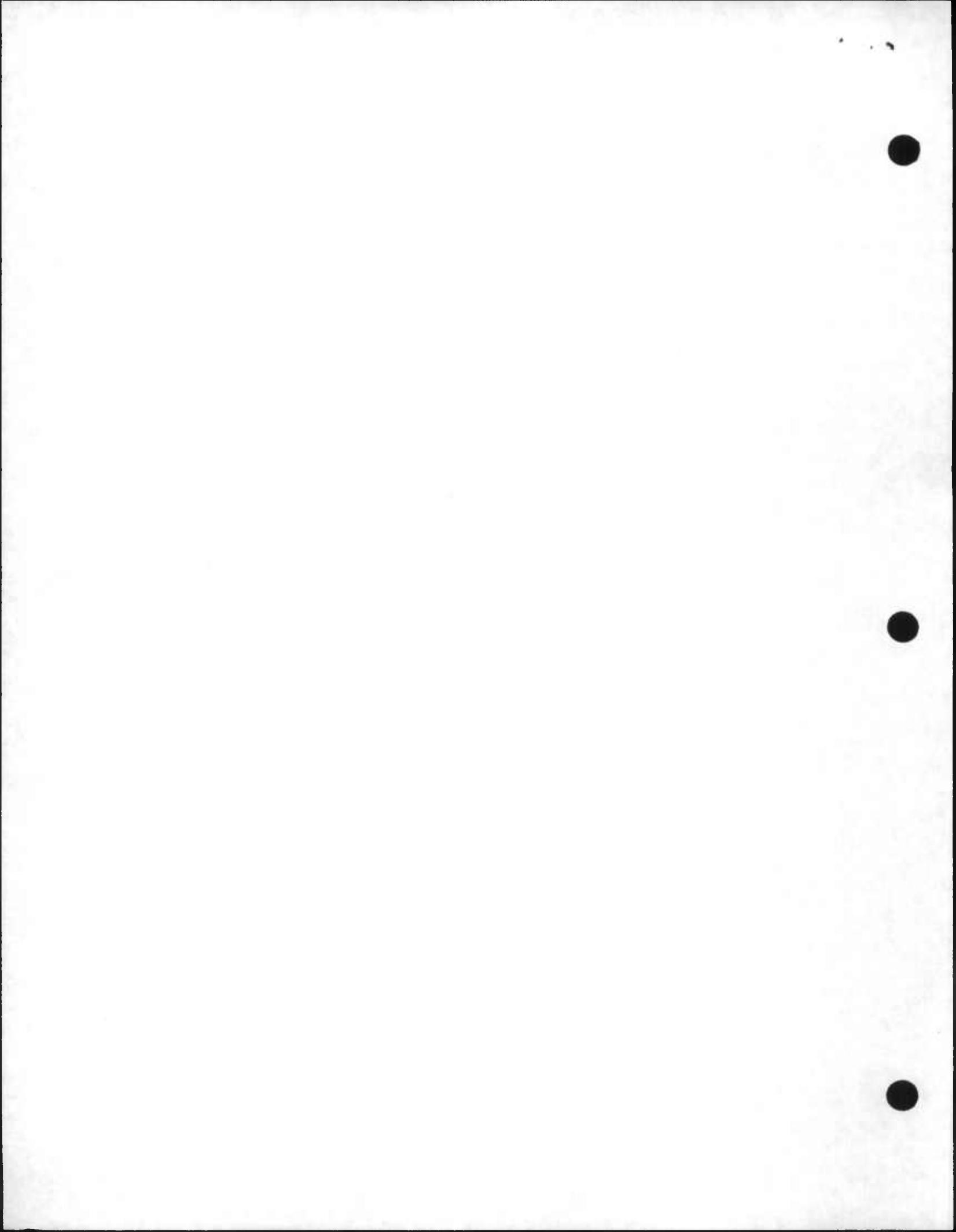
Ms. Jennifer Rhodes
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
Centerville, MD 21617

**Re: 003-07-08-0012-C, 405 Wrights Neck Road, Centreville
Reed Creek LLC**

Dear Ms. Rhodes:

Thank you for providing information on the above referenced project. The applicant proposes to subdivide an existing lot located in the Resource Conservation Area (RCA) into two lots and a separate private road tract. Please see my comments below.

1. There should be a professional wetland delineation to determine the actual areas available for subdivision and the location of the Critical Area Buffer. Please have the applicant document who has delineated the wetlands and what method was used for the delineation of tidal versus non-tidal wetlands.
2. The Buffer shown on the plans may need to be expanded for environmental features contiguous to the Buffer as required by County Code Section 14:1-52. This includes Buffer expansion for the following when they are contiguous to the Buffer: the extent of all non-tidal wetlands, any slopes 15% or greater, hydric soils and highly erodible soils with a K value greater than 0.35. It appears that this site may have one or more of these characteristics warranting Buffer expansion. Please have the applicant address this standard and show the expanded Buffer where necessary.
3. It appears that there is a stream on the site connected to the pond. If there is a stream on this site, it must also have 100-foot Buffer from its banks as required in the County Code. Please have the applicant document whether there is a stream and the methods for determination.
4. The sewage reserve areas shown on the plan must be located outside of the Critical Area



Buffer. Please have the applicant locate all sewage reserve areas outside of the Buffer and indicate this on the plan.

5. Queen Anne's County Code §14:1-38.D(2) (Site Development Standards) requires 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 Bald Eagle nest. The area surrounding this protected nest is a Habitat Protection Area, as designated on State maps. In addition, measures to protect Delmarva fox squirrel habitat may be warranted. The applicant should meet the requirements of the DNR Wildlife and Heritage Service concerning any development activity on the subject site. There also appears to be a Waterfowl Concentration area adjacent to the site, which may require additional development restrictions. Please have the applicant address §14:1-38.D(2) and how the requirements of DNR will be met by this proposal.
6. The Code of Maryland Regulations Title 27.01.09.01C(6) requires that the entire 100-foot Buffer of the site must be established in natural vegetation when the use changes from agriculture to another use. Therefore, the 100-foot Buffer on both of these proposed lots must be completely planted. Please have the applicant revise the plan to show the Buffer plantings to meet this standard.
7. The proposed subdivision divides 1.122 acres of the RCA into a separate tract for the private road. The area of RCA on this site only allows density of two dwellings, per County Code RCA density restrictions in §14:1-39.C. A separate tract can only be created with less than 20 acres of RCA if it can not be developed in the future. It appears that the dimensions of the road tract would prevent any future development; however, ideally the private road tract would be part of one of the lots with a shared access easement.

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



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 6, 2007

Mr. George Mayer
Town of Federalsburg
PO Box 471 Federalsburg, MD 21632

Re: Federalsburg Waste Water Treatment Plant Upgrade – Planting Plan

Dear Mr. Mayer:

We have received a revised planting site plan and have the planting agreement for the Federalsburg wastewater treatment plant upgrade. We have also received a copy of the stormwater management plan review letter recommending approval by the County. All of the conditions for the Critical Area Commission conditional approval have been met.

If you have any questions, please feel free to contact me at 410-260-3479.

Sincerely,

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

Marshall Johnson
Natural Resources Planner

cc: Jen Smith, DBF



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 6, 2007

Ms. Jean Fabi
Queen Anne's County
Department of Land Use Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

Re: 01-06-11-0013, Grimes Subdivision

Dear Ms. Fabi:

Thank you for providing information on the above referenced proposal. This site does not appear to be within the Critical Area. 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 504-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 5, 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: Public Landing Marina Improvements
Worcester County**

Dear Ms. Davis:

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. The proposed improvements to the marina are water-dependent and allowed in the Buffer per Worcester County Code § NR 3-124 (Water-dependent facilities). There will be no increase in site impervious surface. Therefore, I concur that that the project will be consistent with the provisions of COMAR 27.02.02. The Critical Area Commission Staff has no further comment.

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: WC 595-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

September 4, 2007

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

**RE: Tax Map 9, Parcel 328 (12507 Collins Road)
Dale and Denise Venable**

Dear Ms. Davis:

Thank you for providing the revised plan for the above referenced variance. The site is an 110,663 square foot parcel located within the Resource Conservation Area (RCA) of the Atlantic Coastal Bays Critical Area. The property is currently developed with a house and paved driveway. There is a tributary stream on the property with a 100-foot Buffer as required by Worcester County Code §NR 3-104 and COMAR 27.01.09.01C.1. The applicant has requested a variance to allow new development within the Buffer. With the revised plan, the applicant proposes to build a new driveway and detached 1,040 square foot garage within the 100-foot Buffer. The revised proposal does not conform to the Critical Area law or the County's Critical Area Program because the County Code and COMAR prohibit new, non-water dependant development in the Buffer.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. The variance to the 100-foot Buffer cannot be granted unless the applicant proves, and the hearing examiner 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 County's variance standards below as it pertains to this site:

1. 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;

Currently, the lot is developed with a single family home, driveway, parking space, and deck that are partially within the 100-foot Buffer. 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 applicant has use of the deck, house, drive and parking already partially within the Buffer. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for an additional large detached structure completely within the Buffer.

2. 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;

The applicant has a reasonable use of this property for residential purposes including a deck, lawn yard area, house and driveway/parking that are all partially within the Buffer, and therefore, would not be denied a right commonly enjoyed by neighboring properties. From a review of the application we believe that there is opportunity to enjoy the property and construct a garage identical in size and accessibility to the proposed, in a manner that meets the Buffer regulations and remains consistent with the Worcester County Critical Area Regulations. Other property owners do not have a right to construct a new garage and paved driveway in the Buffer. Therefore, denial of a variance for the accessory structure (garage) and additional parking area would not deny the applicant a right commonly enjoyed.

3. 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;

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the Buffer beyond what has been established as law by the County would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

4. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property;

In contrast, the need for a variance to allow a large detached garage and additional paved parking area is directly the result of the applicant's proposal, for which there is a reasonable alternative location outside the Buffer.

5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Area Program;

In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area Program. The drainageway on the applicant's property has been recognized as a tributary stream by the County and is subject to the one-hundred-foot Buffer. This Buffer is required to be established from the edge of the bank of tributary streams by Worcester County Code §NR 3-104(a). New development and impervious surfaces in the Buffer, along with the associated disturbance to the land, results in lost habitat value and less biofiltration of stormwater by vegetation. New development activities, including new structures and impervious surfaces are not allowed in the Buffer, as stated in the Worcester County Code §NR 3-104(c). Given that the applicant can adequately enjoy outdoor activities without the addition of a garage and additional parking in the Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

6. In reviewing an application for a variance the Board of Zoning Appeals shall consider the reasonable use of the entire parcel or lot for which the variance is requested.

Considering the reasonable use of the entire property requires recognition of the fact that the site has adequate space outside of the Buffer to construct a garage and driveway of the same size and accessibility, such as over the existing paved driveway/parking area or over the lawn in the northeast corner of the property.

7. The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein

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

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 394-07



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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September 4, 2007

C/O Mary Tolodziecki
James W. Price, Director
Program Open Space
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

**RE: DNR Clearinghouse Review of Local POS # 5214-5-151;
Denton Wheeler Lockerman Park improvements, Worcester County**

Dear Mr. Price:

Based on the information provided, a path, fencing and landscaping are proposed at the park within the Limited Development Area (LDA) of the Critical Area. In order to comply with Critical Area regulations, the overall impervious surface of the park site must not exceed 15% after the project is completed. All development activity should be outside of the 100-foot Critical Area Buffer of the Choptank River. Any temporary or permanent disturbance proposed within the Buffer would require mitigation planting at a ratio of 3:1 based on disturbance area for the project in the Buffer and may require Commission review and approval. Typically mitigation would be planted in the Buffer on the site, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer mitigation area required. Additionally, the project should minimize impact to existing vegetation and forest within the LDA portion of the site that is not within the Buffer, which should be replaced on the site at an in-kind ratio of 1:1. 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

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September 4, 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:

The submitted 10% calculations for the Critical Area stormwater pollution reduction requirement have been corrected. The applicant has proposed to meet the 0.038 lbs/yr pollutant removal shortfall by planting an additional eight trees on site. This office has no further comment.

Thank you for the opportunity to provide comments on this development proposal. If you have any 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: QC 96-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 28, 2007

1804 West Street, Suite 100, Annapolis, Maryland 21401
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www.dnr.state.md.us/criticalarea/

Reggie Graves
MDE
Water Management Administration
1800 Washington Blvd
Baltimore, MD 21230

RE: 200761217/07-WL-1230
Shoreline erosion control – Pelczar, Queen Anne's County

Dear Mr. Graves:

Thank you for providing information on the above referenced application. In order to comply with Critical Area requirements of the Code of Maryland Regulations, all development related activity should be outside of the 100-foot Buffer, except for the minimum necessary for placement of shore erosion control measures at significantly eroding areas. Significantly eroding areas are shoreline areas where there is documented erosion of at least two feet or more per year. If significant erosion has been documented by the applicant, then the applicant must demonstrate that the proposed measures are those that best provide for conservation of fish and plant habitat, and are practical and effective. In these cases, cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to install or construct a shore erosion protection device or measure, providing the device, measure, or facility has received all necessary State and federal permits (COMAR 27.01.09.01.C(5)(c)).

Any temporary or permanent disturbance must be designated by the applicant as the limit of disturbance. The designated area of disturbance that is within the 100-foot Buffer requires mitigation plantings. Mitigation for installation of shore erosion control works should be based on disturbance area for the project in the Buffer, and must be provided at a ratio of 1:1. The mitigation should be planted in the Buffer on the site, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer mitigation area required.

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
Natural Resources Planner

cc: Queen Anne's County Department of Land Use, Growth Management and Environment



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 28, 2007

Ms. Cathy Maxwell
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

**RE: V-080006 Variance; MD Rte 18, 800 Main St, Stevensville
Ramshead Restaurant**

Dear Ms. Maxwell:

Thank you for providing information on the above referenced variance. The site is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. The property is currently developed with a commercial building and parking areas. The applicant proposes to construct a new deck attached to the building. Because development is proposed in the IDA, the applicant must show that the proposal will comply with IDA regulations, including the 10% stormwater pollution reduction and Buffer requirements. In order to review the proposal and to determine whether it meets Code of Maryland Regulations and County Code, the applicant should provide additional information as explained below. A variance to the County Critical Area Program requirements should not be approved before this information is received and reviewed for compliance.

1. From the materials submitted, it is not clear whether the proposed development activity is within the Critical Area Buffer. No plans were submitted that show the location of the 100-foot Critical Area Buffer and any necessary expanded Buffer. In order to determine whether a Critical Area Program variance is necessary per County Code §14:1-68 (Administrative variance) please have the applicant submit plans that show the relationship of the proposal to the Buffer. Please have the applicant submit a plan showing the Critical Area, Buffer and environmental conditions that are applicable. If the proposed work is within the Buffer, the applicant must meet the criteria of the County Code §14:1-68 for a variance.
2. It is not clear from the submitted plans whether any trees or other natural vegetation will be removed. Existing vegetation should be indicated on the plan, and information provided as to whether the proposed deck would involve removal of the vegetation.

Cathy Maxwell Letter

August 28, 2007

Page 2 of 2

3. The site must address the Critical Area stormwater 10% pollution reduction requirement. Please have the applicant submit the Critical Area 10% Manual Worksheet A calculations to show how the project will comply with the regulation of County Code §14:1-37.D(2).
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 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,



Marshall Johnson
Natural Resources Planner

cc: QC 485-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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August 28, 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 submitted 10% calculations for the Critical Area stormwater pollution reduction requirement are incorrect as explained in the following comments. Until all of these issues are resolved, the calculations for the Critical Area IDA 10% stormwater requirement are incomplete. These issues should be addressed prior to approval of the proposal by the County.

1. A grassed Buffer is incorrectly claimed as a BMP. This is unacceptable because grassed Buffers are not BMPs per the Critical Area 10% Stormwater Manual. Please have the applicant remove that item from the 10% calculations and submit revised calculations.
2. The second "BMP in a Series" listed in the 10% Worksheet A - Step 5 is not valid because it only flows through one BMP. Please have the applicant remove that item from the 10% calculations and submit revised calculations.
3. The applicant should clarify the design and purpose of the "perforated pipe" shown on sheet 6 (dated Revisions: 8/15/07), and explain how it is meant to function as a part of the stormwater system.
4. The areas for IDA area and existing and proposed impervious surfaces listed on the applicant's submitted application form and site plan are inconsistent with the

Holly Tompkins
August 28, 2007
Page 2 of 2

respective areas listed in the 10% stormwater calculations, including a difference of over 6,000 square feet in proposed impervious surface. The applicant should confirm which is correct and adjust the plans/application or 10% worksheet accordingly.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: QC 96-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 27, 2007

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

**RE: Case # 10-318181; Tax Map 26, Parcel 433, Lot 2; Green Ridge Lane Road
Omar Drici**

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 located within the Limited Development Area (LDA) 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 13,465 square feet of vegetation. Clearing for a septic area outside of the Critical Area Buffer, and clearing for a house, driveway, garage, deck, porches and walkway is proposed within the Critical Area Buffer. The applicant is requesting a variance to allow the development within the Critical Area 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 impact to the Buffer, and mitigating for any unavoidable impacts. 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 reducing the size of the proposed house, driveway, deck and disturbance areas. In addition, the Critical Area Commission staff has the following comments regarding the development proposal.

1. Mitigation at a ratio of 3:1 for the area of disturbance within the Buffer is 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. In order to meet the variance criteria, the proposal should minimize impacts by reducing the size of the proposed house, garage and deck, and should include stormwater management design elements which increase benefits to water quality from the stormwater leaving the site.

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Letter to Janet Davis
August 27, 2007
Page 2 of 2

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 410-260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: WC 493-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 24, 2007

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

RE: Byrd and Gateway Park power pedestals and lighting, Snow Hill

Dear Ms. Houtman,

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. The proposed lighting and associated structures are water-dependent and allowed in the Buffer per Snow Hill Code § 72-12 (Water-dependent facilities). Therefore, I concur that that the project will be consistent with the provisions of COMAR 27.02.02. The Critical Area Commission Staff has no further comment.

Please contact me if you have any questions at (410) 260-3479.

Sincerely,

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

Marshall Johnson
Natural Resource Planner

cc: SN 488-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 24, 2007

Reggie Graves
MDE
Water Management Administration
1800 Washington Blvd
Baltimore, MD 21230

RE: 200763282/08-WL-0023
Susquehanna River dredge – Arundel Corporation

Dear Mr. Graves:

Thank you for providing information on the above referenced application. The site is partially located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. Based on the limited information submitted to this office, it appears that the applicant proposes to dredge channelward of mean high water (the bulkhead) and dispose of spoils at a site outside of the Critical Area. However, the plan submitted to this office also shows an aggregate stockpile area within the IDA. Any development or disturbance on this property above mean high water in the Critical Area requires compliance with the Harford County Critical Area Program.

In order to comply with Critical Area regulations, all development related activity should be outside of the 100-foot Buffer of the Susquehanna River. Any temporary or permanent disturbance proposed within the 100-foot Buffer would require mitigation planting. Mitigation should be based on disturbance area for the project in the Buffer, and would be provided at a ratio of 3:1. Typically the mitigation would be planted in the Buffer on the site, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer mitigation area required.

Our records indicate that this site is within a State listed sensitive species project review area. Please ensure that the applicant has contacted DNR Wildlife and Heritage Service regarding proposed development in a sensitive species area.

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
Natural Resources Planner

cc: Michele Bynum, Harford Co. Dept. of Planning and Zoning



Martin O'Malley
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Anthony G. Brown
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Margaret G. McHale
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MEMORANDUM

To: Mr. George Keller, Program Administrator, MDE Water Management Administration

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

Date: August 24, 2007

**RE: FONSI # 107, Havre De Grace Wastewater Treatment Plant Upgrade/Expansion
Harford County**

This office has received the notice of a project for City of Havre De Grace wastewater treatment plant upgrade and expansion. This proposal is required to comply with COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. A previous review by this office of an upgrade and expansion of the plant resulted in concurrence that the project is consistent with the City's Critical Area Program. However, as stated in the May 15, 2006 letter from my office (attached), any changes in the development plan described in that letter, or expansion of disturbance area on this site, will require additional review by my office. In order to be consistent with the City Program, development activity proposed in the Critical Area must meet all requirements of the Town's Ordinance and COMAR, including the policies and criteria for habitat protection areas in COMAR 27.01.09. The proposed project is in the IDA (Intensely Developed Area) of the Critical Area, which requires documentation that the 10% pollution reduction standard will be met.

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

cc: HG 225-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 23, 2007

Mr. Kevin Clark
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

**Re: Stevens subdivision
Tax Map 58, Parcel 62**

Dear Mr. Clark:

Thank you for providing information on the above referenced subdivision proposal. The applicant proposes to divide an existing lot into two lots. A portion of the lot is within the Critical Area Resource Conservation Area (RCA). Any future development within the RCA portion of the property must meet all applicable requirements. I have reviewed the proposal and have the following comments.

1. The lot line proposed shows that the majority of the RCA is within Lot 2, while a small portion of the RCA is within Lot 1. Area on a site within the RCA may not be divided into portions smaller than 20 acres, because of the density requirements of the Code of Maryland Regulations (COMAR) 27.01.02.05. Strict application of COMAR would require that the entire RCA area of the site would be placed within Lot 2. In this case, the proposed lot configuration is acceptable because the portion of RCA on Lot 1 is relatively small and would be completely within a building restriction area, and so could not be developed. However, the sewerage reserve area is proposed within the RCA portion of Lot 1 and because of the density restrictions of COMAR 27.01.02.05, facilities necessary for development to occur outside of the RCA can not be placed in the RCA. Please have the applicant revise the plan to locate the sewerage reserve area outside of the RCA.
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

Letter to Kevin Clark
August 23, 2007
Page 2 of 2

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,



Marshall Johnson
Natural Resources Planner

cc: CR 484-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 23, 2007

Mr. Kevin Clark
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

**Re: 07-057, Frazier Neck Road
Jay F. Pratt Subdivision, Tax Map 52, Parcel 64**

Dear Mr. Clark:

Thank you for providing information on the above referenced proposal. The applicant proposes to divide an existing parcel into two lots. Per our conversation today, you confirmed that County maps indicate that this site is located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The following comments relate to the proposed subdivision.

1. Our records indicate that this site is within or adjacent to a sensitive species habitat area. Please have the applicant contact the DNR Wildlife and Heritage Service to determine if there may be additional requirements for species protection, and forward a copy of the letter to this office.
2. COMAR 27.10.09 requires the establishment of a Buffer 100 feet landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands. This site appears to be adjacent to one or more of these features. Please have the applicant determine and indicate on the plat, the location of the 100-foot Buffer, including any necessary expansion 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.
3. The applicant should meet applicable regulations of the Code of Maryland Regulations (COMAR), including COMAR 27.01.09.01.C(6): "Where agricultural use of lands within the area of the Buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide forest vegetation that assures the Buffer functions set forth in the policies of this chapter." The Buffer area on the proposed lots must be planted with natural vegetation where it does not already exist, in order to establish a naturally vegetated 100-foot Buffer that provides the functions described in COMAR

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Letter to Kevin Clark
August 23, 2007
Page 2 of 2

27.01.09.01.B. Particularly for proposed Lot 4, the applicant should also be required to meet COMAR 27.01.02.04 C(5)(e), which 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." Please confirm that these requirements are met by existing forest cover, or that the applicant will provide additional forest cover to meet the standards.

4. Any future development on these lots will be required to meet all of the applicable development standards for the LDA, including impervious surface limits.

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 321-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 22, 2007

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

**RE: 05-07-08-0004-C; 313 Saddler Road
Terzi Properties Eastern Shore, LLC**

Dear Ms. Spinelli:

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

1. The Code of Maryland Regulations (COMAR) 27.01.09.01 requires that the County establish a minimum 100-foot Buffer landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands. The tidal wetlands adjacent to this site are approximated on the submitted site plan. In order to accurately locate the Critical Area Buffer on this site the tidal wetland limit must be professionally delineated. Please have the applicant acquire this information and revise the plans to reflect compliance with COMAR 27.01.09.01. Documentation should be submitted as to who delineated the tidal wetland line and what methodology was used. The Critical Area Buffer line must be labeled as "Critical Area Buffer" on the plans on all sheets of the plan set where it occurs.
2. The Critical Area Buffer must be expanded if necessary per COMAR 27.01.09.01 and the Queen Anne's County Code §14:1-52 which states that 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. The Buffer must be expanded to include the non-tidal wetland on the site, anywhere it is beyond and contiguous to the Buffer. Please have the applicant confirm whether the non-tidal wetlands were professionally delineated and address the requirement



to determine whether the Buffer should be expanded. If expansion is warranted, please have the applicant revise the plans accordingly.

3. The applicant is proposing to construct a new building partially within the 100-foot Critical Area Buffer. County Code §14:1-51 (Buffer standards and requirements) states that new development activities, including erection of structures, parking areas or other impervious surfaces are not permitted in the Buffer. In addition, stormwater BMPs such as the proposed wet swale are not allowed in the Buffer. Please have the applicant revise the plans to comply with County Code §14:1-51.
4. The applicant has submitted stormwater plans that do not meet County Code § 14:1-37 (Use and development regulations in intensely developed areas). This section of the Code requires that redevelopment proposals shall demonstrate that best management practices for stormwater management assure a 10% reduction of predevelopment pollutant loadings. The only exception to this requirement is if the applicant cannot demonstrate the required on-site reductions will be met. As there appears to be adequate space on the site to provide BMPs that will meet the 10% pollutant removal requirement, County Code § 14:1-37 is not met by this proposal. Please have the applicant revise the stormwater plans to meet the 10% pollutant removal requirement and submit revised 10% calculations.
5. County Code Section 14:1-37.D.3 which states that all redevelopment projects in the IDA 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. Please ensure that the applicant addresses this requirement.
6. 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.

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 483-07

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

August 21, 2007

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

RE: Hardwire LLC Site Plan, Pocomoke City

Dear Mr. Blake:

Revised plans have been submitted to my office for the Hardwire LLC project in Pocomoke City. The developer's representative has addressed the issues in my previous letter. In conjunction with the wet swales shown on the plan for stormwater management, there should be a note added to the plans so that the landscape design specifies proper grass species and wetland plants based on specific site, soils and hydric conditions present along the channel, per the section 3.5.5 Performance Criteria in the 2000 MDE Stormwater Design Manual. Please have a note with appropriate plant species listed for the wet swales added to the plans. With exception of this note addition, the Critical Area Commission Staff has no further comment.

Thank you for the opportunity to comment. 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 "M. Johnson".

Marshall Johnson
Natural Resources Planner

cc: Matthew Drew, AWB Engineers
Jerry Redden, Worcester County
PO 440-07

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Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 14, 2007

C/O Mary Tolodziecki
James W. Price, Director
Program Open Space
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

**RE: DNR Clearinghouse Review of Local POS # 5155-23-186;
Underground Utilities at Pocomoke Discovery Center, Worcester County**

Dear Mr. Price:

The site is within the portion of the City that was granted an exclusion from the Critical Area requirements. However, as established by Resolution 174 signed in 1988, development within 1,000 feet of the Pocomoke River or its wetlands must comply with the Critical Area Criteria insofar as possible whenever redevelopment occurs. It is our understanding that the site would likely be considered an Intensely Developed Area. The primary Critical Area concern for this proposal is impact to water quality and habitat value due to impacts to the 100-foot Buffer. At least one of the poles to be removed is to be within 100 feet of the Pocomoke River, and information has not been provided showing where and what kind of disturbance would occur for installation of the underground utilities. It does not appear that any new impervious surface is proposed; however, if the project does include new impervious surface, conformance with the Critical Area 10% pollution reduction criterion for stormwater should be required.

To the degree possible, all development activity should be outside of the 100-foot Buffer of the Pocomoke River. Any temporary or permanent disturbance proposed within the 100-foot Buffer would require mitigation planting. Mitigation should be based on disturbance area for the project in the Buffer, and would be provided at a ratio of 3:1. Typically the mitigation would be planted in the Buffer on the site, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer mitigation area required. 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

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August 14, 2007

C/O Mary Tolodziecki
James W. Price, Director
Program Open Space
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

**RE: DNR Clearinghouse Review of Local POS # 5154-23-180;
Pocomoke Golf Course Improvements, Worcester County**

Dear Mr. Price:

The site appears to be within the portion of the City that was granted an exclusion from the Critical Area requirements. However, as established by Resolution 174 signed in 1988, development within 1,000 feet of the Pocomoke River or its wetlands must comply with the Critical Area Criteria insofar as possible whenever redevelopment occurs. It is our understanding that the site would likely be considered a Limited Development Area (LDA). Based on the information provided, the proposal appears to be primarily replacement of existing gravel parking and pathway with paving. The new equipment and other amenities should minimize impact to existing vegetation and forest. Any vegetation removed as part of this project should be replaced on the site at an in-kind ratio of 1:1. Typically the mitigation would be planted on the site adjacent to existing forest, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet. 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

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August 14, 2007

Ms. Cathy Maxwell
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

**RE: V-080001 Variance; 1013 Long Point Road, Grasonville
John Little**

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 and is within a Buffer exempted area (BEA). The property is currently developed with a single family dwelling and associated amenities. The applicant proposes to construct a new deck attached to the house. The County has enacted BEA provisions to recognize that the pattern of existing development prevents the Buffer from fulfilling its functions. As a result, the Queen Anne's County Zoning Code §14:1-53 provides a very specific set of criteria for limiting intrusion of new development activities, impervious surface and vegetation removal within the Buffer that balance the pattern of existing development with maintaining the integrity of the Buffer. In order to determine whether the proposal meets these County criteria, the applicant should provide additional information as explained below. Until the applicant shows that the applicable criteria are met by this proposal, a variance to the County Critical Area Program requirements should not be approved.

1. The proposed deck appears to extend further waterward and into the Buffer than the existing primary structure. As required by Queen Anne's County Code §14:1-53, the applicant must demonstrate to the County that there is no feasible alternative location for the deck that is no further waterward of the existing house, including a smaller deck, as this must include demonstrating that the intrusion into the Buffer is the least necessary. Additionally, it is not clear from the submitted plans whether natural vegetation will be removed. Existing vegetation should be indicated on the plan, and information provided as to whether the proposed deck would involve removal of the vegetation.
2. The site must meet impervious surface limits with this proposal. The Code requires that impervious surfaces shall be limited to 15% of the gross site area proposed for development except as described in §14:1-53.D(5). Please have the applicant provide impervious surface coverage on the site for the existing conditions and proposed conditions and address compliance with the criteria.

3. Mitigation, at a ratio of 2:1 for development within the Buffer Modification Area, 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.
4. The new development 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

QC 456-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 14, 2007

Mr. George Mayer
Town of Federalsburg
PO Box 471 Federalsburg, MD 21632

Re: Federalsburg Waste Water Treatment Plant Upgrade – Planting Plan

Dear Mr. Mayer:

We have received a planting site plan and planting agreement which were submitted to satisfy a condition associated with the Commission conditional approval for the Federalsburg wastewater treatment plant upgrade. The Buffer mitigation should be planted with the following sizes: shrubs in minimum 2 gallon pots and trees of minimum 2-inch caliper. These size specifications should be stated on the planting plan in the Plant List table, instead of the sizes listed on the submitted plan. Please revise the plan to reflect these specifications. Please also add a note to the plan stating that the Town of Federalsburg will notify the Critical Area Commission once the on and offsite mitigation plantings have been installed.

If you have any questions, please feel free to contact me at 410-260-3479.

Sincerely,

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

Marshall Johnson
Natural Resources Planner

cc: Jen Smith, DBF



Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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Ren Serey
Executive Director

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August 14, 2007

Ms. Cathy Maxwell
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centreville, Maryland 21617

RE: V-080002 - Setback Variance – 2631 Cox Road, Harbor View Subdivision

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 site is not within a 100-foot Critical Area Buffer. The property is currently developed with a single family dwelling. The applicant proposes to construct new attached porches and is requesting a variance allow the front porch to extend partially into the building setback. 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,

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

Marshall Johnson
Natural Resources Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 14, 2007

Holly Tompkins
Queen Anne's County
Department of Land Use, Growth Management and Environment
160 Coursevall Drive
Centerville, MD 21617

**Re: CP #05-07-07-0012-C, Aspen Institute
Proposed Conference Center Expansion**

Dear Ms. Tompkins:

Thank you for providing submitted plans and information on the above referenced project. The Aspen Institute proposes to expand its facilities in Queen Anne's County, including a new building, expansion of existing buildings and associated facilities and creation of a new trail system. The properties involved are wholly or partially located within the Critical Area, with a Resource Conservation Area designation. It is our understanding that the Aspen Institute existed on the property as an institutional use prior to the passage of the Critical Area Law in 1985. Despite the existence of this institutional use, the properties were designated as Resource Conservation Area (RCA) when the County mapped its Critical Area. Queen Anne's County Code §14-139.B(3)(d) (Uses not permitted or strictly limited) states the following:

"Intensification or expansion of existing industrial, commercial and institutional facilities and uses may be permitted in the RCA by the Planning Commission. A variance, in accordance with Part 7 of this Chapter 14:1, must be granted if such expansion or intensification involves a use which the Planning Commission determines does not conform with the provisions of the Queen Anne's County Critical Area Program and this Chapter 14:1."

Based on the above section, the Planning Commission must determine if the institutional use of the Aspen Institute's conference center is consistent with the RCA uses provisions of the County's Critical Area Program. County Code §14-139.B(3)(d) lists those non-residential uses that may be permitted in the RCA. The Aspen Institute conference center does not meet the definition for any of those permitted uses. Therefore, it does not appear that the Planning Commission could make the necessary findings of consistency with the County's Critical Area Program and in particular, the list of uses that are

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permitted in the RCA. If, however, the Planning Commission does find that expansion of the use within the RCA meets the County standards for expansion in the RCA, the Critical Area Commission staff will accept that determination with the understanding that the current County Program should be amended in the future to include a mechanism for defining allowable limits of expansion of existing non-confirming uses in the RCA.

The applicant previously proposed to expand its facilities in 2003. Please note that, as explained in the letter from this office dated January 17, 2003 in response to the previous request, variance criteria can not be met by the proposal because there are alternative procedures available for expansion of the use on this site under the current County Critical Area Program. The application of growth allocation to change the developed portions of the property from RCA to LDA is one option. Alternatively, the County can explore the possibility that there was a mistake when the properties, in their entirety, were designated as RCA. The applicant has stated that preliminary investigation indicates that mapping mistake correction criteria could not be met for the site. Pending further investigation into the mapping mistake option, it appears that a growth allocation would provide the opportunity for the Aspen Institute to expand as proposed.

Critical Area Commission staff has the following comments regarding the proposed development on the site.

1. The Wildlife and Habitat Services of DNR stated in a letter from 2003, that there are records of multiple sensitive species habitat areas on this site. An updated review by Wildlife and Habitat Services is required for the current proposal. The applicant must comply with all requirements for development in sensitive species habitat areas as required by DNR. Please have the applicant contact DNR Wildlife and Habitat Services to discuss an updated review and requirements in relation to the current proposal, and forward a copy of the letter from DNR to this office when it is available. The proposed trail should at a minimum, be removed from the protection zone of the heron rookery and bald eagle sites.
2. Queen Anne's County Code §14:1-39.B(3)(e) states that certain nonresidential uses may be permitted in resource conservation areas if it is first determined by the Department that the proposed use is one listed in that section, of which the following are included: [11] The proposed use is a public beach or other public water-oriented recreation or education use or activity, including but not limited to publicly owned boat launching and docking facilities and fishing piers. These uses may be permitted in the Buffer. [12] The proposed use is a community marina or other noncommercial boat docking and storage facility. As long as the proposed trail and boat landing areas conform to these descriptions, they are allowed in the RCA. The majority of the proposed trail system does not enter the 100-foot Buffer. The area of disturbance for the creation of the trail outside of the 100-foot Buffer will require mitigation at a 1:1 ratio. Single perpendicular points of access through the Buffer should be used to access the proposed kayak landings. Storage for equipment or other facilities associated with the landings cannot be placed

within the Buffer. Please inform the applicant that permits from Maryland Department of the Environment will be required for construction of the proposed landings where development is proposed channelward of mean high water. The circular scenic overlook on the plans should be removed from the Buffer, or at a minimum the size should be reduced as much as possible to avoid Buffer impacts. Tree removal for the trail does not appear to be necessary and therefore should not be proposed, due to the extensive area outside of the small amount of remaining forest on the site. Mitigation must be provided for the portions of the trail within the 100-foot Buffer at a 3:1 ratio. Mitigation plantings for Buffer impacts should be placed within the Buffer on the site.

3. The proposed pavilion building is located completely outside of the 100-foot Buffer on the plans, but should not be directly adjacent to the 100-foot Buffer, as construction and ongoing use of the building will result in impacts to the Buffer area adjacent to the building. Please have the applicant designate a disturbance area surrounding the building, outside of which there will be no equipment maneuvering, staging, stockpiling or other construction activity. Additionally, Queen Anne's County Code § 14:1-52 requires expansion of the 100-foot Buffer to include sensitive areas whose disturbance may adversely affect streams, wetlands or other aquatic environments. Sensitive areas include slopes greater than 15%. If there are slopes greater than 15% on the site, the Buffer must be expanded according to County Code §14:1-52.C, and the proposed disturbance area must be located outside of the expanded Buffer.

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 452-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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August 10, 2007

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

**Re: 02-07-07-0017-C, Anthony lot reconfiguration
Tax Map 9, Parcels 149 and 150**

Dear Ms. Fabi:

Thank you for providing information on the above referenced proposal. The applicant proposes to reconfigure two lots by combining them into a single lot. There are an existing house and associated accessory structures on the site. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on the new lot, this office does not oppose the reconfiguration.

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 463-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 10, 2007

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

**Re: 07-07-07-0018-C, Wieneke lot reconfiguration, Mount Chase LLC
Tax Map 4, Parcel 76, Lots 5, 6 and 7 – Block E**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced proposal. The applicant proposes to reconfigure three lots by combining them into a single lot. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on the new lot, this office does not oppose the reconfiguration, however, the following comment is offered in response to the proposal.

According to available records, the site does not have access to a public sanitary sewer line. It appears that the applicant also owns the adjacent lots. Due to potential size and dimensional limitations and the necessity for a sewerage reserve area, combining the proposed new lot with additional adjacent property also owned by the applicant is recommended. This office strongly encourages the County to pursue the creation/reconfiguration/consolidation of lots that can accommodate a dwelling as well as the normally desired amenities such as a deck, shed, garage and patio. The purpose of this recommendation is to promote the creation of new building sites that can be reasonably developed without the need for variances to requirements such as impervious surface limit or forest cover.

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 464-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 9, 2007

C/O Carrie Lhotsky, Program Manager
James W. Price, Director
Program Open Space
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

**RE: DNR Clearinghouse Review of Local POS/PPP Project # 5141-17-144;
Kent Island Elementary School Playground**

Dear Mr. Price:

Thank you for providing information on the above referenced project. The Critical Area Commission staff has reviewed the proposed playground equipment project. The subject site is within the LDA (Limited Development Area) of the Chesapeake Bay Critical Area. The Kent Island Elementary School is currently proposed for renovation, for which the Wildlife and Heritage Service of DNR responded with concerns about a sensitive species that could potentially be affected by development activity on this site. Please see the attached letter from Lori Byrne of DNR, and contact her if there are any questions concerning potential related restrictions on the playground equipment project. The Critical Area Commission staff has no further comments, as we have reviewed the plans and find them to be consistent with the local Critical Area Program.

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
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Ren Serey
Executive Director

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August 9, 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: Creekside at Public Landing Subdivision

Dear Ms. Davis:

Thank you for submitting the revised subdivision plan for the above referenced project. I have reviewed the resubmitted information and have the following comments:

1. The Worcester County Code § NR 3-108(c)(3) requires that the proposal meet the minimum density standards of one dwelling per 20 acres. The proposed subdivision would create a 2.85 acre lot. The plat note states that 17.15 acres of the parent tract will be reserved for this purpose. The note should include a statement that the 17.15 acres must be retained in open space to meet the density requirement of Lot 1, and such open space shall not be located within the boundary of any other lot. As long as it ensures that density is met for the site with any future subdivision or development, the use of a plat note as described above is acceptable.
2. As stated in the previous letter from this office, if development is proposed on the remaining portion of the parent parcel, all requirements of the Worcester County Critical Area Program for development in the RCA must be met.
3. We recommend that future lots in the RCA be clustered.

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

Sincerely,

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

Marshall Johnson
Natural Resources Planner
cc: WC 139-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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August 7, 2007

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

RE: Brittany Quarters Subdivision

Dear Ms. Bynum:

Thank you for providing information on the above referenced proposal. This approximately 29.55 acre site includes 20.28 acres within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area. The applicant proposes to create 68 residential lots, 43 of which are within the Critical Area. I have provided Commission staff comments below.

1. The June 4, 2007 letter from the DNR Wildlife and Heritage Service indicates the applicant to the presence of a rare species Habitat Protection Area within or near the site. Also, the site is potentially a Forest Interior Dwelling Bird habitat. The applicant must address the concerns and implement any applicable guidelines or project design requirements referenced in this letter. Coordination with DNR may be necessary if appropriate habitat exist on site.
2. There are steep slopes and highly erodible soils on this site for which the 100-foot Buffer must be expanded. Harford County BZA case # 4197 approved impacts in the 100-foot expanded Buffer subject to conditions and based on Exhibit number 19 associated with that BZA case. This office does not have a readable copy of the BZA case exhibit showing the approved disturbance area in the expanded Buffer. The County has attested in a letter dated May 5, 2006, that a formerly approved subdivision on this site from 1992 showed a location of expanded Buffer that reflected the approval of BZA 4197. However, no copy of Exhibit 19 from the BZA case was submitted to this office. The approval granted in BZA 4197 approved disturbance within the Buffer, not a revised location for the expanded Buffer. For consistency with the BZA approval, the complete Critical Area 100-foot Buffer must be shown on all plan sets for this project expanded as required by COMAR 27.01.09.01.C (7) and the Harford County Code. Then, the specifically approved development disturbance area within the expanded Buffer

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should be shown on the plans within a designated area delineated and labeled as "Disturbance Area Within Expanded 100-foot Buffer as approved by Harford County BZA case 4197." The plans must show that proposed Buffer impacts match those documented as the area approved by BZA case 4197. The County should ensure that the BZA 4197 approval from 1991 is still legally valid, and that the impact to the expanded Buffer approved by that case is accurately reflected on the current plans. If either of these stipulations are not the case, we do not recommend approval of the plans as submitted.

3. Mitigation for Buffer impacts must be calculated at a ratio of 3:1 based on the area delineated as explained above. The Buffer Management Plan submitted indicates that a fee in lieu will be used to meet the Buffer planting requirement. Allowing the applicant to pay a fee in lieu instead of planting is only acceptable once the applicant has shown that the higher priority planting location options are infeasible. The order of preference is as follows:
 1. On-site within the Buffer
 2. On-site adjacent to existing Buffer,
 3. On-site within the Critical Area,
 4. Off-site (follow order of preference of 1-3),
 5. Fee in lieu payment.
4. The applicant has submitted the 10% calculations including the off-site stormwater input which is required as a condition of approval of the Board of Appeals Case 4197. No credit can be included in the 10% calculations for this off-site stormwater management because its treatment was required as a condition of approval for a variance. The amount of impervious surface claimed for development on the lots should document actual proposed development coverage for the lots. Please have the applicant address the guidelines for calculating impervious surface in the Critical Area Commission 10% Stormwater Manual, Section 4.0, particularly documenting how the impervious area is calculated for what is proposed to be built on the lots. If changes are necessary to the 10% Worksheet A, please forward a copy of the revised worksheet to this office.
5. The proposed stormwater facilities claim credit for a surface sand filter; however, the plans show two facilities labeled as SWM Ponds. If a surface sand filter is proposed, the plans should show that the specifications and criteria of the MDE Stormwater Manual section 3.4 for this type of BMP are met, including Figure 3.12. In this case, please have the applicant address the criteria of Section 3.4. If SWM ponds are proposed, the 10% calculations should be corrected and resubmitted, and the plans must reflect compliance with Section 3.1 of the MDE manual. The applicant should ensure prior to plat approval, that the proposed stormwater BMP is feasible and will be accurately designed to meet MDE stormwater manual and Critical Area Commission 10% pollutant removal manual requirements. Until this information has been provided, the 10% calculations are not complete.

6. 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.

7. Although the 10% calculations were submitted, we are concerned about the long term viability of the stormwater system proposed. We continue to strongly recommend the applicant consider alternative measures. The plans submitted show an outfall from "SWM Pond No 2" within the Buffer of a non-tidal wetland, and vegetation clearing within the wetland. There may be impact to the wetland from discharging stormwater onto this steep slope and any highly erodible soils. Please also note that the proposed surface sand filters require frequent maintenance to prevent clogging, particularly for sites such as this one where the drainage area is larger than ten acres and the filter drains pervious surfaces (see Critical Area Commission 10% Manual page E-36). A failed system with conditions of steep slopes and highly erodible soils would be of particular concern for human safety, wildlife habitat and water quality conservation. The applicant should submit documentation of how the limitations of the proposed stormwater management system will be addressed.

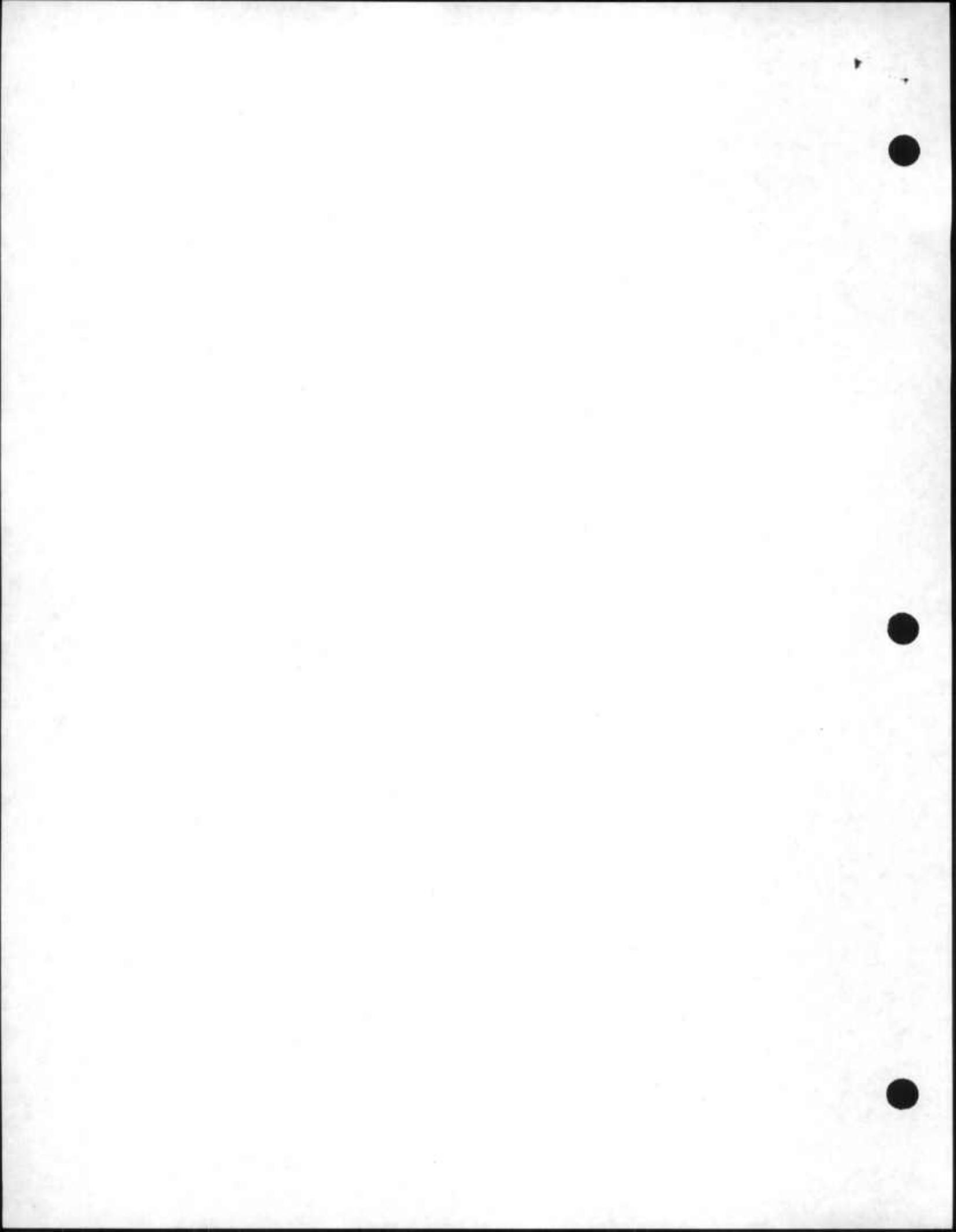
Thank you for the opportunity to provide comments on this proposal. If you have any additional questions please contact me at 410-260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: HC 788-05



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

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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August 2, 2007

C/O Carrie Lhotsky, Program Manager
James W. Price, Director
Program Open Space
Tawes State Office Building
580 Taylor Avenue, E-4
Annapolis, MD 21401

**RE: POS/CPP Project # 5130-5-145 – Playground Equipment Installation
Marina Park, Caroline County**

Dear Mr. Price:

Thank you for providing information on the above referenced project. The Critical Area Commission staff has reviewed the proposed playground equipment project. The subject site is within the RCA (Resource Conservation Area) of the Chesapeake Bay Critical Area and the equipment appears to be proposed within the 100-foot Critical Area Buffer.

As stated in the letter from this office dated August 22, 2006 regarding playground equipment proposed for Marina Park, any development activity proposed in the Critical Area must meet all requirements of the Town's Ordinance and COMAR, including the policies and criteria for habitat protection areas in COMAR 27.01.09. As proposed, the playground equipment project is not consistent with COMAR or the Town's Ordinance because it is proposed in the RCA and the 100-foot Buffer. Therefore, we recommend that funding for this project should be contingent on approval of the project by the Critical Area Commission, or that the playground equipment be located outside of the 100-foot Buffer.

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

Sincerely,

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

Marshall Johnson
Critical Area Commission, Natural Resources Planner

cc: George Mayer, Town of Federalsburg
Roby Hurley, MDP Circuit Rider



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 2, 2007

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James W. Price, Director
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Tawes State Office Building
580 Taylor Avenue, E-4
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If you have any questions about this information, please contact me at 410-260-3479.

Sincerely,

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

Marshall Johnson
Critical Area Commission, Natural Resources Planner

cc: George Mayer, Town of Federalsburg
Roby Hurley, MDP Circuit Rider



Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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Ren Serey
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August 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

Dear Ms. Fabi:

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 most recent information provided by the applicant's representative is that the applicant has proposed to meet the 15% afforestation requirement by planting trees on a school owned property on the opposite side of the adjacent creek from the project site, and the plantings to meet the requirement will be outside of existing Buffers. Based on this information, this office has no further comment. Please note however, that the County requires 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 to Critical Area Commission staff (per County §14:1-54).

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: QC 97-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 31, 2007

Reggie Graves
MDE
Water Management Administration
1800 Washington Blvd
Baltimore, MD 21230

RE: 200762515/07-WL-1698
Chesterhaven Beach erosion control and pier

Dear Mr. Graves:

Thank you for providing information on the above referenced application. The site is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant proposes to construct a pier and shoreline erosion control measures. Any development or disturbance on this property above mean high water and in the Critical Area requires compliance with the County Critical Area Program and COMAR Title 27. In this case, the fill and potentially grading for the erosion control may impact Buffer vegetation. Any vegetation removed or other development disturbance for the erosion control portion of the project must be mitigated at a ratio of 1:1. Any permanent disturbance for an access way through the Buffer to the pier must be mitigated at a ratio of 2:1 for permanent disturbance in the Buffer. Plantings should consist of native trees and shrubs planted in the Buffer on site. Our records indicate that the project site may be within a sensitive species project area. Please contact Lori Byrne with the DNR Wildlife and Heritage Service at 410-260-8573 to determine if there are additional requirements for sensitive species protection. 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: Cathy Maxwell, Queen Anne's County Dept. of Planning and Zoning



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
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Ren Serey
Executive Director

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July 31, 2007

Reggie Graves
MDE
Water Management Administration
1800 Washington Blvd
Baltimore, MD 21230

RE: 200762299/07-WL-1587
Mike and Polly Irons erosion control and pier

Dear Mr. Graves:

Thank you for providing information on the above referenced application. The lot is located within the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The applicant proposes to construct a pier. There are also proposed shoreline erosion control measures channelward of mean high water. It appears that there is an accessway to the pier proposed on this property above mean high water. Any development or disturbance on this property above mean high water in the Critical Area requires compliance with the County Critical Area Program. In this case, the permanent access/walkway to the pier in the 100-foot Critical Area Buffer requires mitigation at a ratio of 2:1 for the permanent Buffer disturbance. Plantings should consist of native trees and shrubs planted in the Buffer on site. 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: Cathy Maxwell, Queen Anne's County Dept. of Planning and Zoning



Martin O'Malley
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July 31, 2007

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

**Re: 07-07-07-0008-C, Mount Chase LLC lot reconfiguration
Tax Map 4, Parcel 76, Lots 12 and 13**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced proposal. The applicant proposes to reconfigure two lots by combining them into a single lot. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on the new lot, this office does not oppose the reconfiguration; however, the following comment is offered in response to the proposal.

According to available records, the site does not have access to a public sanitary sewer line. It appears that the applicant also owns the adjacent lot (Lot 14). Due to potential size and dimensional limitations and the necessity for a sewerage reserve area, combining the proposed new lot with additional adjacent property also owned by the applicant is recommended. This office strongly encourages the County to pursue the creation/reconfiguration/consolidation of lots that can accommodate a dwelling as well as the normally desired amenities such as a deck, shed, garage and patio. The purpose of this recommendation is to promote the creation of new building sites that can be reasonably developed without the need for variances to requirements such as impervious surface limit or forest cover.

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 433-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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July 31, 2007

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

**Re: 07-07-07-0009-C, Mount Chase LLC lot reconfiguration
Tax Map 4, Parcel 76, Lots 1, 2, 3 and 4**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced proposal. The applicant proposes to reconfigure four lots by combining them into a single lot. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on the new lot, this office does not oppose the reconfiguration, however, the following comment is offered in response to the proposal.

According to available records, the site does not have access to a public sanitary sewer line. It appears that the applicant also owns the adjacent lots (Lot 5, 6, and 7). Due to potential size and dimensional limitations and the necessity for a sewerage reserve area, combining the proposed new lot with additional adjacent property also owned by the applicant is recommended. This office strongly encourages the County to pursue the creation/reconfiguration/consolidation of lots that can accommodate a dwelling as well as the normally desired amenities such as a deck, shed, garage and patio. The purpose of this recommendation is to promote the creation of new building sites that can be reasonably developed without the need for variances to requirements such as impervious surface limit or forest cover.

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 be "M. Johnson".

Marshall Johnson
Natural Resources Planner

cc: QC 434-07



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July 30, 2007

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

RE: Hardwire LLC Site Plan, Pocomoke City

Dear Mr. Blake:

A representative for the developer of the Hardwire LLC project in Pocomoke City has provided copies of the site plan to this office for our review and comments. As you are aware, this site is within the portion of the City that was granted an exclusion from the Critical Area requirements. However, as established by Resolution 174 signed in 1988, development within 1,000 feet of the Pocomoke River or its wetlands must comply with the Critical Area Criteria insofar as possible whenever redevelopment occurs.

We have reviewed the information provided. It is our understanding that the site would likely be considered an Intensely Developed Area, based on the conditions that existed as of 1985. The primary Critical Area concerns are the 100-foot Buffer and stormwater treatment (i.e., the 10% pollutant reduction requirement). The site fronts on the Pocomoke River, and the 100-foot Critical Area Buffer extends onto the property 100 feet landward of the field delineated mean high water line.

Development Disturbance in the Buffer

One of the primary goals of the Critical Area law is protection of the 100-foot Critical Area Buffer and its functions which promote wildlife habitat conservation and improved water quality. This goal is achieved by preserving, or when necessary establishing, a minimum 100-foot Buffer naturally vegetated with native trees, shrubs and ground cover. Ideally, all development on this site would be outside of the 100-foot Buffer of the Pocomoke River. The submitted plans show a proposed building, walkway and barge dock accessway and two stormwater outfalls within the 100-foot Buffer. The applicant has indicated that all structures will be located and designed to comply with the Critical Area regulations in so far as possible to maintain use of the facility.

The primary structure shown on the plans is a 58,500 square foot manufacturing building, proposed to be located partially within 60 feet of mean high water. The applicant stated that this is the farthest location from the river possible without compromising the truck maneuverability for the facility. The applicant has proposed to locate parking areas and other structures outside of the 100-foot Buffer, except as described above.

TTY for the Deaf

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

The 10-foot wide walkway shown on the plans runs parallel to the river within the Buffer. Access through the Buffer is generally allowed as a three-foot wide, pervious path running perpendicular to the river. In this case, the proposed path is not in compliance with the Critical Area criteria and should be removed from the plans. However, if the path is necessary for water dependent functions of the facility, such as access to the barge docking, then it would fall under the same criteria for minimizing adverse effects on water quality and fish, plant, and wildlife habitat as the barge dock accessway below. In this case, alternatives for construction of the walkway must be examined to show that it is designed to minimize impacts to the Buffer. Design options include a much narrower width, pervious surface, and locating the path close to the building.

Water Dependent Facilities in the Buffer

Under the Code of Maryland Regulations (COMAR) 27.01.03.03 any portion of the proposed barge dock structure placed above mean high water would fall under regulations for Water Dependent Facilities. It would be permitted in the Buffer provided that it can be shown that adverse effects on water quality and fish, plant, and wildlife habitat are minimized. The dock accessway is shown above mean high water on the plans submitted. The applicant has proposed to construct the accessway using a porous pavement. COMAR 27.01.03.03 also states that insofar as possible, the non water-dependent structures and operations associated with water-dependent activities, such as the manufacturing facility and parking lot, should be located outside the Buffer. The applicant has addressed this part of the criteria as described in the paragraphs above.

Stormwater Management

Stormwater management on sites within the Intensely Developed Area must address the Critical Area 10% pollutant reduction requirement. The site plans show stormwater treatment facilities labeled as bioretention trenches. Please clarify whether the proposal is for filtration trenches or bioretention, based on the standards of the Maryland Department of the Environment (MDE) 2000 Maryland Stormwater Design Manual. If a bioretention system is proposed the system must include specifications from Section 3.4, including a perforated under drain pipe and appropriate landscaping, which is critical to the performance and function of bioretention areas. Grass, as proposed on the plan is not adequate in this case. A landscaping plan would need to be provided per the guidance in Appendix-A of the MDE manual. Alternatively, if an infiltration system is to be used, the plans must meet specifications of Section 3.3 of the MDE Manual, including documentation of appropriate soils and drainage.

For either method, the system should be adequate to treat the stormwater from the site as appropriate for the Critical Area Commission's 10% pollutant removal requirement, based on the submitted pre-development plan showing 6.86 acres of impervious area on this 9.28 acre site. Since the figures show that the site is covered in a large percentage of impervious surface, and the proposal would reduce some of that impervious surface coverage, the pollutant removal requirement for the proposed redevelopment is relatively small, approximately 0.4 lbs/yr of Phosphorous. An infiltration trench system or biofiltration system should remove several times that requirement.

Naturally Vegetated Buffer

Mitigation for unavoidable addition of impervious surface in the 100-foot Buffer would typically be required at a 3:1 area ratio, with plantings installed by the applicant on-site in the Buffer (using the planting standard described below). The applicant has proposed to provide a filter strip by vegetating a portion of the Buffer along the bank of the river. The plans submitted show that the filter strips would be planted with pampas grass and wildflowers. Pampas grass is not a native Maryland plant, and is potentially an invasive species, which should not be planted in the Critical Area.

Since the applicant is providing several times more stormwater pollutant removal than necessary through a bioretention system, and portions of the Buffer will remain impervious, the need for Buffer vegetation to filter pollutants from stormwater is reduced. Therefore, it would be acceptable not to require vegetation of the entire 100-foot Buffer with native trees and shrubs. Instead, we recommend that a reduced width, such as that of the planting strips shown in the Buffer on the submitted plans, should be planted with native trees and shrubs. The plantings should be at a density high enough to provide an effective Buffer between the proposed development and the water. Typically Buffer plantings are required at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer area. If the applicant is not able to provide plantings at this density, a lesser density of trees and shrubs combined with native grasses and herbaceous plantings would be the next most appropriate option. Because typical lawn areas require a great deal of maintenance involving physical disturbance and chemical pollutants that have a negative impact on water quality, lawn should not be placed in the Buffer. We recommend that the remaining Buffer area currently labeled for "grassed area" should be planted with native plants, which could include warm season grasses and wildflowers. Mowing in the Buffer is not allowed, except where a Buffer management plan indicates that a meadow vegetation community will be maintained by mowing no more than twice per year.

Summary

The Critical Area Commission staff recommends that the applicant modify the plan elements as described in this letter in order to comply with the Critical Area requirements in so far as possible.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: PO 440-07; Matthew Drew, AWB Engineers; Jerry Redden, Worcester County



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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July 30, 2007

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

RE: Hardwire LLC Site Plan, Pocomoke City

Dear Mr. Blake:

A representative for the developer of the Hardwire LLC project in Pocomoke City has provided copies of the site plan to this office for our review and comments. As you are aware, this site is within the portion of the City that was granted an exclusion from the Critical Area requirements. However, as established by Resolution 174 signed in 1988, development within 1,000 feet of the Pocomoke River or its wetlands must comply with the Critical Area Criteria insofar as possible whenever redevelopment occurs.

We have reviewed the information provided. It is our understanding that the site would likely be considered an Intensely Developed Area, based on the conditions that existed as of 1985. The primary Critical Area concerns are the 100-foot Buffer and stormwater treatment (i.e., the 10% pollutant reduction requirement). The site fronts on the Pocomoke River, and the 100-foot Critical Area Buffer extends onto the property 100 feet landward of the field delineated mean high water line.

Development Disturbance in the Buffer

One of the primary goals of the Critical Area law is protection of the 100-foot Critical Area Buffer and its functions which promote wildlife habitat conservation and improved water quality. This goal is achieved by preserving, or when necessary establishing, a minimum 100-foot Buffer naturally vegetated with native trees, shrubs and ground cover. Ideally, all development on this site would be outside of the 100-foot Buffer of the Pocomoke River. The submitted plans show a proposed building, walkway and barge dock accessway and two stormwater outfalls within the 100-foot Buffer. The applicant has indicated that all structures will be located and designed to comply with the Critical Area regulations in so far as possible to maintain use of the facility.

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TTY for the Deaf

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

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Stormwater Management

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For either method, the system should be adequate to treat the stormwater from the site as appropriate for the Critical Area Commission's 10% pollutant removal requirement, based on the submitted pre-development plan showing 6.86 acres of impervious area on this 9.28 acre site. Since the figures show that the site is covered in a large percentage of impervious surface, and the proposal would reduce some of that impervious surface coverage, the pollutant removal requirement for the proposed redevelopment is relatively small, approximately 0.4 lbs/yr of Phosphorous. An infiltration trench system or biofiltration system should remove several times that requirement.

Naturally Vegetated Buffer

Mitigation for unavoidable addition of impervious surface in the 100-foot Buffer would typically be required at a 3:1 area ratio, with plantings installed by the applicant on-site in the Buffer (using the planting standard described below). The applicant has proposed to provide a filter strip by vegetating a portion of the Buffer along the bank of the river. The plans submitted show that the filter strips would be planted with pampas grass and wildflowers. Pampas grass is not a native Maryland plant, and is potentially an invasive species, which should not be planted in the Critical Area.

Since the applicant is providing several times more stormwater pollutant removal than necessary through a bioretention system, and portions of the Buffer will remain impervious, the need for Buffer vegetation to filter pollutants from stormwater is reduced. Therefore, it would be acceptable not to require vegetation of the entire 100-foot Buffer with native trees and shrubs. Instead, we recommend that a reduced width, such as that of the planting strips shown in the Buffer on the submitted plans, should be planted with native trees and shrubs. The plantings should be at a density high enough to provide an effective Buffer between the proposed development and the water. Typically Buffer plantings are required at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer area. If the applicant is not able to provide plantings at this density, a lesser density of trees and shrubs combined with native grasses and herbaceous plantings would be the next most appropriate option. Because typical lawn areas require a great deal of maintenance involving physical disturbance and chemical pollutants that have a negative impact on water quality, lawn should not be placed in the Buffer. We recommend that the remaining Buffer area currently labeled for "grassed area" should be planted with native plants, which could include warm season grasses and wildflowers. Mowing in the Buffer is not allowed, except where a Buffer management plan indicates that a meadow vegetation community will be maintained by mowing no more than twice per year.

Summary

The Critical Area Commission staff recommends that the applicant modify the plan elements as described in this letter in order to comply with the Critical Area requirements in so far as possible.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: PO 440-07; Matthew Drew, AWB Engineers; Jerry Redden, 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

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

July 27, 2007

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

**Re: 04-07-07-0004-C, Quandt lot reconfiguration
Tax Map 70, Parcel 99, Lots 29, 30, 31 and 32**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced proposal. The survey plan and application form submitted do not show the correct road name to match these lots. The applicant proposes to reconfigure four lots. What appears to be half of Lot 29 is included in this proposal, and will be divided evenly among Lots 30, 31 and 32. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on these lots, this office has no comment on the proposed reconfiguration.

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 430-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 27, 2007

Ms. Jennifer Jackson-Rhodes
Queen Anne's County
Department of Planning and Zoning
160 Coursevall Drive
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Thank you for the opportunity to comment. Please contact me at (410) 260-3479 if you have any questions.

Sincerely,

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Marshall Johnson
Natural Resources Planner

cc: QC 430-07



Martin O'Malley
Governor



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July 27, 2007

Mr. Kevin Clark
Caroline County Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

**Re: Minamoto lot reconfiguration
Tax Map 100, Parcels 28, 346 and 352**

Dear Mr. Clark:

Thank you for providing information on the above referenced proposal. The applicant proposes to reconfigure three lots by reconfiguring lot lines. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on the new lot, this office has no comment on the proposed reconfiguration.

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: CR 439-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 27, 2007

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

**Re: 04-07-07-0004-C, Quandt lot reconfiguration
Tax Map 70, Parcel 99, Lots 29, 30, 31 and 32**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced proposal. The survey plan and application form submitted do not show the correct road name to match these lots. The applicant proposes to reconfigure four lots. What appears to be half of Lot 29 is included in this proposal, and will be divided evenly among Lots 30, 31 and 32. Provided that no nonconformities are created and that all LDA development requirements are addressed with any development activity on these lots, this office has no comment on the proposed reconfiguration.

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 430-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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July 25, 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 issues regarding the 10% pollutant removal requirements and proposed stormwater management system for this project have been addressed and this office has no further comments. 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 blue ink, appearing to read "Marshall Johnson".

Marshall Johnson
Natural Resources Planner

cc: QC 5-07

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
Chair

Ren Serey
Executive Director

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July 25, 2007

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

**RE: CU-060007; 385 Hemsley Drive
Michael Simpson**

Dear Ms. Maxwell:

Thank you for providing information on the above referenced application for a pier extension. 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 an extension to an existing pier. Please note that the applicant should apply for review by the Maryland Department of the Environment for proposed pier work. It appears that there is not activity proposed on this property above mean high water; therefore we have no comments on the request. However, please note that any development or disturbance on this property above mean high water in the Critical Area requires compliance with the County Critical Area Program. 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

QC 432-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
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July 25, 2007

Thomas L. Riddlerberger, Mayor
Town of Greensboro
PO Box 340
Greensboro, MD 21639

RE: Town of Greensboro – Growth Allocation Text Amendments

Dear Mr. Riddleberger:

On July 11, 2007, representatives of the Town of Greensboro appeared before the Program Subcommittee of the Critical Area Commission to discuss a proposal for amendments to the growth allocation provisions of the zoning ordinance to address the use of growth allocation for projects such as Greensboro Farms. As you know, the Town asserted that strict application of the adjacency guidelines would hinder effective implementation of the Town's comprehensive plan and the desire of Town officials to accommodate residential and commercial growth that is consistent with the prevailing character of the Town. The Town also suggested that in certain situations, alternative provisions can accomplish the planning goals of the locational guidelines and meet the spirit and intent of the Critical Area law and Criteria. Commission staff reviewed a prior draft of the proposed ordinance provisions this spring and provided comments to the Town. In response to staff's comments, the Town made additional revisions. The Town requested comments from the Program Subcommittee on their proposal as set forth in the following document, *Town of Greensboro, Proposed Zoning Ordinance Amendments, REVISED DRAFT 6/18/07*. The purpose of this letter is to summarize the discussion of the Program Subcommittee on July 11, 2007.

The Subcommittee discussion resulted in a determination that the proposed language for Town Code section 159-49.H.1.b for addressing situations in which alternative application of the adjacency provisions is appropriate with the changes noted below. The Subcommittee recommended that the last sentence of the proposed language be removed because it could be confusing and create inconsistencies with the provisions regarding the original mapping standards. The Subcommittee believed that deleting this sentence would not necessarily restrict the Town's application of the provisions as may be necessary to address specific proposals within the Town. The following language was determined to be acceptable:

b. Application of Adjacency Guidelines. If because of an irregularity in the Town's boundary or an unusual configuration of the Critical Area boundary of the lands proposed for growth allocation, the Town Commissioners, upon recommendation of the Planning Commission, find that strict application of guidelines in subsections H.1.a.(1) or H.1.a.(2) of this Section is impracticable, the use of growth allocation may be approved if:

- (1) The land proposed for growth allocation is located within the boundaries of the municipality;
- (1) The location of the growth allocation is consistent with the Town's current comprehensive plan;
- (3) The development plan for the growth allocation land requires a buffer between new IDAs and existing RCAs, and between new LDAs and existing RCAs as follows:
 - (i) *Where land proposed for reclassification to IDA or LDA abuts land in the RCA, except as provided in subsection b.(3)(ii) the development plan for the land proposed for reclassification to IDA or LDA will provide for a forested buffer within the land proposed for reclassification to IDA or LDA along its common boundary with existing RCA classified land. The forested buffer shall be 100 feet wide, except that if the width of the land proposed for reclassification to IDA or LDA is less than 100 feet wide the forested buffer shall extend the entire width of the land proposed for reclassification.*
 - (ii) *Where land proposed for reclassification to IDA or LDA abuts land in the RCA that is not characterized by nature-dominated environments such as wetlands, forests or abandoned fields or by resource-utilization activities such as agriculture, forestry, fisheries activities or aquaculture, or where the application of the forested buffer provided for in subsection b.(3)(ii) would result in the creation of less than 40,000 square feet of new forested land, the development plan for the growth allocation land will provide for a 25 foot wide vegetated buffer within the land proposed for reclassification to IDA or LDA along its common boundary with the existing RCA classified land. ~~Land that is used for a road, for a cemetery, or for residential purposes at a density greater than 1 dwelling unit per 5 acres of land is not characterized by nature-dominated environments or resource-utilization activities.~~*

The Subcommittee also discussed the Town's proposal to use growth allocation for the Greensboro Farms Project. The Greensboro Farms Project involves the development of a

mixed-use project on 168 acres. The project will include approximately 24 acres of commercial development and 232 single-family residential lots. There are approximately 12 acres within the Critical Area.

The Subcommittee reviewed the plans dated July 11, 2007 and acknowledged that because of the configuration of the property and the location for the Critical Area boundary, it was difficult to apply the adjacency guidelines as set forth in the amended law. In reviewing the project relative to the Town's proposed amendments to the growth allocation provisions of the zoning ordinance, the Subcommittee agreed with the Town that on this site, the alternative provisions could accomplish the planning goals of the locational guidelines and meet the spirit and intent of the Critical Area law and Criteria. The Subcommittee also stated that for the purposes of evaluating this specific project, the provisions allowing the use of a 25-foot vegetated buffer as a protective measure between the new IDA and existing RCA would be appropriate and could be supported. The Subcommittee emphasized to the Town that the growth allocation request must comply with all other applicable standards for growth allocation applications and that appropriate documentation will need to be submitted with the growth allocation request.

Thank you for sending representatives to participate in the Program Subcommittee discussion on July 11, 2007. If you have any questions, please feel free to call me at (410) 260-3479.

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: Roby Hurley, MDP
David Kibler, Town Manager
Mary Owens, CAC



FAX

Date: July 24, 2007

To: Janet Davis, Worcester County

From: Marshall Johnson, Critical Area Commission

**RE: M55 P22 Rezoning - Case No. 389
Holly Farms**

I apologize for the late replay to your request for comments. As you mentioned in your notice, I already received a copy of the request directly from Ms. Wimbrow and responded to her on July 5, 2007. I am faxing a copy of that response to you in case you need it for your files as well.

Thanks



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 23, 2007

Mr. William Etheridge
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: 2007-0166 V; 358 Hickory Point Lane
Sheila Chambers**

Dear Mr. Etheridge:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a deck and fill (sand) over existing lawn within the 100-foot Buffer. The property is a 0.45 acre lot located within the Limited Development Area (LDA) and is within a Buffer Modification Area. The property is currently developed with a single family dwelling, timber bulkhead, pier and detached shed. There is also a brick patio to the rear of the house and lawn yard between the house and the waterside. A paved walkway provides access through the Buffer to access the pier. The shed is a grandfathered structure within the Buffer. The applicant seeks after-the-fact approval of a wooden deck attached to the existing shed, and to retain sand fill over the lawn in the Buffer directly adjacent to the waterside.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Hearing Officer must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicant is requesting a variance to allow a deck and sand fill within the Buffer adjacent to the bulk headed water edge. I understand that this variance is requested after the fact. The fill has been placed in the Buffer as a sandy beach-like area, and the deck has already been constructed. Both are currently in use by the residents. Anne Arundel County Code Section 17-8-703(b) states that development within the buffer modification area is prohibited unless there is no reasonable alternative

available. According to the applicant's narrative, the purpose of the deck and sand is to allow the applicants to sit by and enjoy the water. The property has a patio, lawn yard area, walkway and pier which provide reasonable alternatives for the applicant to sit by and enjoy the water; therefore, Section 17-8-703(b) prohibits the deck and sand fill as development in the Buffer for which there is a reasonable alternative.

The variance to the expanded 100-foot Buffer cannot be granted unless the applicant proves, and the hearing examiner 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 County's variance standards below as it pertains to this site:

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

Currently, the lot is developed with a single family home, patio and a shed between the house and the waterside. The intent of the flexibility provided by the Buffer Modification Area designation is to recognize that the existing pattern of development may prevent the Buffer from fulfilling its function. However, development within the buffer modification area is prohibited unless there is no reasonable alternative available. The construction of the deck and sand fill, does not comply with the Buffer Modification Area standards. 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 applicant has use of the patio, walkway, pier, shed and lawn yard already in the Buffer. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the sand fill and deck.

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 including a patio, lawn yard area, shed and walkway in the Buffer as well as a pier, and therefore, would not be denied a right commonly enjoyed by neighboring properties. From a review of the application we believe that there is opportunity to enjoy the property and sit by the water in a manner that meets the Buffer regulations and remains consistent with the Anne Arundel County Critical Area Regulations. No one has the right to construct a new deck and sand fill area in the Buffer. Therefore, denial of a variance for the accessory structure (deck) and sand fill area would not deny the applicant a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the Buffer in a Buffer Modification Area beyond what has been established as law by the County would confer a special privilege on the applicant (Section 17-8-702(b)(1)). The

applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

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

In contrast, the need for a variance to allow the deck and sand fill beach area is directly the result of the applicant's action because they have already been constructed by the applicant. The lot is located in a Buffer Modification Area. The Buffer Modification Area recognizes that the existing level of development prevents the Buffer from fulfilling all of its functions, and thus allows for redevelopment activities to take place. However, it prevents further degradation to the Buffer by prohibiting new development.

5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.

In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. New development in the Buffer and consequential disturbance to the land results in lost habitat value and less biofiltration of stormwater by vegetation. While the lot is grandfathered and in a Buffer Modification Area, Anne Arundel County Code Section 17-8-703(b) states that development within the buffer modification area is prohibited unless there is no reasonable alternative available. Given that the applicant can adequately enjoy outdoor activities without the addition of a deck and sand in the Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

The application materials describe the impaired medical condition of the applicant's father. State law requires jurisdictions to develop formal Critical Area Program standards to evaluate claims of disabilities and establish appropriate accommodations during the course of the particular disability. Anne Arundel County has not developed the standards necessary to evaluate the applicant's case properly. The absence of these standards requires the use of the variance provisions in situations where they do not easily apply. Here, the desire to allow the applicant's father to access and enjoy the shoreline must be separated from the more intense recreational use clearly indicated by the attached photographs. Any accommodation that the Hearing Officer determines as necessary and appropriate should be limited to the needs of the applicant's father and a care-giver, and not designed to allow general development of the shoreline that undermines the water quality and habitat functions of the Buffer.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the application for variance to the Buffer. Except for any limited accommodation as outlined above, I recommend removal of the deck and sand from the Buffer, and that the Buffer is restored with native vegetation consisting of a mix of shrubs, trees and ground cover at a ratio of 3:1

Mr. Etheridge letter
July 23, 2007
Page 4 of 4

for the area of the disturbance. These mitigation plantings should be accommodated in the 100-foot Buffer on the property to the maximum extent possible.

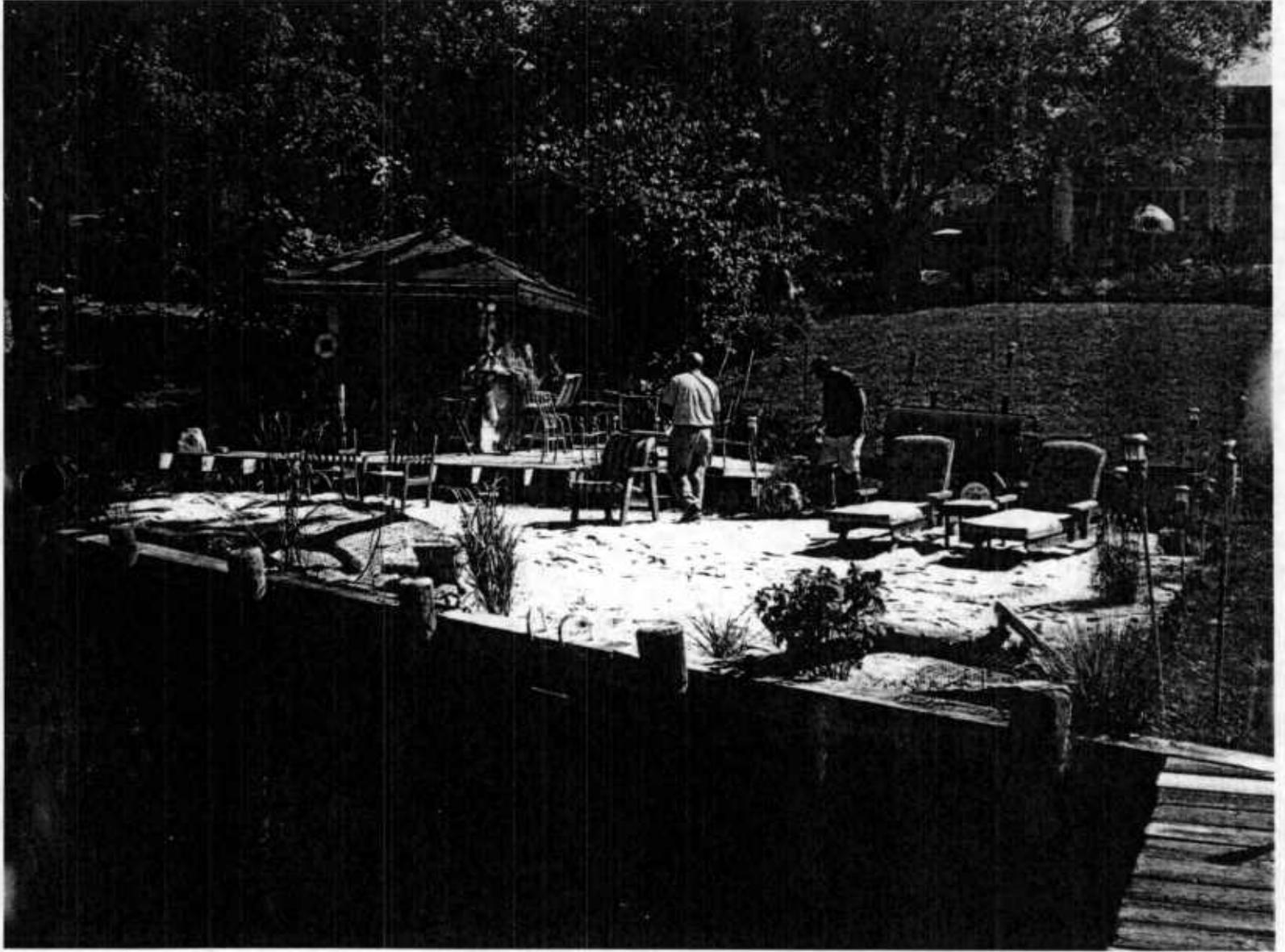
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

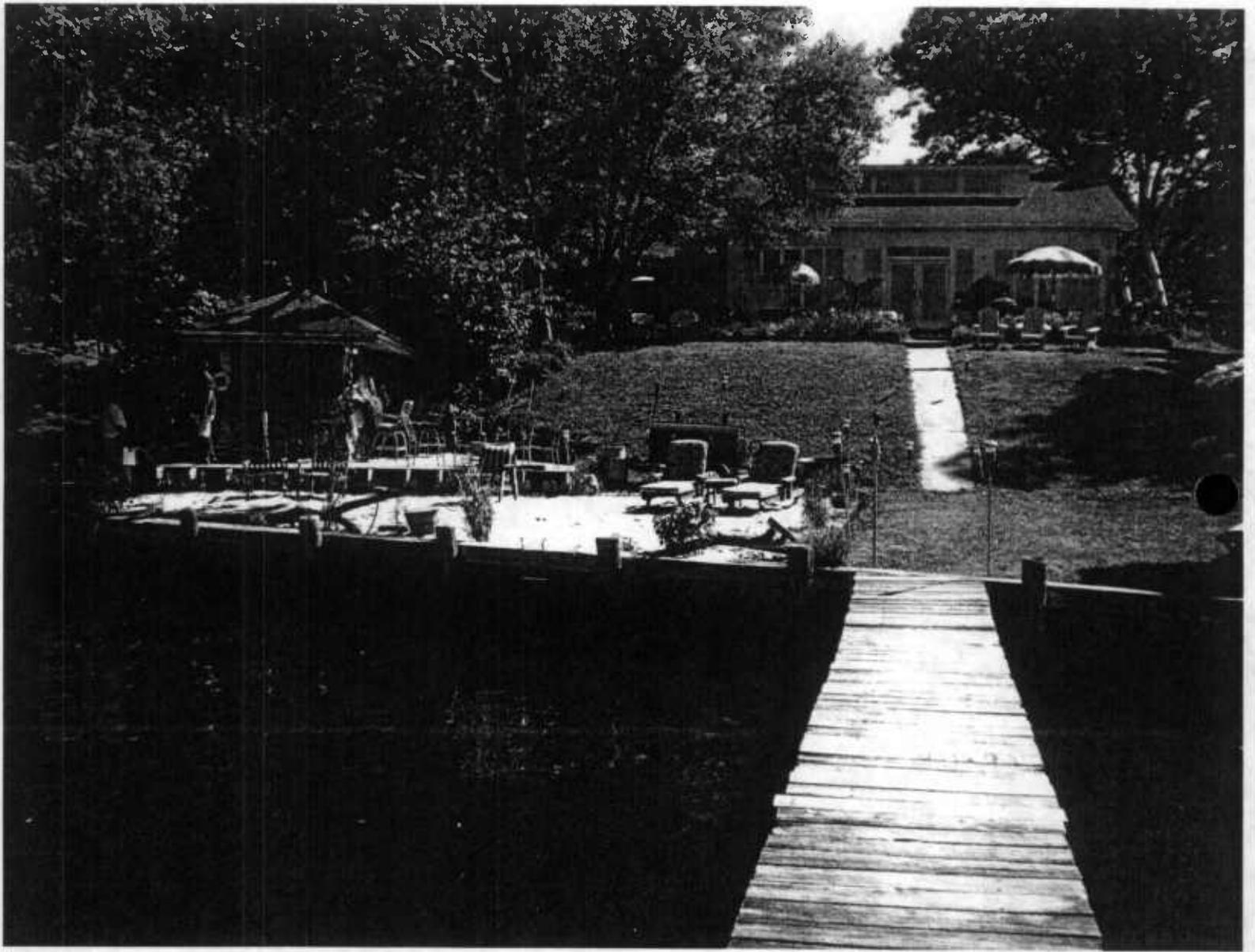
Sincerely,



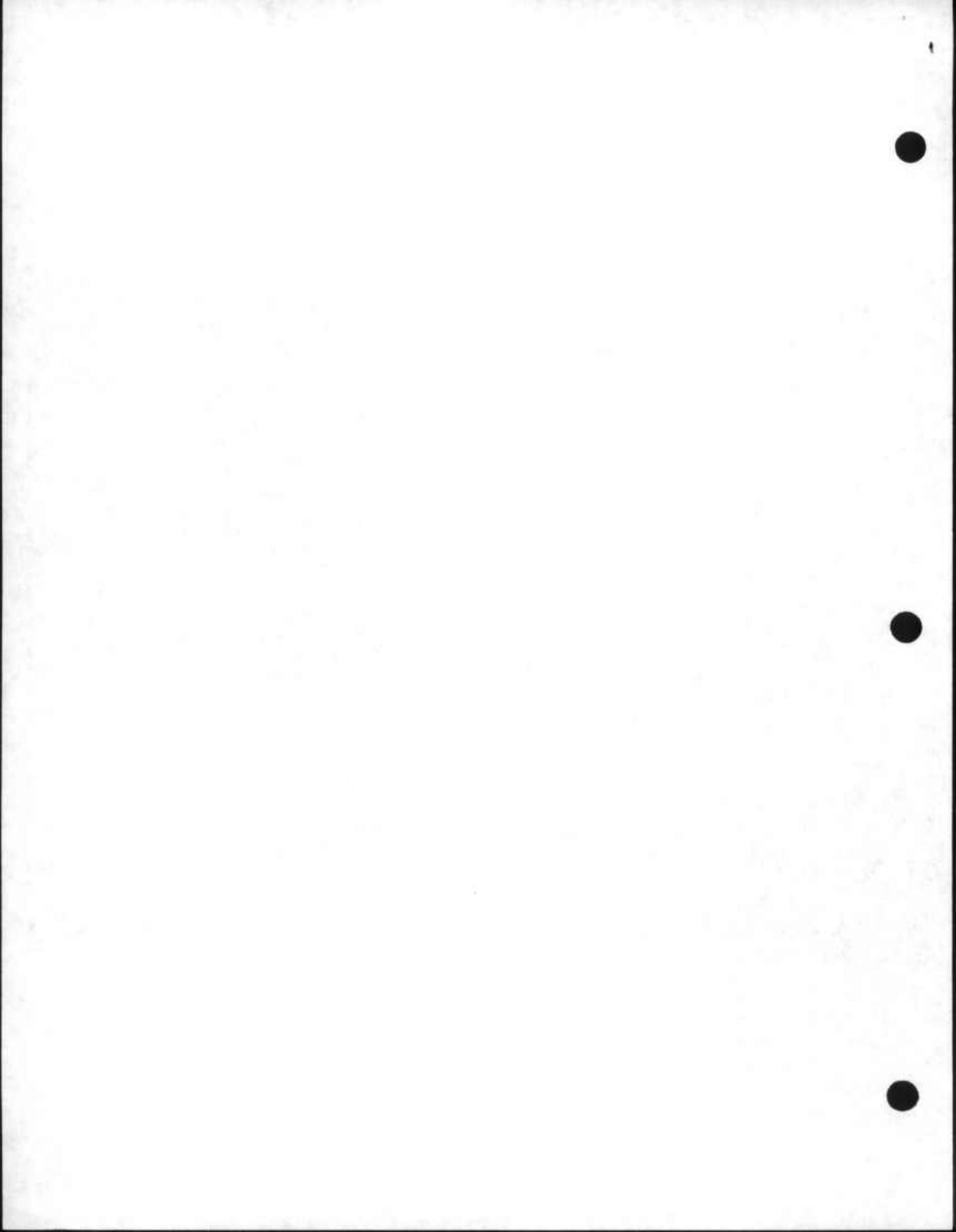
Marshall Johnson
Natural Resource Planner

cc: AA 373-07









Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 23, 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 previous letter from this office, dated April 20, 2007, listed and explained necessary modifications to the plans in order for the project to meet applicable requirements. Until the following issues are resolved, this office does not recommend approval of the proposal by the County.

1. As stated in the previous letter, the 100-foot Buffer includes the extent of the non-tidal wetland on the site. The Critical Area Buffer should include the line where the non-tidal wetland line extends beyond the 100-foot Buffer line, and should be labeled as Critical Area Buffer.
2. The previous letter from this office explained that the applicant must address County Code Section 14:1-37.D.3. The applicant's representative has submitted a narrative discussing various issues, but failing to address or satisfy the requirement of County Code Section 14:1-37.D.3. Until this has been adequately addressed, this office does not support approval of the project by the County.
3. There are several discrepancies on the newly submitted Post Development Drainage Area Map dated 6-29-07. Some of the discrepancies are the following: In contradiction to the narrative, Subcatchment H is shown flowing directly into the pond. The building roof is not shown as part of Subcatchment C. Subcatchment B is shaded as non-rooftop disconnect, but is claimed as BMP drainage area to the dry swale. The proposed grading of Subcatchment I does not definitively direct flow into the individual spaces between parking blocks, making it unclear whether 1,000 square feet will discharge to one location. Until the

Holly Tompkins
July 23, 2007
Page 2 of 2

plans, calculations and narrative are coordinated and correctly reflect the proposed system meeting stormwater requirements of the 10% Rule, this office does not recommend approval of the project by the County.

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

Sincerely,



Marshall Johnson
Natural Resources Planner

cc: QC 96-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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July 23, 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 resubmitted information on the above referenced project. The applicant proposes to subdivide an existing lot located in the Limited Developed Area (LDA) into two lots. In response to my previous comments, the applicant has shown the 100-foot Buffer on the plat plan, included the appropriate comments from DNR Wildlife and Heritage and shown that the afforestation will be provided as required. This office has no further comments on the proposal. 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 240-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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July 20, 2007

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

**Re: 05-05-10-0006-C, Minor Subdivision
Primo Investments LLC**

Dear Ms. Spinelli:

Thank you for providing resubmitted plans and information on the above referenced minor subdivision proposal. The applicant proposes to subdivide an existing 0.5 acre lot into two lots. The lots are designated Limited Development Area (LDA) in the Chesapeake Bay Critical Area and are not waterfront. There is an existing dwelling, garage and driveway that are proposed to be removed. Commission staff has reviewed the provided revised plans and has the following comment.

The proposed new lots are subject to impervious surface limits of 25% on individual lots, but a 15% impervious surface limit for the entire subdivision site. In this case, the applicant is proposing to remove the existing house and all other associated existing impervious surfaces. However, the site is 21,800 square feet, allowing only 3,270 square feet of impervious surface to be divided between the two lots.

The applicant's narrative states that the impervious surface limit will be met by developing the site with a combined driveway and two story structures. A combined driveway reaching the building restriction line of the rear lot (if 8 by 200 feet) would require 1,600 square feet, leaving 1,670 square feet for two houses, an average of 835 per house. Accessory structures typically provided for development in character with this area include sheds, garages and patios, which would further reduce the footprint allowed for the houses. It is the subdivider's responsibility to show that the law will be met. This proposal is unreasonable because it provides no opportunity for purchasers of the lots to locate

Letter to Ms. Spinelli
July 20, 2007
Page 2 of 2

accessory structures and remain in compliance with the law. Development on the proposed lots is not likely to be accommodated within the 15% impervious surface limits. The Critical Area Commission staff does not recommend approval of this subdivision because the applicant has not provided reasonable evidence that that impervious surface standards will be met by development on the proposed lots.

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 664-05

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

July 19, 2007

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

Mr. William Etheridge
Anne Arundel County
Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**RE: 2007-0166 V; 358 Hickory Point Lane
Sheila Chambers**

Dear Mr. Etheridge:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to allow a deck and fill (sand) over existing lawn within the 100-foot Buffer. The property is a 0.45 acre lot located within the Limited Development Area (LDA) and is within a Buffer Modification Area. The property is currently developed with a single family dwelling, timber bulkhead, pier and detached shed. There is also a brick patio to the rear of the house and lawn yard between the house and the waterside. A paved walkway provides access through the Buffer to access the pier. The shed is a grandfathered structure within the Buffer. The applicant seeks after-the-fact approval of a wooden deck attached to the existing shed, and to retain sand fill over the lawn in the Buffer directly adjacent to the waterside.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Hearing Officer must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicant is requesting a variance to allow a deck and sand fill within the Buffer adjacent to the bulk headed water edge. I understand that this variance is requested after the fact. The fill has been placed in the Buffer as a sandy beach-like area, and the deck has already been constructed. Both are currently in use by the residents. Anne Arundel County Code Section 17-8-703(b) states that development within the buffer modification area is prohibited unless there is no reasonable alternative

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available. According to the applicant's narrative, the purpose of the deck and sand is to allow the applicants to sit by and enjoy the water. The property has a patio, lawn yard area, walkway and pier which provide reasonable alternatives for the applicant to sit by and enjoy the water; therefore, Section 17-8-703(b) prohibits the deck and sand fill as development in the Buffer for which there is a reasonable alternative.

The variance to the expanded 100-foot Buffer cannot be granted unless the applicant proves, and the hearing examiner 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 County's variance standards below as it pertains to this site:

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

Currently, the lot is developed with a single family home, patio and a shed between the house and the waterside. The intent of the flexibility provided by the Buffer Modification Area designation is to recognize that the existing pattern of development may prevent the Buffer from fulfilling its function. However, development within the buffer modification area is prohibited unless there is no reasonable alternative available. The construction of the deck and sand fill, does not comply with the Buffer Modification Area standards. 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 applicant has use of the patio, walkway, pier, shed and lawn yard already in the Buffer. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the pool.

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

The applicant has a reasonable use of this property for residential purposes including a patio, lawn yard area, shed and walkway in the Buffer as well as a pier, and therefore, would not be denied a right commonly enjoyed by neighboring properties. From a review of the application we believe that there is opportunity to enjoy the property and sit by the water in a manner that meets the Buffer regulations and remains consistent with the Anne Arundel County Critical Area Regulations. No one has the right to construct a new deck and sand fill area in the Buffer. Therefore, denial of a variance for the accessory structure (deck) and sand fill area would not deny the applicant a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the Buffer in a Buffer Modification Area beyond what has been established as law by the County would confer a special privilege on the applicant (Section 17-8-702(b)(1)). The

applicant has the burden of proof and the burden of persuasion to overcome the presumption that the proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

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

In contrast, the need for a variance to allow the deck and sand fill beach area is directly the result of the applicant's action because they have already been constructed by the applicant. The lot is located in a Buffer Modification Area. The Buffer Modification Area recognizes that the existing level of development prevents the Buffer from fulfilling all of its functions, and thus allows for redevelopment activities to take place. However, it prevents further degradation to the Buffer by prohibiting new development.

5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.

In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. New development in the Buffer and consequential disturbance to the land results in lost habitat value and less biofiltration of stormwater by vegetation. While the lot is grandfathered and in a Buffer Modification Area, Anne Arundel County Code Section 17-8-703(b) states that development within the buffer modification area is prohibited unless there is no reasonable alternative available. Given that the applicant can adequately enjoy outdoor activities without the addition of a deck and sand in the Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

The application materials describe the impaired medical condition of the applicant's father. State law requires jurisdictions to develop formal Critical Area Program standards to evaluate claims of disabilities and establish appropriate accommodations during the course of the particular disability. Anne Arundel County has not developed the standards necessary to evaluate the applicant's case properly. The absence of these standards requires the use of the variance provisions in situations where they do not easily apply. Here, the desire to allow the applicant's father to access and enjoy the shoreline must be separated from the more intense recreational use clearly indicated by the attached photographs. Any accommodation that the Hearing Officer determines as necessary and appropriate should be limited to the needs of the applicant's father and a care-giver, and not designed to allow general development of the shoreline that undermines the water quality and habitat functions of the Buffer.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the application for variance to the Buffer. Except for any limited accommodation as outlined above, I recommend removal of the deck and sand from the Buffer, and that the Buffer is restored with native vegetation consisting of a mix of shrubs, trees and ground cover at a ratio of 3:1

Mr. Etheridge letter
July 19, 2007
Page 4 of 4

for the area of the disturbance. These mitigation plantings should be accommodated in the 100-foot Buffer on the property to the maximum extent possible.

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

Sincerely,


Marshall Johnson
Natural Resource Planner

cc: AA 373-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 19, 2007

Mr. George Mayer
Town of Federalsburg
PO Box 471 Federalsburg, MD 21632

Re: Federalsburg Waste Water Treatment Plant Upgrade

Dear Mr. Mayer:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On July 11, 2007, the Critical Area Commission unanimously approved the Town's proposal and site plan to construct upgrades for the Federalsburg Waste Water Treatment Plant, located at 125 Kerney Street, Federalsburg, Maryland, with the following conditions:

- (1) Prior to commencement of construction, the Town shall submit a planting plan to Commission staff for review and approval for the off-site mitigation. To the extent possible, the mitigation plan shall be located within the 100-foot Critical Area Buffer to Marshy Hope Creek. Any mitigation planting that cannot be located in the Buffer must be located at an off-site area approved by Commission staff.
- (2) Prior to commencement of construction, the Town shall receive final approvals from Caroline County for stormwater management.

Please submit a copy of the sediment and erosion control and stormwater approvals and a final signed copy of the Buffer Management Plan, including a site and planting plan for off site mitigation to meet the condition above. Please also notify the Commission once the on and offsite mitigation plantings have been implemented. Should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. If you have any questions, please feel free to contact me at 410-260-3479.

Sincerely,

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

Marshall Johnson
Natural Resources Planner

cc: Roby Hurley



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 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 submitting revised materials pertaining to the above referenced subdivision proposal. The applicant has submitted information from the Army Corps of Engineers regarding the location of tidal and non-tidal wetlands on this site. However, the State regulates and holds jurisdiction of wetlands in this case. The Critical Area Buffer location should not be based on the assessment of wetland type by the Army Corps. The Maryland Department of the Environment (MDE) approved the location of revetment on this site at a maximum of two feet channelward of the location of mean high water. The Critical Area Buffer should be shown on the subdivision plat in the same location as it is shown on the plans for MDE License # 07-GL-0704, which approved the revetment. No approval was granted for revetment to be placed landward of mean high water, as this would constitute prohibited disturbance to the 100-foot Critical Area Buffer. If there has been unapproved development disturbance such as clearing, vegetation removal, filling, or placement of rip rap revetment in the Critical Area Buffer, the applicant is in violation of County Code §14:1-53. (Specific provisions for Buffer exempted areas) and Code of Maryland Regulations 27.01.09.01.C (Buffer Criteria).

The applicant's revised Buffer management plan is not adequate because the 100-foot Buffer line is not shown accurately for the undeveloped lot. Because the number of plants required is based on the Buffer area of that proposed lot, the planting plan is not adequate. The 100-foot Critical Area Buffer line shown on the submitted plan must be drawn 100 feet landward from mean high water. Please have the applicant revise the plans to reflect the correct location of the Buffer line, and revise the Buffer management plan for the proposed lot 83-C according to the correct location of the Buffer, as requested in the letter from this office dated June 7, 2007.

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

Sincerely,

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

Marshall Johnson
Natural Resources Planner
cc: QC 652-05



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 18, 2007

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

**RE: 2007-0176-V, 11 Cedar Point Rd
Ferguson**

Dear Ms. Rhodes:

Thank you for providing information on the above referenced variance. The lot is 13,110 square feet in size, located within the Limited Development Area (LDA) of the Chesapeake Bay Critical Area and is within a Buffer Modification Area. The property is currently developed with a single family dwelling and a driveway. The applicant proposes to construct a new porch, patio, driveway and addition to the house. The majority of the site is within the Critical Area Buffer Modification Area.

The County has enacted Buffer Modification Area provisions to recognize that the pattern of existing development prevents the Buffer from fulfilling its functions. As a result, the Anne Arundel County Zoning Code §17-8-701 provides a very specific set of criteria for new impervious surface within the Buffer that balance the pattern of existing development with maintaining the integrity of the Buffer. The zoning code states that "no new impervious surface shall be placed nearer to the shoreline than the existing principal structure..." Due to the angle of the existing house and the irregular shoreline at this site, the corner of the house addition will extend approximately four feet closer to the shoreline than the furthest extent of the existing house. Therefore, the applicant has requested a variance to allow this portion of the addition to extend nearer to the shoreline than the existing principle structure. Otherwise, none of the proposed improvements are nearer to the shoreline than the existing principle structure.

The site is currently below impervious surface limits. The new addition would be partially over the existing driveway. The applicant will also maintain the current amount of impervious surface by removing a portion of the existing driveway. Thus there is no change proposed to overall impervious surface on the site. The proposed additions appear to represent a reasonable expansion, and there does not appear to be a practical reasonable alternative design to place the additions outside of the Buffer based on the constraints of this site. Provided that this lot is properly grandfathered, Critical Area

Commission staff does not oppose the variance. However, the Commission staff has the following comments regarding the variance request and proposed development.

1. Mitigation, at a ratio of 2:1 for development within the Buffer Modification Area, 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.
2. The new development 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 390-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 17, 2007

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

**RE: Variance 2007-0168
Daniel Money; 1457 Nieman Road**

Dear Ms. Rhodes:

The applicant is requesting a variance to the 100-foot Buffer in order to construct a new swimming pool. The site is a 1.01 acre parcel designated as a Limited Development Area (LDA) and a Buffer Modification Area. The property is currently developed with a single family home, garage, driveway, and detached covered deck. The applicant is proposing to construct a pool on the waterside of the dwelling in the Buffer. This office opposes the variance to build a new swimming pool 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, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a 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 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 add a new swimming pool 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. The County has enacted Buffer Modification Area provisions to recognize that the pattern of existing development prevents the Buffer from fulfilling its functions. As a result, the Anne Arundel County Zoning Code §17-8-701(b) provides a very specific set of criteria for new impervious surface within the Buffer that balance the

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pattern of existing development with maintaining the integrity of the Buffer. The zoning code states that "no new impervious surface shall be placed nearer to the shoreline than the existing principal structure AND landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure."

The variance to the expanded 100-foot Buffer cannot be granted unless the applicant proves, and the hearing examiner 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 County's variance standards below as it pertains to this site:

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

Currently, the lot is developed with a single family home, garage and a detached impervious covered deck between the house and the waterside. The intent of the flexibility provided by the Buffer Modification Area designation is to recognize that the existing pattern of development may prevent the Buffer from fulfilling its function. However, new development should be sited to minimize the extent of impervious surface in the Buffer to the extent possible. In this case, the applicant has a large impervious deck in the Buffer. However, the construction of the new pool, which is considered impervious surface, does not comply with the Buffer Modification Area standards for new impervious surface. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the pool.

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

The applicant has a reasonable use of this property for residential purposes including a large impervious deck in the Buffer, and therefore, would not be denied a right commonly enjoyed by neighboring properties. From a review of the application we believe that there is opportunity to construct the desired pool in a manner that meets the Buffer regulations and remains consistent with the Anne Arundel County Critical Area Regulations. No one has the right to construct a new swimming pool in the Buffer. Therefore, denial of a variance for the accessory swimming pool would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the Buffer in a Buffer Modification Area beyond what has been established as law by the County would confer a special privilege on the applicant (Section 17-8-702(b)(1)). 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.

In contrast, the need for a variance to construct the pool is directly the result of the applicant's current design. The lot is located in a Buffer Modification Area. The Buffer Modification Area recognizes that the existing level of development prevents the Buffer from fulfilling all of its functions, and thus allows for redevelopment activities to take place. However, it prevents further degradation to the Buffer by prohibiting new impervious surface to be placed nearer to the shoreline.

5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.

In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in impervious surface in the Buffer and consequential disturbance to the land results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities. While the lot is grandfathered and in a Buffer Modification Area, the County zoning regulations under §17-8-702(b) require that the site design must minimize to the extent possible intrusion into the Buffer. Given that the applicant can adequately utilize this property and enjoy outdoor activities without the addition of a pool in the Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

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

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

Sincerely,



Marshall Johnson
Natural Resource Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 17, 2007

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

**RE: Tax Map 9, Parcel 328 (12507 Collins Road)
Dale and Denise Venable**

Dear Ms. Davis:

Thank you for providing information on the above referenced variance. The site is a 110,663 square foot parcel located within the Resource Conservation Area (RCA) of the Atlantic Coastal Bays Critical Area. The property is currently developed with a house and driveway. There is a tributary stream on the property with a 100-foot Buffer as required by Worcester County Code §NR 3-104(c)(1) and COMAR 27.01.09.01C.1. The applicant has proposed to build a new driveway and detached 1,040 square foot garage within the 100-foot Buffer. The proposal does not conform to the Critical Area law or the County's Critical Area Program, because the County Code and COMAR prohibit new, non-water dependant development in the Buffer. The applicant has requested a variance to allow the driveway and garage in the Buffer.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets each one of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. The site appears to have adequate space outside of the Buffer to construct a garage and driveway of the same size and accessibility. The applicant is not denied reasonable and

Ms. Janet Davis
July 17, 2007
Page 2 of 2

significant use of the entire property without the variance. Based on the information provided, this office would not support this variance 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

cc: WC 394-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 16, 2007

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

**Re: 03-07-06-0008-C, Mears lot reconfiguration
Tax Map 35, Parcels 113, 79, 173, 35**

Dear Ms. Jackson-Rhodes:

Thank you for providing information on the above referenced proposal. Please be aware that the County Application Form and the applicant's June 22, 2007 letter from Kirby and Associates both state incorrectly that the parcels are designated as LDA. These four parcels are designated RCA (Resource Conservation Area) of the Chesapeake Bay Critical Area. Please be sure that all County records and forms related to these parcels reflect the correct Critical Area designation of RCA. The applicant proposes to reconfigure the four parcels. Provided that no nonconformities are created and that all RCA development requirements are addressed with any development activity on these parcels, this office has no comment on the proposed reconfiguration.

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 be "M. Johnson".

Marshall Johnson
Natural Resources Planner

cc: QC 45-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Marshall Johnson

Date: July 9, 2007

RE: **POS # 3467-12-159a Perryman Clubhouse Acquisition for Land Conversion
Harford 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 transfer 2.03 acres of land acquired under POS Oakington Farm acquisition for use by an adjacent rehabilitation center. The representatives of the rehabilitation center should be aware that if this site is within the Critical Area, activity or development on that property must conform to local Critical Area Program regulations. Also proposed is the exchange of an equal amount of land to compensate for the loss the POS acquisition area. The property that will be acquired for parkland is within the Chesapeake Bay Critical Area RCA (Resource Conservation Area). 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 on that property, including pavilions and parking areas, will be required to comply with the local requirements for development within the RCA and COMAR Title 27.02 (Development in the Critical Area Resulting from State and Local Agency Programs). Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3479.

TTY for the Deaf

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



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

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

July 9, 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: Creekside at Public Landing Subdivision

Dear Ms. Davis:

Thank you for submitting the revised site plans for the above referenced project. The applicant proposes to divide one parcel into two lots. The 232 acre parcel contains 141 acres designated as Resource Conservation Area (RCA). Although the site has been under review for a larger subdivision, the applicant now wishes to change the proposal to divide the parcel into two lots. The proposed Lot 1 has a different location and configuration than the previously reviewed Lot 1. I have reviewed the resubmitted information and have the following comments:

1. The Worcester County Code § NR 3-108(c)(3) requires that the proposal meet the minimum density standards of one dwelling per 20 acres. The proposed subdivision would create a 2.85 acre lot. The plat note on Sheet 1 of 2 states that 17.15 acres of the parent tract will be reserved for this purpose. Please have the applicant designate the location of the 17.15 acre reserved area and show it on the plat within a Conservation Easement.
2. If development is proposed on the remaining portion of the parent parcel, all requirements of the Worcester County Critical Area Program for development in the RCA must be met.
3. The Impervious Schedule table on the plan lists the 15% impervious surface allowance with a rounded figure as 0.43 acres which is 18,731 square feet. The proposed Lot 1 area is shown as 124,146 square feet, 15% of which is 18,622 square feet. Please have the applicant correct this figure on the plat.

4. The Critical Area Commission staff recommends that all required Buffer plantings and 15% afforestation plantings proposed in the June 11, 2007 Environmental Report should be installed or financial assurances for the proposed planting plan be made to the County prior to final plat approval. The report states that if the County allows it, the submitted planting plan may be revised to allow natural regeneration instead of planting. Planting the Buffer as proposed in the Environmental Report is recommended.
5. 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.
6. The August 31, 2005 DNR Wildlife and Heritage Service letter submitted with the Environmental Report expresses concern for the Threatened species, *Trillium pusillum* var. *virginianum*, known to occur within the vicinity of this site. The Environmental Report addresses this issue only by stating that the species occurs in wetlands, and that wetlands are not on Lot 1. However, the habitat for this species is facultative wet in Maryland, meaning that it usually occurs in wetlands but is occasionally found in non-wetlands; therefore, we recommend further coordination with DNR to ensure protection of this species.

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 139-06

Martin O'Malley
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Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 5, 2007

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

RE: Tax Map 5, Parcel 5, Lot 17 – Kenneth Frank Pier Variance - 13536 Madison Avenue

Dear Ms. Davis:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a pier access boardwalk exceeding the allowed width for an access to the private pier through the 100-foot Buffer. Three feet is the allowed width. The applicant has constructed a six foot wide walkway to the pier. The applicant now requests an after the fact variance to keep the walkway. Provided that this lot is properly grandfathered, Critical Area Commission staff does not oppose the variance. However, the following comments apply to the variance request.

1. Mitigation should be required at a ratio of 3:1 for the area of Buffer that is covered by the walkway in excess of the three-foot allowed width. 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 should consist of a mix of native species of trees, shrubs and ground cover.
2. Worcester County Code NR 3-125 requires that standards are met for impervious areas. This site is within the IDA, which requires compliance with the Critical Area 10% pollution removal rule. Please have the applicant address this requirement, since it appears that the boardwalk may not be pervious.

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 377-07

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



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July 5, 2007

Ms. Phyllis H. Wimbrow, Deputy Director
Worcester County Planning Commission
One West Market Street, Room 1201
Snow Hill, MD 21863

RE: Rezoning Case No. 389; Holly Farms Zone Change Proposal

Dear Ms. Wimbrow,

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. Proposals on property with the RCA designation must comply COMAR 27.01.02.05, including restrictions on zoning property to allow industrial or commercial development. Any development that exceeds the allowable density or does not meet use requirements 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,

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

Marshall Johnson
Natural Resource Planner

cc: WC 367-07
364



Martin O'Malley
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Anthony G. Brown
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Margaret G. McHale
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July 5, 2007

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

**RE: CU-060006; 700 Stagwell Road
Richard J. Schoeb**

Dear Ms. Maxwell:

Thank you for providing information on the above referenced application. 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 an extension to an existing pier. Please note that the applicant should apply for review by the Maryland Department of the Environment for proposed pier work. It appears that there is not activity proposed on this property above mean high water; therefore we have no comments on the request. However, please note that any development or disturbance on this property above mean high water in the Critical Area requires compliance with the County Critical Area Program. 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

QC 369-07



Martin O'Malley
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Margaret G. McHale
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July 2, 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 Ms. Skilling,

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

As you may be aware, the Chair has 30 days from the date of this letter to make a determination as to whether the request will be handled as a refinement or an amendment. 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 Resource Planner

cc: CH 384-02



Martin O'Malley
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Anthony G. Brown
Lt. Governor



Margaret G. McHale
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July 2, 2007

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

RE: Church Hill IDA Provisions Text Amendment

Dear Ms. Skilling,

We have received your request to process the above referenced text amendment request, to add IDA provision to the Church Hill Critical Area Program. At this time, we wish to notify you that the request has been accepted for processing.

As you may be aware, the Chair has 30 days from the date of this letter to make a determination as to whether the request will be handled as a refinement or an amendment. 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 Resource Planner

cc: CH 384-02



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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Marshall Johnson

Date: July 2, 2007

RE: **POS # 5139-12-256, Todd Field
Harford 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 upgrade a playground. While it is difficult to determine to if the proposal represents any impacts to the Critical Area based solely on the information provided, any new development activities in the Critical Area will be required to comply with requirements of the local Critical Area program. Thank you for the opportunity to comment. If you have any questions, please call me at 410-260-3479.

TTY for the Deaf

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July 2, 2007

Kevin Clark
Office of Planning
403 S. Seventh Street, Suite 210
Denton, Maryland 21629

**RE: 07-043; Tanyard Road
Robinson**

Dear Mr. Clark:

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 a septic reserve area potentially located within the 100-foot Critical Area Buffer. Please see my comments below.

1. COMAR 27.10.09 requires the establishment of a Buffer 100 feet landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands. This site appears to be adjacent to one or more of these features. Please have the applicant determine the location of the 100 foot Buffer, including any necessary expansion 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. The septic facilities must be designated for a location outside of the Buffer. It appears that there is adequate space on this property to locate the septic areas outside of the Buffer.
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,

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

Marshall Johnson
Natural Resources Planner

cc: CR 365-07



Martin O'Malley
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December 31, 2007

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

Re: Pleasant Variance
2007-0394-V

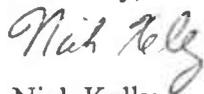
Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling unit with less setbacks and Buffer than allowed. The property is 16,973 square feet in size and is located in an Intensely Developed Area (IDA). The property is currently developed with a single-family house, walkways, sheds, stockpile, driveway, and pier. The applicant requests to raze the existing house and driveway and construct a new single-family house, driveway, and pervious deck. Total impervious surface on this site is currently 2,700 square feet (15.9%); if the variance is granted, impervious surface will increase to 3,872 square feet (22.8%).

In general, this office generally does not oppose the modest additions and renovations requested for an existing dwelling on a grandfathered lot; however, in this instance, the applicant's request to allow a dwelling unit with less setbacks and Buffer is in direct conflict with Anne Arundel County's Zoning Code provisions regarding new structures in the 100-foot Buffer. Anne Arundel County Code §17-8-702(b)(1) states that "no new impervious shall be placed nearer to the shoreline than the existing principal structure and landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure." The proposed house and deck are both located closer to Mean High Water (MHW) than the existing dwelling unit. Therefore, we recommend that the applicant reduce the size and location of the proposed house so that it does not encroach closer to the shoreline than the existing home and that no new development be permitted closer to MHW than the existing dwelling footprint. In addition, we recommend that the proposed pervious deck be removed from the site plan and, in an effort to minimize the impacts of development activities on wetlands and shorelines, recommend that the applicant removes the existing sheds that are located within 100 feet of tidal wetlands. Mitigation for any clearing or disturbance within the Buffer for this project must be performed at a 2:1 ratio.

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

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 685-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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December 31, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: 1483
M.E.B.A. Special Exception

Dear Ms. Corkell:

Thank you for providing information on the above referenced special exception request. The applicant requests a special exception to permit operation of a Community and Cultural Facility for event services and temporary lodging. The site area is 389.598 acres in size, with 300.936 acres located in the Critical Area and designated as a Resource Conservation Area (RCA). The applicant proposes permit the Manor House and Guest House of the property to be used for indoor and outdoor events. These structures may be used for temporary lodging of the host, coordinator, or limited guests of the event. Tents and portable external restroom facilities may be temporarily erected near the Manor House for each event. Temporary parking will be located outside of the Manor and Guest House, as well as on an open field located between the administration building and Manor House.

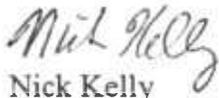
Provided that the Board of Appeals finds that the proposed use of the Manor House and Guest House meet the requirements for a special exception, we do not oppose this special exception request. We do have the following comments on this request:

1. We ask that the Board place a condition that no temporary structures shall be placed within the 100-foot Buffer.
2. The site plan reveals that there is a proposed Critical Area mitigation area of .285 acres; however, it is unclear where any clearing is proposed, in general. If there is Buffer clearing, a separate variance would be required.

3. To avoid disturbing the open field between the Manor House and Guest House, we recommend that event parking first be filled using the existing parking areas located between the administration building and dorms.
4. The site plan states that the site area is 384.598 acres in size. However, the total amount of Critical Area upland area totals 389.598 acres. Please have the applicant provide the correct figures for each category.

Thank you for the opportunity to provide comments on this Board of Appeals variance request. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 751-07

Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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December 31, 2007

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

Re: 1096
Gibbons-Neff Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision plan. The applicant proposes to subdivide a property that is partially located within a Resource Conservation Area (RCA). Currently, the site is undeveloped. Total parcel size is 30.996 acres, with 12.433 acres located in the Critical Area. The parcel will be broken into a 5.726 acre lot (Lot 8, located outside of the Critical Area) and a 25.270 acre lot (Revised Lot 6, located partially in the Critical Area). The amount of impervious surface permitted will be 81,237 square feet for Revised Lot 6. Total forested area in the Critical Area is 2.183 acres (17.55%).

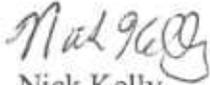
Based on the information provided, we have the following comments on this project:

1. Revised Lot 6 is designated as a Reservation of Development Rights (RDR) area. Therefore, Revised Lot 6 has no development rights and is permanently protected; the lot may not be developed for residential, commercial, or industrial use.
2. The plat states for Revised Lot 6 that "driveways and agriculture uses and structures are permitted" in the RDR area. However, Talbot County Zoning Code §190-57 C, Reservation of Development Rights Agreements, does not specify that driveways are permitted in an RDR area. Therefore, please have the applicant remove driveways from the list of permitted structures in the RDR. It appears that access to Revised Lot 6 can be obtained from Tunis Mills Road.
3. Talbot County Soil Maps reveal that portions of the property are located in hydric soils (Keyport and Elkton). In the future, any proposed agriculture uses and structures should be constructed to avoid impacting these soils.

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 threatened or endangered species onsite. 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. If there is the presence of such species onsite, a Habitat Protection Plan must be submitted to address proposed impacts.
5. If forest is cleared in the Critical Area in the future, then mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

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

cc: TC 744-07

Martin O'Malley
Governor



Margaret G. McHale
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Lt. Governor

Ren Serey
Executive Director

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December 27, 2007

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

Re: Buchanan Building Permit
14157

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a new single-family residence. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 4,072 square feet in size and has a zoning setback of five feet. Currently, the lot is developed with an existing mobile home, shed, concrete walk, concrete driveway, enclosed porch, and wood deck. The applicant proposes to construct a single-family home, concrete walk, concrete driveway, and shed. Total existing impervious surface onsite is 2,422.2 square feet (59.48%). Upon completion of the project, impervious surface will be to 2,839.7 square feet (69.73%). To meet mitigation requirements in the 100-foot Buffer, the applicant must provide \$3,400 of landscaping, and 610.8 square feet of plantings are required for afforestation; the applicant proposes to meet both requirements by planting 2,700 square feet of new landscaping and paying \$700 as a fee-in-lieu; a total of 2 large trees (Bradford Pear or Cleveland Pear), 2 small trees (Crepe Myrtle or Flowering Plum), 20 large shrubs (Bennett or Ink Berry), and 12 small shrubs (Golden Cypress or Maiden Grass) will be planted on the parcel.

To meet stormwater management requirements, the applicant is providing \$475.80 as a fee-in-lieu for exceeding the 60% impervious surface limit, is providing vegetative mitigation, has installed two grass swales, and has installed a five foot by five foot rain garden with plantings surrounding it.

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

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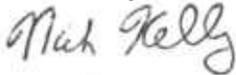
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



1. The applicant proposes to plant Bradford Pears and Maiden Grass to meet its vegetation requirements. Both are listed as plant invaders of the Mid-Atlantic by the U.S Fish and Wildlife Service. Please have the applicant provide native vegetation to meet mitigation requirements. Native options for the Bradford Pear include redbud and serviceberry; native options to replace Maiden Grass include switchgrass and big cordgrass.
2. Prior to the approval of this building permit, please ensure that the applicant has paid in full the fee-in-lieu for both Buffer mitigation and stormwater management requirements.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 755-07

Martin O'Malley
Governor



Margaret G. McHale
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Lt. Governor

Ren Serey
Executive Director

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December 27, 2007

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

Re: L1069
Avalon Limited Partnership Lot Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is requesting a lot line revision between two parcels (Revised Lot 6, Lot 7) to create one lot. Both properties are located in a Limited Development Area (LDA). Both lots are currently undeveloped. Total allowable impervious surface onsite is 6,902 square feet. Total forest coverage is 15,175 square feet.

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

1. If forest is cleared for any development on this parcel in the future, mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.
2. Please have the applicant state on the plat that there are no further development rights or impervious surface areas permitted on Revised Lot 6.

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 832-06



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 27, 2007

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Talbot Country Club Irrigation Building Site Plan
463**

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant proposes to replace an existing 100 square foot irrigation building with a 390 square foot building. The current building is located 2.5 feet from the existing pond. The applicant states that a larger irrigation building is required in order to meet the irrigation needs of the country club. Total acreage of the lot is 138.48 acres; 81.22 acres are located in the Critical Area in a Resource Conservation Area (RCA). Total impervious surface located onsite in the Critical Area is currently 26,560 square feet (.7% of the total site area). Upon completion of this project, total impervious surface will increase by 290 square feet to 26,850 square feet (.75%).

Based on the information provided, we have the following comments for this project:

1. The proposed shed does not minimize disturbance within the 25-foot nontidal wetland buffer, which is required under Talbot County Code §190-93.E(7)(d)(1)-(3); thus, the flow of water will be altered into and from the wetland. In order to minimize disturbance to the buffer, the size of the building should be reduced and repositioned so that portions of the proposed building will be located outside of the 25 foot buffer.
2. Mitigation for any disturbance that will result from the redevelopment of this site to the 25-foot non-tidal wetland buffer area shall be performed at a 2:1 ratio.

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 black ink that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 592-07



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**

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

December 27, 2007

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Ordinance 357 – Amendments to Approved Growth Allocation

Dear Ms. Renshaw:

The purpose of this letter is to provide an update regarding the Commission's processing of the text amendment to the Town of St. Michaels Critical Area Program. The text change proposes provisions for permitting amendments to approved growth allocations. On December 20, 2007, Chair McHale determined that the proposed text amendment will be processed as a refinement to the Town of St. Michaels Critical Area Program.

The proposed text amendment has been scheduled for review at the January 9, 2008 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

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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December 26, 2007

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

Re: Browning Building Permit
14060 & 14150

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to convert an existing open deck into a screened porch and add a shed. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 4,500 square feet in size and has a zoning setback of 15 feet. Currently, the lot is developed with an existing single-family home, shed, porch, and driveway. The applicant proposes to convert an existing 10 foot by 24.5 foot wood deck into a screened porch (245 square feet) and add a five foot by eight foot shed (40 square feet). Total existing impervious surface onsite is 1,259 square feet (27.98%). Upon completion of the project, impervious surface will be to 1,545 square feet (34.33%). To meet mitigation requirements in the 100-foot Buffer, the applicant must provide \$240 of landscaping; the applicant proposes to meet this requirement by planting 3,281 square feet of new plantings; a total of 7 large trees (Maple, Magnolia, Crepe Myrtle, Rose of Sharon, Holly), 2 small trees (Apple, Lilac), 11 large shrubs (Evergreen, Holly, Azalea), 17 small shrubs (Evergreen, Rhodadendron, Azalea), and three herbaceous plants will be provided.

To meet stormwater management requirements, the applicant is keeping the amount of impervious surface onsite under 60%, is providing vegetative mitigation, and has installed a five foot by five foot rain garden with one shrub and three plants.

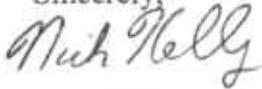
Based on the information provided, we have the following comments on this project:



1. In accordance with Section VI of the Town of Ocean City Critical Area Project Application, please have the applicant provide a landscape/mitigation plan that includes the botanical name of each plant.
2. Within the 100-foot Buffer area, the applicant proposes to build a 40 square foot shed. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." It appears that the proposed shed does not minimize Buffer intrusion. To minimize water quality and habitat impacts, we recommend moving the proposed shed to the front area of the house.
3. We recommend fully planting the setback area with the native vegetation that is required as mitigation for this site.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 748-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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Memorandum

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

From: Nick Kelly, Critical Area Commission

Re: **DNR Clearinghouse Review of Local POS Project 5307-14-71 Restroom Facility, Town of Rock Hall, Kent County**

Dear Mr. Price and Ms. Lhotsky:

Thank you for providing information for the above-referenced project. The applicant plans to develop restrooms that will be ADA compliant for the prime waterfront facility in the Town of Rock Hall. The area is designated as an Intensely Developed Area (IDA).

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

1. Since the project is located in an IDA, any new development activities that exceed 250 square feet will require 10% pollution reduction.
2. The project is located in a Buffer Exemption Area (BEA). Any intrusion into the Buffer should be minimized, taking into consideration existing Town yard setback requirements. Any disturbance within this Buffer area will require 2:1 mitigation in a Buffer Exemption offset area or other location as determined by the Town.
3. Projects on property owned by a local jurisdiction require confirmation of consistency with the Critical Area Program, or the project may require Conditional Approval from the Critical Area Commission if any element of the project does not meet all the requirements set forth by the jurisdiction's Critical Area Program. Therefore, any proposed development activities will require, at a minimum, a review by Commission staff.
4. We advise the Town of Rock Hall to work closely with Commission staff as early as possible on this project.

Thank you again for the opportunity to provide comments on this project. If you have any questions, feel free to call me at (410) 260-3483.

cc: Amy Moredock, Kent County Planning and Zoning Director



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 26, 2007

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

Re: 2007-0411-V
Hagberg Variance

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting an after-the-fact variance for a dwelling addition with less setbacks and Buffer than required. The property is 9,650 square feet in size and is located in a Limited Development Area (LDA) and a Buffer Exempt Area (BEA). The property is currently developed with a single-family dwelling unit, driveway, sidewalks, shed, and decks. The applicant requests to keep a 31-foot by 29-foot pervious deck with steps (899 square feet) that is approximately 22 feet from the shoreline. The pervious deck will connect the dwelling unit to an existing 18-foot by 9-foot pervious deck (62 square feet) that is located approximately 12 feet from the shoreline. In addition, the deck impacts slopes greater than 15%. Current impervious surface on this site, including the deck, is 2,748 square feet (28.47%). Total wooded vegetation onsite is 2,300 square feet (23.83%).

Disturbance to the 100-foot Buffer and Slopes Greater than 15%

This office opposes granting the requested variance on this site. In speaking with Lori Rhodes of Anne Arundel County Planning and Zoning, it is my understanding that the original deck (along with the 62-foot pervious deck) was constructed in 2001 without any building permits or review from the Critical Area Commission; 1995 and 2000 aerial photographs verify that the deck does not appear to exist prior to this date. In reviewing the current application, it appears that the applicant has ample space outside of the 100-foot Buffer to install a deck, and would not suffer an unwarranted hardship if the variance is denied; therefore, we recommend that the applicant remove both decks and replant the

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area with native vegetation. The following is an analysis of the requested variance standards for this project in the context of Anne Arundel County's variance standards.

Relevant Variance Standards

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. In particular, the General Assembly reaffirmed the stringent standards that an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship;" that is, "denial of 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 instance, the applicant's request for an after-the-fact variance for a deck is in conflict with Anne Arundel County's Zoning Code provisions regarding new structures in the 100-foot Buffer. Anne Arundel County Code §17-8-702(b)(1) states that "no new impervious shall be placed nearer to the shoreline than the existing principal structure and landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure." The deck is located 22 feet from Mean High Water (MHW), which is closer than the existing home. Besides the regulations regarding the 100-foot Buffer, Anne Arundel County's Zoning Code regulates disturbance to steep slopes, as §17-8-201 states that development in the LDA or Resource Conservation Area "may not occur within slopes of 15% or greater unless the development will facilitate the stabilization of the slope or the disturbance is necessary to allow connection to a public utility." The proposed deck is located in an area with slopes greater than 15% and does not provide the means to stabilize the slope or allow connection to a public utility.

While Anne Arundel County Code §18-16-305 (b) (1) states that a variance may be granted in the Critical Area if, "because of unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of Critical Area rules, regulations, and policies would create an unwarranted hardship," the applicant appears to have ample room outside of the 100-foot Buffer to place the deck on this parcel. In addition, the parcel is also developed with a single-family dwelling unit, driveway, sidewalks, and shed; denial of this variance, then, will not create an unwarranted hardship, as the applicant has reasonable and significant use of the parcel.

In our view, the applicant has not met each one of Anne Arundel County's variance standards. Therefore, the variance should be denied, both decks should be removed, and

the location of the decks should be replanted with native vegetation. 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 parcel is developed with a single-family dwelling unit, driveway, sidewalks, shed, and decks; the decks were constructed in 2001 without building permits and without being reviewed by Commission staff. It appears that the applicant currently enjoys reasonable and significant use of the property. Given the uses enjoyed by the applicant on this property, we do not believe that the County has evidence on which to base a finding that, without the deck, 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 proposes to construct a deck 22 feet from Mean High Water (MHW), which is closer than the existing home, on slopes greater than 15%; the structure does not stabilize the slope or allow connection to a public utility. This office would not support similar requests to construct a deck in the Buffer on slopes greater than 15% on other sites within the Critical Area. Therefore, the rejection of an after-the-fact variance for a deck in the Buffer on steep slopes would not deny the applicants a right commonly enjoyed by other properties.

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

The granting of an after-the-fact variance for a deck within the Buffer, closer to MHW than the existing house and located on steep slopes, is not consistent with the purposes, policies, and goals of the Critical Area Criteria. Therefore, granting of this variance would constitute a special privilege upon the applicant which would be denied to others in the County as well as within other jurisdictions in the Critical Area.

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

The applicant is requesting a variance due to the fact that this deck (along with the pervious deck located onsite) was constructed in 2001 without building permits or

review from the Critical Area Commission. Thus, it is the result of circumstances that are based upon actions by the applicant that has created a need for this variance.

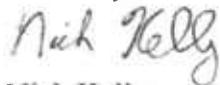
5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.

Granting of this variance is not in harmony with the general spirit and intent of Critical Area law and regulations. A granting of an after-the-fact variance to allow a deck within the Buffer, closer to MHW than the existing house and located on steep slopes, results in destabilization of the slope, an increase in stormwater and sediment runoff, and the loss of essential infiltration opportunities. Given that the applicant can adequately redevelop this property and locate the deck outside of the Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the five standards is met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Therefore, we recommend that the Board deny the applicant's request for this variance.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 731-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 21, 2007

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

Re: Carlson Variance
ENC 12

Dear Ms. Verdery:

Thank you providing information on the above referenced variance request. The applicant is requesting a variance to construct an addition to an existing dwelling unit. The lot is designated as a Limited Development Area (LDA) and is .90 acres in size. Currently, the lot is composed of a single-family dwelling unit, screened porch, stoop, shed, sidewalks, and driveway. The applicant proposes to install a wrap around extension to the existing porch. It appears that the proposed porch is located outside of the 100-foot Buffer.

Based on the information provided, it appears that the applicant does not require a variance to the 100-foot Buffer. Therefore, we do not oppose this variance request. However, we do have the following comments on this project:

1. To ensure that the proposed porch is located outside of the 100-foot Buffer, please have the applicant delineate the Buffer on the site plan.
2. Please have the applicant provide the current and proposed amount of impervious surface onsite. The applicant cannot exceed 5,880.6 square feet. In addition, please have the applicant provide the amount of square footage attributed to each structure (house, porch, shed, etc.).
3. Please have the applicant delineate whether the tidal wetlands located onsite are state or privately owned. State-owned wetlands must be removed from the total acreage of the site, and thus will affect the amount of impervious surface permitted on the parcel.

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

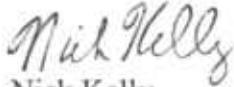
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Commission in writing of the decision made in this case. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

cc: TC 743-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 19, 2007

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

Re: Mintz Building Permit
14052

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a sunroom and covered porch with open pervious deck. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 4,167 square feet in size and is currently developed with an existing townhouse unit, pervious deck, second floor deck, and paving. The applicant proposes to construct an addition to the existing townhouse unit, install a second floor pervious deck, a third floor pervious deck, and add pervious gravel parking. Total existing impervious surface onsite is 1,816 square feet (43.58%). Upon completion of the project, impervious surface will rise to 1,956 square feet (46.94%). To meet mitigation requirements in the 100-foot Buffer for a multi-family property, the applicant must provide 375 square feet of landscaping. The applicant proposes to meet this requirement by planting 375 square feet of new landscaping and maintaining an additional 1,050 square feet of plantings, thus establishing 1,425 in plantings; a total of 4 large trees (Mulberry), 3 small trees (Silver Maple), 1 large shrub (Crepe Myrtle), and 5 small shrubs (Alberta Spruce, Bayberry) will be exist on the parcel.

To meet stormwater management requirements, the applicant is minimizing impervious surface below 60% of the site area, providing vegetative mitigation, and is constructing pervious decks.

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



1. The applicant is providing mitigation in the 100-foot Buffer using the guidelines for Multi-family and Commercial dwelling properties; however, to address stormwater management, the applicant is using the guidelines for a single-family dwelling unit. Commission staff does not have concerns with the property being subject to single-family stormwater management guidelines; however, to be consistent, we request that the applicant provide mitigation that follows the guidelines for a detached single-family dwelling unit as well.
2. Staff has concerns about the pervious nature of the proposed 2nd and 3rd floor decks. In general, throughout the Critical Area, staff considers second and third floor decks to be impervious in nature, due to the reduced amount of stormwater infiltration, resulting in little, if any, infiltration. Consequently, staff recommends that the proposed 2nd and 3rd floor decks be removed from the site plan, or that both decks be calculated as impervious surface, thus requiring additional mitigation and stormwater management for the site.
3. It appears that there is ample space within the 10-foot setback area to place the plantings required for mitigation without interfering with the structural integrity of the bulkhead. In accordance with the Town of Ocean City Atlantic Coastal Bays Critical Area, Section 30-554 (d)(7)(i), please have the applicant place the mitigation plantings with the 10-foot setback area of the parcel.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 736-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 19, 2007

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

Re: Talbot County Unified Code Enforcement Procedure

Dear Ms. Verdery:

The purpose of this letter is to provide an update regarding the Commission's processing of the text amendment to the Talbot County Critical Area Program and Zoning Ordinance that establishes a unified code enforcement procedure. On December 18, 2007, Chair McHale determined that the proposed text amendment will be processed as a refinement to the Talbot County Critical Area Program.

The proposed text amendment has been scheduled for review at the January 9, 2008 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

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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December 19, 2007

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Cooke's Hope Phase IV & V Growth Allocation

Dear Mr. Thomas:

The purpose of this letter is to provide an update of the Commission's processing of the proposed growth allocation for Cooke's Hope, LLC in the Town of Easton. On December 18, 2007, Chair McHale determined that the Cooke's Hope Phase IV & V Growth Allocation will be processed as an amendment to the Town of Easton's Critical Area Program. Over the next few weeks, I will be in contact with you in regards to the amendment procedures and public hearing process.

If you have any questions, feel free to contact me at (410) 260-3483. Thank you in advance for all of your help with this process.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: Kerrie Gallo, Regional Program Chief
Ren Serey, Director
Marianne Dise, Staff Attorney



Martin O'Malley
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Anthony G. Brown
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December 18, 2007

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

Re: Reeves Building Permit
14138

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a sunroom and covered porch with an open pervious deck. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 3,865 square feet in size and is currently developed with an existing mobile home, sheds, covered patio, wood deck, concrete walkway, and a concrete pad. The applicant proposes to raze the existing mobile home and construct a single-family dwelling unit, concrete walkway, and concrete driveway; the applicant will keep the existing pervious wood deck and remove the sheds and covered patio. Total existing impervious surface onsite is 2,410 square feet (62.35%). Upon completion of the project, impervious surface will fall to 2,093 square feet (54.15%). To meet mitigation requirements in the 100-foot Buffer, \$1,860 of landscaping is required. The applicant proposes to provide \$2,600 in plantings; a total of 16 large shrubs (Winterberry, Pink Azalea), 12 small shrubs (Maple Leaved Arrowwood, Beach Plum), 2 small trees (Eastern Red Cedar), and 3 large trees (Red Maple) will be provided as landscaping.

To meet stormwater management requirements, the applicant is minimizing impervious surface below 60% of the site area, is maintaining the deck and steps in a pervious manner, is creating two grass swales, and is installing a rain garden.

Based on the information provided, we have no additional comments on this project.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly
Natural Resource Planner
cc: OC 738-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 17, 2007

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

Re: Schmidt Variance
2007-0351 V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling addition with disturbance to slopes greater than 15%. The property is 2.11 acres in size, with .67 acres located in a Limited Development Area (LDA) and 1.44 acres located in a Resource Conservation Area (RCA). The property is currently developed with a one-story dwelling, hot tub, patio, wood deck, walkway, garage, and gravel driveway. Current impervious surface on this site is 9,277 square feet (10.1% of the site).

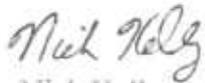
This variance application was originally submitted with the applicant proposing to expand the garage and construct a deck with patio beneath it, a retaining wall, a screened porch, and a porch; the deck with patio was located within the expanded Buffer for steep slopes. Presently, the applicant has revised the variance request, proposing to reduce the size of the deck, remove the patio underneath it, and construct a patio adjacent to the proposed deck but outside of the expanded Buffer; the proposed deck is still located in the expanded Buffer for steep slopes. Impervious surface will increase to 9,704 square feet (10.6%) if the variance is granted.

In reviewing the revised variance proposal, it still does not appear that the applicant has fully minimized impacts to the expanded Buffer for steep slopes. A granting of a variance to allow an accessory structure, such as a deck, in the expanded Buffer for steep slopes results in destabilization of the slope, an increase in stormwater and sediment runoff, and the loss of essential infiltration opportunities. It appears that the applicant could avoid the need for a variance to the expanded Buffer for steep slopes by cantilevering the proposed porch, or by moving the proposed porch to the southwestern corner of the lot, outside of the expanded Buffer, where the proposed patio is currently located. Furthermore, the applicant has not proven that

there is an unwarranted hardship; that is, without the granting of this variance, the applicant would be denied reasonable and significant use of this lot. Therefore, the comments provided in my November 13, 2007 letter (attached) are still applicable to this project, and we recommend that this variance request be denied.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 645-07

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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December 17, 2007

Ms. Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Town of St. Michaels Street Repaving Project – Cherry Street

Dear Ms. Renshaw:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The Town proposes to replace existing bulkhead for the St. Michaels Harbor Pier project on Cherry Street. After reviewing the consistency report, this office agrees that the project is generally consistent with the Town of St. Michaels Critical Area Program for the reasons outlined below:

1. No trees are proposed to be cleared; therefore, no mitigation for forest clearing is necessary.
2. No additional impervious surface is proposed.
3. The project is water dependent.
4. The project does not require local approval of Stormwater Management or Sediment and Erosion Control.
5. The applicant has received its tidal wetlands permit from the Maryland Department of the Environment (06-GL-0390; RAMS Tracking Number 200764597).
6. No non-tidal wetlands will be impacted.

We do have the following comment on this project:

1. This project is considered to be a shore erosion control project; therefore mitigation at 1:1 ratio for disturbance in the Buffer is required.



2. Aerial maps reveal that the project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you again for your cooperation and assistance with reviewing this project. Please forward a copy of the mitigation plan to this office once it is available. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: ST 729-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 14, 2007

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

Re: Amendment to Talbot County Critical Area Program – Enforcement Procedure

Dear Ms. Verdery:

We have received your request for the processing of the above referenced text amendment to create unified code enforcement procedures applicable to the Talbot County Code. The enforcement procedures will be applicable to the Talbot County Critical Area Program. This letter serves to notify the County that Commission staff has accepted the materials forwarded by the County as a complete submittal. The Chair will make an amendment or refinement determination within thirty 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 providing us with the opportunity to review your growth allocation request. 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
cc: file



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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December 14, 2007

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: St. Michaels Critical Area Program Text Amendment – Growth Allocation

Dear Ms. Renshaw:

We have received your request for the processing of the above referenced text amendment to the Town of St. Michaels Critical Area Program. The text change proposes provisions for permitting amendments to approved growth allocations. This letter serves to notify the Town that Commission staff has accepted the materials forwarded by the Town as a complete submittal. The Chair will make an amendment or refinement determination within thirty 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 providing us with the opportunity to review your growth allocation request. 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

cc: file
George Kinney, Talbot County Planning Officer



Martin O'Malley
Governor

Anthony G. Brown
Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 12, 2007

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

Re: Kramer Building Permit
14062

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a single-family home with a driveway and steps. Critical Area issues include stormwater management, pollutant removal, and afforestation.

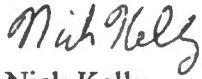
The lot is 1,108 square feet in size and is currently developed with a mobile home, concrete pad, shed, and steps. The applicant proposes to construct a single-family dwelling unit, driveway, landing, steps, HVAC platform, and cantilevered window. Total existing impervious surface onsite is 469 square feet (42.33%). Upon completion of the project, impervious surface will increase to 723 square feet (65.25%). To meet mitigation requirements in the 100-foot Buffer, \$912 of landscaping is required; the applicant proposes to provide \$975 in plantings. A total of 13 small shrubs (Holly or Boxwood) will be provided as landscaping. To meet stormwater management requirements, the applicant is providing two grass swales, one five-foot by five-foot rain garden, and pervious steps. Since the project exceeds the 65% impervious surface standard by 2.8 feet, the applicant will provide \$3.36 as a fee-in-lieu.

Based on the information provided, we have the following comment for this project:

- Please have the applicant provide the botanical name of the proposed shrubs onsite.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 725-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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December 12, 2007

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

Re: Lehman Building Permit
13936

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a sunroom and covered porch with open pervious deck. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 5,108 square feet in size and is currently developed with an existing house, deck, shed, driveway, and dock. The applicant proposes to raze the existing structures and construct a single-family dwelling unit, garage, pool, driveway, pervious deck, and second floor pervious deck. Total existing impervious surface onsite is 2,425 square feet (47.47%). Upon completion of the project, impervious surface will increase to 2,669 square feet (52.25%). To meet mitigation requirements in the 100-foot Buffer, \$8,500 of landscaping is required. The applicant proposes to provide \$8,600 in plantings; a total of 80 large shrubs (mix Holly, Juniper), 40 small shrubs (mix Holly, grass), and 3 large trees (Red Maple) will be provided as landscaping.

To meet stormwater management requirements, the applicant is minimizing impervious surface below 3,000 square feet (requirement for lots 5,001 to 6,000 square feet), is providing 42.5 cubic feet of water quality, is creating a grass swale and rain garden, and is installing two pervious decks.

Based on the information provided, we have the following comments for this project:

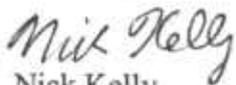
TTY for the Deaf

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

1. Within the 100-foot Buffer area, the applicant proposes to build a 1,726 square foot dwelling unit, a 45-foot by 15-foot pervious deck (675 square feet), a 26.67-foot by 10-foot second floor pervious deck (296.7 square feet), pool (185 square feet), and 20-foot by 20-foot attached garage (400 square feet). The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." While we understand that the Town of Ocean City Atlantic Coastal Bays Critical Area Program allows pervious decks in the setback, it appears that the size and location of the house, decks, pool, and garage do not minimize Buffer intrusion. To minimize water quality and habitat impacts, we recommend reducing the size of the proposed house so that the deck can be located outside of the setback area. Furthermore, we recommend reducing the size of the pool, first floor deck, and garage as well as removing the second floor deck; we note that the existing home, which was 1,389 square feet in size, was constructed with a 392.84 square foot pervious deck that was located entirely outside the setback. In addition, we recommend fully planting the setback area with the native vegetation that is required as mitigation for this site.
2. It is unclear if the water quality calculations are correct. According to the Town of Ocean City Standard Stormwater Management Plan for Single Family Homes over 5,000 square feet, the total amount of new impervious area must be included in water quality calculations. The present application excludes new impervious surface in this computation. Please have the applicant provide a water quality calculation that includes new impervious surface.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: OC 734-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 12, 2007

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

Re: 2007-0378-V
Johnson Variance

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting an after-the-face variance for an accessory structure with less setbacks and Buffer than allowed. The property is 6,895 square feet in size and is located in an Intensely Developed Area (IDA) and a Buffer Exempt Area (BEA). The property is currently developed with a single-family dwelling unit, driveway, deck, screened deck, pool, pool deck, and shed. The applicant requests to keep a 10-foot by 14-foot shed (140 square feet) that is approximately 55 feet from the shoreline. This shed was constructed to replace an existing 10-foot by 8-foot shed (80 square feet) and is located on the footprint of the original shed. Current impervious surface on this site, including the shed, is 2,970 square feet (43.07%).

Based on the information provided, we oppose a variance to perfect a shed in its current location. Anne Arundel County Code §17-8-702(b)(1) states that "no new impervious shall be placed nearer to the shoreline than the existing principal structure and landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure." The shed is located 55 feet from Mean High Water (MHW), which is closer than the existing home. While Anne Arundel County Code §18-16-305 (b) (1) states that a variance may be granted in the Critical Area if, "because of unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of Critical Area rules, regulations, and policies would create an unwarranted hardship," there appears to be ample room outside of the 100-foot Buffer to place the shed on this parcel. Furthermore, the parcel is developed with a single-family

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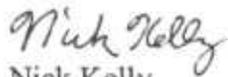


dwelling unit, driveway, deck, screened deck, pool, pool deck, and shed. Therefore, denial of this variance will not create an unwarranted hardship for this applicant. In addition, Anne Arundel County Code 18-16-305 (b) (3) states that the variance cannot be based on "Conditions or circumstances that are the result of actions by the applicant." The applicant is requesting this variance due to the fact that the shed was constructed within the 100-foot Buffer without prior approval. Thus, it is the result of circumstances that are based upon actions by the applicant that has created a need for this variance.

Based on the above purposes, policies, goals, and provisions of the Critical Area Law and Criteria, we recommend that the variance be denied, the shed be relocated outside of the 100-foot Buffer, and that mitigation be required at a 3:1 ratio for the area disturbed by the current location of the shed. The mitigation plantings should be located within the Buffer.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 730-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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December 10, 2007

Tom Hamilton, Town Planner
City of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Cooke's Hope Phase IV & V Growth Allocation

Dear Mr. Hamilton:

We have received your revised request for the processing of the above referenced growth allocation proposal of 35.19 acres for the Town of Easton. This letter serves to notify the Town that Commission staff has accepted the materials forwarded by the Town as a complete submittal. The Chair will make an amendment or refinement determination within thirty 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 providing us with the opportunity to review your growth allocation request. 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
cc: EA 616-00





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 7, 2007

Lynn Thomas
City of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

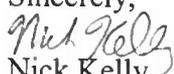
Re: Cooke's Hope Phase IV & V Growth Allocation

Dear Mr. Thomas:

This letter is to a follow-up to the voice mail left for you yesterday morning by Commission staff. The voicemail stated that, in order to review the materials submitted in regards to the above referenced growth allocation application, the Town must submit a revised letter stating the amount of growth allocation requested, less the areas of the site that are classified as State-owned tidal wetlands. Commission staff has also been in contact with Bill Stagg of Lane Engineering in regards to this request. In order to process this application in accordance with Natural Resources Article §8-1809, Commission staff will require this information by noon on Monday, December 10, 2007.

Please note that while the acquisition of this information will complete the application submittal for processing, the issues presented in my April 12, 2007 letter pertaining to adjacency, provision of a 300-foot setback, enhancement of water quality, and impacts to Habitat Protection Areas (HPA) and the defined land uses of the Resource Conservation Area remain outstanding concerns which will be evaluated by the Commission during their consideration of this 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
Bill Stagg, Lane Engineering



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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December 4, 2007

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

Re: L1068
Hunt Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is requesting a lot line revision between two parcels (Revised Tax Parcel 6, Revised Tax Parcel 20). Both properties are located in a Resource Conservation Area (RCA). Revised Tax Parcel 6 is currently developed with a one-story dwelling unit, a separate dwelling unit, sidewalk, brick walkway, barn, and gravel driveway. Revised Tax Parcel 20 is currently undeveloped, except for a dirt driveway. If this lot line abandonment is granted, acreage on Revised Tax Parcel 6 will increase from 94.520 acres to 141.318 acres. Total allowable impervious surface onsite will increase to 921,327 square feet. Impervious surface onsite is currently 30,849 square feet (.50% of the total site area) and will remain unchanged. Acreage on Revised Tax Parcel 20 will fall 115.892 acres to 69.094 acres; allowable impervious surface onsite will be 451,218 square feet. Currently, 28,737 square feet of impervious surface exist (.95%). Total forest coverage on Revised Tax Parcel 6 is 41.233 acres and total forest coverage on Revised Tax Parcel 20 is 13.702 acres.

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

1. We notice that the wetland delineations were taken from the N.W.I. maps of 1972. Aerial photographs and DNR wetlands information reveal additional areas of nontidal wetlands that were not delineated on the site plan. Please have the applicant perform an updated wetland delineation. Having this action performed will allow the applicant to properly determine how much acreage on the site is available for parcel development, and will verify that the amount of private and state tidal wetlands is accurate. Please consider this wetland delineation a request under COMAR 27.03.01.02C, which states that the

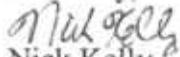


Commission may "request additional information from either the local approving authority or the applicant if it is necessary for accurate evaluation of the proposed action."

2. Due to the concerns that additional wetlands may exist onsite, and based on the fact that a large amount of wetlands currently exists, please have the applicant ensure that, in the future, all proposed lots will have a sufficient buildable area so that a need for variances is eliminated.
3. The site plan reveals that a bald eagle's nest is located on Revised Tax Parcel 6. Consequently, development restrictions will apply to this site, and a Habitat Protection Plan must be submitted to address any proposed impacts. In addition, please have the applicant 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 additional threatened or endangered species onsite. If present, the applicant must address all recommendations from DNR for protection of this species. Please forward a copy of this letter to this office.
4. If forest is cleared for any development on this parcel in the future, mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

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 692-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 4, 2007

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

Re: Smith Building Permit
13958

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a single-family home with a porch, steps, deck, and shower. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 3,628 square feet in size and is currently developed with a mobile home, deck, shower, steps, walkway, and driveway. The applicant proposes to construct a one-story dwelling unit, porch, steps, shower, driveway, deck, walkway, and HVAC platform. Total existing impervious surface onsite is 2,659 square feet (73.29%). Upon completion of the project, impervious surface will decrease by one foot. To meet mitigation requirements in the 100-foot Buffer, \$2,610 of landscaping is required; the applicant proposes to provide \$2,625 in plantings. A total of 3 small trees, 21 large shrubs, and 15 small shrubs (Crepe Myrtle, Holly, and Boxwood) will be provided as landscaping. To meet stormwater management requirements, the applicant is providing two grass swales, two five foot-by-five foot rain gardens, and a pervious deck and steps.

Based on the information provided, we have the following comments for this project:

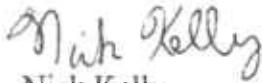
- The applicant proposes to build a pervious deck (153 square feet) in the setback and a covered porch (276 square feet) within the 100-foot Buffer area. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." While we understand that the Town of Ocean City Atlantic Coastal Bays Critical Area Program allows pervious decks in the setback, it appears that the size and location of the deck and porch do not minimize Buffer



intrusion, particularly given that the home is located inside the 100-foot Buffer and is increasing by an additional 420 square feet as well. To minimize water quality and habitat impacts, we recommend reducing the size of the covered porch and locating the proposed pervious deck outside of the setback area. In addition, we recommend fully planting the setback area with the native vegetation that is required as mitigation for this site.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 726-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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December 3, 2007

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

Re: Johnson Building Permit
13957

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct single-family home with a porch, steps, and shower. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 3,628 square feet in size and is currently developed with a mobile home, porch, deck, steps, concrete driveway, concrete pads, and dock. The applicant proposes to construct a one-story dwelling, porch, steps, shower, concrete driveway, concrete walkway, and HVAC platform. Total existing impervious surface onsite is 2,506 square feet (69.07%). Upon completion of the project, impervious surface will decrease to 2,420 square feet (66.7%). To meet mitigation requirements in the 100-foot Buffer, \$2,576.40 of landscaping is required; the applicant proposes to provide \$2,625 in plantings. A total of 3 small trees, 25 large shrubs, and 9 small shrubs (Crepe Myrtle trees, Holly and Boxwood shrubs) will be provided as landscaping. To meet stormwater management requirements, the applicant is providing a two grass swales, a five foot-by- five foot rain garden, and pervious steps.

Based on the information provided, we have the following comments for this project:

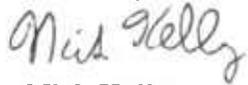
1. The applicant claims that pervious decking will be constructed, and has provided a figure that details how the deck will be built in a pervious manner. Based on the site plan, however, it does not appear that a deck will be constructed. Please have the applicant clarify whether a pervious deck will be constructed, or if only

pervious steps will be constructed for the home. If a deck will be constructed, please have the applicant delineate the deck on the site plan.

2. In an effort to increase water quality and habitat impacts, we recommend fully planting the setback area with the native vegetation that is required as mitigation for this site.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 723-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CHESAPEAKE AND ATLANTIC COASTAL BAYS

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

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

December 3, 2007

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: YMCA of Talbot County
Site Plan

Dear Mr. Thomas:

Thank you for providing information on the above-referenced site plan. The applicant is proposing to install a new outdoor tennis pavilion. The site is located in an Intensely Developed Area (IDA).

In speaking with the engineer of this project, Joe Gruber, it appears that the submitted site plan was incorrect, and that an updated site plan is available that more accurately shows the location of the parking lot and tennis pavilion area. In addition, general site statistics (parcel acreage, percent impervious, 10% calculations, forest conservation requirements) were not provided. Please have the applicant submit these figures along with the updated site plan. Once these are received, staff will review this project and provide comments as quickly as possible.

Thank you again for your help on this project. We look forward to reviewing this project in the future. 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 669-07



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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December 3, 2007

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

Re: Subaqueous Water Main Crossings Consistency Report

Dear Mr. Smith:

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. The project consists of installing 11 separate six-inch water main installations averaging 325 feet in length and ranging from 150 to 550 feet. The majority of the water mains will be directionally drilled, high density polyethylene pipes under the canal/channel in residential areas on the bayside of Ocean City between 28th and 139th streets. The site is 1.56 acres in size and is designated Limited Development Area (LDA). After reviewing the consistency report, this office agrees that the project is generally consistent with the Town of Ocean City Critical Area Program for the reasons outlined below.

1. There is no existing forest; thus, no clearing is proposed.
2. Total disturbance is less than 250 square feet at any individual site; therefore, stormwater management and sediment and erosion control plans are not required.
3. There will be no impacts to the 100-foot Buffer.
4. No habitat protection areas will be impacted.
5. The project will impact non-tidal wetlands, and the Town has received its permit from MDE (200765379).
6. The project will impact tidal wetlands, and the Town has received its permit from MDE (CENAB-OP-RMS 2007-08506-MO1).

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
Nick Kelly
Natural Resources Planner
cc: OC 699-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 30, 2007

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

Re: McCullough Building Permit
14061

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a sunroom and covered porch with open pervious deck. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 3,680 square feet in size and is currently developed with an existing house, driveway, shed, and sidewalks. The applicant proposes to construct a sunroom, covered porch, pervious deck, shed, office, and driveway. Total existing impervious surface onsite is 2,202 square feet (59.83%). Upon completion of the project, impervious surface will increase to 2,533 square feet (68.8%). To meet mitigation requirements in the 100-foot Buffer, \$1,440 of landscaping is required, and to meet afforestation requirements outside of the 100-foot Buffer, 552 square feet of vegetation is necessary. The applicant proposes to provide \$2,050 in plantings; a total of 22 large bushes (Rhododendrous/Azaleas) and 8 small shrubs (Yew, Bayberry, Boxwood) will be provided as landscaping.

To meet stormwater management requirements, the applicant is providing a grass swale and pervious decking. To compensate for not limiting impervious surface to less than 60% of the site, the applicant is providing an additional \$397.20 as a fee-in-lieu; \$159.60 has been previously paid.

Based on the information provided, we have the following comments for this project:

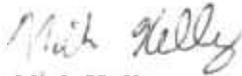
TTY for the Deaf

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

- Within the 100-foot Buffer area, the applicant proposes to build a pervious deck (120 square feet), sunroom (217.6 square feet), and covered porch (approximately 96 square feet) in the 100-foot Buffer. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." While we understand that the Town of Ocean City Atlantic Coastal Bays Critical Area Program allows pervious decks in the setback, it appears that the size and location of the deck, sunroom, and porch do not minimize Buffer intrusion. To minimize water quality and habitat impacts, we recommend reducing the size of sunroom and covered porch and locating the proposed pervious deck outside of the setback area. In addition, we recommend fully planting the setback area with the native vegetation that is required as mitigation for this site.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 713-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 30, 2007

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

Re: Belle Grove Corporation
2007-0399-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling unit with less setbacks than allowed and disturbance to slopes greater than 15%. The property is irregularly shaped, with Tax Parcel 113 broken into two parts; one part is 9.83 acres, while the other is 1.95 acres. In order to access Tax Parcel 113 and to avoid impacting nontidal wetlands and steep slopes onsite, the applicant requests to construct a road through slopes greater than 15% on Tax Parcel 27, Lot 20. Tax Parcel 27, Lot 20 is .33 acres in size. Most of the 9.83-acre portion of Tax Parcel 113 is designated Resource Conservation Area (RCA); the remaining portion of that lot, the 1.95 acre portion of Tax Parcel 113, and Tax Parcel 27, Lot 20 are designated Limited Development Area (LDA). The property is currently undeveloped. The applicant proposes to construct a single family dwelling unit, garage, deck, walkways, and driveway on the 9.83-acre portion of Tax Parcel 13, and continue the driveway through Tax Parcel 27, Lot 20; the 1.95-acre portion of Tax Parcel 113 will remain undeveloped. Total impervious surface proposed on the 9.83-acre portion of Tax Parcel 113 is 4,302 square feet (1.00%), while proposed impervious for Tax Parcel 27, Lot 20 is 2,250 square feet (15.65%).

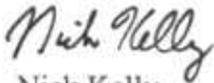
Based on the information provided, it appears that the applicant is attempting to avoid impacts to nontidal wetlands and to minimize overall impacts to steep slopes on Tax Parcel 113 by proposing to place the roadway through steep slopes on Tax Parcel 27, Lot 20. It appears that the impacts to the steep slopes on Tax Parcel 27, Lot 20 will be minimal, compared to the applicant attempting to place a road through the nontidal wetlands and steep slopes on Tax Parcel 113. In addition, we note that Tax Parcel 113 is

a grandfathered parcel of record. As such, any access to Parcel 113 requires a variance to disturb steep slopes. Therefore, we do not oppose this variance. However, we do have the following additional comments:

1. To ensure that the amount of impervious surface does not exceed the limit for each property, please have the applicant calculate the impervious surface limits for each section of Parcel 113 and for Parcel 27, Lot 20.
2. To offset the disturbance to slopes greater than 15%, we recommend that the applicant install a stormwater Best Management Practice (BMP). Please refer to the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, Appendix F, to determine which BMP is optimal for this site (http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html).
3. Mitigation will be required for any forest clearing related to this application. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

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

Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 703-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 29, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: 1480
Allen Variance

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant requests an after-the-fact variance to construct an addition to an existing dwelling unit within the 50-foot Buffer on a lot that is designated as a Buffer Management Area (BMA). The property is .516 acres in size and is currently developed with a house, shed, gravel driveway, deck, and pier. The applicant proposes to maintain the after-the-fact deck that is 144 square feet in size. The addition is no further from Mean High Water (MHW) than the existing dwelling unit (24 feet). If the variance is granted, total existing impervious surface on-site will be 4,011 square feet (17.83% of the total site area), which is below the 5,445 square feet allowed for lots between 21,781 and 36,300 square feet. If the deck is rebuilt as pervious, total impervious surface on this site will decrease to 3,867 square feet (17.19%).

Based on the information provided, we do not oppose this project. However, we do have the following comments:

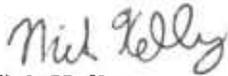
1. Generally, mitigation for any disturbance within a Buffer Management Area must be completed at a 2:1 ratio. However, due to the after-the-fact nature of this variance, we request that the applicant provide mitigation at a 3:1 ratio. We recommend that the applicant plant understory vegetation in the Buffer area to meet this requirement.
2. The after-the-fact deck should be retrofit as a pervious deck; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate,

and have the deck surrounded by native vegetation (at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design. We recommend that this requirement be included as a condition of approval. It appears that the applicant is amenable to this request, as an agreement to install a deck that meets Critical Area Standards was included with this application.

3. In this application, the applicant is requesting an after-the-fact variance to the 10-foot side yard setback for an elevated HVAC deck. Based on the site plan, it appears that the HVAC deck is partially located inside the 50-foot Buffer. Staff recommends that the HVAC deck be located outside the Buffer area, if possible.

Thank you for the opportunity to provide comments on this Board of Appeals variance request. If you have any questions, please feel free to contact me at 410-260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
TC 708-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 29, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: 1480
Allen Variance

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant requests an after-the-fact variance to construct an addition to an existing dwelling unit within the 50-foot Buffer on a lot that is designated as a Buffer Management Area (BMA). The property is .516 acres in size and is currently developed with a house, shed, gravel driveway, deck, and pier. The applicant proposes to maintain the after-the-fact deck that is 144 square feet in size. The addition is no further from Mean High Water (MHW) than the existing dwelling unit (24 feet). If the variance is granted, total existing impervious surface on-site will be 4,011 square feet (17.83% of the total site area), which is below the 5,445 square feet allowed for lots between 21,781 and 36,300 square feet. If the deck is rebuilt as pervious, total impervious surface on this site will decrease to 3,867 square feet (17.19%).

Based on the information provided, we do not oppose this project. However, we do have the following comments:

1. Generally, mitigation for any disturbance within a Buffer Management Area must be completed at a 2:1 ratio. However, due to the after-the-fact nature of this variance, we request that the applicant provide mitigation at a 3:1 ratio. We recommend that the applicant plant understory vegetation in the Buffer area to meet this requirement.
2. The after-the-fact deck should be retrofit as a pervious deck; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate,

TTY for the Deaf

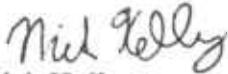
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and have the deck surrounded by native vegetation (at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design. We recommend that this requirement be included as a condition of approval. It appears that the applicant is amenable to this request, as an agreement to install a deck that meets Critical Area Standards was included with this application.

3. In this application, the applicant is requesting an after-the-fact variance to the 10-foot side yard setback for an elevated HVAC deck. Based on the site plan, it appears that the HVAC deck is partially located inside the 50-foot Buffer. Staff recommends that the HVAC deck be located outside the Buffer area, if possible.

Thank you for the opportunity to provide comments on this Board of Appeals variance request. If you have any questions, please feel free to contact me at 410-260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
TC 708-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 28, 2007

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

Re: Corson Variance
07-122

Dear Ms. Moredock:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to construct a single-family dwelling within the expanded Buffer for slopes greater than 15%. The lot is .71 acres in size and is located within a Limited Development Area (LDA). Currently, the lot is constructed with a one-frame story dwelling, driveway, deck, hot tub, and two sheds. The applicant proposes to construct a single family home, driveway, and deck while maintaining the hot tub and sheds. Total impervious surface onsite is currently 1,550 square feet (5.01%). Upon completion of the project, impervious surface will decrease to 1,300 square feet (4.20%). It is our understanding from the County that the proposed septic area and septic reserve area must be located on the portion of the site with the smoothest slope.

Based on the information provided, we do not oppose this variance request. However, we do have the following comments on this project:

1. Kent County Ordinance, Article IX §2.1 states that a Critical Area variance shall "not adversely affect water quality or adversely impact fish, wildlife, or plant habitat," and that a variance shall be granted if "the strict application of the Ordinance would produce an unwarranted hardship," or lack of reasonable and significant use of the property. The proposed house and deck, which are located in areas with slopes greater than 15%, appear to be significantly larger than the existing house and deck. In order to protect the steep slopes on this site, any development activity should be minimized to lessen "the adverse effects of human activities" on these Buffer areas (COMAR 27.01.09.01B.(2)). It is Commission staff's position that both the proposed deck and home can be minimized without affecting the applicant's ability to construct a single family dwelling on this site.

2. The proposed deck should be constructed as pervious; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate, and have the deck surrounded by native vegetation (at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design. We recommend that this requirement be included as a condition of approval.
3. Please delineate on the site plan the amount of impervious coverage attributed to each structure (house, driveway, hot tub, etc.).
4. We recommend that mitigation for any disturbance be performed at a 3:1 ratio.

Thank you for the opportunity to provide comments on this variance request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: KC 701-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 27, 2007

Ms. Dawnn McCleary
Maryland Transit Administration
6 St. Paul St.
Baltimore, MD 21202-1614

Re: MTA Bridge 13.01 over Mill Race Creek

Dear Ms. McCleary:

Thank you for forwarding the above referenced project to this office, in which the Maryland Transit Administration plans to repair cracks and spalls in the concrete slab and abutments, waterproof the top surface of the concrete slab, and replace the ties and ballast on the bridge slab of Bridge No. 13.01 over Mill Race Creek. This project does not constitute a development activity and does not require approval by the Commission, based on the following information:

1. It is our understanding that these are minor repairs and that no instream work, stream diversion, Buffer impacts, or increases in impervious surface will occur.
2. No waterways, channel embankments, or adjacent land will be impacted; therefore, permits from the Maryland Department of the Environment and Army Corps of Engineers are not required.
3. The Maryland Historic Trust (MHT) has determined that Bridge 13.01 is eligible for the National Register of Historic Places; however, the proposed repairs will have no adverse effect on the characteristics of the bridge that make it eligible for the National Register.
4. The Department of Natural Resources Wildlife and Heritage Division states that there are rare, threatened, and endangered aquatic species within close proximity to the sites; however, due to the fact that no instream work is proposed that the scope of the project is small, no adverse impacts are anticipated.

This office supports the Maryland Transit Administration's efforts in repairing existing railroad bridges on State lands. In addition, we appreciate your continued efforts to provide Commission staff notice of these projects.

Thank you again for forwarding this request to this office. Please telephone me at (410) 260-3483 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: MTA 48-07
Mr. Tom Dopkin, Wilson T. Ballard Company



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 27, 2007

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

Re: Petronis Variance
A105

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to expand an existing two-story dwelling and deck within the 100-foot Buffer. The lot is located in a Limited Development Area (LDA) and is 2.16 acres in size. Currently, the lot is composed of a two-story dwelling unit, brick patios, walkway, three patios, gravel driveway, two sheds, accessory structure, walkway, boat ramp, and pier. The applicant proposes to install a house addition on the southern end of the dwelling unit, and six small expansions on the northern end to square off the living space. The applicant also proposes to replace the existing decking and brick patios with a pervious deck that is approximately 1,360 square feet in size. The addition is 80.1 feet from Mean High Water (MHW), and the six expansions are located at least 75 feet from MHW; all proposed expansions and additions are further than the closest point of the existing house to MHW (59.1 feet). Total impervious surface onsite is currently 7,664 square feet (8.14% of the total site); upon completion of this project, impervious surface will increase to 7,728 square feet (8.21%).

Provided that the lot is properly grandfathered, we do not oppose this variance. However, we do recommend that the applicant reduce the size of the proposed pervious deck. The proposed deck (1,360 square feet) is nearly half the size of the house and expansion. Talbot County Code §190-97E(1)(h) states that any variance granted "shall not exceed the minimum necessary to relieve the unwarranted hardship." While the proposed deck will be pervious in nature, it is still a new development activity. Any development activity in the Buffer shall be minimized to lessen the "adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources" (COMAR 27.01.09.01B.(2)). It is Commission staff's position that the

proposed deck can be significantly minimized and still relieve the applicant's unwarranted hardship.

In addition, we have the following comments on this project:

1. As stated on the site plan, the proposed deck should be constructed as pervious; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate, and have the deck surrounded by native vegetation (at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design. We recommend that this requirement be included as a condition of approval.

In addition, the applicant proposes to place a pergola over the deck to provide shade. In order to remain pervious, the deck cannot be covered. Please have the applicant provide additional information clarifying the extent to which the proposed pergola covers the deck, and whether the pergola is pervious in nature.

2. Mitigation for any disturbance within the Buffer must be provided at a 2:1 ratio.
3. Please have the applicant provide the square footage of the proposed deck on the site plan.
4. Upon visiting the site, it appears that the walkway to the pier is composed of brick. Talbot County does not permit brick walkways within the 100-foot Buffer. Please have the applicant remove the brick walkway. The applicant can choose to replant the area with native vegetation or maintain the pathway using woodchips or mulch.

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
Natural Resource Planner
cc:

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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November 26, 2007

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

Re: Horn Variance
2007-0380-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting an after-the-face variance for an accessory structure with less setbacks and Buffer than allowed. The property is 14,610 square feet in size and is located in a Limited Development Area (LDA). The property is currently developed with a single-family house, driveway, garage, sidewalk, pier, and steps leading to the pier. The applicant requests to keep a 12 foot by 20 foot deck (240 square feet) that is approximately 53 feet from the shoreline. In addition, the applicant proposes to remove the steps that lead to the pier. Total impervious surface on this site, including the deck, is 4,159 square feet (28.4%).

Based on the information provided, we do not oppose this variance. We do have the following additional comments:

1. In general, mitigation for any clearing or disturbance within the Buffer must be performed at a 2:1 ratio. However, given the after-the-fact nature of this variance application, 3:1 mitigation within the Buffer area should be required for the entire footprint of the deck.
2. Please have the applicant delineate on the site plan the amount of impervious surface attributed to each structure (house, deck, driveway, etc.)
3. If not already constructed as pervious, the proposed deck should be retrofit as such; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate, and have the deck surrounded by native vegetation



(at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design. We recommend that this requirement be included as a condition of approval.

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

Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 103-03

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 26, 2007

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

Re: Howard Building Permit
13605

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a single family residence. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 3,643 square feet in size and is currently developed with an existing house, wood deck, stairs, concrete drive, and concrete patio. The applicant proposes to construct a new one-story single family home, shed, concrete driveway, concrete walkway, and wooden pervious deck. Total existing impervious surface onsite is 2141.6 square feet (58.79%). Upon completion of the project, impervious surface will increase to 2,357.9 square feet (64.72%). To meet mitigation requirements in the 100-foot Buffer, \$3,360 of landscaping is required, and to meet afforestation requirements outside of the 100-foot Buffer, 2,400 square feet of vegetation is necessary. The applicant proposes to provide \$2,400 in plantings and pay a fee-in-lieu of \$960; a total of 2 small trees, 2 large trees, 16 large shrubs, and 12 small shrubs will be provided as landscaping.

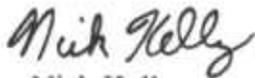
To meet stormwater management requirements, the applicant is providing two grass swales, a 25 square foot rain garden, and pervious decking. To compensate for not limiting impervious surface to less than 60% of the site, the applicant is providing \$206.52 as a fee-in-lieu.

Based on the information provided, we have the following comments for this project:

1. Within the 100-foot Buffer area, the applicant proposes to build a pervious deck (150 square feet) and concrete walkway in the 100-foot Buffer. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." While we understand that the Town of Ocean City Atlantic Coastal Bays Critical Area Program allows pervious decks in the setback, it appears that the size and location of the deck and walkway do not minimize Buffer intrusion. To minimize water quality and habitat impacts, we recommend reducing the size of the deck, removing the concrete walkway, and planting the walkway area with the native vegetation that is required as mitigation for this site.
2. In accordance with Section VI of the Town of Ocean City Critical Area Project Application, please have the applicant provide a landscape/mitigation plan that includes the botanical name, common name, and installation site.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 697-07

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**

1804 West Street, Suite 100, Annapolis, Maryland 21401
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November 26, 2007

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

Re: Posner Variance
2007-0383-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling unit and associated facilities with disturbance in the Buffer and to slopes greater than 15%. The property is 1.22 acres in size and is located in a Limited Development Area (LDA). Currently, the property is developed with a single family dwelling, pool, driveway, screen porch, stone walkway, and pier. It is our understanding that the existing house was constructed in 2005, and that total existing impervious surface onsite is 11,468 square feet (21.58%). The applicant proposes to raze the existing house and accessory structures, and construct a new single-family dwelling unit, driveway, garage, and deck. The applicant will also remove portions of the stone walkway that leads to the pier and replace the pool in-kind. Upon completion of this project, impervious surface will fall to 7,970 square feet (15.00%). The applicant proposes to remove 300 square feet of developed woodland, leaving 8,500 square feet (15.99%) onsite.

Impacts to the 100-foot Buffer, Slopes Greater than 15%

COMAR 27.01.01B(3) states that local jurisdictions shall establish policies with regard to the Buffer that "minimize adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources." Furthermore, COMAR 27.01.01C(7) allows local jurisdictions to expand the Buffer beyond 100 feet for contiguous sensitive areas such as steep slopes, hydric soils, or highly erodible soils, and Anne Arundel County Code §17-8-201 states that development on steep slopes of 15% or greater may not occur.

In reviewing the site plan, it appears that the applicant has not requested the minimum variance to afford relief for his site. The applicant proposes to raze the existing house and accessory structures and place a single-family dwelling unit, garage, and pool decking within the 100-foot Buffer and expanded Buffer for steep slopes. However, it appears that the proposed garage can be placed on portions of the proposed driveway that are located outside of the expanded Buffer, the footprint of the house can be further reduced, and the amount of pool decking can be minimized. Accordingly, the redevelopment of this lot should be accommodated outside of the Buffer to the greatest extent possible. While this office understands that the applicant has greatly reduced the amount of impervious surface within the 100-foot Buffer and expanded Buffer, the total amount of impervious surface on the property does not appear to be minimized. Furthermore, this office is unclear as to how the original home was constructed in 2005 with impervious surface limits exceeding 15%.

In addition, COMAR 27.01.09.01C(1) states that infiltration trenches and septic system are considered to be development activities and are not permitted within the Buffer area. It appears that room may exist outside of the Buffer to accommodate both the septic trenches and stormwater management structures. Therefore, the applicant should move the stormwater and septic systems outside of the 100-foot Buffer and expanded Buffer.

Relevant Variance Standards

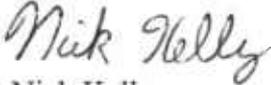
In 2002 and 2004, the General Assembly strengthened the Critical Area Law and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, particularly emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards that an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship;" that is, "denial of 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 instance, the applicant's request for a variance to allow a dwelling and associated facilities with disturbance in the Buffer and to slopes greater than 15% is in conflict with Anne Arundel County's Zoning Code provisions regarding new structures in the 100-foot Buffer and expanded Buffer for steep slopes (Anne Arundel County Code §18-13-104, §17-8-201). The size of the house and pool deck, as well as the location of the proposed garage, will create adverse impacts to the 100-foot Buffer and expanded Buffer for steep slopes. The applicant has ample room onsite to place the proposed garage entirely outside of the expanded Buffer, and can further reduce the footprint of the house and the deck area that surrounds the pool while still maintaining reasonable and significant use of the lot. The result of these actions would greatly minimize adverse impacts to slope stabilization, water quality, and habitat.

In summary, the Hearing Officer must find that the applicant has overcome the burden to meet each and every one of the County's variance standards in order to grant a variance. Because we believe that the applicant has failed to demonstrate that an unwarranted hardship would exist without a variance, we are unable to offer support for the applicant's request. In addition, we believe that the granting of this variance is not in harmony with the spirit and intent of Critical Area law and regulations, as the proposed disturbances will create adverse impacts to the Buffer and expanded Buffer that could be further minimized. Finally, this office recommends that a variance to the setback requirements from Melvin Road be considered in order to relocate any or all of the proposed development activities out of the Buffer on this lot. It is unclear why this option was not pursued and, absent this information, we do not believe the applicant has satisfied the variance standard that requires an applicant to show the minimum relief necessary.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 683-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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November 26, 2007

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

Re: Engle Variance
A106

Dear Ms. Verdery:

Thank you providing information on the above referenced variance request. The applicant is requesting a variance to add a second story addition to an existing dwelling unit. The lot is designated as a Limited Development Area (LDA) and is 2.05 acres in size. Currently, the lot is composed of a one-and-a-half story dwelling unit, pool area, porch, garage, patio, and gravel driveway. The applicant proposes to install a second story addition to the existing dwelling unit. There will be no expansion of the footprint to construct this project. Total impervious surface on this site is 13,245 square feet (14.83% of the total area) and will remain unchanged if this variance is granted.

Provided the lot is properly grandfathered, we do not oppose this variance request. However, the site plan does reveal that a future variance will be requested to allow for a sunroom addition in the 100-foot Buffer. This project will require review and comment from this office. Given the number of accessory structures currently located within the 100-foot Buffer on this site, it is unlikely that this office would support such a request as proposed.

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 690-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 20, 2007

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

Re: Oak Creek Landing Bulkhead 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. The project consists of the installation of 180 linear feet of timber bulkhead immediately outboard of the existing deteriorated bulkhead. In addition, approximately 18,000 square feet of existing parking lot will be resurfaced. The site is 1.56 acres in size and is designated Limited Development Area (LDA). 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. Existing impervious onsite is one acre (64%). No new impervious surface is proposed.
2. Since there is no increase in impervious surface, there is no change in stormwater runoff.
3. The project is not subject to afforestation requirements.
4. The project is exempt from stormwater management; sediment and erosion control approval will be obtained.
5. There are no impacts to Habitat Protection Areas (HPA).
6. The project qualifies as a permitted Shore Erosion Protection Work (COMAR 27.01.04).
7. No nontidal wetlands will be impacted. Tidal wetlands will be impacted, and a permit from MDE has been acquired (05-GL-1899).



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 691-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 20, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: 1479
Wuest-Santos Variance

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant requests variances to permit two nontidal wetland crossings and a stream crossing in order to construct a 12-foot wide residential driveway to access the construction envelope. The property, Deed Parcel B of Tax Parcel 45, is 17.6 acres and is designated as a Resource Conservation Area (RCA). The lot is currently undeveloped. The applicant proposes to place a 120-foot long expanse of driveway across nontidal wetlands and their buffers, and a 210-foot long driveway across a tributary stream and its buffer. Both nontidal wetlands and streams are classified as Habitat Protection Areas (HPA) in the Critical Area and are regulated as such through the Talbot County Code (§190-93). Total impervious surface proposed onsite is not provided; however, total proposed impervious surface in the Buffer will be 2,940 square feet. Deed Parcel B and Deed Parcel C of Tax Parcel 45, along with Tax Parcel 18, currently contain 9.987 acres of forest cover onsite (40.1% of the total site area).

This office opposes granting the requested variances on this site, as the applicant can create a development envelope that avoids impacting Habitat Protection Areas. In reviewing the site plan, there appears to be approximately 25,000 square feet of developable land onsite, directly adjacent to Maryland Highway 33, which could accommodate a reasonable home site with a driveway, thereby avoiding the need for variances to impact HPAs. As a reference, we note that Tax Map 38 Parcel 16, which is located directly north of this property, is currently developed with a house, garage, overhang, and driveway on a parcel that is very similar in size and topography to the 25,000 square foot area that we suggest this applicant use as a development envelope.

Based on this information, it appears that the applicant could create a development envelope of reasonable and significant use in this location and entirely avoid the need to acquire a variance.

Impacts to Habitat Protection Areas

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. In particular, the General Assembly reaffirmed the stringent standards that an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. One condition that the State law provides is 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;" that is, "denial of 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.

Pursuant to the site plan, the applicant is proposing two nontidal wetland crossings and a stream crossing in order to construct a 12-foot wide residential driveway to access the proposed construction envelope for the property. However, the site plan also reveals that there is approximately 25,000 square feet of developable land onsite, directly adjacent to Maryland Highway 33, which is located outside of Critical Area Habitat Protection Areas. Given that an opportunity exists to construct a home without the need for variances, we do not believe that the County has evidence on which to base a finding that, without the granting of these variances, the applicant would be denied reasonable and significant use of the entire lot or parcel.

In addition, Talbot County Code §190-14 defines Habitat Protection Areas (HPA) as "the shoreline development buffer, nontidal wetlands, habitats of species in need of conservation, threatened and endangered species, plant and wildlife habitats, and anadromous fish propagation waters." These areas are protected under §190-93E(8)(d), which states that HPAs shall be "conserved and protected," and that "development activities should be located, generally, as close to a public right-of-way as possible." By proposing to construct a road that crosses two nontidal wetlands and a stream, the applicant is not developing the property in a manner that conserves and protects Critical Area HPAs. Placing the development envelope closer to Maryland Highway 33, would negate the need for any variances, HPA impacts would be avoided, and development activities would be located as close to the public right-of-way as possible, consistent with Talbot County Code §190-93E(8)(d).

The State law establishes the 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 Board must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. The State law, including the presumption of non-conformance, applies to all variance decisions in the Critical Area. [2007 Laws of Maryland, Chapter 221(2)]. Thus, the Board must find that the applicant has overcome the burden to meet each and every one of the County's variance standards in order to grant a variance. Because we believe that the applicant has failed to demonstrate that an unwarranted hardship would exist without a variance, we oppose the applicant's variance requests. I have discussed each one of the variance standards below as it pertains to this site.

Relevant Variance Standards

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 undeveloped. The applicant proposes to place a 120-foot long expanse of driveway across nontidal wetlands and their buffers, and a 210-foot long driveway across a tributary stream and its buffer, in order to access a development envelope. However, there is 25,000 square feet of developable land onsite, directly adjacent to Maryland Highway 33, which could accommodate a reasonable home with a driveway, thereby avoiding the need for variances to impact HPAs. The State law standards, applicable to this variance request, define "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**. Given that an opportunity exists to construct a home on this site without the need for variances, we do not believe that the County has evidence on which to base a finding that, without the granting of these variances, the applicant would be denied reasonable and significant use of the entire lot or parcel.

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 can maintain reasonable use of this property for residential purposes with the development envelope located adjacent to Maryland Highway 33; establishing the envelope in this area would minimize impacts to nontidal wetland and stream areas. No property owner has the right to build over nontidal wetlands or a stream if there is the opportunity to develop in a manner that avoids impacting HPAs. Therefore, the denial of variances to cross nontidal wetland and stream areas would not deny the applicant 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.*

The granting of variances to permit two nontidal wetland crossings and a stream crossing, when the opportunity exists to create a development envelope that would avoid the need for variances to cross Habitat Protection Areas, would constitute a special privilege upon the applicant which would be denied to others in the County as well as within other jurisdictions in the Critical Area.

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

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.

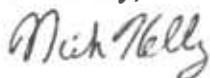
5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

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 through nontidal wetlands and a stream, which are both Habitat Protection Areas under the Talbot County Code, and its consequential disturbance to the land results in increased stormwater and sediment runoff, the loss of essential infiltration opportunities, and the destruction of significant habitat onsite. Given that the applicant can adequately develop this property without impacting HPAs, the approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

This letter has addressed five of the relevant variance standards. Based on the information provided, only one of the five variance standards is met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Because of the impacts to Habitat Protection Areas, and because the applicant has not met each one of Talbot County's variance standards, this office recommends that the Board deny the applicant's request for this variance and require the applicant to locate the house and the limit of disturbance for construction of the house outside of HPAs.

Thank you for the opportunity to provide comments on this Board of Appeals variance request. Please include this letter in your file and submit it as part of the records for this variance. If you have any questions, please feel free to contact me at 410-260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 20, 2007

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

Re: Scan, LLC
L1017A

Dear Ms. Verdery:

Thank you for providing information on the above referenced revision plat. The applicant is requesting a lot line revision between two properties on Tax Parcel 19 (Property 1, Property 2). Both properties are located in a Limited Development Area (LDA). Tax Parcel 19, Property 1 is developed with a one-story dwelling, foot bridge, shed, and existing foundation. Tax Parcel 19, Property 2 is currently developed with a two-story dwelling, gravel driveway, one-and-a-half story garage, and shed. The applicant is planning to create a 12-lot subdivision on this property.

If this lot line abandonment is granted, acreage on Tax Parcel 19, Property 1 will increase from 10.73 acres to 11.84 acres, while acreage on Tax Parcel 19, Property 2 will fall from 1.71 acres to .60 acres. Total impervious surface onsite for Tax Parcel 19, Property 1 will be 5,018 square feet (1.1%). The applicant proposes to remove portions of the existing gravel on Tax Parcel 19, Property 2, reducing current impervious surface to 5,906 square feet (22.6%). Total forest coverage located on the parcel is 6.73 acres (55%).

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

1. Please have the applicant provide on the site plan the current amount of impervious surface for Tax Parcel 19, Property 2, prior to the proposed removal of portions of the gravel driveway.
2. The applicant states that Property 2's impervious surface limit is 25% (6,534 square feet). However, Talbot County Code §190-93E(c) (iii)C states that impervious surface limits for a parcel between one-half acre and one acre in size cannot exceed 15% of the lot size, or 5,445 square feet, whichever is greater. For this case, 5,445 square feet is the

maximum amount permitted. Please have the applicant further reduce the amount of impervious surface on this lot to meet this standard. The lot line revision cannot be approved where the resulting lot exhibits an increase in nonconformity.

3. If forest is cleared for any development on this parcel in the future, mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.
4. Each proposed lot should have a sufficient buildable area so that a need for variances in the future is eliminated.
5. 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 threatened or endangered species onsite. 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.
6. It is unclear from the site plan where wetland information was gathered for this project. Please have the applicant provide a wetland delineation in order to identify all wetland areas that exist on the site plan, including a determination as to whether the existing agricultural ditches onsite are streams.

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

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 15, 2007

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

Re: 15% afforestation requirements for Local Projects

Dear Ms. Verdery:

Over the past several months, the Critical Area Commission and the Talbot County Office of Planning and Zoning have been in discussion over whether all county projects that require review for consistency, 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, need to comply with the 15% afforestation requirement. As you requested, this letter is intended to provide guidance and explain how we will review projects in the future.

Upon review of recent projects submitted by the County, Commission staff has determined that we will review each county project on a case-by-case basis to decide whether compliance with the 15% afforestation requirement is necessary. Each decision will be based on the size and scope of the project, and whether the project proposes substantial alterations to the site. Examples of substantial alternations include, but are not limited to, redevelopment activities which exceed the footprint of existing grandfathered structures or uses, new development activities which propose greater than 5,000 square feet of total disturbance, and shore erosion control measures which propose grading and/or clearing within the Buffer. It is our view that a case-by-case evaluation provides the greatest flexibility in assuring that any required afforestation is appropriate to the site and the proposed project.

We appreciate the help that you have provided in discussing this issue, and look forward to working with the Talbot County Office of Planning and Zoning on future projects. If you have any questions in regards to this matter, please feel free to contact me at (410) 260-3483.

Sincerely,

A handwritten signature in black ink that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 13, 2007

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

Re: Schmidt Variance
2007-0351 V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling addition with disturbance to slopes greater than 15%. The property is 2.11 acres in size, with .67 acres located in a Limited Development Area (LDA) and 1.44 acres located in a Resource Conservation Area (RCA). The property is currently developed with a one-story dwelling, hot tub, patio, wood deck, walkway, garage, and gravel driveway. The applicant proposes to expand the garage and construct a deck with patio beneath it, a retaining wall, a screened porch, and a porch. The deck with patio would be located within the expanded Buffer for steep slopes. Current impervious surface on this site is 9,277 square feet (10.1% of the site) and will increase to 9,850 square feet (10.7%) if the variance is granted.

This office opposes granting the requested variance on this site, as the applicant has the opportunity to construct the proposed deck and patio outside of the expanded Buffer for steep slopes. Based on the site plan, it appears that the proposed porch could be located on the southwestern corner of the lot, which would eliminate the need of a variance for disturbance to the expanded Buffer. The following is an analysis of the requested variance standards for this project in the context of Anne Arundel County's variance standards.

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. In particular, the General Assembly reaffirmed the stringent standards that an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that

TTY for the Deaf

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variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards. 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 Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicant's request for a variance to allow a proposed deck with patio beneath it is in conflict with Anne Arundel County's Zoning Code provisions regarding new structures in the expanded Buffer for steep slopes. Anne Arundel County Code §18-13-104 states that the 100-foot Buffer shall be expanded to include sensitive areas, including steep slopes of 15% or greater. Furthermore, §17-8-201 states that development in the LDA or RCA "may not occur within slopes of 15% or greater unless the development will facilitate the stabilization of the slope or the disturbance is necessary to allow connection to a public utility." The proposed deck and patio do not facilitate the stabilization of the slope or allow connection to a public utility. As a result, the proposed disturbance will create unnecessary adverse impacts to slope stabilization, water quality, and habitat. In our view, the applicant has not met each one of Anne Arundel County's variance standards and should therefore be denied a variance. 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 property is developed with a one-story dwelling, hot tub, patio, wood deck, walkway, garage, and gravel driveway. The applicant proposes to expand the garage and construct a deck with patio underneath, a retaining wall, a screened porch, and a porch; the deck with patio beneath it is located in the expanded Buffer for steep slopes. The State law standards, applicable to this variance request, define "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**. Given the uses enjoyed by the applicant on this property, we do not believe that the County has evidence on which to base a finding that, without the deck with patio beneath it, 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.*

Anne Arundel County Code §17-8-201 states that development in the LDA or RCA may not occur within slopes of 15% or greater unless the development will facilitate the stabilization of the slope or the disturbance is necessary to allow connection to a public utility. The applicant proposes to construct a deck with patio beneath it in the expanded Buffer for steep slopes. Neither structure stabilizes the slope or allows connection to a public utility. This office would not support similar requests to construct deck with patio in an expanded Buffer

on other sites within the Critical Area. Therefore, the rejection of a variance for the deck with patio in the expanded Buffer for steep slopes would not deny the applicants a right commonly enjoyed by other properties.

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

The granting of a variance to permit a deck with patio beneath it in the expanded Buffer for steep slopes, which are protected under Anne Arundel County Code §17-8-201, would constitute a special privilege upon the applicant which would be denied to others in the County as well as within other jurisdictions in the Critical Area.

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

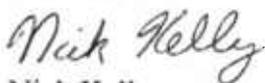
From the information provided, it does not appear that the variance request is based on conditions or circumstances that are the result of the applicant or from a neighboring property. Therefore, it appears that the applicant has met this standard.

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 Critical Area law and regulations. A granting of a variance to allow an accessory structure, such as a deck with patio beneath it, in the expanded Buffer for steep slopes results in destabilization of the slope, an increase in stormwater and sediment runoff, and the loss of essential infiltration opportunities. Given that the applicant can adequately redevelop this property and locate the deck and patio outside of the expanded 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. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 645-07



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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November 13, 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 Ms. Ellis:

I am writing to provide comments on the following project located in Talbot County:

200763587/08-WL-0425: Duvall Farm & Hollywood Farm LLC

In Trippe Creek, off Oxford Road, the applicants propose to construct a 40-foot long by 20-foot wide glue laminated timber bridge on existing concrete abutments, and to repair a 25-foot long by 18-foot wide concrete bridge decking on an existing bridge.

Commission staff is not opposed to the proposed repairs to the existing concrete bridge. Any Buffer disturbance will require mitigation at a 3:1 ratio, and, since the project is located in a waterfowl concentration area, time-of-year restrictions for shoreline work will apply between November 15 and March 1. The applicant must coordinate all activities with Talbot County Planning and Zoning for this project.

In order to provide an adequate review of the proposed 40-foot long by 20-foot wide glue laminated timber bridge, Commission Staff requests additional information, including a more definitive explanation as to why the bridge is necessary, the limits of disturbance for the project, and the amount of Buffer area disturbed. Time-of-year restrictions for shoreline work would also apply to this site between November 15 and March 1. Until such information is provided, we request that MDE hold off on issuing a permit for the proposed project. This would help to ensure that all agencies, both state and local, have been provided with adequate information upon which to base a decision.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,
Nick Kelly
Nick Kelly

Natural Resources Planner

cc: Mary Kay Verdery, Talbot County Department of Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 13, 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

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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) 260-3483.

Sincerely,
Nick Kelly
Nick Kelly

Natural Resources Planner

cc: Mary Kay Verdery, Talbot County Department of Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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Executive Director

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November 8, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: 1476
Schline Variance

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant requests an after-the-fact variance for an existing concrete walkway that is located 0 feet from Mean High Water (MHW), and an after-the-fact variance for a portion of an existing concrete pool deck that is located 97 feet from MHW. Both variance requests are made to allow for reasonable accommodations for a disabled citizen. The property is 5.00 acres in size and is located in a Resource Conservation Area (RCA). Currently, the site is developed with a two-story dwelling unit, deck, pool and deck, pool equipment area, and driveway. The applicant proposes to keep a 255 square foot sidewalk that runs from the pool deck to the shoreline. In addition, the applicant wishes to maintain corners of a pool deck that are located within the 100-foot Buffer. A total of 124 square feet of pool decking are located within the Buffer. Total existing impervious surface on-site is 10,398 square feet (4.77% of the total site area). Upon completion of this project, total impervious surface onsite will increase to 10,653 square feet (4.89%).

Provided that the Board of Appeals finds that the concrete walkway meets the ADA standards found in Article X §190-58 D (3), Article XII §190-93 E (3)(c), and Article XIV §190 -107 of the Talbot County Code, we do not oppose the existing concrete walkway.

In regards to the portions of the pool deck that exist within the Buffer, it appears that there was ample room to locate the deck entirely outside of the 100-Buffer. Therefore, staff recommends that the pool deck be brought into compliance by removing those portions of the pool deck that are located within the Buffer. If necessary, the concrete

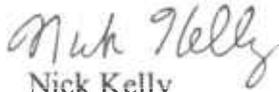
walkway to the pier may be extended to meet the pool area that is located outside of the Buffer area.

We have the following additional comments on this variance request:

1. Talbot County code states that mitigation for any development in the Buffer should be provided at a 2:1 ratio. However, due to the after-the-fact nature of this variance request, we recommend that the applicant provide 3:1 mitigation.
2. If the property is sold or transferred to another owner, the walkway shall be removed and replanted with native vegetation.

Thank you for the opportunity to provide comments on this Board of Appeals variance request. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
TC 652-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 8, 2007

Ms. Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Town of St. Michaels Street Repaving Project

Dear Ms. Renshaw:

Thank you for sending additional information in regards to the above-referenced project that addresses the recommendations made by Commission Staff in our September 11, 2007 consistency report letter. The proposed project involves the milling and repaving of seven existing streets in the Town of St. Michaels. The area of the site is 4.24 acres and is located in an Intensely Developed Area (IDA). In our letter, we asked that the applicant provide 10% pollutant removal calculations, since 1,375 square feet of new impervious surface was proposed for this project. Additionally, we requested that the applicant identify on the site plan the planting location of the trees required for mitigation. In response to our recommendations, the applicant has removed all new proposed impervious surfaces for the project, thus negating the need for 10% pollutant removal calculations. Furthermore, the applicant has provided site plans showing the location of the trees required for mitigation, and has increased the number of plantings from 27 trees to 41 trees to account for additional trees that are diseased or have outgrown their planting location.

After reviewing the revised changes, this office agrees that the project is generally consistent with the Town of St. Michaels Critical Area Program for the reasons outlined below:

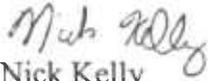
1. The project is not located within the 100-foot Buffer.
2. No new impervious surface is proposed, and 1,770 square feet of impervious surface will be removed.
3. There are no tidal or non-tidal wetland impacts.



4. A total of 41 trees that are diseased, dying, or have outgrown their planting location will be removed; 41 trees will be replanted on-site, and the applicant has provided plans that show where these trees will be located. Tree species proposed are Village Green Zelkova, London Plane, and Crape Myrtle.
5. The project is exempt from stormwater management review.

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: ST 524-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 7, 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:

200565569/06-WL-0400 Vane Brothers Company

In the Patapsco River, near Frankfurst Avenue, the applicant proposes to improve navigable access and to provide shore erosion control by constructing and backfilling after-the-fact 48 feet, 5 inches of new steel bulkhead within a maximum 18 feet channelward of the mean high water line, construct and backfill 737 feet, 7 inches of replacement steel bulkhead within a maximum of 1.5 feet channelward of a deteriorated bulkhead, construct a 250-foot long by 24-foot wide pier extension, construct a 350-foot long by 20-foot wide pier, and mechanically dredge two areas (111,300 square feet in size, 49,700 square feet in size); 24,000 cubic yards of dredge will be moved to Hart Miller Island DMCF in Baltimore County. In addition, the applicant will provide periodic dredging for six years, remove temporary wood decking, a 3-pile dolphin, four 7-pile dolphins and a timber pile fender.

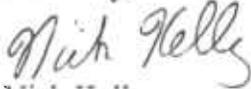
The Baltimore City Critical Area Program recommends nonstructural shore protection measures whenever practical. Therefore, we recommend nonstructural measures in lieu of the proposed replacement bulkhead and riprap revetment. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination. Any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio, and the applicant should coordinate all activities with the Baltimore City Planning Office.

In looking over the site plan, it appears that the applicant is also proposing to pave over existing rip-rap in several areas where bulkhead is to be installed. In addition, a temporary wood deck is proposed to be removed. It is unclear as to why the applicant is proposing these actions onsite. Nevertheless, if MDE approves this request, staff recommends that a condition be included that states that "no paving or other development activities are permitted above the Mean High Water Line without the proper review and approval authority of the City of Baltimore Department of Planning."

Finally, the proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

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: Gary Letteron, City of Baltimore Department of Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 7, 2007

Tom Hamilton, Town Planner
City of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Londonderry Growth Allocation

Dear Mr. Hamilton:

The purpose of this letter is to provide an update of the Commission's processing of the proposed growth allocation for the Town of Easton, Talbot County. On November 6, 2007, Chairman McHale determined that the proposed growth allocation could be processed as a refinement to the Town of Easton Critical Area Program.

The proposed growth allocation has been scheduled for review at the December 5, 2007 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

TTY for the Deaf

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Martin O'Malley
Governor

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November 7, 2007

Mr. Reggie Graves
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Kent County

Dear Mr. Graves:

I am writing to provide comments on the following project located in Kent County:

200764184/08-WL-0263: Edward Schut

In the town of Rock Hall, on the Chesapeake Bay, the applicant has applied to control for soil erosion by emplacing a low profile stone, sand containment sill within a maximum of 6 feet channelward of the mean high water line (MHW) along 320 feet of eroding shoreline, and fill, grade, and plant marsh vegetation along 205 feet of the eroding shoreline with 150 cubic yards of sand emplaced within a maximum of 6 feet channelward of MHW. The applicant will also emplace 160 feet of riprap revetment within a maximum of 4 feet channelward of MHW, and construct a 57-foot long by 7-foot wide parallel pier over a portion of the proposed sill with no encroachment channelward of MHW.

This office supports the planned marsh creation on this site as a means of shore protection in areas where long-term sustainability is ensured. In regards to the planned riprap revetment, the Kent County Critical Area Program recommends nonstructural shore protection measures whenever practical. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination. However, any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio. The applicant shall coordinate all activities with the Kent County Planning Office.

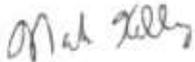
The site plan reveals that a 2-foot by 8-foot boardwalk is proposed over the marsh area. Based on the information provided, it is unclear whether this boardwalk is located above

Mean High Water. If the boardwalk is indeed located above MHW, then a Buffer variance will be required for this structure. The Critical Area Commission would not support such a variance, as only those structures that allow shoreline access are permitted within the 100-foot Buffer (COMAR 27.01.09C. (1)).

Finally, the proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: Amy Moredock, Kent County Department of Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 7, 2007

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

Re: Allen Building Permit
13885

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a single family residence. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 6,000 square feet in size and is currently developed with an existing house, driveway, pier, and floating dock. The applicant proposes to remove the existing structures and construct a new home, driveway, porch, pool, outdoor shower, and boardwalk. Total existing impervious surface onsite is 2,635 square feet (43.92%). Upon completion of the project, impervious surface will increase to 2,781 square feet (46.35%). To meet mitigation requirements in the 100-foot Buffer, \$10,702 of landscaping is required, and to meet afforestation requirements outside of the 100-foot Buffer, 900 square feet of vegetation is necessary. The applicant proposes to provide \$8,700 in plantings and pay a fee-in-lieu of \$2,002; a total of 6 Maple Trees, 90 Evergreen Ligustrum shrubs, and 55 Gold Coast Juniper shrubs will be provided as landscaping. To meet stormwater management requirements, the applicant is providing three 70-foot grass swales, four rain gardens that total 114 square foot, a pervious deck, and is limiting total impervious surface to less than 50% of the site.

Based on the information provided, we have the following comments for this project:

1. Within the 100-foot Buffer area, the applicant proposes to build a pervious boardwalk (square footage is not provided) and a 202-square foot pool/spa area. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-

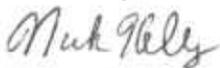
554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." While we understand that the Town of Ocean City Atlantic Coastal Bays Critical Area Program allows pervious decks in the Buffer, it appears that size and location of both the boardwalk and pool/spa area do not minimize Buffer intrusion, and the boardwalk is partially located in the setback area. To minimize water quality and habitat impacts, we recommend reducing the size of the pool/spa area and placing the boardwalk outside of the setback area.

2. Please have the applicant provide square footage amounts for each structure onsite (deck, pool/spa, boardwalk, outdoor shower, etc.)
3. The site plan shows two proposed second story balconies. Please have the applicant provide additional information which verifies that the balconies are built in a pervious manner.
4. The applicant proposes to plant 90 Evergreen Ligustrum shrubs to assist in meeting afforestation and Buffer mitigation requirements. This shrub is considered to be invasive to Mid-Atlantic natural areas. Alternatively, staff recommends that the applicant plant inkberry, spicebush, blackhaw, or chokeberry shrubs to meet afforestation and Buffer mitigation requirements.
5. Please have the applicant provide detailed information, including a diagram, of the proposed rain gardens and grass swales. In particular, the applicant must provide information on each rain garden's depth and the amount of roof area that will drain into the rain garden. Please refer to the Critical Area 10% Rule Guidance Manual, Appendix F, for more information.

http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 676-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 6, 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 Ms. Ellis:

I am writing to provide comments on the following project located in Talbot County:

200764465/08-WL-0357 : Maryland Department of Natural Resources

Southeast of Tilghman Island in the Choptank River, the Maryland Department of Natural Resources is proposing to improve 715 acres of benthic habitat by placing fabricated steel, concrete, concrete rubble, concrete from plastic modules forms, rip rap, concrete or steel vessels on the bay floor to benefit invertebrate and fish life.

Based on the information provided, we have no comment on this project.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Nick Kelly

Natural Resources Planner

cc: Mary Kay Verdery, Talbot County Department of Planning and Zoning



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 5, 2007

Mary Kay Verdery
Talbot County Planning and Zoning
Talbot County Courthouse
11 North Washington Street
Easton, MD 21601

Re: Tilghman on the Chesapeake Site Plan
1067

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is proposing to move .03 acres (1,306 square feet) of Reservation of Development Rights (RDR) land from one portion of a 56.08-acre easement within a Resource Conservation Area (RCA) to another. As a result of this proposal, Resource Conservation Area 1 (RC1) will fall from 5.53 acres to 5.50 acres, while RC5 will be created as a .03 acre easement; RC5 will be located adjacent to RC4. This revision is requested in order to widen an existing private roadway (Spinnaker Lane), which runs through the RC1 area, into a public roadway.

Based on the information provided, we do not oppose this request. However, we do have one comment on this project:

1. The RDR land may not be developed for residential, commercial, or industrial development, and this area shall not be considered as an approved building lot for development purposes.
2. It appears that a portion of Topsail Court is located within the conservation easement area. Please have the applicant verify that this roadway will be located outside of the Critical Area easement portion of this site.

Thank you for the opportunity to provide comments on this site plan. 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 616-07



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

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

November 5, 2007

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

Re: Barry Site Plan
13895

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct an addition to an existing single family residence. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 3,440 square feet in size and is currently developed with an existing mobile home, addition, concrete walkway, concrete driveway, and shed. The applicant proposes to remove the existing structures and construct a new home, shed, screen room, two decks, two ramps, and a driveway. Total existing impervious surface onsite is 1,546 square feet (44.9%). Upon completion of the project, impervious surface will increase to 2,014 square feet (58.5%). To meet mitigation requirements in the 100-foot Buffer, \$3,280 of landscaping is required, and 516 square feet of planting is required to meet afforestation requirements outside of the 100-foot Buffer. The applicant proposes to plant 3,406 square feet of plantings. To meet stormwater management requirements, the applicant is providing two grass swales, one rain garden, a pervious deck, and is limiting total impervious surface to under 60% of the site.

Based on the information provided, we have the following comments for this project:

1. Within the 100-foot Buffer area, the applicant proposes to build a 120 square foot pervious deck and a screen room that is approximately 225 square feet in size (an exact figure is not provided). The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including

accessory structures, shall minimize the extent of intrusion into the Buffer...”
While we understand that the Town of Ocean City Atlantic Coastal Bays Critical Area Program allows pervious decks in the Buffer, it appears that size and location of the deck and screen room do not minimize Buffer intrusion. Consequently, to minimize water quality and habitat concerns, we recommend reducing the size of the screen room and placing the deck outside of the setback area.

2. Please have the applicant provide detailed information, including a diagram, of the proposed rain gardens and grass swales. In particular, the applicant must provide information on each rain garden’s depth and the amount of roof area that will drain into the rain garden. Please refer to the Critical Area 10% Rule Guidance Manual, Appendix F, for more information.
http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html
3. In accordance with Section VI of the Town of Ocean City Critical Area Project Application, please have the applicant provide a landscape/mitigation plan that includes the botanical name, common name, and installation site.
4. Please have the applicant provide the amount of square feet of impervious surface attributed to each structure, including the screen room, decks, and ramps.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: OC 666-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 2, 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 – Multi-jurisdictional

Dear Ms. Ellis:

I am writing to provide comments on the following project located in multiple jurisdictions:

200764851/08-WL-0447: MD State Highway Administration

Over the Choptank River, along the Frederick C. Maulkus Bridge (US Route 50) between Talbot and Dorchester Counties, the applicant is proposing to install and maintain 8,500 feet of 144-count fiber optic cable. It is our understanding that the utilities will be run across the bridge and underwater.

Based on the information provided, this office has the following comments:

1. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply. Please have the applicant contact Lori Byrne of the Maryland Department of Natural Resources Wildlife and Heritage Service (410-260-8573) to determine what restrictions will apply to this site.
2. Mitigation for any directional drill work within the 100-foot Buffer or other Habitat Protection Areas (nontidal wetlands, habitats of species in need of conservation, threatened and endangered species, plant and wildlife habitats, and anadromous fish propagation waters) will be required at a 3:1 ratio.
3. The applicant should coordinate with both the Talbot County and Dorchester County Planning Offices prior to initiating this project.
4. Prior to construction, this project will require approval from the Critical Area

Commission. Please have the applicant contact me to discuss what documents will be required for submission. Permits from the Maryland Department of the Environment and the Army Corps of Engineers, as well as the aforementioned letter from DNR Wildlife and Heritage, will be required prior to review of this project.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: Mary Kay Verdery, Talbot County Department of Planning and Zoning
Steve Dodd, Dorchester County Department of Planning and Zoning

NK

RECEIVED

OCT 17 2007

MARYLAND DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
1800 WASHINGTON BOULEVARD
BALTIMORE, MARYLAND 21230

CRITICAL AREA COMMISSION

Notice Of Applications Received For State Permits

October 15, 2007

The Water Management Administration has received the applications listed below. A preliminary review has indicated that the listed projects may be subject to the opportunity for a public hearing once the application is substantially complete. Projects may be significantly altered during the review process. The applications and related information are available for inspection and copying. You may also request written notice of any hearing opportunity by having your name placed on the interested persons list for each project in which you are interested. To inspect the file or to have your name placed on the interested persons list, contact the assigned division at the telephone number indicated below no later than November 14, 2007.

TIDAL WETLANDS DIVISION - (410)537-3837

LIST HPAs, etc

Water Concentration

MULTI-JURISDICTIONAL

B...

200764851/08-WL-0447: MD STATE HIGHWAY ADMINISTRATION has applied to install and maintain 8,500 feet of 144-count fiber optic cable. The purpose of the project is to provide broad band internet to the eastern shore. The project is located in Choptank River along the Frederick C. Maulkus Bridge (US 50) from Talbot to Dorchester Counties. For more information contact Tressa Ellis at 410-537-4023 or tellis@mde.state.md.us.

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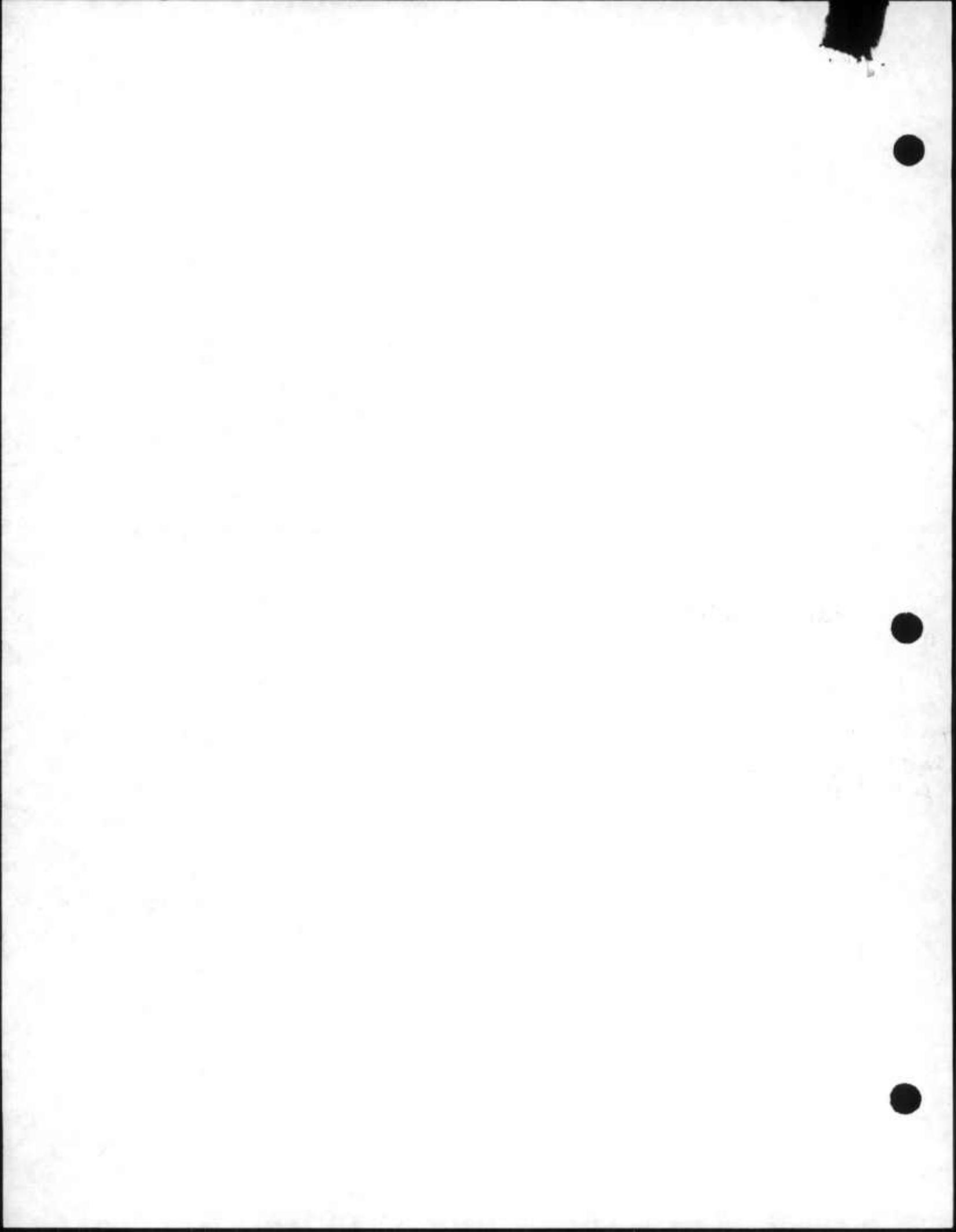
*Mitigation
for use*

Buffer destruction

TIDAL WETLANDS DIVISION - (410)537-3837

BALTIMORE CITY

200565569/06-WL-0400: VANE BROTHERS COMPANY has applied to construct and backfill after-the-fact 48 feet 5 inches of new steel bulkhead within a maximum of 18 feet channelward of the mean high water line, construct and backfill 737 feet 7 inches of replacement steel bulkhead within a maximum of 1.5 feet channelward of a deteriorated bulkhead, construct a 250-foot long by 24-foot wide pier extension, construct a 350-foot long by 20-foot wide pier, mechanically maintenance dredge a 111,300 square foot area to the 22-foot depth at mean low water, mechanically dredge a 49,700 square foot area to the 14-foot depth at mean low water, transport 23,000 cubic yards of dredged material to the approved upland disposal site known as Hart Miller Island DMCF in Baltimore County, provide for periodic dredging for six years, remove temporary wood decking, a 3-pile dolphin, four 7-pile dolphins and a timber pile fender. The purposes of the project are to improve navigable access and shore erosion control. For information contact Robert Cuthbertson at 410-537-3845 or rcuthbertson@mde.state.md.us. The project is located



in the Patapsco River at 2100 Frankfurst Avenue in Baltimore City.

200764395/08-WL-0327: KEYSTONE SHIP BERTHING INC has applied to construct a 474-foot long by 40 to 68-foot wide pier deck, construct four breasting dolphins, construct three 17 X 17-foot mooring dolphins, and construct a 331-foot long by 3-foot wide metal catwalk all within a maximum of 740 feet channelward of the mean high water line. The purpose of the project is to improve navigable access. For information contact Robert Cuthbertson at 410-537-3845 or rcuthbertson@mde.state.md.us. The project is located in the Patapsco River at 1430 Wallace Street in Baltimore City.

CHARLES COUNTY

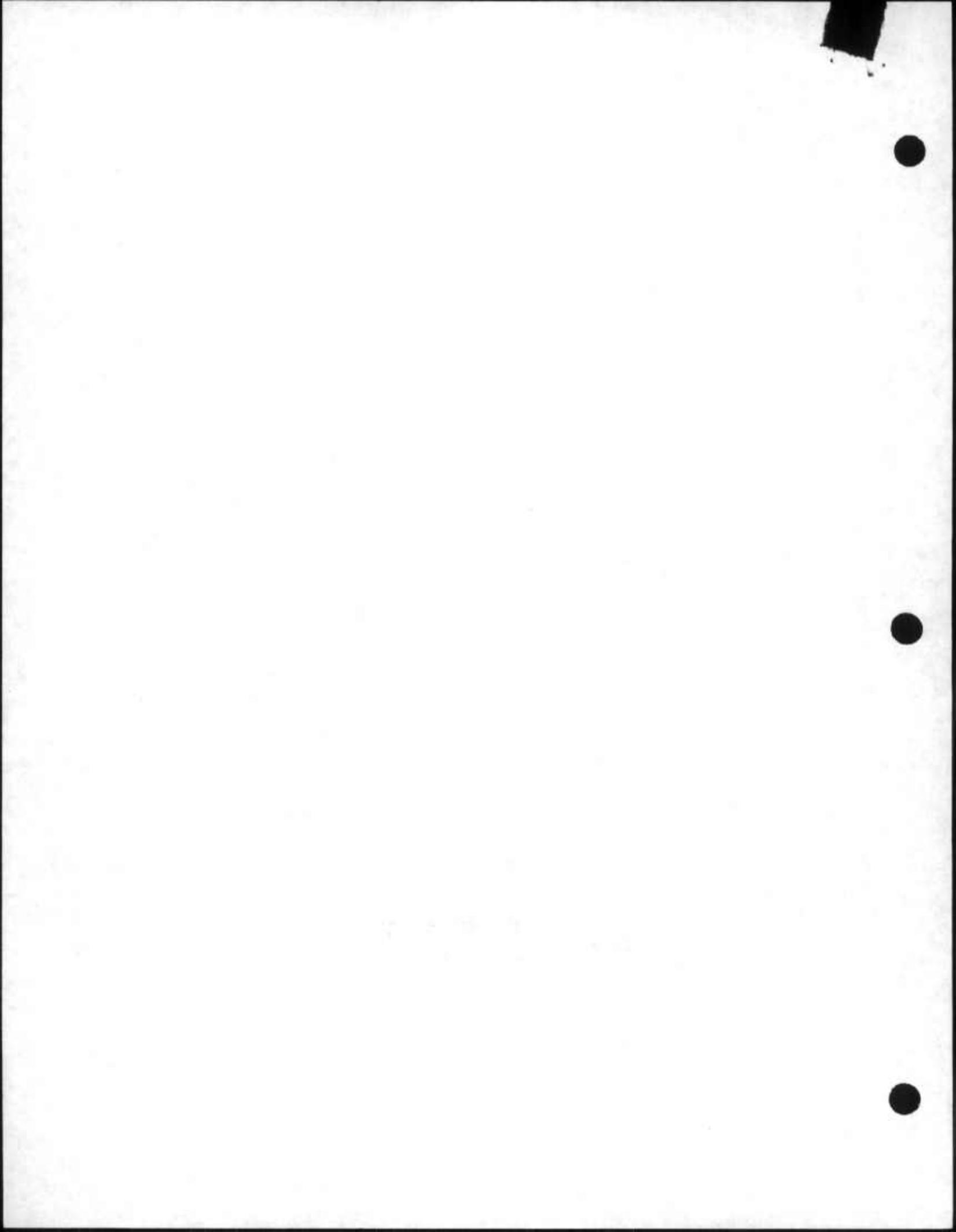
200761459/07-WL-1442: WILLIAM FLOOD has applied to emplace 170 linear feet of stone armor within a maximum of 10 feet channelward of a timber bulkhead; to emplace 380 linear feet of stone revetment within a maximum of 10 channelward of the mean high water line; to fill, grade and plant tidal marsh vegetation with segmented stone sills along 655 linear feet of eroding shoreline all within a maximum of 35 feet channelward of the mean high water line and to construct a 3-foot wide by 183-foot long wooden walkway over a sunken road remnants to a small marsh island. The purpose of the project is shoreline stabilization and access. For more information contact Robert Tabisz by email at rtabisz@mde.state.md.us or by calling 410-537-3838. The project is located in Neale Sound and the Wicomico River at 12330 Potomac View Road, Newburg.

200763046/07-WL-1802: JIMMIE BLAKE has applied to fill, grade, and plant marsh vegetation along 75 feet of eroding shoreline with 100 cubic yards of sand emplaced within a maximum of 16 feet channelward of the mean high water line; and to emplace one 20-foot long low profile, stone, sand containment structure extending 16 feet channelward of the mean high water line; to backfill and emplace 280 feet of stone revetment within a maximum of 16 feet channelward of the mean high water line and to construct a 6-foot wide by 190-foot long pier with a 10-foot by 20-foot platform and two mooring piles all within a maximum of 200 feet channelward of the mean high water line. The project purpose is shoreline stabilization and navigational access. For more information contact Robert Tabisz by email at rtabisz@med.state.md.us or by phone by calling 410-537-3838. The project is located on Nanjemoy Creek, at 5425 Heron Bay Cove, near Nanjemoy.

WATERFOWL CONCENTRATION

KENT COUNTY

200764184/08-WL-0263: EDWARD SCHUT has applied to emplace a low profile, stone, sand containment sill within a maximum of 6 feet channelward of the mean high water line along 320-feet of eroding shoreline, and fill, grade, and plant marsh vegetation along 205 feet of the eroding shoreline with 150 cubic yards of sand emplaced within a maximum of 6 feet channelward of the mean high water line; to emplace 160 feet of riprap revetment within a maximum of 4 feet channelward of the mean high water line; and to construct a 57-foot long by 7-foot wide parallel pier over a portion of the proposed sill with no encroachment channelward of the mean high water line. The



purpose of the project is to control shore erosion. For more information contact Reggie Graves at (410) 537-3764, or at rgraves@mde.state.md.us. The project is located on Chesapeake Bay at 21145 Allens Lane, Rock Hall, Kent County.

ST. MARY'S COUNTY

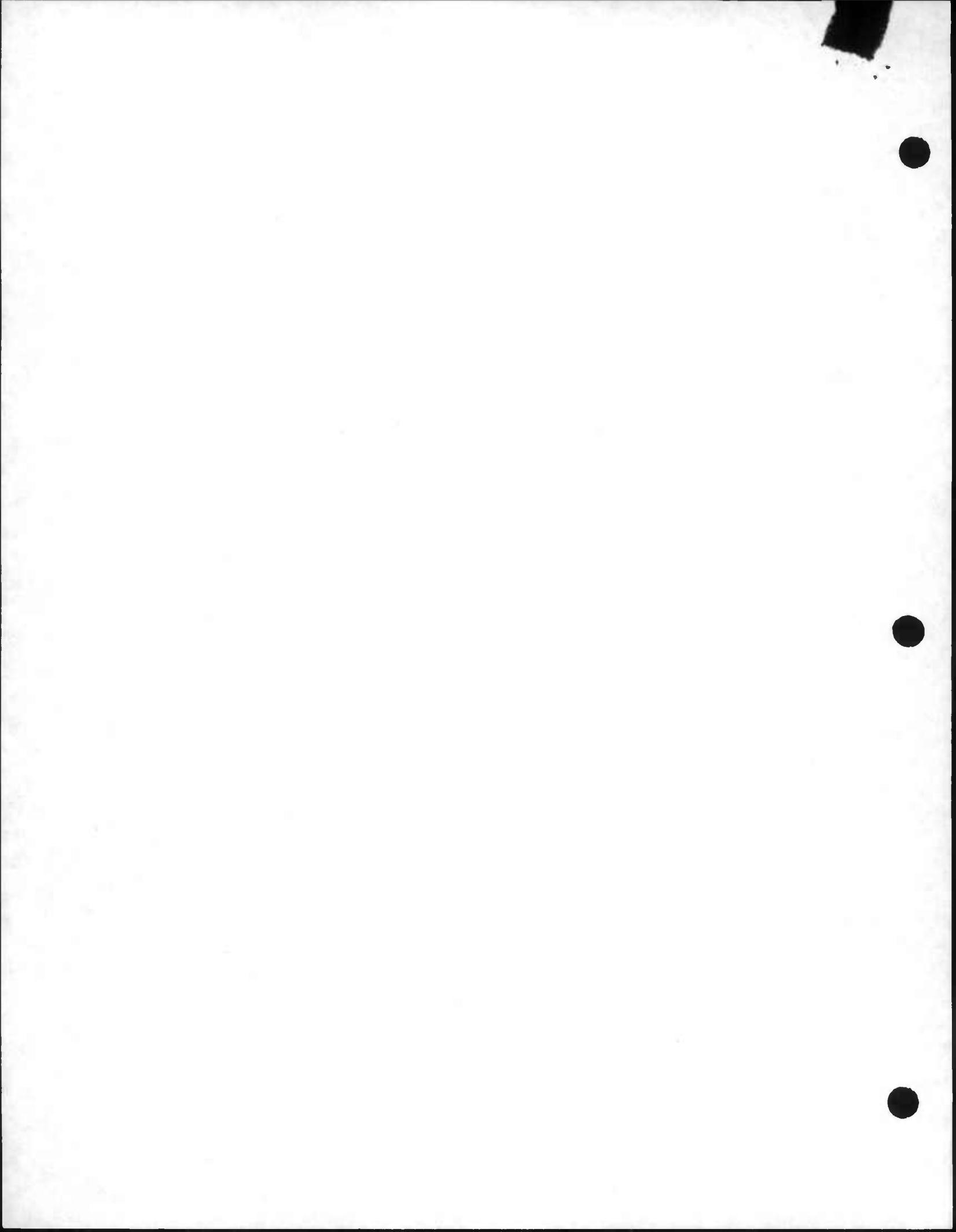
200764108/08-WL-0240: ST THOMAS CREEK OYSTERS has applied to to emplace in three areas 231 floating 4-foot by 10-foot oyster reef structures covering 9,240 square feet of open water in water depths ranging from -6.0 to -8.0 feet at mean low water all within the range of 80 to 180 feet channelward of the mean high water line. The total project area including the existing operation is 15,280 square feet of open water. The purpose of the project is to commercialize and expand the existing experimental floating oyster reef aquaculture project. For more information contact Robert Tabisz by email at rtabisz@mde.state.md.us or by calling 410-537-3838. The project is located in St. Thomas Creek at 43765 Little Cliffs Road in Hollywood

TALBOT COUNTY

200764170/08-WL-0261: WILLIAM & GABRIELLE KORAB has applied to emplace 203 feet of riprap revetment within a maximum of 12 feet channelward of the mean high water line and to construct and backfill 98 feet of replacement bulkhead within a maximum of 12 inches channelward of a deteriorated bulkhead. The project is located in Town Creek and Tred Avon River at the end of E. Strand Street, east of MD 333 in the town of Oxford. For more information contact Tressa Ellis at 410-537-4023 or tellis@mde.state.md.us.

200764171/08-WL-0262: THOMAS & CAROL WHEELER has applied to emplace 132 feet of riprap revetment within a maximum of 12 feet channelward of the mean high water line and to construct and backfill 166 feet of replacement bulkhead within a maximum of 12 inches channelward of a deteriorated bulkhead. The project is located town Creek and Tred Avon River at the end of E. Strand Street, east of MD 333 in the town of Oxford. For more information contact Tressa Ellis at 410-537-4023 or tellis@mde.state.md.us.

200764727/08-WL-0427: JAMES COONEY ET AL has applied to maintenance dredge a 624-foot long by 20-foot wide area to a depth of 3.0 feet at mean low water; and to deposit approximately 700 cubic yards of dredged material on an approved upland disposal site located at 27536 West Point Road in Easton. The project is located in the mouth of Hidden Cove off of Tred Avon River located northwest of Baileys Neck Road and Locust Grove Road in Easton. For more information contact Tressa Ellis at 410-537-4023 or tellis@mde.state.md.us.



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 2, 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 Ms. Ellis:

I am writing to provide comments on the following project located in Talbot County:

200764170/08-WL-0261: William and Gabrielle Korab

In the town of Oxford, within Town Creek and the Tred Avon River, the applicant proposes to emplace 203 feet of riprap revetment within a maximum of 12 feet channelward of the mean high water line and to construct and backfill 98 feet of replacement bulkhead within a maximum of 12 inches channelward of the deteriorated bulkhead.

The Talbot County Critical Area Program recommends nonstructural shore protection measures whenever practical. Therefore, we recommend nonstructural measures in lieu of the proposed replacement bulkhead and riprap revetment. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination. Any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio, and the applicant should coordinate all activities with the Talbot County Planning Office.

In addition, the proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply. Please have the applicant contact Lori Byrne of the Maryland Department of Natural Resources Wildlife and Heritage Service (410-260-8573) to determine what restrictions will apply to this site.

200764171/08-WL-0262: Thomas and Carol Wheeler

In the town of Oxford, within Town Creek and the Tred Avon River, the applicant proposes to emplace 132 feet of riprap revetment within a maximum of 12 feet channelward of the mean high water line and to construct and backfill 166 feet of replacement bulkhead within a maximum of 12 inches channelward of a deteriorated bulkhead.

The Talbot County Critical Area Program recommends nonstructural shore protection measures whenever practical. Therefore, we recommend nonstructural measures in lieu of the proposed replacement bulkhead and riprap revetment. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination. Any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio, and the applicant should coordinate all activities with the Talbot County Planning Office.

In addition, the proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply. Please have the applicant contact Lori Byrne of the Maryland Department of Natural Resources Wildlife and Heritage Service (410-260-8573) to determine what restrictions will apply to this site.

200764727/08-WL-0427: James Cooney, et al.

In Easton, in the mouth of Hidden Cove off the Tred Avon River, the applicant proposes to maintenance dredge a 624-foot long by 20-foot wide area to a depth of 3.0 feet at mean low water, and to dispose of the dredge material on an approved upland site in Easton.

Based on the information provided, we have no comment on this project.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Nick Kelly

Natural Resources Planner

cc: Mary Kay Verdery, Talbot County Department of Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 2, 2007

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

Re: Bonner Variance
2007-0337-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting an after-the-fact variance for a dwelling addition with greater impervious coverage than allowed on a non-grandfathered lot. The property is 10,179 square feet in size, is located in a Limited Development Area (LDA), and the primary dwelling unit was built in 2007. The property is currently developed with a single family dwelling unit, driveway, garage, walkway, and porch. The applicant requests to install a patio that will result in the lot exceeding its 25% impervious surface limit. Current impervious surface onsite is 2,491 square feet (24.47%). Based on the site plan, it appears that the proposed patio will be approximately 350 square feet in size. Therefore, if granted, total impervious surface onsite will increase to approximately 2,841 square feet (27.9%).

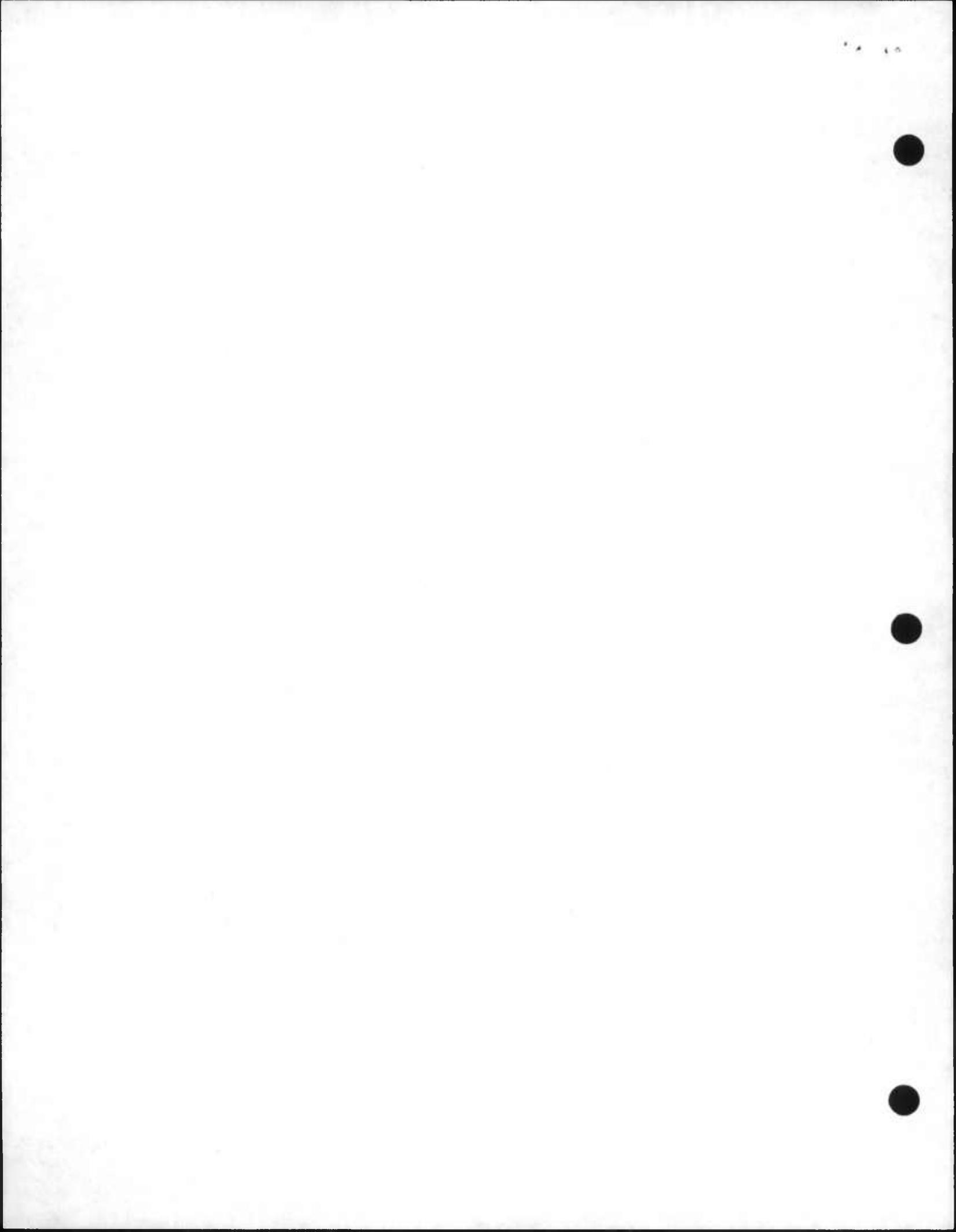
Although the office does not generally oppose variance requests for modest additions or renovations to an existing primary dwelling on a grandfathered lot, we cannot support this request for a new dwelling addition with greater impervious coverage than allowed on a non-grandfathered lot.

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. The General Assembly also enacted specific standards for variances to the local Critical Area programs, and required that local jurisdictions use those State law standards (see Annotated Code of Maryland, Natural Resources Article Section 8-1808 (d)). The General Assembly reaffirmed the stringent standards of the law,

TTY for the Deaf

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





and required that all applicants meet each and every standard 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* 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.

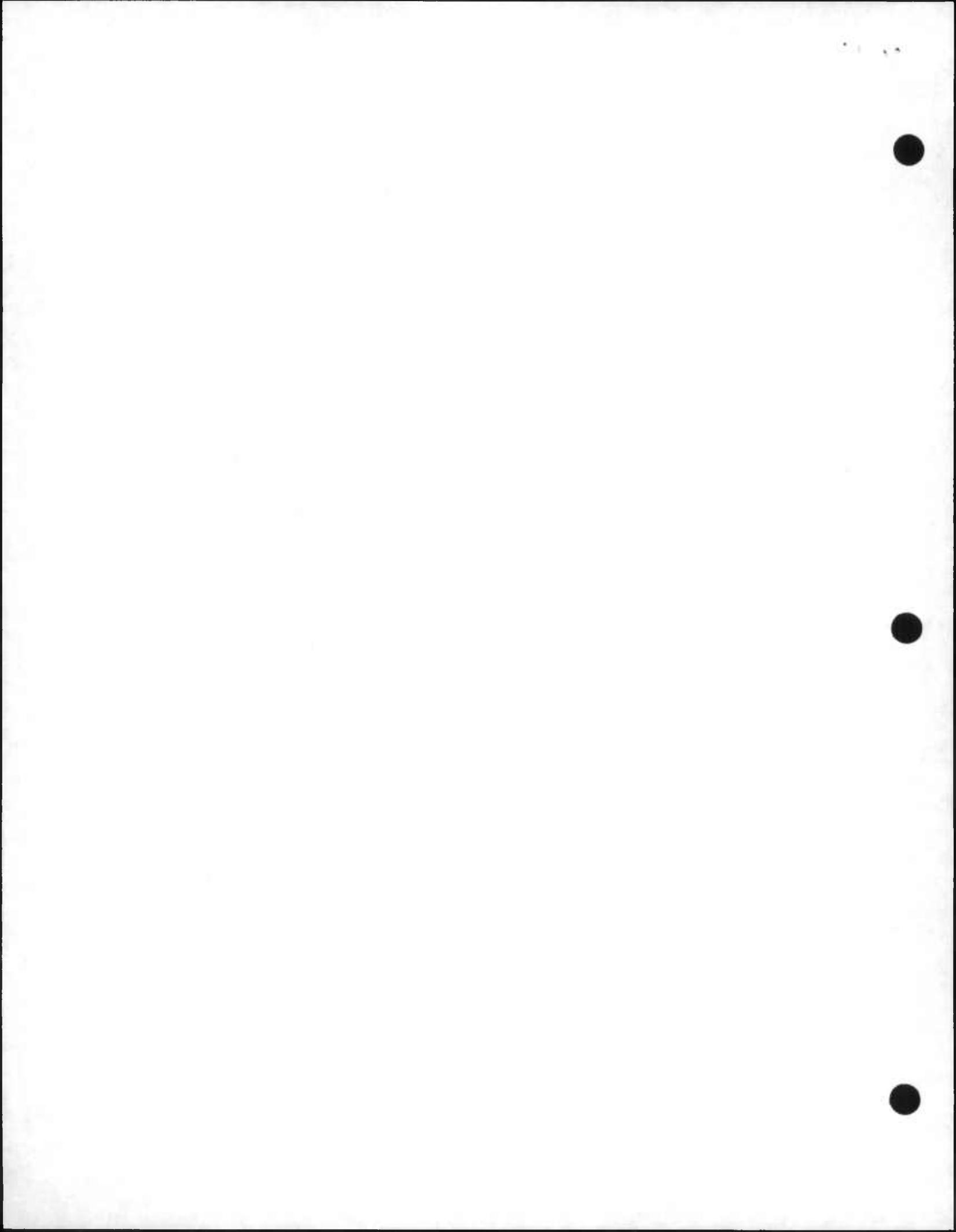
In this case the applicant is proposing to add a patio to a non-grandfathered lot that will result in the lot exceeding its impervious surface limit. We note that the applicant's property (Lot 7) was created as part of a subdivision recorded in 2005. The recorded subdivision plat clearly states the amount of impervious area permitted for Lot 7 (see attachment). Therefore, the applicant should have been aware of the permitted impervious surface area limits. The impervious surface area restrictions detailed in the Anne Arundel County Code aim to maintain the integrity of the Critical Area by reducing the amount of impervious surface and maximizing areas of natural vegetation (Anne Arundel County Code 17-8-404). To exceed those limits in this case would create adverse impacts to the Critical Area, Chesapeake Bay and the Atlantic Coastal Bays and its tributaries, which are a natural resource of great significance to the state and nation.

Based on the information provided, the applicant appears to enjoy reasonable and significant use of the entire lot or parcel as evident by the existing single family dwelling unit, driveway, garage, walkway, and porch. Therefore, denial of a variance for additional impervious surface to create a patio would not constitute an unwarranted hardship. In addition, it is our view that construction of a new patio on a non-grandfathered lot that will result in the lot exceeding impervious surface limits is in direct contrast to the spirit and intent of the Critical Area Law and Criteria. Because we do not believe that each and every one of the County's variance standards has been met, including the standard of unwarranted hardship, we oppose this variance and recommend that it 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 dwelling unit, driveway, garage, walkway, and porch. The applicant proposes to construct a patio on a non-grandfathered lot that will result in the lot exceeding its 25% impervious surface area limit. The State law standards, applicable to this variance request, define "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**. Given the uses enjoyed by the applicant on this property, we do not believe that the County has evidence on which to base a finding that, without the 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.*

Anne Arundel County Code 17-8-402 (c) states that, "Impervious surface associated with a lot of one acre or less that is part of a subdivision approved after December 1, 1985, may be increased to 25% of the lot if the area of impervious surface for the entire subdivision does not exceed 15%." The applicant proposes to construct a patio on a lot that was built in 2007 that will result in the lot exceeding the 25% impervious surface limit. This office would not support similar requests to construct a patio that would result in a non-grandfathered lot exceeding the 25% impervious limit on other sites within the Critical Area. Therefore, the denial of a variance to exceed the maximum impervious surface allowed would not deny the applicants a right commonly enjoyed by other properties.

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

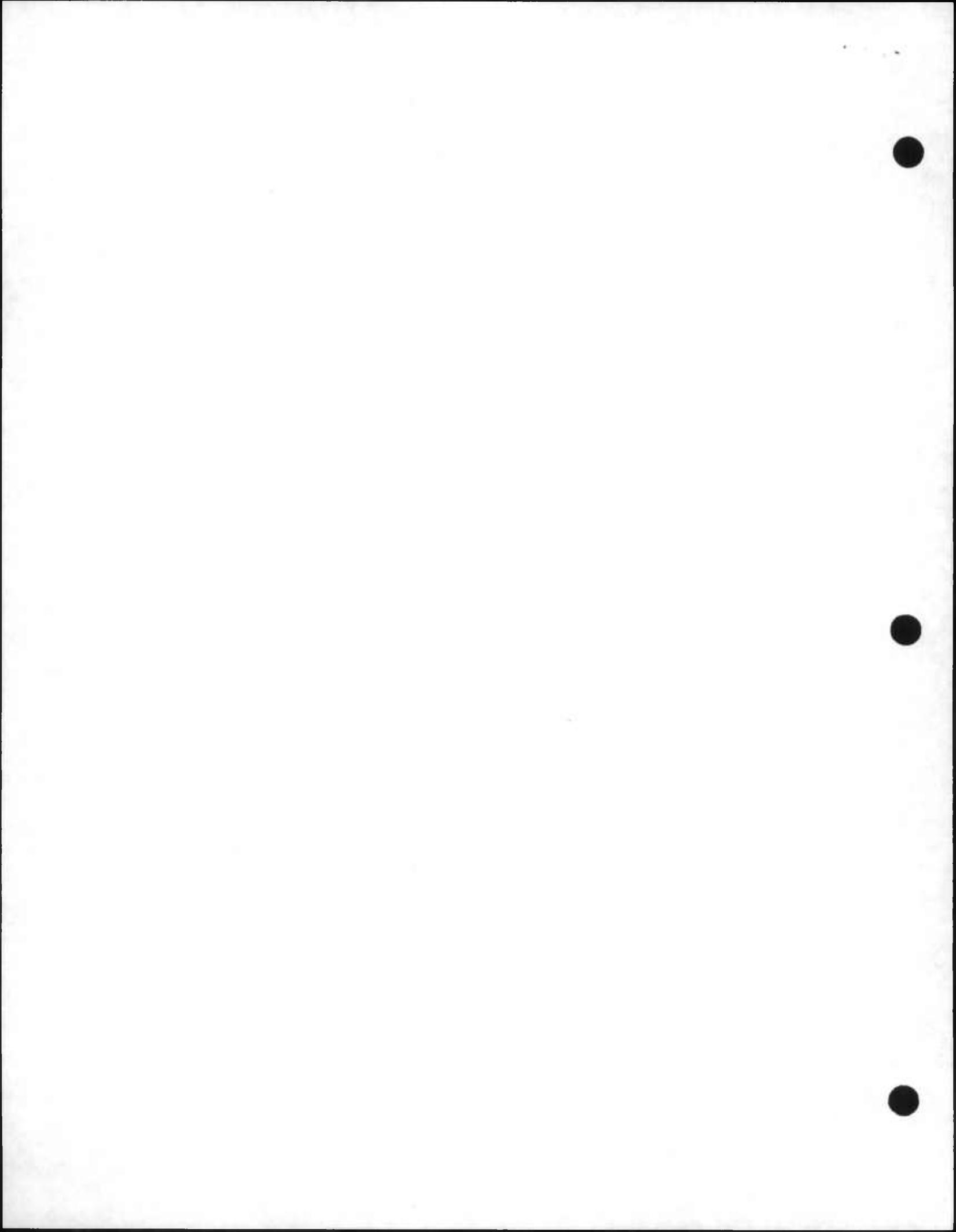
The granting of a variance to permit a patio that would allow the applicant to exceed its 25% impervious surface limit on a non-grandfathered lot would constitute a special privilege upon the applicant which would be denied to others in the County as well as within other jurisdictions in the Critical Area.

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

The applicant is requesting a variance to exceed the impervious surface limit for a non-grandfathered lot as a result of constructing the patio prior to receiving County approval. Therefore, the variance request is based upon the actions of 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.*

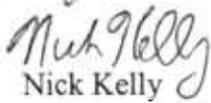
Granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in impervious surface that exceeds the limit allowed for a non-grandfathered lot and its consequential disturbance to the land



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 patio, 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. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 584-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 1, 2007

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

Re: Russell Street Gateway

Dear Mr. Stuart:

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. The property is designated as both an Intensely Developed Area (IDA) and a Resource Conservation Area (RCA). Total acreage in the IDA is 3.88 acres, and total acreage in the RCA is 2.96 acres. After reviewing the consistency report, this office agrees that the project is generally consistent with the City of Baltimore Critical Area Program for the reasons outlined below:

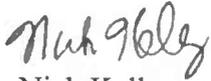
1. The project involves the milling, overlay and removal of an asphalt-paved shoulder, and replacement of the shoulder with a stabilized grass permeable paver unit system. All replacement activities will occur within the IDA portion of the site.
2. No forests, woodlands, or trees will be removed. Currently, 20% of the property is forested.
3. Existing impervious surface onsite is 1.89 acres (48.71%), and will decrease to 1.82 acres (46.91%).
4. The Critical Area 10% pollutant removal requirement for this project is .31 pounds per year. To meet this requirement, 40 trees must be planted. The applicant plans to plant 24 canopy trees, 64 understory trees, 17 evergreen trees, and 353 shrubs onsite, thus exceeding this requirement.
5. This activity is not located within the 100-foot Buffer and is not water dependent.
6. No other habitat protection areas (colonial nesting waterbird sites, endangered/threatened species areas, anadromous fish propagation waters,

waterfowl staging areas, or forest interior dwelling bird habitats) will be impacted.

7. No tidal or non-tidal wetlands will be impacted.

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: BA 527-07

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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November 1, 2007

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

Re: Drayton Manor Growth Allocation

Dear Ms. Moredock:

Thank you for submitting information on the above referenced growth allocation. On August 1, 2007, the Critical Area Commission voted to send the above referenced growth allocation request back to the County with eight changes to be made. While the information provided adequately addresses six of the eight changes requested, Commission staff cannot accept the application as complete at this time, as the applicant has not adequately addressed the following two changes:

1. Prepare and submit a more refined plan for the growth allocation request that includes the approval of the water and sewer plan amendment necessary for the drip irrigation system.
2. Prepare and submit detailed design information as would be required for the permit application for the drip irrigation system, and, if appropriate, a Tentative Decision from the Maryland Department of the Environment (MDE) indicating that the design can be approved.

It is our understanding that the applicant has elected to pursue public water and sewer instead of drip irrigation to meet the needs of the project. Therefore, in order to accept the proposal as a complete submission, the following is required:

1. A more refined plan for the growth allocation request that includes MDE approval of Kent County's Comprehensive Water and Sewerage Plan Amendment that, upon completion of the Worton Wastewater Treatment Facility upgrade, grants Drayton Retreat Center's request for a denied access line for public water and sewer service



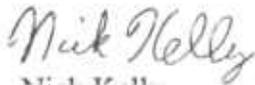
(our understanding of the term "denied" is that other users will not be permitted access to this line).

2. A Tentative Decision from MDE indicating that the public water and sewer design plan can be approved for this project.

Once these two items are received, Commission staff will notify you that the County's growth allocation request is accepted for processing.

Thank you for providing us with the opportunity to review these proposed changes to your growth allocation request. We appreciate all of the assistance that you have provided throughout the course of this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: KC 836-06

Gail Owings, Director, Kent County Department of Planning and Zoning

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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October 31, 2007

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

Re: Moore Variance
2007-0347-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to permit a dwelling with less setbacks and Buffer than required. The property is designated an Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA). The property is currently developed with a single family dwelling, shed, and detached garage. The applicant proposes to raze and rebuild the house and deck with a reduction in impervious surface (4,550 square feet to 3,450 square feet). The proposed home will be located 10 feet further from the shoreline than the existing home. To meet pollutant runoff requirements, the applicant is reducing impervious surface coverage, using semi-porous concrete for the driveway, and planting 9 trees and 27 shrubs.

Provided that the lot is properly grandfathered, we do not oppose this variance. Based on the information provided, we have the following comments:

1. The proposed deck should be constructed in a pervious manner. In order to be considered pervious, the deck must be attached to the primary structure, must be constructed over gravel of at least six inches in depth placed over filter cloth, must not be used for storage, and must not have permanent roofs, etc. over or under the deck.
2. In order to maximize water quality benefits, plantings should be located to intercept storm water before it reaches the French drains proposed at the front and back of the dwelling.

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 feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly

Natural Resource Planner

cc: AA 643-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 31, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: 1476
Montaldi Variance

Dear Ms. Corkell:

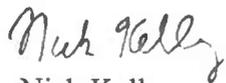
Thank you for providing information on the above referenced variance request. The applicant requests a variance to construct an addition to an existing dwelling unit within the 100-foot Buffer. The property is 2.049 acres (89,254 square feet) and is located in a Limited Development Area (LDA). Currently, the site is developed with a house, shed, pool, terrace, patio, walkways, and driveway. The applicant proposes to construct a one-story addition to the home. The addition is further from Mean High Water (MHW) than the existing dwelling unit. Total existing impervious surface on-site is 12,915 square feet (14.47% of the total site area). Upon completion of this project, total impervious surface onsite will increase to 13,296 square feet (14.89%).

Provided that the lot is properly grandfathered, we do not oppose this project. However, we do have the following comments:

1. Mitigation for any disturbance within the Buffer must be completed at a 2:1 ratio.
2. The site plan and soil maps reveal that tidal wetlands are located adjacent to the property. Staff has concerns that portions of these tidal wetlands are located on this property. Prior to the granting of this variance, please ensure that the applicant has had an updated tidal wetlands delineation performed onsite. The presence of state-owned tidal wetlands on the property may decrease the amount of acreage available for development and thus affect the total amount of impervious surface allowed onsite. Determining an accurate amount of impervious surface allowed is of vital importance to this variance request, as total proposed impervious surface is just below the 15% limit (14.89%).

Thank you for the opportunity to provide comments on this Board of Appeals variance request. If you have any questions, please feel free to contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

TC 656-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 31, 2007

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

Re: Steinlein Variance
2007-0352-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting an after-the-face variance for an accessory structure with less setbacks and Buffer than allowed. The property is 16,030 square feet in size and is located in a Limited Development Area (LDA). The property is currently developed with a two-story dwelling, driveway, garage, deck, and screened porch. The applicant requests to keep a 10 foot by 12 foot shed (120 square feet) that is approximately 70 feet from the shoreline. Current impervious surface on this site, including the shed, is 2,760 square feet (17.2%).

Based on the information provided, we oppose a variance to perfect a shed in its current location. As stated in Anne Arundel County Code 1816-305 (b) (1), a variance may be granted in the Critical Area if, "because of unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape," strict implementation of Critical Area rules, regulations, and policies would create an unwarranted hardship." In 2004, the General Assembly defined unwarranted hardship as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." In this instance, the applicant has constructed a two-story dwelling, driveway, garage, deck, and screened porch on the site. In addition, there appears to be ample room outside of the 100-foot Buffer to place the shed. Therefore, denial of this variance will not create an unwarranted hardship for this applicant. Additionally, Anne Arundel County Code 1816-305 (b) (3) states that the variance cannot be based on "conditions or circumstances that are the result of actions by the applicant." The applicant is requesting

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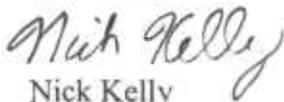
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this variance due to the fact that the shed was constructed within the 100-foot Buffer without prior approval. Thus, it is the result of circumstances that are based upon actions by the applicant that has created a need for this variance.

Based on the above purposes, policies, goals, and provisions of the Critical Area Law and Criteria, we recommend moving the shed outside of the 100-foot Buffer and replanting the current location of the shed with native plants and shrubs.

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
Natural Resource Planner
cc: AA 646-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 24, 2007

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

Re: Thorton Subdivision
07-120 RH

Dear Ms. Moredock:

Thank you for providing information on the above referenced subdivision. The applicant is proposing to develop a 2-lot subdivision on 3.048 acre parcel within a Limited Development Area (LDA); Lot 1 will be 2.564 acres, and Lot 2 will be .484 acres.

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

1. 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 threatened or endangered species onsite. 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.
2. Please have the applicant perform a wetland delineation to ensure that existing nontidal wetlands located onsite are properly mapped.
3. Lot 1 should be created to have a sufficient buildable area so that a need for variances to the nontidal wetland buffer in the future is eliminated.
4. Please have the applicant list on the site plan the amount of impervious surface allowed and currently existing onsite for each lot. Impervious surface is limited to 15% for each lot. In addition, the applicant must list each structure currently located onsite and the amount of impervious surface attributed to each.
5. Please have the applicant indicate the amount of forested area located on each site, as the subdivision must meet the 15% Critical Area afforestation requirement as found in COMAR 27.01.02.04. The applicant can choose to provide 15% afforestation on each lot, or provide 15% afforestation in one area of the property for the entire subdivision.

Thank you for the opportunity to provide comments on this subdivision application. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: KC 633-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 23, 2007

Mary Kay Verdery
Talbot County Planning and Zoning
Talbot County Courthouse
11 North Washington Street
Easton, MD 21601

Re: S1008
Carouge Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision plat. The applicant proposes to subdivide an existing lot into two lots. Total acreage of the site is 11.073 acres; Lot 2 will be 4.029 acres, and Lot 3 will be 7.044 acres. A portion of Lot 3 (.371 acres) falls in the Critical Area and is designated as a Resource Conservation Area (RCA). However, no development activity is permitted within the Critical Area portion of this lot.

Provided that the applicant adheres to the plat note and does not develop within the Critical Area portion of the property, we do not have any comments for this project.

Thank you for the opportunity to provide comments on this subdivision application. 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 618-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 20, 2007

Mary Kay Verdery
Talbot County Planning and Zoning
Talbot County Courthouse
11 North Washington Street
Easton, MD 21601

Re: M1091
Stewart Family Partnership Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision application. The applicant is proposing to build a 3-lot subdivision (Lots 6, 7, and 8) on 33.33-acre parcel. Of this land, 4.39 acres are located in a Resource Conservation Area (RCA); .14 acres are located on Lot 6, 1.21 acres on Lot 7, 1.61 acres on Lot 8, and the remainder on preexisting lots and a proposed Forest Protection Area. The parcel is currently undeveloped.

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

1. A plat note states that no development rights exist within the Critical Area portions of this property. Therefore, no dwelling units or any related structures (wells, septic tanks, decks, etc.) may be built within the Critical Area portions of this site. We recommend that the applicant place the Critical Area portions of the parcel in an easement to prevent any future development activity in this area.
2. Aerial photography shows the presence of additional nontidal wetland areas on the proposed lots. Please have the applicant perform a wetland delineation to determine the location of other tidal and nontidal wetland areas onsite.
3. The forested area located onsite is listed as potential FIDS habitat. Therefore, development restrictions may apply. Please have the applicant contact Lori Byrne of the Department of Natural Resources Wildlife and Heritage Division (410-260-8573) to determine if development restrictions will be required.
4. Please have the applicant provide on the site plan the amount of forest coverage located within the Critical Area.

Thank you for the opportunity to provide comments on this subdivision application. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly
Natural Resource Planner

cc: TC 619-07

617-67

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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October 19, 2007

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

Re: 1066
Herget Site Plan

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant proposes a lot line revision between two parcels (Tax Parcel 34 and Revised Tax Parcel 150). Currently, the area of Tax Parcel 34 is 2.125 acres, and Revised Tax Parcel 150 is 4.492 acres. Both Parcels are located in a Limited Development Area (LDA). If the lot line revision is granted, total acreage for Tax Parcel 34 will be 2.87 acres, and Revised Tax Parcel 150 will be 3.817 acres. Tax Parcel 34 is currently developed with a one story frame dwelling, concrete tennis court, building, sidewalk, and windmill; Tax Parcel 150 is developed with two-and-a-half story frame dwelling, one-and-a-half story frame garage, gravel driveway, slate walkway, paver walkway/patio, wood walkway, retaining walls, concrete apron, breezeway, two porches, pool, pool house, hot tub, and pier. Total impervious surface on Tax Parcel 34 is 9,628 square feet (7.8% of the total site area) and on Tax Parcel 150 is 21,128 square feet (12.7%). Total forest coverage on Tax Parcel 34 is 13,335 square feet (10.9%) and for Tax Parcel 150 is 29,488 square feet (17.7%).

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

1. As stated in COMAR 27.01.02.04, all parcels must provide forest coverage of at least 15%. Please have the applicant provide additional forest coverage on Tax Parcel 34 to meet this requirement.
2. The Talbot County Soil Survey shows the presence of a small area of tidal marsh near the northwest corner of the parcel. Please have the applicant perform a wetland delineation to determine the amount of tidal wetlands located onsite and to ensure the Buffer is properly delineated. The amount of tidal wetlands located

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onsite will help determine the total buildable area and the amount of impervious surface allowed for Tax Parcel 34.

3. In order for the 100-foot Buffer to meet its goal for the protection of aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances (COMAR 27.01.09.01), staff recommends that the applicant remove the existing stone fire pit and fully vegetated the Buffer area of Tax Parcel 34 with native trees and shrubs.

Thank you for the opportunity to provide comments on this site plan. If you have any questions, please contact me at 410-260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 620-07

Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 18, 2007

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

Re: Blair Site Plan
1064

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant is requesting a lot line abandonment between an existing lot (Tax Parcel 139, Lot 3) and an existing parcel (Revised Tax Parcel 61). Both properties are located in a Resource Conservation Area (RCA). Tax Parcel 61 is currently developed with a three story dwelling unit, gravel driveway, paved driveway, frame building, pool, two patios, concrete stoops, deck, sheds, walls, columns, and putting green. Tax Parcel 139, Lot 3 is currently undeveloped. If this lot line abandonment is granted, acreage on Revised Tax Parcel 139 will increase from 12.203 acres to 14.331 acres. Total allowable impervious surface onsite will increase from 79,734 square feet to 93,638 square feet. Impervious surface onsite is currently 26,900 square feet (4.3% of the total site area) and will remain unchanged. Total forested area onsite is 289,630 square feet (46.4% of the total site area).

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

1. A note on the site plan states that the site is currently under construction. However, it is unclear which portions of the property are currently being developed. If any current construction is in violation of County code, particularly the putting green and pool patio, then the County should not approve this revision until the violation is corrected.
2. If forest is cleared for any development on this parcel in the future, mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

3. In order for the 100-foot Buffer to meet its goal of the protection of aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances (COMAR 27.01.09.01), staff recommends that the applicant relocate the putting green outside of the Buffer area.
4. No new development will be permitted in the Buffer area for this parcel.
5. All development rights permitted on this parcel have been exhausted.

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 619-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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October 18, 2007

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

Re: Williams Building Permit
12528

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct an addition to an existing single family residence. Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total lot size is 6,000 square feet. The lot is currently composed of one-story dwelling, concrete drive, concrete walkway, two decks, steps, and sidewalk. The applicant proposes to remove the existing decks and construct a two-story addition, deck, covered deck, steps, covered entrance, and landing area. Total impervious surface onsite is currently 1,786 square feet (29.8%). If approved, the completion of this project will increase impervious surface for this site to 2,827 square feet (47.1%). To meet mitigation requirements in the 100-foot Buffer, \$3,500 of landscaping is required, and 900 square feet of planting is required to meet afforestation requirements outside the 100-foot Buffer. The applicant proposes to plant 3,585 square feet of plantings. To provide stormwater management, two grass swales and two rain gardens are utilized onsite.

Based on the information provided, we have the following comments for this project:

1. Within the 100-foot Buffer area, the applicant proposes to build a 1,099.5 square foot addition and two decks (a 24.25 foot by 8 foot pervious deck and a 19.75 foot by 8 foot covered deck) that total 352 square feet in size. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of

intrusion into the Buffer..." It appears that the two decks of this size and location, and the addition that more than doubles the size of the current house, are not minimizing intrusion into the Buffer. Consequently, we recommend reducing the size of the addition and installing only one pervious deck that would be placed where the proposed covered deck is currently located.

2. Please have the applicant provide detailed information, including a diagram, about the proposed rain gardens and grass swales. In particular, the applicant must provide information on each rain garden's depth and the amount of roof area that will drain into the rain garden.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly
Natural Resource Planner
cc: OC 636-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 18, 2007

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: Chesapeake Paperboard Building Permit

Dear Mr. Letteron:

Thank you for providing information on the above referenced building permit. The applicant is proposing to create a mixed use commercial/residential property. Total site area is 9.36 acres, with two portions of the site (1.52 acres combined) designated as an Intensely Developed Area. To meet the Critical Area 10% pollutant removal requirement, .323 pounds per year of phosphorus must be removed from the Critical Area portions of the property. However, due to the uniqueness of the site, the Critical Area portions cannot be treated to meet the 10% requirement. Consequently, the applicant proposes treatment of an off-site drainage area to meet the 10% requirement. A total of 2.62 acres of impervious surface will be treated by an underground sand filter and provide 3.075 pounds per year of total phosphorus load removal. This sand filter will treat .032 pounds per year of phosphorus in excess of what is required to meet both the City of Baltimore Department of Public Works 20% phosphorus reduction requirement and the Critical Area 10% guidelines.

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

1. The applicant proposes to plant Prospector Elms, a non-native tree, as part of its mitigation package. Please have the applicant revise its mitigation plan to include only native plants and shrubs.
2. Please have the applicant provide the amount of plantings located within the Critical Area portions of the site.
3. Please have the applicant provide a note on the site plan that states the total acreage and the amount of impervious surface located within the Critical Area portions of the site.
4. Please have the applicant provide a schematic of the proposed underground sand filter. To meet Critical Area requirement, the sand filter must have an 18-inch filter bed, and we

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recommend using a protective screen of gravel or permeable geotextile to prevent clogging. Please refer to the attached schematic of an underground sand filter for further information (taken from the Critical Area 10% Rule Guidance Manual.
http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html)

Thank you for providing the information on 10% calculations for this building permit. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: BA 568-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 17, 2007

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

Re: 1092
Graves Subdivision

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision plan. The applicant proposes to create a two-lot subdivision on property that is partially located within a Resource Conservation Area (RCA). Currently, the site is undeveloped. Total parcel size is 36.904 acres. Upon subtracting state-owned wetlands from the total area of the parcel, developable acreage falls to 36.774 acres. The parcel will be broken into a 20.603 acre lot (Lot 1) and a 16.301 acre lot (Lot 2). The amount of impervious surface permitted will be 133,771 square feet for Lot 1 and 106,511 square feet for Lot 2. Total forested area onsite is 407,868 square feet (25.37% of the total site area).

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

1. The applicant proposes to create a two-lot subdivision on a parcel that is comprised of 36.774 acres of developable land, which is approximately a 1:18 density. As stated in COMAR 27.01.02.05§C(4), "Land within the resource conservation area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres." Based on this criterion, the applicant is allotted only one development right for this parcel and thus cannot create a two-lot subdivision.
2. Talbot County Soil Surveys show the presence of two intermittent streams that are not shown on the site plan. The first stream is located within the tree line on the western portion of the parcel that connects the nontidal wetlands and the forested area on the southern portion of the parcel. The second stream runs parallel to the northwestern property line of the parcel and intersects the first stream. The soil

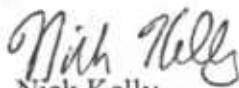


surveys also show that the area of tidal wetlands extends down the western portion of the parcel. Please have the applicant perform a stream and wetland delineation to ensure that all streams, tidal, and nontidal wetland areas are properly mapped. An updated tidal wetlands delineation will also help determine the total buildable area and the amount of impervious surface allowed for both lots. In addition, the 100-foot Buffer must be established landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands. Therefore, the applicant must recalculate the 100-foot Buffer, taking the tidal wetlands on the western portion of the property into account.

3. Aerial photography reveals that the forested area currently located on the southern portion of Lot 2 is listed as Forest Interior Dwelling Bird (FIDS) habitat. Development should be restricted to nonforested areas if possible. However, if forest disturbance is unavoidable, then the applicant will need to follow the site design guidelines for FIDS habitat protection that can be found in "A Guide to the Conservation of Forest Interior Dwelling Birds in the Critical Area" (<http://www.dnr.state.md.us/criticalarea/guidancepubs/index.html>). Measures of protection include restricting development to the outer edges of FIDS habitat, limiting construction to areas that will remove only thin strips of forest that are 300 feet wide or less, and minimizing the number and lengths of driveways and roadways. Time of year restrictions for construction may also be necessary. In addition, mitigation of new FIDS habitat will be required.
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 threatened or endangered species onsite. 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. If there is the presence of such species onsite, a Habitat Protection Plan must be submitted to address proposed impacts.
5. If forest is cleared in the future for this project, then mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

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

cc: TC 621-07

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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October 16, 2007

Ryan D. Showalter
Miles and Stockbridge
101 Bay Street
Easton, MD 21601-2718

Re: Lot Line Revision (Tom and Alice Blair)
Talbot County, Rt. 33, Tax Map 33, Grid 20, Parcels 61 & 139

Dear Mr. Showalter:

Thank you for providing information on the above referenced lot line revision. Per a letter addressed to you on October 11, 2007, from George Kinney, Talbot County Planning Officer, it is our understanding that this application was submitted to the County as incomplete. Consequently, it would be inappropriate for Commission staff to review and comment on this lot line revision request until the County considers the application to be complete. Once a complete package for this project is submitted to our office through the County's administrative review process, we will gladly provide comments on the proposed lot line revision request within a timely manner.

Thank you again for providing information 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

cc: George Kinney, Talbot County Planning Officer

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
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Ren Serey
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October 16, 2007

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

Re: Seaside Escape Site Plan
07-18100003

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a five-story condominium and parking area. Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total lot size is 17,925 square feet. The lot is currently composed of a building, asphalt parking lot, and several landscaped areas. The applicant proposes to remove the existing building and construct a five-story condominium, parking lot, and landscaped areas. Current impervious surface on-site is 13,422 square feet (74.8% of the total site), and will increase to 14,810 square feet upon completion of this project (82.6%). The project is located outside of the 100-foot Buffer. Afforestation is met onsite using 13 small trees and 36 small shrubs. The applicant proposes to meet 10% phosphorus removal requirements using pervious pavers.

Based on the information provided, we have the following comment on this project:

- The applicant states that the pervious pavers used for this project receive a 65% efficiency rating for phosphorus removal. Due to the low quality of the soils onsite, however, this Best Management Practice can receive only half the credit for removal (32.5%). Total phosphorus load removed onsite is now .152 pounds/year, not .305 pounds/year. This total still meets the load removal requirement for this project.

Thank you for the opportunity to provide comments on this site plan application. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly
Nick Kelly
Natural Resource Planner
cc: OC 582-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 15, 2007

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

Re: Van Metre Variance
2007-0343-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow an accessory structure with less setbacks and Buffer than required on a grandfathered lot. The property is 15,990 square feet, is located in a Buffer Exempt Area (BEA), and is currently developed with a single family home, driveway, porch, deck, and sidewalks. The applicant proposes to construct a 600 square foot pool and a 30 square foot retaining wall that will be located closer to the shoreline than the existing house. Total impervious surface onsite is currently 2,925 square feet (18.2% of the total site); if the variance is granted, impervious surface will increase to 3,555 square feet (22.2%).

Although the office generally does not oppose variance requests for modest additions or renovations to an existing primary dwelling on a grandfathered lot, we cannot support this request for a new accessory use in the Buffer. Therefore, we oppose the variance to build a new swimming pool and retaining wall 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. The General Assembly also enacted specific standards for variances to the local Critical Area programs, and required that local jurisdictions use those State law standards. See Annotated Code of Maryland, Natural Resources Article Section 8-1808 (d). The General Assembly reaffirmed the stringent standards of the law, and required

that all applicants meet each and every standard 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* 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 Criteria establishes the Buffer as an area of undisturbed natural forest vegetation, or as 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. These provisions aim to maintain its integrity by prohibiting the construction of new structures and impervious surfaces, including pools, patios, and retaining walls (Anne Arundel County Code 17-8-702).

Based on the information provided, the applicant currently enjoys reasonable and significant use of the entire lot or parcel as evident by the existing structure, porch, and deck. Therefore, denial of a variance for additional impervious surfaces and structures within the Buffer would not constitute an unwarranted hardship. In addition, it is our view that construction of a new pool, patio, and retaining wall in the Buffer is in direct contrast to the spirit and intent of the Critical Area as well as in contrast to State and County goals for proper Buffer Management. Because we do not believe that each and every one of the County's variance standards has been met, including the standard of unwarranted hardship, we oppose this variance and recommend that it 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 home, driveway, porch, deck, and sidewalk. The applicant proposes to construct a pool and retaining wall that are located in the Buffer and closer to the shoreline than the existing house. The State law standards, applicable to this variance request, define "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**. Given the uses enjoyed by

the Applicant on this property, we do not believe that the County has evidence on which to base a finding that, without the pool and retaining wall, 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.*

Anne Arundel County Code 17-8-702(b)(1-2) states that "no new impervious surface shall be placed nearer to the existing shoreline than the existing principal structure and landscape," and that "the structure or expansion shall be designed and located to maximize the distance from the shoreline and to enhance and protect the environmentally sensitive features on the site." The applicant proposes to construct a pool and retaining wall that are located closer to the shoreline than the currently existing house. This office would not support similar requests to construct a pool, patio, and retaining wall within the Buffer on other sites within the Critical Area. Therefore, the rejection of a variance for the swimming pool and retaining wall would not deny the applicants a right commonly enjoyed by other properties.

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

The granting of a variance to permit a pool and retaining wall within the 100-foot Buffer, a recognized Habitat Protection Area, would constitute a special privilege upon the applicant which would be denied to others in the County as well as within other jurisdictions in the Critical Area.

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

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 swimming pool and retaining wall 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. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 603-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 15, 2007

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

Re: Bode Variance
2007-0335-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting an after-the-fact variance to install a deck and steps with less setbacks and Buffer than required. The property is 21,391 square feet in size, is designated as an Intensely Developed Area (IDA), and is currently developed with a two-story dwelling, deck, and two garages. The applicant proposes to add a 12 foot by 22 foot deck with an 11 foot by 4 foot stairs. Current impervious surface on this site is 3,440 square feet (16.1% of the site) and will increase to 3,748 square feet (17.5%) if the variance is granted. Total forested area onsite is 20% and is planted with one oak tree, seven holly trees, and two dogwood shrubs. No forested area was disturbed for this project, as the area proposed for the deck mainly consists of turf grass.

Based on the information provided, we do not generally oppose this variance. However, we do have the following comments for this project:

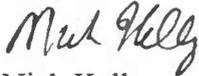
1. Anne Arundel County Code §17-8-702(b)(2) states that "the structure or expansion shall be designed and located to maximize the distance from the shoreline and to enhance and protect the environmentally sensitive features on the site." In order to ensure that this regulation is met, we recommend that County staff visit the site to determine if the deck can be relocated to the western side of the dwelling.
2. If not already constructed as pervious, the proposed deck should be retrofit as such; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate, and have the deck surrounded by native vegetation (at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the

attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design. We recommend that this requirement be included as a condition of approval.

3. In general, mitigation for any clearing or disturbance within the Buffer must be performed at a 2:1 ratio. However, given the after-the-fact nature of this variance application, 3:1 mitigation within the Buffer area should be required for the entire footprint of the deck.
4. Please have the applicant provide on the site plan the total amount of forested area in square feet.

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
Natural Resource Planner
cc: AA 602-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 15, 2007

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

Re: Barry Variance
2007-0322-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to install a deck with less setbacks and Buffer than required over a currently existing patio. The property is 23,075 square feet in size, is designated as a Limited Development Area (LDA), and is currently developed with a one-story dwelling, concrete driveway, detached garage, shed, and pier. The applicant proposes to add a 9 foot by 21 foot deck with a 10 foot by 3.5 foot walkway. Current impervious surface on this site is 5,389 square feet and will not increase if the variance is granted. This amount of impervious surface falls below the 5,445 square feet allowed for lots that are one-half acre (23,075 square feet) in size. Total forested area onsite is 9,000 square feet (39% of the site) and is composed of pine trees, will cherry trees, oak trees, tall firs, and other shrubs. No forested area will be disturbed as a result of this variance.

Provided the lot is properly grandfathered, we do not oppose this variance. However, we do have the following comments for this project:

1. The proposed deck should be built in a pervious manner; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate, and have the deck surrounded by native vegetation (at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design.

2. In order to achieve a net benefit in stormwater quality, we recommend that the currently existing patio be removed.
3. Mitigation for any clearing or disturbance within the Buffer must be performed at a 2:1 ratio.

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

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 602-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 12, 2007

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

Re: Goodman Variance
A102

Dear Ms. Verdery:

Thank you for providing information on the above referenced administrative variance request. The applicant is requesting a variance to install a patio in lieu of an existing walkway and driveway within the 100-foot Buffer. The lot is located in a Resource Conservation Area (RCA) and is 3.95 acres in size. Currently, the lot is composed of a two-story dwelling unit, driveway, walkway, and gravel path. The applicant proposes to install a 265 square foot patio with two sets of steps and to remove the existing walkway and driveway within the 100-foot Buffer. The patio is located 65 feet from Mean High Water (MHW), which is further than the closest point of the existing house to MHW (37 feet). Total impervious surface onsite is currently 10,112 square feet (5.8% of the total site). Upon completion of this project, impervious surface will increase to 10,377 square feet (6.0%).

Provided the lot is properly grandfathered we do not oppose this variance. However, we have the following comments on this project:

1. Mitigation for any disturbance within the Buffer must be provided at a 2:1 ratio.
2. In order to both enhance the functions of the Buffer (as found in COMAR 27.01.09.01§B) as well as to ensure that this area is not utilized for future parking, the driveway area that has been removed should be planted by the applicant with native plants and shrubs. Turf grass is not considered to be a native plant or shrub and should not be permitted by the County in this instance.
3. Please have the applicant list the amount of forest coverage located onsite. This lot must meet the 15% afforestation requirement.

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 614-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 11, 2007

Kenneth Hranicky
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: Baltimore Brewing Company Site Plan

Dear Mr. Hranicky:

Thank you for providing information on the above referenced site plan. The applicant is proposing to redevelop existing buildings that were formerly known as the Baltimore Brewing Company into a 150-160 room hotel with a green roof. The site is located in an Intensely Developed Area (IDA) and is .7 acres in size. Total impervious surface located on site is currently .567 acres. Upon completion of this project, impervious surface will fall to .524 acres. A total of .04 pounds per year of phosphorus must be removed to meet the Critical Area 10% phosphorus removal requirement; the applicant plans to address this by paying a fee-in-lieu of \$18,653.78. To meet 15% afforestation requirements for this project, .105 acres (4,573.8 square feet) of afforestation is required (15%*.7 acres). The applicant has provided 4,986 square feet of afforestation onsite.

Based on the information provided, we have the following comment on this project:

- In the future, please have the applicant provide in the planting chart the amount of square footage that each plant is providing to meet the afforestation requirement.

Thank you for providing me the opportunity to comment on this site plan. 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
cc: BA 581-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 10, 2007

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Easton Village Community Site Plan

Dear Mr. Thomas:

Thank you for providing follow-up information on the above-referenced site plan. The applicant is proposing to construct a community clubhouse and pool on a currently undeveloped portion of the property. The site is 4.68 acres, is located in an Intensely Developed Area (IDA), and is located entirely outside the 300-foot setback. Proposed impervious area is 6,810 square feet. The 10% phosphorus removal and forest conservation requirements were provided for development of the entire parcel, including the proposed clubhouse and pool, and this information has been reviewed in prior applications by Commission staff.

It is our understanding that the portion of the community pier pathway within the 100-foot Buffer will not be constructed at this time; rather this pathway will be completed simultaneously with the construction of the pier, and the circular planting area will be deleted from the site plan. Only the portion of the path that is located outside of the 100-foot Buffer will be completed at this time.

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

- COMAR 27.01.02.03.D(4) states that "If practicable, permeable areas shall be established in vegetation and, whenever possible, redevelopment shall reduce existing levels of pollution." Staff recommends planting the grass areas designated on the site plan with native trees and shrubs in order to increase habitat and provide additional stormwater management.

Thank you for the opportunity to provide comments on this site plan. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 619-00



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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October 9, 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. Commission staff has accepted the materials forwarded by the Town as a complete submittal. The Chair will make an amendment or refinement determination within thirty 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 providing us with the opportunity to review your growth allocation request. 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
cc: EA 73-07



Martin O'Malley
Governor

Anthony G. Brown
Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 5, 2007

April Stehr
MDE - Water Management Administration
1800 Washington Boulevard
Baltimore, MD 21230

**RE: 200762451/07-WL-1631; Revetment and Walkway
Montego Bay Mobile Home Park, Ocean City**

Dear Ms. Stehr:

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

1. This proposal is required to comply with COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. In order to be consistent with the City Program, development activity proposed in the Critical Area must meet all requirements of the Town's Ordinance and COMAR, including the policies and criteria for habitat protection areas in COMAR 27.01.09. The proposed project is in the IDA (Intensely Developed Area) of the Atlantic and Coastal Bays Critical Area.
2. In order to comply with Critical Area requirements of the Code of Maryland Regulations, all development related activity should be outside of the 100-foot Buffer, except for the minimum necessary for placement of shore erosion control measures at significantly eroding areas. Significantly eroding areas are shoreline areas where there is documented erosion of at least two feet or more per year. If significant erosion has been documented by the applicant, then the applicant must demonstrate that the proposed measures are those that best provide for conservation of fish and plant habitat, and are practical and effective. In these cases, development disturbance in the Buffer may be permitted where necessary to provide access to install or construct a shore erosion protection device or

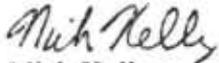


measure, providing the device, measure, or facility has received all necessary State and federal permits (COMAR 27.01.09.01.C(5)(c)).

3. Any temporary or permanent disturbance must be designated by the applicant as the limit of disturbance. The designated area of disturbance that is within the 100-foot Buffer requires mitigation plantings. The mitigation should be planted in the Buffer on the site, at a standard density of one two-inch-caliper tree, and three three-gallon-pot shrubs, per 400 square feet of Buffer mitigation area required, or otherwise per the Buffer mitigation standards of Ocean City.
4. 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 perpendicular to the shoreline through the Buffer. 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 410-260-3483.

Sincerely,



Nick Kelly
Natural Resources Planner

cc: Jesse Houston, Director, Town of Ocean City Department of Planning and
Community Development
Blaine Smith, Town of Ocean City Planning and Zoning



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

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

October 3, 2007

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: Chesapeake Paperboard Building Permit

Dear Mr. Letteron:

Thank you for providing information on the above referenced building permit. The applicant is proposing to create a mixed use commercial/residential property and has submitted to this office preliminary stormwater management calculations for review and comment. Two portions of the site are designated as an Intensely Developed Area (IDA) and are a combined 1.52 acres in size; the remaining portion of the property is located outside of the Critical Area. To meet the Critical Area 10% pollutant removal requirement, .323 pounds per year of phosphorus must be removed from the Critical Area portions of the property. However, due to the uniqueness of the site, the Critical Area portions cannot be treated to meet the 10% requirement. Consequently, the applicant proposes treatment of an off-site drainage area to meet the 10% requirement. A total of 2.99 acres of impervious surface will be treated by an underground sand filter. This proposal will treat .99 pounds per year of phosphorus in excess of what is required to meet the City of Baltimore Department of Public Works 20% phosphorus reduction requirement.

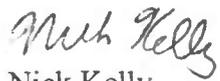
Based on the information provided, the proposed stormwater management calculations will meet the 10% Critical Area phosphorus removal requirement. However, we do have the following additional comments:

1. As stated in your letter, please have the applicant submit a full stormwater management report, current and proposed site conditions, stormwater calculations, and a 15% afforestation plan so that this office can review the project in its entirety.
2. Please have the applicant verify that treating 2.09 acres of impervious surface will meet the City of Baltimore Department of Public Works removal requirement.
3. In order to ensure that the Critical Area 10% requirements are met, please have the applicant verify that the proposed sand filter will be sized to treat 2.99 acres of

impervious surface, not just the 2.09 acres required by the City of Baltimore Department of Public Works.

Thank you for providing the information on 10% calculations for this building permit. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: BA 568-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 2, 2007

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 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 of the site is 3.89 acres, with 2.01 acres located within the Critical Area; 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. A 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 surface is located on Lot 2 (10.4%). The shed and pavilion are proposed to be removed on Lot 1, reducing the amount of impervious surface on this lot to zero. 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. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.
2. 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 threatened or endangered species onsite. 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.

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 363-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

October 2, 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 a two-lot subdivision on a parcel designated as a Limited Development Area (LDA). The 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. Based on this subdivision plan, Lot 1 will have no riparian rights or access.
2. Lot 2 should be created to have a sufficient buildable area so that a need for variances in the future is eliminated.
3. No new development will be permitted in the Buffer area for proposed Lot 2.
4. It has come to our attention from Elisa DeFlaux of Talbot County Planning and Zoning that there is a discrepancy in regards to the delineation of the wetlands located on this parcel. The applicant claims that portions of the wetlands onsite are nontidal. According to the 1972 NWI wetlands maps, however, all wetlands located onsite are tidal in nature. In order to change the delineation of tidal wetlands to nontidal, a map amendment is required from the Maryland Board of Public Works. The applicant should contact Mr. Doldon Moore at the Maryland Board of Public Works (410-260-7764) to learn more about the procedures necessary to amend these maps. The determination of the amount

of tidal wetlands located onsite will greatly affect the amount of buildable land available on Lot 1.

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

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 2, 2007

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 21601

Re: Hunter Subdivision
1089

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision application. The applicant proposes to create a two lot subdivision on land zoned as Resource Conservation Area (RCA). Total size of the parcel is 89.165 acres; the parcel will be subdivided into a 60.97 acre lot (Lot 1) and 28.195 acre lot (Lot 2). A total of two development rights exist on Tax Parcel 279 Deed Parcel 11; both will be utilized if the subdivision is granted. Lot 1 is currently developed with seven assorted farm buildings, concrete pads, and brick walkways. Lot 2 is currently developed with a gravel roadway and deck. Total impervious surface is 34,710 square feet on Lot 1 (1.8% of the total lot) and 40,624 square feet on Lot 2 (3.3%). The impervious amount existing on both lots fall under the 15% permitted. Total forest coverage on Lot 1 is 564,915 square feet (21.2% of the total lot size) and on Lot 2 is 758,820 square feet (61.8%).

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

1. The National Wetlands Inventory and Department of Natural Resource wetlands maps indicate there is a large area of nontidal wetlands located on the western portion of Lot 1. The wetland maps and soil surveys also show the presence of two intermittent streams on Lot 1 that converge to the nontidal pond. Please have the applicant perform a wetland delineation to ensure that existing tidal and nontidal wetlands located onsite are properly mapped.
2. The tidal wetlands classification table on the site plan mentions that, of the total amount of tidal wetlands on-site (23,458 square feet), half is privately owned and consists of marshelder/groundsel bush and meadow cordgrass/spikegrass, and half is state-owned and consists of smooth cordgrass. Seeing that the total amount of

tidal wetlands is halved raises concerns about the accuracy of this delineation. Please have the applicant perform a wetland delineation to accurately determine the amount of private and state-owned wetlands. This amount will help determine the total buildable area and the amount of impervious surface allowed for Lot 2.

3. Lot 2 should be created to have a sufficient buildable area so that a need for variances in the future is eliminated.
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 threatened or endangered species onsite. 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.

Thank you for the opportunity to provide comments on this subdivision 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 572-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 2, 2007

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 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 Resource Conservation Area (RCA). 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 32.184 acres.

Based on the information provided, we do not oppose the granting of this subdivision application. However, we do have the following comments on this site plan:

1. Please have the applicant indicate on the site plan the amount of tidal wetlands that are located on the property, broken down into the amount that is private and the amount that is state-owned. These numbers will help determine the total buildable area and the amount of impervious surface permitted for each lot.
2. Please have the applicant indicate the amount of impervious surface allowed for each site. In an RCA area, impervious surface is limited to 15% of the total lot size. Consequently, Lot 1 cannot exceed 3.53 acres (153,895 square feet), and Lot 2 cannot exceed 1.29 acres (56,394 square feet).
3. 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 onsite. If present, the applicant must address all recommendations from DNR for protection of this species. Please forward a copy of this letter to our office.
4. Please have the applicant indicate the amount of forested area located on each site, as the subdivision must meet the 15% Critical Area afforestation requirement

as found in COMAR 27.01.02.04. The applicant can choose to provide 15% afforestation on each lot, or provide 15% afforestation in one area of the property for the entire subdivision.

5. If the subdivision is granted, the total amount of development rights allowed for each lot will be exhausted.

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

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 2, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 21601

**Re: Talbot Country Club Variance
Appeal # 1474**

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant proposes to reduce the setback from a nontidal wetland pond from 25 feet to 1.9 feet in order to replace an existing 100 square foot irrigation building with a 390 square foot building. The current building is located 2.5 feet from the existing pond. The applicant states that a larger irrigation building is required in order to meet the irrigation needs of the country club. Total acreage of the lot is 138.48 acres; 81.22 acres are located in the Critical Area in a Resource Conservation Area (RCA). Total impervious surface located onsite in the Critical Area is currently 26,560 square feet (.7% of the total site area). Upon completion of this project, total impervious surface will increase by 290 square feet to 26,850 square feet (.75%).

Talbot County Zoning Code §190-93.E (7) (d) (1) – (3), Nontidal Wetlands Management, states that any development activities that disturb wetlands shall be prohibited, unless it can be shown that the activities will not adversely affect the wetland. While the code does allow for water dependent structures within the buffer, any disturbance within the drainage area of the wetlands must "minimize alteration to the surface or subsurface flow of water into and from the wetland and not cause impairment of the water quality or the plant and wildlife and habitat value of the wetland."

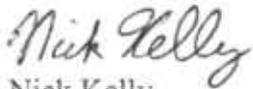
While this office does not oppose the replacement of the existing irrigation tank, we cannot support the proposed size and location on the current site plan. The proposed shed does not minimize disturbance within the buffer, and will thus alter the flow of water into and from the wetland. In order to minimize disturbance to the buffer, the size of the building should be reduced and repositioned so that portions of the proposed building will be located outside of the 25 foot buffer. Furthermore, the distance of the building should not encroach the wetland any further than the original building (2.5 feet).

In addition, we have the following comments on this proposal:

- Mitigation for any disturbance that will result from the redevelopment of this site to the 25-foot non-tidal wetland buffer area must be performed at a 2:1 ratio.

Thank you for the opportunity to provide comments on this variance request. 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

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 1, 2007

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 21601

Re: Hottel Variance
A101

Dear Ms. Verdery:

Thank you providing information on the above referenced administrative variance request. The applicant is requesting a variance to add a second story balcony and a set of steps off of a pre-existing porch. The lot is zoned Resource Conservation Area (RCA), is 1.943 acres in size, and is currently developed with a one story frame guest house, a one-story dwelling, two sheds, garage, two concrete pads, gravel area, gravel driveway, and two porches. The applicant proposes to remove portion of the dwelling, to remove existing steps on the east side of the preexisting porch in the Buffer, to expand the house on the west side, to install two second floor balconies, and to add steps to an existing porch. Total impervious surface currently on-site is 9,482 square feet (11.2% of the total site); upon completion of this project, total impervious surface will be 9,938 square feet (11.7%). The existing home is located 79.6 feet from Mean High Water (MHW); the proposed balcony and steps will be located 99.6 feet and 91.2 feet, respectively, from MHW. The dwelling was constructed in 1973.

Provided the lot is properly grandfathered and the proposed improvements will be further from Mean High Water than the existing home, we do not oppose this variance. However, we have the following comments on this project:

1. Mitigation for any disturbance within the Buffer must be provided at a 2:1 ratio.
2. Please have the applicant list the amount of forest coverage located on-site. All lots within the Critical Area must meet the 15% afforestation requirement (12,695 square feet).

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 435-07

563-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

October 1, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 21601

Re: Miles Away Farm Variance

Dear Ms. Corkell:

Thank you for providing information on the above referenced special exception and variance request. The applicant requests a variance to reduce the 25-foot buffer of a nontidal wetland to 0 feet. The applicant proposes to create a 6 foot by 24 foot bridge and a 33 foot by 4 foot viewing and casting platform. The bridge and viewing platform are to be built over an enlarged nontidal pond that is currently under expansion. The original nontidal wetland pond was 1,005 square feet in size and was surrounded by 10,611 square feet of emergent nontidal wetland buffer. Upon completion of this enlargement plan, the nontidal wetland pond will be 2,054 square feet in size and will be encompassed by 19,266 square feet of emergent nontidal wetland buffer. The lot is located in a Resource Conservation Area (RCA) and is 35.111 acres in size. Total amount of impervious surface on-site is 48,480 square feet (3.1% of total lot area).

Talbot County Zoning Code §190-93.E (7) (d) (1) states that a twenty-five foot buffer to nontidal wetlands within the Critical Area "shall be maintained," and that "development activities which may disturb the wetlands or the wildlife in the wetlands shall be prohibited in the buffer unless it can be shown that these activities will not adversely affect the wetland." Per a conversation with Alan Kampmeyer of the Nontidal Wetlands Division of the Maryland Department of the Environment, it is our understanding that the construction of the viewing platform and bridge is currently located in an uplands area and not within a nontidal buffer. Therefore, the two structures proposed structures fall outside of the currently existing 25-foot buffer area.

Based on the information provided and our conversation with Mr. Kampmeyer, we do not oppose this variance, as Commission staff defers to Mr. Kampmeyer's expertise on this

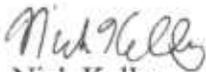


site given the unique circumstances. However, we do have the following comments on this project:

1. The amount of proposed impervious surface for this project is unclear. The site plan only states the amount of existing impervious area. Please have the applicant state the amount of proposed impervious surface on-site. Total impervious surface on-site may not exceed 15%.
2. Please have the applicant provide information on the amount of impervious surface associated with each structure (house, tennis courts, barn, pier, bridge, etc.) on-site.
3. Mitigation for any disturbance to the currently existing 25-foot non-tidal wetland buffer area must be performed at a 2:1 ratio.

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

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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www.dnr.state.md.us/criticalarea/

September 28, 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 Ms. Ellis:

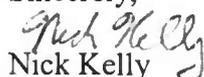
I am writing to provide comments on the following project located in Talbot County:

200763960/08-WL-0199: Mary Donnell Tilghman, et al.

In the Town of Easton, in Lloyd Creek and Shaw Bay off the Wye East River, the applicant is proposing to fill, grade, and plant marsh vegetation along 2,140 square feet of eroding shorelines with 3,100 cubic yards of sand and a low profile, stone, sand containment sill emplaced within a maximum of 35 feet channelward of the mean high water line. This office supports marsh creation as a means of shore protection in areas where long-term sustainability is ensured. The applicant should coordinate with the Talbot County Planning Office in the creation of this marsh area. Finally, this site is adjacent to a historic waterfowl concentration area. Please have the applicant contact Lori Byrne of the Maryland Department of Natural Resources Wildlife and Heritage Service at (410) 260-8573 to receive an evaluation of the site, as restrictions may apply as to when and how construction in the marsh will be permitted.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,


Nick Kelly

Natural Resources Planner

cc: Mary Kay Verdery, Talbot County Department of Planning and Zoning

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
Chair

Ren Serey
Executive Director

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(410) 260-3460 Fax: (410) 974-5338
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September 25, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: 1471
Martingham Utility Cooperative Site Plan - Water Treatment Plant Upgrade

Dear Ms. Corkell:

Thank you for providing information on the above referenced special exception and variance request. The applicant requests a special exception in order to add equipment to an existing water treatment plant to remove arsenic from the groundwater. A variance is requested to reduce a building setback from 50 feet to 35 feet in order to add this equipment. The property is .88 acres (38,332.8 square feet) and is located in a Resource Conservation Area (RCA). Currently, the site is developed with an office building, ground storage tank, water and vacuum pump building, and gravel driveway. The applicant proposes to expand the vacuum pump building by 515 square feet, construct a 4,000 gallon decant tank, and remove 550 square feet of an existing gravel driveway and replace it with topsoil, straw, and grass seed. Total existing impervious surface on-site is 31,001 square feet (2.39% of the total site area). Upon completion of this project, total impervious surface on-site will decrease to 31,000 square feet (2.39%).

Based on the information provided, we do not oppose this project.

Thank you for the opportunity to provide comments on this Board of Appeals special exception request. If you have any questions, please contact me at 410-260-3483.

Sincerely,


Nick Kelly
Natural Resource Planner
TC 477-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 21, 2007

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

Re: Appeal #1439
SBA Towers Variance

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant is proposing to construct a new 198 foot monopole telecommunications tower with a lightning rod and is requesting to reduce the 25 foot nontidal wetlands buffer to zero feet in order to upgrade an existing road that provides access to the proposed tower. The site is located in a Rural Conservation Area (RCA) and is 70.56 acres in size. The project will consist of constructing the tower, expanding the roadway from 6 feet to 12 feet, and building a 30 foot by 80 foot fenced equipment compound (reduced from the original compound area that was proposed to be 60 feet by 60 feet). Approximately 1,400 square feet of Buffer area will be affected by this project. The applicant states that the 12-foot access road is necessary to provide usable access to the compound area. There is no Forest Interior Dwelling Birds (FIDS) or Delmarva Fox Squirrel habitat located on-site.

Based on a conversation with Alan Kampmeyer from the Nontidal Wetlands Division of the Maryland Department of the Environment (MDE), it is our understanding that Mr. Kampmeyer visited the property and determined that nontidal wetlands existed on-site. Mr. Kampmeyer stated that the original configuration of the fenced equipment compound placed much of the compound inside the nontidal wetlands; the new site plan has reconfigured and reduced the size of the compound to place it outside of this sensitive area. In addition, Mr. Kampmeyer confirmed that the proposed roadway to reach the compound was the best alternative available for the project in terms of minimizing disturbance to nontidal wetlands located on-site.

With regards to the proposed expansion in road width from six feet to 12 feet, Talbot County Code §134-10 states that, "a privately owned access or road for not more than 10

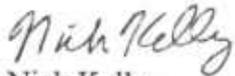
residential lots shall be classified as a private road. The minimum roadway width of a proposed private road shall be 40 feet, including a minimum road width of 12 feet." Furthermore, the applicant claims that vehicular access would occur only once or twice a month in five minute increments. Regardless, staff recommends reducing the width of the road to 10 feet in order to minimize disturbance to the Buffer.

Based on the information provided by the applicant and Mr. Kampmeyer, we do not oppose this project. However, we do have the following comments:

1. Please have the applicant provide on the site plan the amount of existing and proposed impervious surface on site. The total amount of impervious surface allowed on-site cannot exceed 15% (10.6 acres). In addition, please have the applicant provide the amount of impervious surface by structure (tower, shelter, roadway, etc.).
2. Mitigation for any disturbance to the 25-foot nontidal wetland buffer must be provided at a 2:1 ratio.
3. Please have the applicant provide information on the amount of proposed clearing for this project. Any forest clearing that is involved with the construction of this project will require mitigation. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, mitigation is required at 1.5:1 ratio; clearing of over 30% of the site requires 3:1 mitigation.

Thank you for the opportunity to provide comments to this Board of Appeals variance. 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. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 695-06

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

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

September 21, 2007

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

Re: Nicholson Variance
2007-0233-V

Dear Mr. Fury:

On September 21, 2007, Commission staff visited the above-referenced site with the applicants and engineer to determine if an alternate site was available to place an existing shed that was built without permits. The applicant is requesting an after-the-fact variance to allow for an accessory structure with less setbacks and Buffer than required. The lot is 25,657 square feet (.59 acres), is zoned as an Intensely Developed Area (IDA), is located within a Buffer Exemption Area (BEA), and is currently developed with a two-story house, carport, concrete driveway, gravel driveway, pier, and walkway. The applicant has built a twelve foot-by-twelve foot shed (144 square feet) that is closer to the shoreline (13.3 feet) than the existing two-story dwelling (29.1 feet). The revised alternative site plan places the existing shed over the existing gravel drive further from the shoreline (24.3 feet). Total disturbance on the site will be 256 square feet. Current impervious surface on this site is 4,826 square feet and will increase to 4,970 square feet if the variance is granted. No clearing will occur for shed construction.

Based on the information provided, we oppose the placement of this shed as requested. Anne Arundel County Code Article 17-8-702 (b) states that:

“No new impervious surface shall be placed nearer to the shoreline than the existing principal structure and landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure.”

Additionally, Article 17-8-702 (c) mentions that:

“The structure or expansion shall be designed and located to maximize the distance from the shore and to enhance and protect the environmentally sensitive features on the site.”

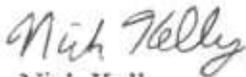
While the newly proposed placement of the shed is further from the shoreline than the original site plan, the shed is still closer to the shoreline than the existing principal structure. We question whether leaving the shed over the existing gravel will not constitute additional impervious surface for this site, since it is our understanding that this area serves as an infiltration trench for the site. Furthermore, we do not believe that the applicant can meet all the required variance standards as found in Article 18-16-305 of the Anne Arundel County Code, in particular:

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

In addition, when visiting the site, staff noticed that a gazebo is located near the existing pier within the Buffer. Commission staff is unaware of any variance application related to this gazebo. In accordance with Anne Arundel County Code, Article 17-8-702 (b)-(c), the gazebo shall also be removed from the site.

Thank you for the opportunity to provide comments on this revised location for this pre-existing shed. 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.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 447-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 14, 2007

Ms. Florence Ball
Talbot County Office of Planning and Zoning
11 N. Washington Street
Courthouse
Easton, Maryland 21601

**Re: Proposed & Existing Kayak Racks at Back Creek Landing Community Park
Talbot County Zoning Permit 07-691**

Dear Ms. Ball:

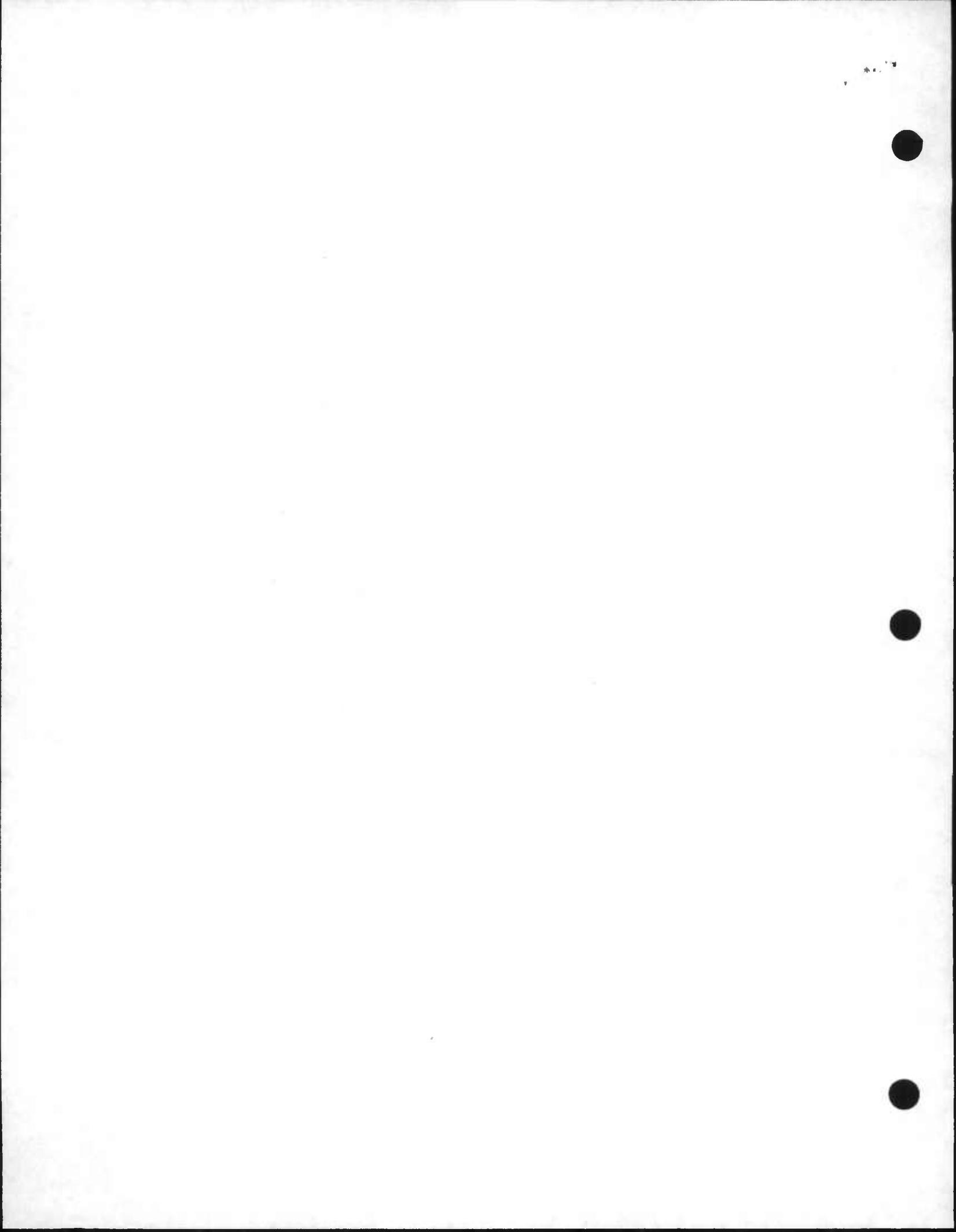
Thank you for providing information related to the above-referenced zoning permit. The applicant proposes to install kayak racks at Back Creek Landing Community Park within the 100-foot stream buffer. Currently, kayak racks and a gravel path exist within the 100-foot stream Buffer. In 2003, Commission staff reviewed and commented on a special exception request for a community pier; however, there was no mention of placing kayak racks in the Buffer. Furthermore, in the August 18, 2003 hearing held by the Talbot County Board of Appeals for this special exception request, the applicant stated that "canoes would be dropped over the side of the pier" and that "canoes would be on their sides or upside down. There would be no storage racks." A copy of the minutes from that meeting is attached.

With such a large number of homeowners located within the Critical Area, the activities of each community and homeowner is significant to the effectiveness of protecting the Chesapeake and Atlantic Coastal Bays. COMAR 27.01.09.01(2) states that new development activities within the 100-foot Buffer are not permitted unless they are associated with water-dependent facilities. Kayak racks are not considered to be water-dependent, as they are simply a storage area for kayaks and are considered to be a permanent impervious structure within the Buffer. While one illegally constructed kayak rack may seem to have a minimal effect on water quality, the cumulative impacts of thousands of structures, including kayak racks, can be extremely detrimental to the health of the Bays and their tributaries. Therefore, based on the purposes, policies, goals, and provisions of the Critical Area Law and Criteria, the proposed kayak racks shall be located outside of the 100-foot stream Buffer. In addition, the currently existing kayak

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





racks shall be removed from the Buffer, as their current location places the Back Creek Landing Community Park in violation of COMAR 27.01.09.01(2).

Thank you for providing us the opportunity to review zoning permit request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: Talbot County General File

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 13, 2007

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

Re: Clearwater Mills Trash Interceptor

Dear Mr. Stuart:

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 City of Baltimore Critical Area Program for the reasons outlined below.

1. The project involves the installation of a waterwheel powered trash interceptor to collect trash and debris carried by runoff in the Jones Falls River where it enters Baltimore's Inner Harbor. The interceptor is located on a floating platform measuring 16 feet by 32 feet (512 square feet). The project is located in an Intensely Developed Area.
2. No forests, woodlands, or trees will be removed, and no clearing will occur.
3. The structure will be placed in the water; therefore, no land will be disturbed and the Buffer will not be impacted.
4. There will be no new increase impervious surface.
5. Stormwater management and 10% Phosphorus removal are not applicable to this site since there is no increase in impervious surface.
6. No non-tidal wetlands will be impacted.
7. Tidal wetlands will be impacted, and a permit from MDE is pending approval.

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

- In the future, please continue notify this office if more trash interceptors will be installed, as Staff must review each project to ensure that it is consistent with

COMAR 27.02.02. In particular, Staff requests that the City provide site plans for each project as well as information related to the trash interceptor's size, shape, and method of collecting trash.

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
Nick Kelly

Natural Resources Planner

cc: BA 527-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 13, 2007

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

Re: 13661
McGinnis Building Permit

Dear Mr. Smith:

Thank you for providing information on the above referenced building permit application. The applicant proposes to construct a single-family dwelling unit with a screened porch. Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total lot size is 3,683 square feet. The lot is currently composed of a mobile home, screened porch, steps, and concrete drive. Total impervious surface on-site currently is 1,783 square feet (48.4%). The applicant proposes to remove the mobile home and construct a one-story dwelling, porches, shower, concrete driveway/walkway, and HVAC platform. If approved, the completion of this project will increase impervious surface for this site to 2,475 square feet (67.2%). To meet mitigation requirements in the 100-foot Buffer, \$2,400 of landscaping is required. A five foot by five foot rain garden is also proposed on-site to provide stormwater management.

Based on the information provided, we have the following comments for this project:

1. The project requires \$2,400 square feet of landscaping to meet mitigation requirements in the 100-foot Buffer. Please have the applicant provide details on how this \$2,400 will be spent on landscaping.
2. In accordance with Section VI of the Town of Ocean City Critical Area Project Application, please have the applicant provide a landscape/mitigation plan, including location, botanical name, common name, and installation site.

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3. Please have the applicant provide detailed information, including a diagram, about the proposed five foot by five foot rain garden. In particular, the applicant must provide information on the rain garden's depth and the amount of roof area that will drain into the rain garden. As stated in the Critical Area 10% Rule Guidance Manual, the depth of the rain garden should be six to 18 inches deep, and the surface area of the rain garden should be between 20% and 30% of the roof area that will drain into the garden (20% for sandy soils). This will ensure that the rain garden will hold water from a one-inch rainstorm. Please refer to the Critical Area 10% Rule Guidance Manual, Appendix F, for more information.
http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html
4. One of the minimum best management practices to be applied by homeowners to this site, according to the "Town of Ocean City Standard Stormwater Management Plan/Water Quality Management Plan and Engineering Conditions for Single Family Less Than 5,000 Square Feet" application, is that the amount of impervious surface located on this site must be less than 60% of the site area. Total impervious surface on this site exceeds 60% by 265 square feet. The applicant states that a fee-in-lieu will be paid. Staff recommends reducing the amount of impervious surface by 265 feet in order to meet this requirement. However, if the fee-in-lieu option is implemented, please provide information on the rate and total amount that will be paid for this project.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
OC 543-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 11, 2007

Ms. Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Town of St. Michaels Street Repaving Project

Dear Ms. Renshaw:

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

1. The proposed project involves the milling and repaving of seven existing streets in the Town of St. Michaels. The area of the site is 4.24 acres and is located in an Intensely Developed Area (IDA).
2. The project is not located within the 100-foot Buffer.
3. While 1,375 square feet of new impervious surface will be added during this project, 1,770 square feet of impervious surface will be removed, resulting in a net reduction of 395 square feet of impervious surface.
4. There are no tidal or non-tidal wetland impacts.
5. A total of 27 trees will be removed (17 obtrusive and 10 dead, diseased, or dying trees); 27 trees will be replanted on-site.
6. The project is exempt from stormwater management review.

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

1. When originally discussing the project with the Town, we stated that 10% calculations were not necessary for this project. It was our understanding at that time that no new impervious surface would be added to the site during the course

of this project. However, according to the site plan, a total of 1,375 square feet of new impervious surface is being added to the Willow Street portion of the project. Consequently, 10% calculations are now necessary for the Willow Street portion of the project, using the limits of disturbance as the site area. An offset may be required if the project cannot meet the 10% pollutant removal requirement

2. Please have the applicant identify on the site plan the location of the 27 trees that will be provided as mitigation.

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: ST 524-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 11, 2007

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

Re: 13142
Enuton-Franklin Building Permit

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to acquire a building permit in order to build a family room and deck onto an existing house. Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total lot size is 8,737 square feet and the lot is designated as an Intensely Developed Area (IDA). Total impervious surface currently existing onsite is 2,284 square feet (26%); upon construction of the new additions, total impervious surface will increase to 3,423 square feet (39%). To meet mitigation requirements in the 100-foot Buffer, \$1,700 of landscaping is required. The applicant plans to address this matter on-site using one large tree, 11 small trees, 16 large shrubs, 30 small shrubs, and 44 herbaceous plants (\$4,088 of plantings). An infiltration trench and infiltration gravel under the deck and driveway are also proposed on-site to provide stormwater management.

Based on the information provided, we have the following comments for this project:

1. Please have the applicant delineate the 100-foot Buffer on the site plan.
2. Please have the applicant provide more detailed information about the proposed infiltration trench. It appears that the trench is designed in matter similar to a French Drain. However, there is not enough information provided on the infiltration trench to determine its ability to control rooftop runoff. A typical French Drain is 13 feet in length, two feet in width, and two feet deep. From the site plan, the trench appears to only by one foot deep. Please refer to the Critical Area 10% Rule Guidance Manual, Appendix F for more information on

constructing a French Drain:

http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html.

3. There is no information provided about the infiltration gravel that is being utilized for rooftop disconnect. As stated in the "Town of Ocean City Standard Stormwater Management Plan/Water Quality Management Plan and Engineering Conditions for Single Family Over 5,000 Square Feet" application §III.2, gravel trenches cannot be covered with impervious surfaces and must have a minimum depth of one foot. It appears from the site plan that part of the infiltration gravel is located under the driveway and deck.
4. The applicant shall provide a detailed plan of the pervious deck that is proposed on the lot in order to receive stormwater management credit.
5. Please have the applicant provide the amount of impervious surface attributed to each structure (house, family room addition, driveway, shed, etc.) on the site plan.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly

Natural Resource Planner

OC 519-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 10, 2007

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

Re: 13661
Kendrick Site Plan

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct an addition and buildover of an existing mobile home. Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total lot size is 4,008 square feet. The lot is currently composed of a mobile home, concrete patio, sidewalk, shed, and driveway. Total impervious surface on-site currently is 1,922 square feet (47.9%). The applicant proposes to add an addition to the existing mobile home, extend the driveway and sidewalk, and construct a new shed. This construction will increase impervious surface for this site to 2,328 square feet (58.1%). To meet mitigation requirements in the 100-foot Buffer, \$1,600 of landscaping is required. The applicant plans to address afforestation on-site by planting 20 large shrubs. A grass swale and rain garden is also proposed on-site to provide 384 square feet of stormwater management.

Based on the information provided, we have the following comments for this project:

1. The project requires \$1,600 of landscaping to mitigation requirements in the 100-foot Buffer. However, based on the application, it is our understanding that the applicant is supplying only \$1,500 worth of landscaping. Please have the applicant provide an additional \$100 in plantings.
2. Please have the applicant provide detailed information about the proposed five foot by five foot rain garden. In particular, the applicant must provide information on the rain garden's depth and the amount of roof area that will drain into the rain

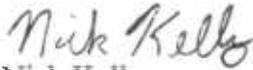
garden. As stated in the Critical Area 10% Rule Guidance Manual, the depth of the rain garden should be six to 18 inches deep, and the surface area of the rain garden should be between 20% and 30% of the roof area that will drain into the garden (20% for sandy soils). This will ensure that the rain garden will hold water from a one-inch rainstorm. Please refer to the Critical Area 10% Rule Guidance Manual, Appendix F, for more information.

http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html

3. Please have the applicant delineate the 100-foot Critical Area Buffer on the site plan.
4. It is unclear from the site plan if the new shed is replacing the old shed. Please have the applicant clarify if the new shed is replacing the existing shed, or if two sheds will be located on the property.
5. In accordance with Section VI of the Town of Ocean City Critical Area Project Application, please have the applicant provide a landscape/mitigation plan, including location, botanical name, common name, and installation site.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
OC 530-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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September 10, 2007

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

Re: Wilford Variance
A101

Dear Ms. Verdery:

Thank you providing information on the above referenced administrative variance request. The applicant is requesting a variance to add a porch addition with step to the entry of an existing dwelling unit, and a porch to the rear of the dwelling as well. The lot is 4.029 acres and is located in a Resource Conservation Area (RCA). For this project, a total of 20,264 square feet of impervious surface exists on site (11.5% of the total site). If the variance is approved, a total of 3,886 square feet of impervious surface will be added, while 2,909 square feet of impervious surface (gravel driveway, patio, and steps) will be removed, resulting in a total of 21,241 square feet of impervious surface (12.1%).

Provided the lot is properly grandfathered we do not oppose this variance. However, we have the following comments on this project:

1. Mitigation for any disturbance within the Buffer must be provided at a 2:1 ratio.
2. Please have the applicant list the amount of forest coverage located on-site. All lots must meet the 15% afforestation requirement.
3. We notice that tidal wetlands are delineated on the map; however, there is no reference noted as to how the delineation was performed. Please have the applicant provide a reference on the site plan. If the delineations were taken from the N.W.I. maps of 1972, then we recommend having an updated wetlands delineation performed on the site to determine how much acreage on the site is available for parcel development. A decrease in acreage available for development will affect the total amount of impervious surface allowed on site.



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 ~~435~~-07

525



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 7, 2007

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

Re: L1024 Seaside Holdings, LLC

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor lot line revision. The applicant is requesting a line revision to change the existing lot lines on Deed Tracts 2, 3, and 4. The Critical Area portion of the property is designated as a Resource Conservation Area (RCA). Deed Tract 2 is currently developed with multiple dwellings and farm structures, while the remainder of the property exists as undeveloped agricultural fields.

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

1. As a result of the line revision, Deed Tracts 2 and 4 will move 3.14 and 8.81 acres, respectively, to Deed Tract 3 (11.95 total acres). Based on this number, please correct the site plan to show the new acreage of Deed Tract 3 as 179.92 acres, not 179.64 acres.
2. As stated in Kerrie Gallo's March 12, 2007 letter, certain portions of the property will require afforestation and Buffer establishment at the time of future subdivision or development. These requirements should be noted by the applicant on the plat.
3. It appears that the applicant is requesting a lot line revision in order to allow Deed Tract 3 direct access to Todds Corner Road. This access would require crossing an intermittent stream. On April 13, 2007, Commission staff visited the site with County staff and Stark McLaughlin of Lane Engineering to inspect the location of the mapped stream and to determine whether the stream bed crossed property lines. A letter was sent by Commission Staff on April 18, 2007, stating



Seaside Holdings, LLC
September 7, 2007
Page 2

Commission Staff's position that an intermittent stream exists within a few feet of the existing property line. A copy of that letter is attached.

4. Please advise the applicant that, in order cross the stream and Buffer on Deed Tract 3, not only would a Critical Area variance be required, but permits from the Maryland Department of the Environment and the Army Corps of Engineers are required as well. Furthermore, please explain to the applicant that a feasible alternative exists, in this case the access point on Gross Coate Road to the north. Consequently, this office would not support a future variance that would build a road through the stream and Buffer.
5. Portions of the property fall within a region designated as a sensitive species review area. The species in question is identified as a Federally-listed species. Prior to future development of the property, an evaluation from Department of Natural Resources Wildlife and Heritage Service will be required to determine if any necessary protective measures for rare, threatened, or endangered species are needed.

Thank you for the opportunity to visit this site and provide comments about the stream in question. If you have any questions, feel free to call me at 410-260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC388-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 7, 2007

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

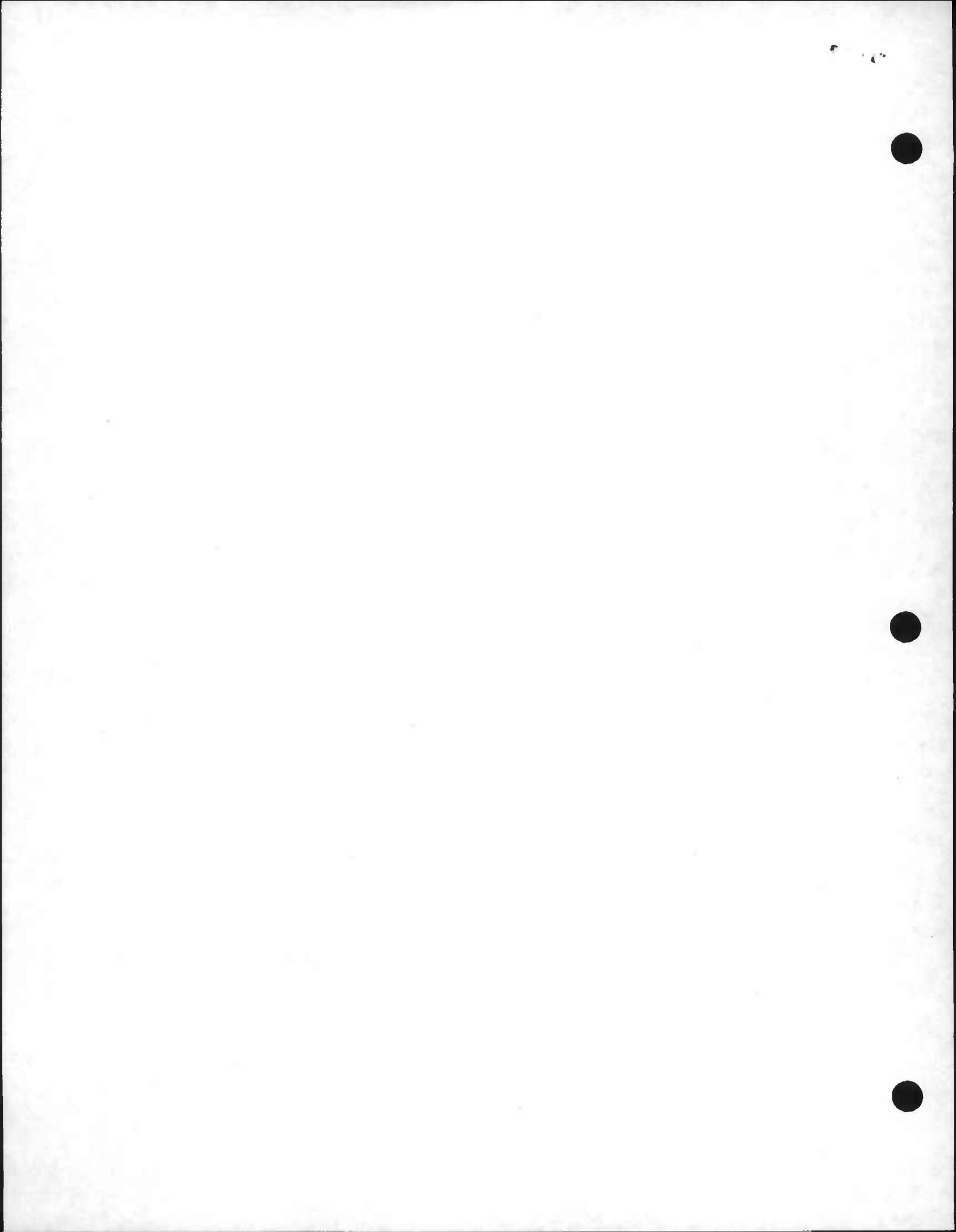
Re: 1052
Grubb and Delaski Lot Line Revision

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) and is designated as a Rural Conservation Area (RCA) for Critical Area purposes. One lot is developed with a two-story frame dwelling, tennis court, windmill, concrete pads, brick walkways/patio, storage buildings, unspecified building, garage, guest house, pool, pool house, and deck. The other lot is currently undeveloped.

In general, this office does not have any comment on lot line revisions. However, we do have the following comments should development occur on these lots:

1. Aerial photos and GIS overlays show a non-tidal wetland located on the western portion of Revised Tax Parcel 61 (Deed Parcel 2). This wetland is not mentioned on the site plan. Please add this and the 25 foot buffer to the site plan. Furthermore, 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. Please feel free to discuss with me the possible problems that could arise from using the 1972 maps to determine where tidal wetlands are located.
2. The assignment of development rights to each parcel is incorrect. For Revised Tax Parcel 61 (Deed Parcel 1), total acreage falls from 65.236 acres to 26.859 acres. Based on the 1:20 density ratio for lands in the RCA, this reduces the number of development rights allowed on this property from three developments rights to one development right. The applicant states that two development rights will be transferred to Parcel 4 Revised Lot 2A, giving Parcel 4 Revised Lot 2A a total of three development rights. Since transferring

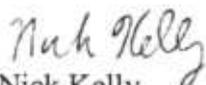


is not permitted, this assertion is not correct. The total acreage for Parcel 4 Revised Lot 2A increases from 18.120 acres to 56.497 acres. The resulting acreage for Parcel 4 Revised Lot 2A allows for the use of only two development rights, not three. Please have the applicant revise the site plan to show this change in development rights assigned to Parcel 4 Revised Lot 2A.

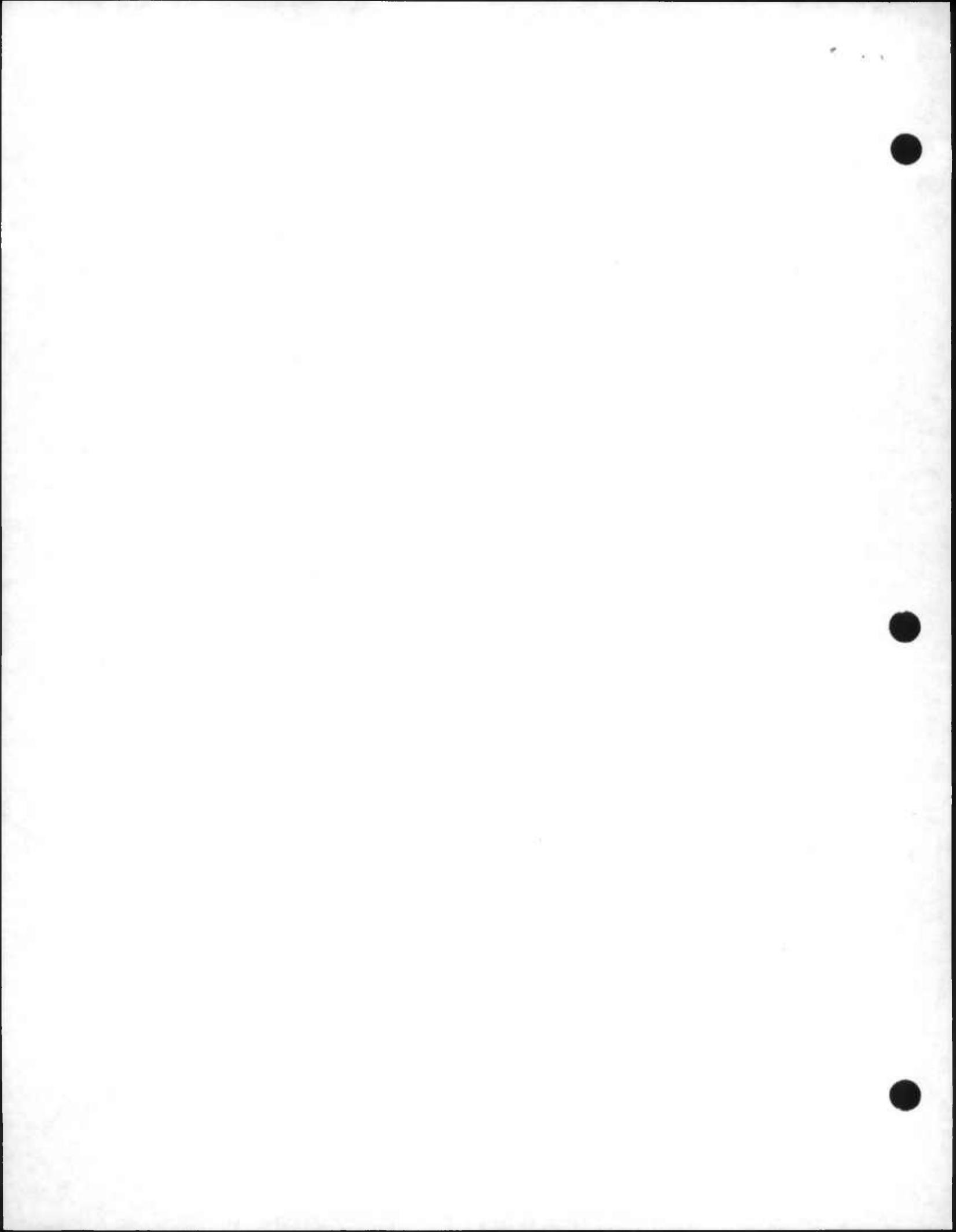
3. Talbot County Code §190.14 defines a dwelling unit to include "living quarters for domestic or other employee or tenant, an accessory apartment, or a guest house." Currently, two dwelling units, a two-story frame dwelling and guest house, exist on Parcel 4 Revised Lot 2A; both were built in the 1800s. Under § 8-1808.1 (e) of the Critical Area Act, the existing guest house is a dwelling unit for the purposes of identifying density. Therefore, Parcel 4 Revised Lot 2A has already exhausted its two development rights with the construction of the two-story dwelling and guest house, and no additional dwelling units can be built on this parcel.

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 227-07



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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September 7, 2007

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

Re: M1076
Mercey-Covey Subdivision and Lot Line Abandonment

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision and lot line abandonment. The applicant is requesting a lot line abandonment between two existing lots. Both properties lie within a designated Rural Conservation zone (RC) and is designated as a Rural Conservation Area (RCA) for Critical Area purposes. Additionally, the applicant proposes to construct a three-lot subdivision. Lot 3 will be 28.83 acres, Lot 4 will be 23.08 acres, and Lot 5 will be 5.00 acres. Acreage remaining in Revised Tax Parcel 86 will be 9.28 acres and for Revised Tax Parcel 43 will be 13.49 acres

Based on the information provided we have the following comments on this project:

1. Please revise the following numbers under the "Critical Area Impervious Surface Calculations" note:
 - a. Acreage for Lot 3 should be 28.83 acres, not 8.83 acres
 - b. Impervious surface coverage allowed for Lot 4 should be 144,989 square feet, not 145,055 square feet
 - c. Impervious surface coverage allowed for Revised Tax Parcel 86 should be 49,527 square feet, not 46,658 square feet
 - d. Impervious surface coverage allowed for Revised Tax Parcel 86 should be 88,143 square feet, not 87,991 square feet
2. While the Commission does not oppose the relocation and acreage adjustments of the Reservation of Development Rights areas (RDR) on this property, it has come to our attention that the relocation and adjustment of acreages on lands designated as RDR areas is conducted in a manner that is both difficult to track

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Mercey-Covey Subdivision and Lot Line Abandonment
September 7, 2007
Page 2

over time and presents potential legal issues. Consequently, Commission Staff will request a revised process, with stricter provisions, during our review of the County's upcoming Critical Area ordinance changes.

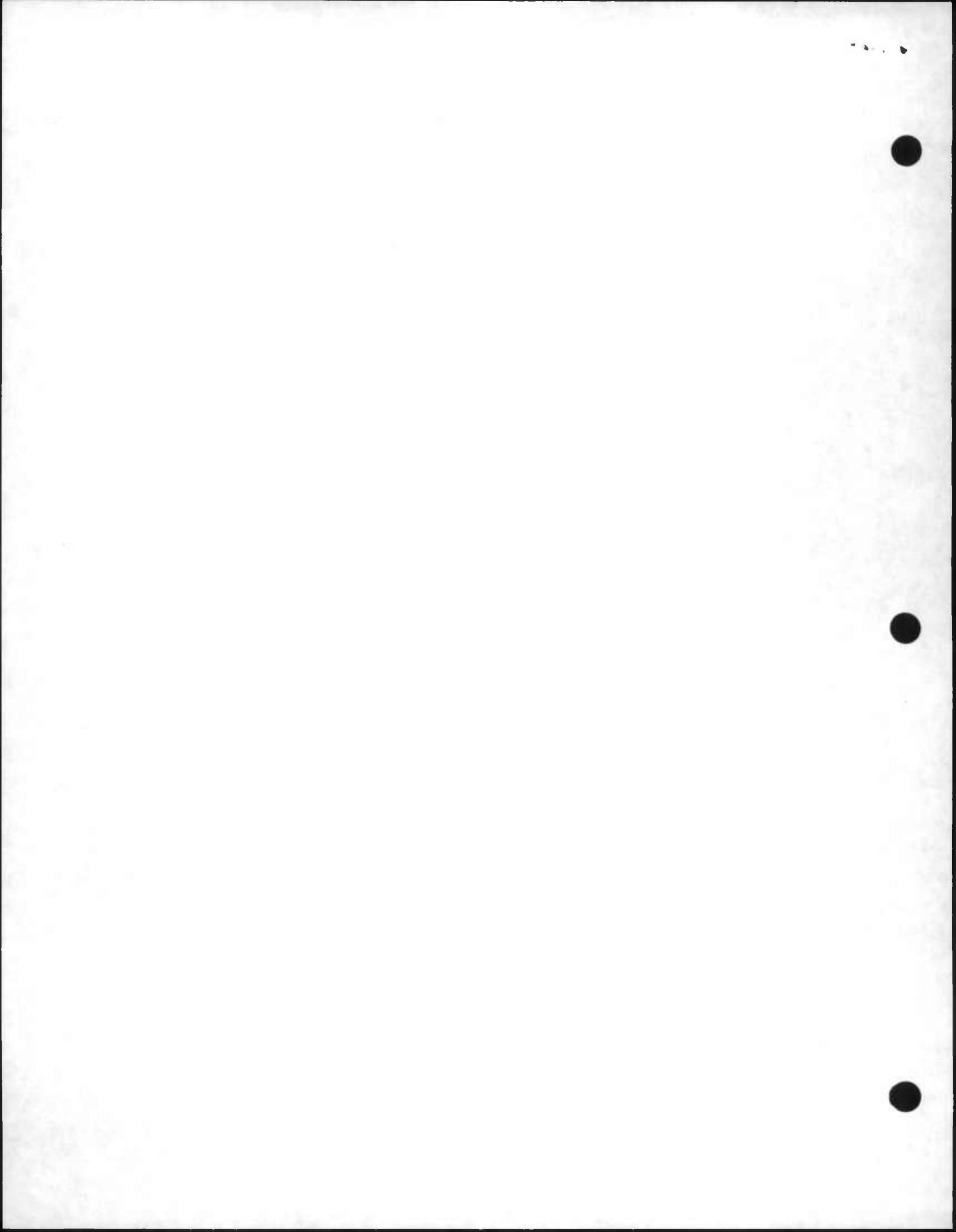
3. There does not appear to be an access point for Lot 5 noted on the site plan. Please have the applicant delineate on the site plan how Lot 5 will be accessed.
4. Portions of the property fall within a region designated as a sensitive species review area. The species in question is identified as a Federally-listed species. Prior to future development of the property, an evaluation from Department of Natural Resources Wildlife and Heritage Service will be required to determine if any necessary protective measures for rare, threatened, or endangered species are needed.

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 304-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 7, 2007

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

Re: 13621
Anderson Site Plan

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant proposes to construct a single-family dwelling, garage, and driveway. Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total lot size is 6,000 square feet and is designated as an Intensely Developed Area (IDA). Currently, no impervious surface exists on-site. Upon completion of this project, total impervious surface will increase to 2,826 square feet (47.1%). To meet mitigation requirements in the 100-foot Buffer, \$5,300 of landscaping is required. The applicant plans to address this matter on-site using 11 large trees and 90 large shrubs (\$7,730 of plantings). A grass swale and raingarden is also proposed on-site to provide 384 square feet of stormwater management.

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

1. Please have the applicant delineate the 100-foot Buffer on the site plan.
2. Please have the applicant provide in the landscape plan a listing of the types of large trees that exist on-site.
3. On the site plan, the applicant lists the required non-structural surface treatment as 894.92 square feet. However, in the application sheets, the applicant states that only 669 square feet of pervious non-structural surface area is required. According to our calculations, the correct number is 894.92 square feet. Please clarify the discrepancy in these numbers.



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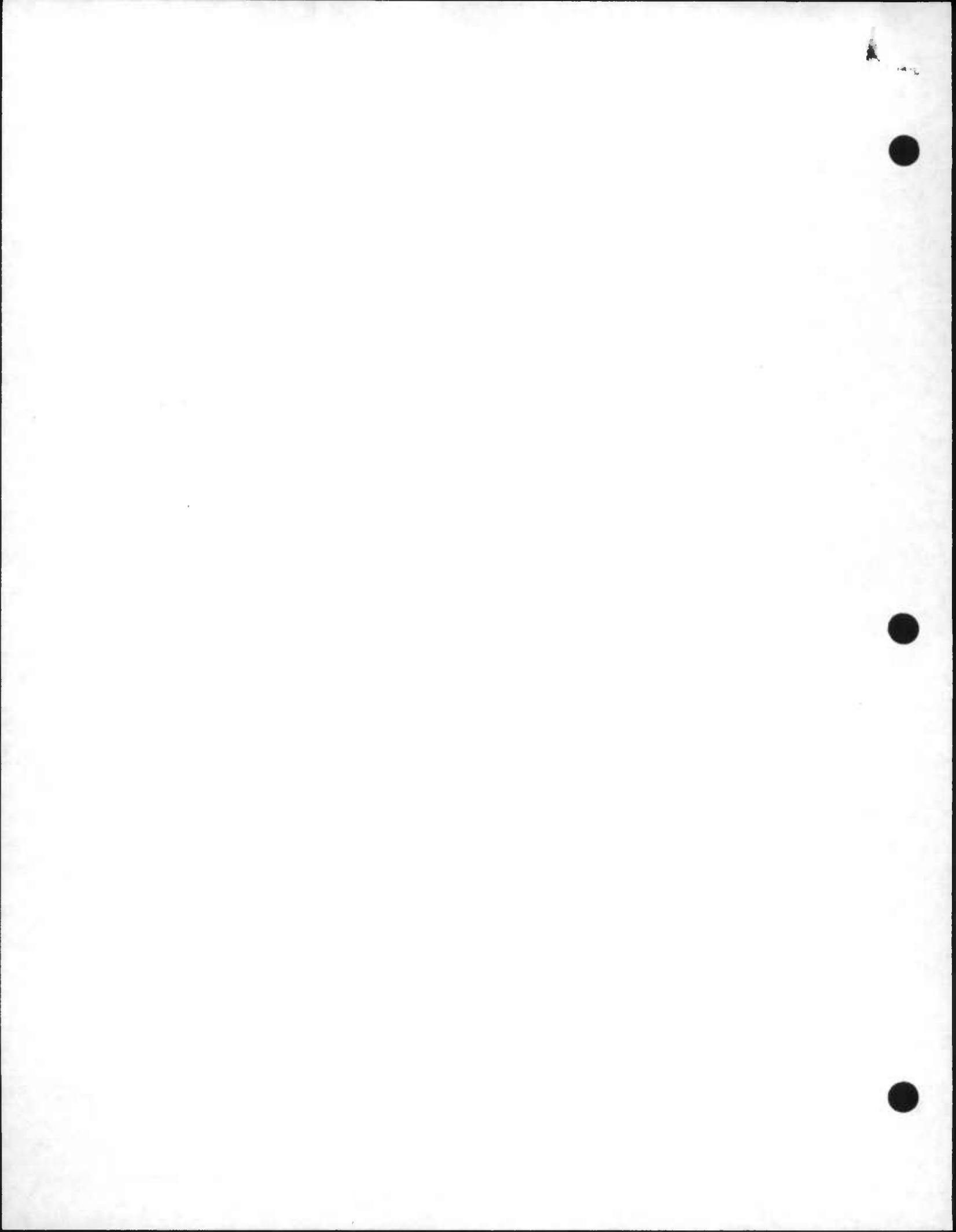
Anderson Site Plan
September 7, 2007
Page 2

4. Please have the applicant provide information on the amount of roof area that will drain into each rain garden. As stated in the 10% manual, the surface area of the rain garden should be between 20% and 30% of the roof area that will drain into the garden (20% for sandy soils). This will ensure that the rain garden will hold water from a one-inch rainstorm.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly
Nick Kelly
Natural Resource Planner
OC 97-05



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 5, 2007

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Londonderry Retirement Community Water Access Walkway

Dear Mr. Thomas :

Thank you for providing information on the above-referenced variance. The applicant is proposing to construct a paved water access walkway and seating area from an existing sidewalk in a retirement community. The property is located in an Intensely Developed Area (IDA) and is .5 acres. Upon completion of this project, 1,176 square feet of impervious surface will be added to the site, of which 723 square feet will be found in the Buffer. A total of .16 acres (6,970 square feet) will be disturbed for this project, but no forest clearing will occur on-site.

Londonderry is a retirement community that houses elderly citizens with limited mobility and handicap restrictions. The applicant requests a variance to the 100-foot Buffer in order to allow these residents a chance to enjoy the area's waterview. Natural Resources §8-1808 (c) (1) (xii) states that the following criteria should be included in a Critical Area program in order to meet the goals of minimizing adverse impacts on water quality, conserving habitat, and establishing land use policies to accommodate growth within the Critical Area:

“Provisions for reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability, including provisions that authorize a local jurisdiction to require removal of a structure that was installed or built to accommodate a physical disability and require restoration when the accommodation permitted by this paragraph is no longer necessary.”

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Based on this provision in State Law and on the information provided with this application, we do not oppose this variance request. However, in the event that the walkway and seating area are deemed no longer necessary, a condition of the variance must state that the walkway and seating area shall be removed and the Buffer shall be restored to its natural state. Additionally, we have the following comments on this project:

1. The applicant states that mitigation will be provided at a 2:1 ratio. However, any clearing for new development in the Buffer, if the development is not considered shoreline access or shoreline erosion control, must be provided at a 3:1 ratio. While the walkway may be considered shoreline access, the seating area is considered to be new development in the Buffer and must be mitigated at a 3:1 ratio.
2. As part of Londonderry's award of growth allocation from March 4, 1992, a 15% reduction in stormwater runoff is required, not 10%. Please have the applicant resubmit its stormwater runoff calculations using the 15% requirement.

Thank you for providing us the opportunity to review your building permit request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: EA 638-00

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 5, 2007

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Betterton Growth Allocation

Dear Ms. Skilling:

The purpose of this letter is to provide an update of the Commission's processing of the proposed growth allocation for the Town of Betterton, Kent County. On September 4, 2007, Chairman McHale determined that the proposed growth allocation could be processed as a refinement to the Town of Betterton Critical Area Program.

The proposed growth allocation has been scheduled for review at the October 3, 2007 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 30, 2007

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

Re: Stoltzfus Text Amendment Application

Dear Ms. Moredock:

Thank you for providing information on the above referenced text amendment application. The applicant is requesting approval of a text amendment to the Kent County Zoning Ordinance. The proposed text amendment would add "Retail and other intense commercial uses that have received Growth Allocation" to the list of zoning districts that are designated Intensely Developed Areas (IDA). It is my understanding that this text amendment is proposed by an applicant who plans to request growth allocation for his property in order to develop a retail complex.

The applicant requests that the *Kent County Zoning Ordinance, Article III. Districts and District Maps, Section 1. Establishment of Districts*, be changed to the following (changes in bold):

Within the Intense Development of the Critical Area:

Intense Village Critical Area (IVCA)

Marine (M)

Industrial Critical Area (ICA)

Conference Centers, resorts, retreats and other uses that have received growth allocation

Retail and other intense commercial uses that have received Growth Allocation

The applicant also request that that the *Kent County Zoning Ordinance, Article V. District Regulations, Section 12.2 Permitted Principal Uses and Structures*, be changed by adding the following text (changes in bold):

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12. Retail businesses, **including shopping centers**, supplying on the *premises* household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores provided:
 - a. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*
 - b. The retail business does not exceed 60,000 square feet of gross *floor area*. The Restriction on gross *floor area* does not apply to the Commercial District in the Route 301 corridor.

13. **Retail and other intense commercial uses, including *shopping centers*, that have received growth allocation in accordance with the Kent County Growth Allocation Policy. Upon award of growth allocation, *Development* will not be required to meet the impervious surface limitation set forth in Section 12.7.B.8 hereinbelow.**

Finally, the applicant also request that that the *Kent County Zoning Ordinance, Article V. District Regulations, Section 12.7.B. Commercial Critical Area Specific Environmental Standards* (changes in bold):

8. Impervious Surfaces
 - f. **Properties granted growth allocation in accordance with the Kent County Growth Allocation Policy are exempt from the 15% impervious surface limitation.**

Commission Staff believes that if the County Commissioners determine that “retail and other commercial uses that have received growth allocation” are desirable uses in areas designated as IDAs, these uses can be designed and constructed to be fully compliant with the provisions in the County’s Program and Critical Area law and Criteria. What is unclear is that it would seem that these uses may be, or could be, permitted uses within one or more zoning districts within the County. Therefore, it would seem that in order to make the text amendment consistent with the way the County’s zoning ordinance is formatted, the text amendment would add the zoning districts where these types of uses are permitted to those zoning districts that can be designated IDA. As currently proposed, the text amendment appears to either allow a specific use in the IDA without requiring that it meet any specific local zoning district requirements, or to create a situation where both the requirements for Limited Development Area (LDA) and IDA would apply. This situation would make it difficult to determine what provisions would apply to a specific site.

It is the Commission’s understanding that this text amendment is proposed to address a proposed change in use and redevelopment activities on a specific site. At this time, Commission staff cannot provide comments on the proposed growth allocation for this

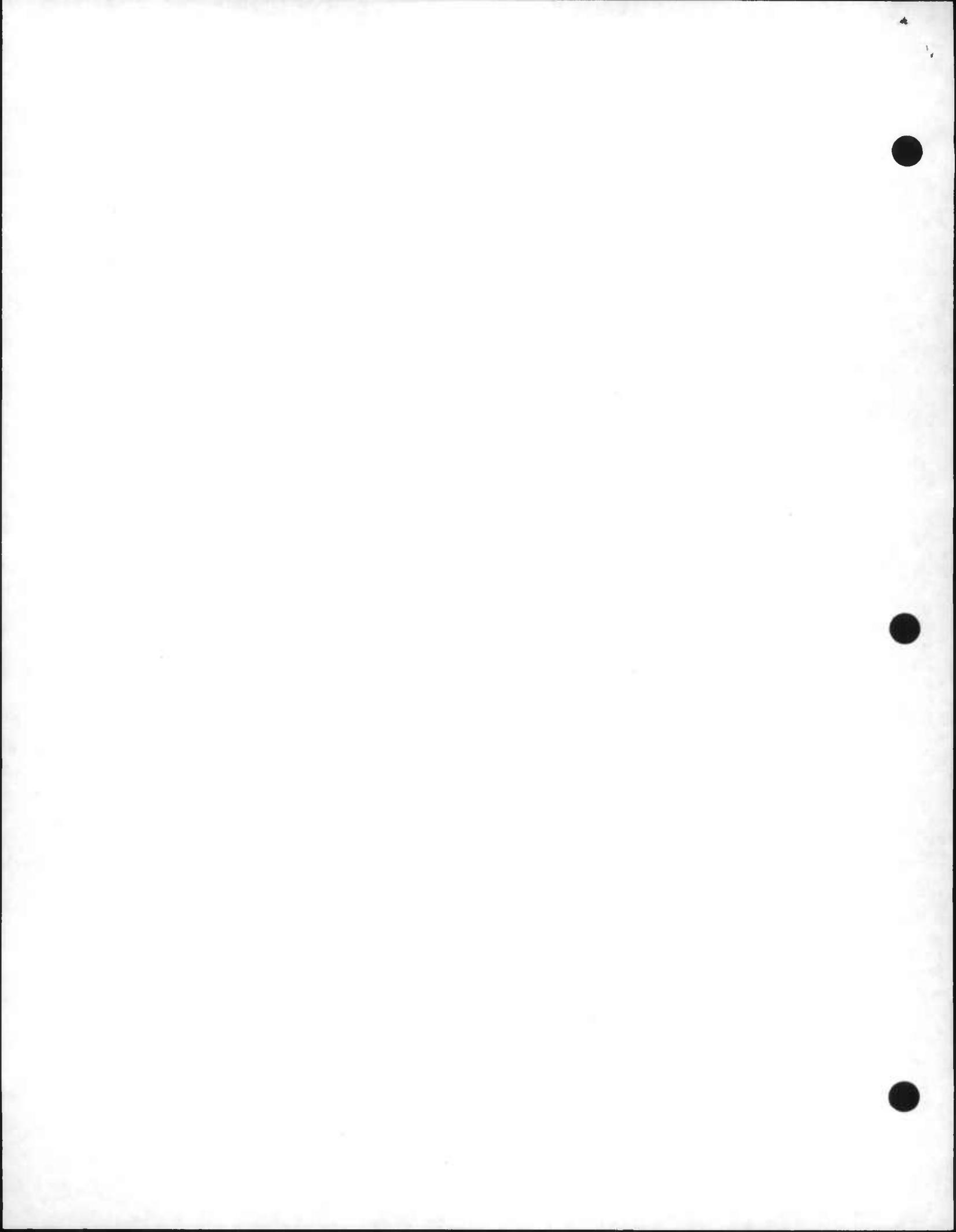
project because it is unclear how the proposed text amendments, if approved, would affect the application.

Thank you for providing the opportunity to comment on this proposed text amendment. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly
Natural Resource Planner
cc: KC 264-03



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 30, 2007

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

Re: Neavitt Park Community Center 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 Neavitt, MD and involves the construction of a 28 foot by 40 foot building with front and rear porches, the re-graveling of the parking area, and the construction of sidewalks between the building and parking area. The Critical Area designation is Limited Development Area (LDA), and total acreage is 3.465 acres. The project is not located within the Buffer.
2. Approximately 20% of the site is composed of existing forest. No clearing will occur during the course of this project.
3. Existing impervious on-site is 10,200 square feet (.07 % of the site). Upon completion of the project, total impervious will be 12,704 square feet (.08% of the site).
4. The project is exempt from stormwater management as well as sediment and erosion control.
5. There is a very small revision in impervious surface, so there is no increase in stormwater runoff.
6. There are no tidal or non-tidal wetland impacts.

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

1. Please have the applicant delineate the sidewalk from the parking area to the building on the site plan. This area must be added to the total amount of impervious surface located on-site.
2. If any forest clearing is involved with the construction of the sidewalk, then mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

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 482-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 29, 2007

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: US Development Site Plan

Dear Mr. Letteron:

Thank you for providing information on the above referenced site plan. The applicant is proposing to build an ethanol facility, roads, and railway. The area is zoned as an Intensely Developed Area (IDA) and is 20.52 acres in size (of which 3.08 acres is a shared right-of-way). The area is currently developed with asphalt, roads, and rails. Total impervious surface on-site is currently 12.30 acres. Upon completion of this project, 13.21 acres of impervious surface will exist on site; 7.3 acres of this impervious surface will be treated through the installation of a grass channel. Total area disturbed will be 10.91 acres.

Calculations to meet the Critical Area 10% requirements have been performed, and due to the reduction of impervious surface on-site through the grass channel, no pollutant removal is required. Total afforestation needed on-site is 1.6 acres. Currently, .6 acres of afforestation exists on-site, and an additional 150 new, one and one-half inch caliper trees will be planted. To fully meet afforestation, an additional 141 two and one-half inch caliper trees are required. The applicant claims this will be completed through a subsequent project phase, fee-in-lieu, or off-site planting.

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

1. Prior to plat approval, the applicant shall determine how the additional afforestation of 141 two-inch caliper trees will be met and submit a final planting plan to the City and Commission Staff for review and approval.
2. As per our conversation, please have the applicant provide the following revisions to the section of Critical Area Management Plan titled "Critical Area Afforestation Calculations":
 - a. **216 two and one-half inch caliper trees are required for afforestation**, not 216 two inch caliper trees
 - b. **150 one and one-half inch caliper trees @ 2:1 = 75 two and one-half inch caliper trees**, not 150 one inch caliper trees @ 2:1 = 75 two inch caliper trees
 - c. **141 additional two and one-half inch caliper trees are required to satisfy the afforestation requirement**, not 141 two inch caliper trees
3. The "Critical Area Afforestation Calculations" section of the Critical Area Management Plan states that 150 one and one-half inch caliper trees will be planted for afforestation. According to

the Plant List provided, only 55 one and one-half inch caliper trees are listed; the remaining trees listed are one-inch caliper. Please have the applicant correct the plant list to include the additional 95 one and one-half inch caliper trees.

4. The grass channel analysis provided states that the runoff velocity during a one-inch storm is 1.08 feet per second (fps). However, as shown on Figure E.4 of the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, the runoff velocity cannot exceed 1.0 fps. To receive stormwater credit from the Maryland Department of the Environment, and to receive a reduction in impervious area from Critical Area Commission when calculating the 10% phosphorus removal requirement, this criteria must be met. Please have the applicant revise the grass channel for this project so that runoff velocity is at or below 1.0 fps. Copies of the guidelines for grass channels from MDE and the Critical Area Commission are provided with this letter.

Thank you for providing the information on 10% calculations and afforestation for this site plan. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
CC: BA 475-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 28, 2007

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

Re: 460
Martingham Utility Cooperative Site Plan - Water Treatment Plant Upgrade

Dear Ms. Verdery:

Thank you for providing information on the above referenced site plan. The applicant proposes to add to an existing water treatment plant in order to add equipment to remove arsenic from the groundwater. The property is .88 acres (38,332.8 square feet) located in a Resource Conservation Area (RCA). Currently, the site is developed with an office building, ground storage tank, water pump and vacuum pump building, and gravel driveway. The applicant proposes to expand the vacuum pump building by 515 feet, construct a 4,000 gallon decant tank, and remove 54 feet of existing gravel and replace it with topsoil, straw, and grass seed.

Based on the information provided, we have the following comment on this project:

- Please have the applicant provide the total amount of impervious surface on-site. The site cannot exceed 15% impervious surface (5,749.2 square feet). In addition, please have the applicant calculate the total amount of impervious surface that can be attributed to the gravel driveway. This amount must be counted towards the 15% impervious surface limit for 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 477-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 28, 2007

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

Re: 13553
Building Permit - Diehl

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to acquire a building permit in order to raze an existing one-story dwelling and build a two-story dwelling, pervious deck, garage, and driveway. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot size is 7,985 square feet and is designated as an Intensely Developed Area (IDA). The total amount of impervious surface currently existing on the site is 4,028 square feet (50.4%). After the new home and accessory structures are completed, total impervious surface on the site will be 3,876 square feet (48.5%). To meet mitigation requirements in the 100-foot Buffer, \$6,500 of landscaping is required. The applicant plans to address this matter on-site using 12 large trees, 48 large shrubs, 18 small shrubs, and 53 herbaceous plants, which provides 7,006 square feet of landscaping (\$7,006 of plantings). A dry well/infiltration well is also proposed on-site to provide 64 cubic feet of stormwater management.

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

1. Please have the applicant delineate the 100-foot Buffer line on the site plan.
2. It is unclear if the proposed garage is included in the size of the two-story dwelling. Please have the applicant clarify this by providing impervious surface information for the proposed garage. Stormwater management will need to be recalculated if additional impervious surface is located on-site.
3. The landscape plan mentions that three large trees are located within the 15-foot setback. However, only two trees are located within this area; the Fig tree appears to be located outside of the 15-foot setback. In addition, the Town of Ocean City Atlantic Coastal Bays Critical Area Ordinance Section 30-554(d) (5) states that "the Buffer area shall be vegetated at least 15% with native plant material." This section further states that if this cannot be completed, then the remainder of the landscaping can be completed outside the 100-foot Buffer. Based on the site plan provided, it appears that there are several areas,

- particularly within the 15-foot setback, where additional vegetation can occur. Please provide a revised landscape plan that locates the Fig tree within the 15-foot setback and provides more vegetative landscaping within the setback and Buffer.
4. Please provide pervious deck details for this project. None were provided with this application. In order to be considered pervious, the deck must be attached to the primary structure, must be constructed over gravel of at least six inches in depth placed over filter cloth, cannot be used for storage, and must have no permanent roofs, etc. over or under the deck
 5. The proposed pervious deck within the setback area and 100-foot Buffer is 1,096 square feet. As stated in Natural Resources Article 18 §8-1801 (4) (b), the Critical Area Commission was created to foster development activity so as to "minimize damage to water quality and natural habitats." Furthermore, while a Buffer Modification Area designation allows portions of the Critical Area to be exempt from the Buffer requirements found in COMAR 27.01.09.01 (B), it does not exclude it from the criteria found in COMAR 27.01.09.01 (C), which includes maintaining the Buffer in natural or planted vegetation in order to protect, stabilize, or enhance the shoreline. Section 30-554 (d) of the Town of Ocean City Atlantic Coastal Bays Critical Area Ordinance, which provides guidelines for Buffer Management Area Regulations, includes guidelines that requires new development to "minimize the extent of intrusion as further regulated below," (Section 30-554 (d) (1)), and guidelines for creating a pervious wooden decks (Section 30-554 (d) (4)). These regulations should be taken as maximum limits to the amount of intrusion allowed into the Buffer and should be utilized to maintain the Buffer in vegetation as much as possible in order to enhance habitat and water quality. That is the goal and intention of the State guidelines mentioned above, and it is expected that local governments take these guidelines into account when administering their program.

Based on the purposes, policies, goals, and provisions of the Critical Area Law and Criteria as well as The Town of Ocean City Atlantic Coastal Bays Critical Area Ordinance, I recommend reducing the size of the pervious deck. The proposed size of the deck (1,096 square feet) is approximately 42% of the size of the house (2,590 square feet), which is not minimizing intrusion into the Buffer. I recommend reducing the size of the deck to 250 square feet in order to minimize intrusion and I recommend maintaining the remainder of the Buffer in natural or planted vegetation.

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 469-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 28, 2007

April Stehr
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Ocean City

Dear Ms. Stehr:

I am writing to provide comments on the following projects located in the town of Ocean City, MD:

200762302/T62317: Lynn Peters

On Channel Buoy Road in Ocean City, the applicant proposes to remove an existing dock and install sixty feet of new vinyl bulkhead approximately eighteen feet channelward of the existing bulkhead. The Town of Ocean City Atlantic Coastal Bays Critical Area Program encourages the use of nonstructural shore protection whenever practical. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination.

In addition, the site plan mentions the construction of a five foot-by-twenty foot recessed dock that is landward of MHW. The dock is located parallel to the site and is located within the Critical Area. Commission Staff is working with Staff of the Town of Ocean City to submit language to amend the Town of Ocean City Atlantic Coastal Bays Critical Area Program Criteria in order to address the size and width of the recessed dock as well as the length of the setback required for properties with recessed docks. Once the ordinance is amended, we will notify MDE of any changes to the current criteria.

200761478/07-GP-1314: Paul Noble

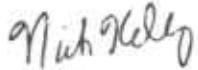
On Channel Buoy Road in Ocean City, the applicant proposes to construct and backfill 60 feet of replacement bulkhead within a maximum of 1.5 feet channelward of a

deteriorated bulkhead. The Town of Ocean City Atlantic Coastal Bays Critical Area Program encourages the use of nonstructural shore protection whenever practical. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination.

In addition, the applicant plans to remove an existing pier and to create a 4-foot by 30-foot recessed parallel platform within a maximum of 1.5 feet channelward of the existing bulkhead. The dock is located parallel to the site and is located within the Critical Area. Commission Staff is working with the Staff of the Town of Ocean City to amend the Town of Ocean City Atlantic Coastal Bays Critical Area Program Criteria; new language will address the size and width of the recessed dock as well as the length of the setback required for properties who construct recessed docks. Once the ordinance is amended, Commission Staff will notify MDE of any amendments to the current criteria.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resources Planner
cc: Blaine Smith

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**

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

August 27, 2007

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

RE: Site Plan – 67th Street; Ocean Isle Areas 1- 5; Case # 06-181000008

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to develop five separate areas into a single project. Total developable area on the site is 4.6562 acres (202,823 square feet). Parcel 2 is waterfront and is subject to a 10-foot setback, while Parcel 5 is waterfront and is subject to a 25-foot setback. Parcels 1, 3, and 4 are non-waterfront and are located outside of the 100-foot Buffer. All lands will be disturbed on this site, so stormwater management, pollution removal, and afforestation will be required for the entire site.

Thank you for sending the additional information that I requested in a letter on July 25, 2007. Based on the information provided, I have no additional comments for this project. If you have any other questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: OC 814-05



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 27, 2007

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

Re: 13624
Site Plan - Lipira

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to build a single-family dwelling, pervious deck, garage, deck, and driveway. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot size is 4,745 square feet and is designated as an Intensely Developed Area (IDA). The total amount of impervious surface currently existing on the site is 2,469 square feet (52.0%). After the new home and accessory structures are completed, total impervious surface on the site will be 2,466 square feet (51.9%). To meet mitigation requirements in the 100-foot Buffer, \$5,400 of landscaping is required. The applicant plans to address this matter on-site using six large trees, nine small trees, 16 large shrubs, and 52 small shrubs, which provides 5,900 square feet of landscaping (\$5,900 of plantings). To meet stormwater management criteria for a site less than 5,000 square feet, the applicant has provided two five foot-by-five foot rain gardens with one small tree and four small shrubs surrounding it, has limited impervious surface on-site below 60%, and has created two two foot swales on the property line to collect roof water with a twenty foot disconnect.

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

1. Please have the applicant provide the botanical name and common name of each tree and shrub to be planted on-site. Landscaping shall be performed using native vegetation.
2. The site plan mentions that the deck has two floors, but the diagram provided shows a one-level deck. Please provide more clarification on the design of each

deck to ensure that the decks meet the pervious deck standards found in Section 330-54 (d) (4) of the Town of Ocean City Atlantic Coastal Bays Critical Area Ordinance.

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 492-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 17, 2007

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

Re: L1014
Otwell Lot Line Revision

Dear Ms. Verdery:

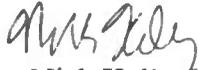
Thank you for providing information on the above referenced lot line revision. The applicant is requesting a lot line revision between an existing parcel (Revised Tax Parcel 82) and an undeveloped parcel (Revised Tax Parcel 30). Both parcels are in the Limited Development Area (LDA). Total square footage onsite is 86,200 square feet. Revised Tax Parcel 82 will increase in size from 8,421 square feet to 18,524 square feet. Revised Tax Parcel 30 will decrease in size from 77,779 square feet to 67,676 square feet. Revised Tax Parcel 82 is currently developed with a single-family house, wood porch, sidewalk, and shed. The applicant proposes to realign the driveway on Revised Tax Parcel 82. Revised Tax Parcel 30 is currently undeveloped. The existing driveway that once adjoined Revised Tax Parcel 82 to the existing 12-foot gravel road will be removed from Revised Tax Parcel 30.

Based on the information provided, this office has the following comments:

1. Please have the applicant label and show the 60-foot Buffer on both parcels.
2. It appears the allowable impervious surface calculations for Revised Tax Parcel 82 is incorrect. Please make the appropriate changes to the site plan. In addition, please have the applicant break down impervious surface calculations by structure (road, home, etc.).
3. It appears that the new driveway on Revised Tax Parcel 82 will be placed within the existing woods line. Please clarify how much woodlands will be removed for this driveway. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

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 41-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 16, 2007

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000
Re: Betterton Growth Allocation

Dear Ms. Skilling:

Thank you for submitting information on the above-referenced growth allocation. Commission staff has accepted the materials forwarded by the Town as a complete submittal. In order to prepare the Staff Report for this project, we would appreciate it if you could send any additional information related to how the Town of Betterton applied the guidelines for growth allocation when approving this map change.

The Chair will make an amendment or refinement determination within thirty 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 providing us with the opportunity to review your growth allocation request. If you have any questions, please call me at (410) 260-3483.

Sincerely,


Nick Kelly
Natural Resource Planner

cc: Mayor Carolyn Sorge, Town of Betterton
Gail Owings, Kent County Director of Planning



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 16, 2007

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000
Re: Betterton Growth Allocation

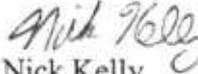
Dear Ms. Skilling:

Thank you for submitting information on the above-referenced growth allocation. Commission staff has accepted the materials forwarded by the Town as a complete submittal. In order to prepare the Staff Report for this project, we would appreciate it if you could send any additional information related to how the Town of Betterton applied the guidelines for growth allocation when approving this map change.

The Chair will make an amendment or refinement determination within thirty 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 providing us with the opportunity to review your growth allocation request. If you have any questions, please call me at (410) 260-3483.

Sincerely,


Nick Kelly

Natural Resource Planner

cc: Mayor Carolyn Sorge, Town of Betterton
Gail Owings, Kent County Director of Planning



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 14, 2007

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

Re: Karr Variance
2007-0224-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow for a dwelling addition with less setbacks than required. The area is 19,906 square feet, is zoned Limited Development Area (LDA), and is currently developed with a two-story single family dwelling unit, shed, and deck. The applicant proposed to add a third floor, alter the interior floor plan to improve functionality, and add a two-car garage. Current impervious surface on this site is 4,760 square feet (23.9% of the site) and will increase to 5,064 square feet (25.4%) if the variance is granted. Total forested area on-site is 7,350 square feet. Approximately 1,100 square feet of disturbance will occur during construction.

Based on the information provided, we do not oppose this variance. However, we do have the following comments for this project:

- Mitigation for any clearing or disturbance within the Buffer must be performed at a 3:1 ratio.

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

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: AA 442-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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August 9, 2007

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

Re: Clairbourne Landing 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, in general, that the project is consistent with the Talbot County Critical Area Program for the reasons outlined below:

1. The project involves the construction of a 30-foot by 70-foot concrete boat ramp with a boat launching pier. The completion of this project will also consist of removing an 18-foot by 55-foot boat ramp, the installation of 441 linear feet of timber bulkhead that will be located immediately outboard of the existing deteriorated bulkhead, and the resurfacing of 10,000 square feet of existing parking lot disturbed by construction.
2. No forests, woodlands, or trees will be removed.
3. The project involves the redevelopment of pre-existing, grandfathered uses.
4. Only 10% impervious surface exists on-site. While the applicant states that no new impervious surface is added, we calculate that a small increase in impervious surface of 1,110 feet will occur after the 30-foot by 70-foot concrete boat ramp with boat launching pier (2,100 square feet) is installed to replacing the 18-foot by 55-foot boat ramp (990 square feet).
5. Minimal new impervious surface will be added, so there will be a minimal increase in runoff.

TTY for the Deaf

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

6. The project mentions that 10,000 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.
7. The applicant is exempt from stormwater management, and a sediment and erosion control plan will be obtained. Please have the applicant provide copies of the sediment and erosion control plan to this office.
8. The project is located in a waterfowl staging area. Any new disturbance for this project should be performed in a manner to avoid impacting wintering and staging areas. Please provide an environment review letter from the Department of Natural Resources Wildlife and Heritage Service in regards to this project.
9. Since this project is water-dependent, minimal new impervious surface is being added (1,110 square feet), and the project consists mainly of resurfacing an existing parking lot, compliance with the 15% afforestation requirement is not necessary. However, future local government projects may require 15% afforestation, based on the intensity and scope of work, in order to remain consistent with the regulations for local government projects as outlined within COMAR 27.02.02.

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 462-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 9, 2007

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

Re: 1024
Trippes Creek, LLC

Dear Ms. Verdery:

Thank you for providing information on the above referenced minor subdivision plan. The applicant proposes to create a buildable lot from the remaining lands of Parcel C on a 56.982 acre property that is located within a Resource Conservation Area (RCA). The lot is currently undeveloped. A total of 12,559 square feet (1.7% of total land in the Critical Area) of impervious surface is located on the parcel inside the Critical Area, with 3,951 square feet of impervious surface located within Lot 26 (1.8%) and 8,608 square feet of impervious surface is located within Revised Remaining Lands Parcel 'C' (1.7%).

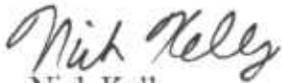
Based on the information provided, we have the following comments on this project:

1. It is unclear whether the oyster shell path is existing or proposed on Lot 26. One note on the site plan indicates that an "Existing Oyster Shell Path" that is located on Lot 26 and on Revised Remaining Lands Parcel C. Another note indicates that there is a "Proposed 15-foot wide path easement" located in the same area as the oyster shell path. Please have the applicant provide a site plan clarifying this issue. Nonetheless, it appears that the proposed oyster shell path can be constructed to avoid impacting the expanded Buffer for highly erodible soils. We recommend reconfiguring the oyster shell path to avoid impacts to this sensitive area.
2. Please have the applicant indicate on the site plan where the impervious surface is located on Lot 26 and on Revised Remaining Lands Parcel 'C.' In particular, please provide information on the amount of impervious surface associated with the proposed 15-foot wide path easement.

3. If forest is cleared in the future for this project, then mitigation will be required.
4. Since this project is located in an RCA, one dwelling unit per twenty acre density is required. Therefore, only one dwelling unit may be built on Lot 26. In addition, the designation of 11.582 acres for Reservation of Development Rights restricts future development within the Critical Area portion of Revised Remaining Lands Parcel 'C.'
5. The Delmarva fox squirrel, a state and federally listed endangered species, has been found within or around other parcels of Cooke's Hope. Please have the applicant forward a copy of this plan to the attention of Ms. Lori A. Byrne of DNR's Wildlife & Heritage Division for her review due to the possible presence of the Delmarva fox squirrel. Plat approval should not be granted until the comments and recommendations of DNR are satisfactorily addressed.

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 431-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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August 9, 2007

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

Re: Barkdoll Variance
2007-0230-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to perfect a dwelling addition with less setbacks and Buffer than required. The lot is 41,285 square feet (.95 acres), is zoned as an Intensely Developed Area (IDA), and is located within a Buffer Exemption Area (BEA); however, a 1998 administrative plat makes the BEA designation inapplicable. Currently, the lot is developed with a house, driveway, covered deck, uncovered deck, shed, concrete slab, and pier. The applicant proposes to perfect improvements to the creation of a deck with an integral swimming pool. Proposed impervious surface on this site will be 11,391 square feet, of which 680 square feet will be located inside the 100-foot Buffer.

The office generally does not oppose modest additions and renovations requested for an existing dwelling on a grandfathered lot. However, we do oppose the variance to build a deck with an integral swimming pool within 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 the County 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 deck with an integral swimming pool inside the 100-foot 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 (Anne Arundel County Code 17-8-301(b)).

The variance to the 100-foot Buffer cannot be granted unless the applicant proves, and the County finds that, without the variance, the applicant would suffer an unwarranted hardship; that is, "denial of reasonable and significant use of the entire parcel or lot." We do not believe that this standard is met, 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.*

The lot is currently developed with a house, driveway, covered deck, uncovered deck, shed, concrete slab, and pier. Overall, 11,391 square feet of impervious surface is located on-site. 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**. Considering the amount of development that already exists on-site, we do not believe that the County has evidence on which to base a finding that, without the deck and integral swimming pool, 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 building a small deck attached to the home. No property owner has the right to build a deck with an integral pool within the 100-foot Buffer. Therefore, the rejection of this variance would not deny the applicants a right commonly enjoyed by other properties.

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 deck with an integral pool within the 100-foot Buffer, which would be denied to others in this area, as well as similar areas found elsewhere within the County's Critical Area. To grant a variance to the Buffer would confer a special privilege on the applicant (Section 18-16-305 (b)). The applicant has the burden of proof and the burden of persuasion to overcome the presumption that this 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.*

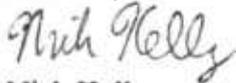
From the information provided, it appears that the variance request is based on the fact that the applicant built the deck and integral pool without requiring the necessary permits for construction. Therefore, it is the actions of the applicant that has spurred this variance request.

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.*

Given that the applicant can adequately develop this property and can enjoy outdoor activities without the addition of a deck with an integral pool within the 100-foot Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area law and regulations, since the Buffer's function on this site has already been compromised by the dwelling and existing covered deck.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 446-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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August 8, 2007

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

Re: Boone Variance
2007-0237-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling addition with less setbacks and Buffer than required. The lot is 13,500 square feet, is zoned as a Limited Developed Area (LDA), and is located within a Buffer Exemption Area (BEA). Currently, the lot is developed with a one-story house, driveway, shed, three decks, porch, walkway, covered deck, uncovered deck, shed, concrete slab, and pier. The applicant proposes to extend a deck that is currently built. If granted, the sizing of the deck will be 14 feet by 22 feet. The site currently contains 2,200 square feet of impervious surface (16.2% of the total site area); proposed impervious surface will increase to 2,448 square feet (18.1%) if the variance is granted.

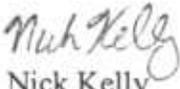
Based on the information provided, this office does not oppose the requested variance; however, do we have the following comments on this proposal:

1. The applicant should provide more information as to whether clearing will occur on-site for this project. Mitigation for any disturbance to the Buffer shall be provided at a 3:1 ratio.
2. The applicant should provide more information on the site plan showing how far from the stream the proposed deck will be located, including showing the Buffer from the stream.
3. The applicant should provide on the site plan the Critical Area Designation (LDA) and impervious surface statistics.

4. The proposed deck should be built in a pervious manner; that is, the deck must be constructed with gaps between the boards, have six inches of gravel spread underneath the deck but not compacted in order to allow stormwater to percolate, and have the deck surrounded by native vegetation (at a minimum of three feet wide and composed of evergreen shrubs or woody, deciduous plant material). Please refer to the attached sheet, taken from the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual, for more information on pervious deck design.

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.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 453-07

Pervious Deck Design

A deck can be constructed with gaps between the boards to achieve perviousness (Figure F.7). Additional elements to minimize subsequent runoff include 6 inches of gravel beneath the deck and plantings.

Advantages

- Simple application
- Reduces the amount of impervious cover

Limitations

- Plantings may require limited maintenance

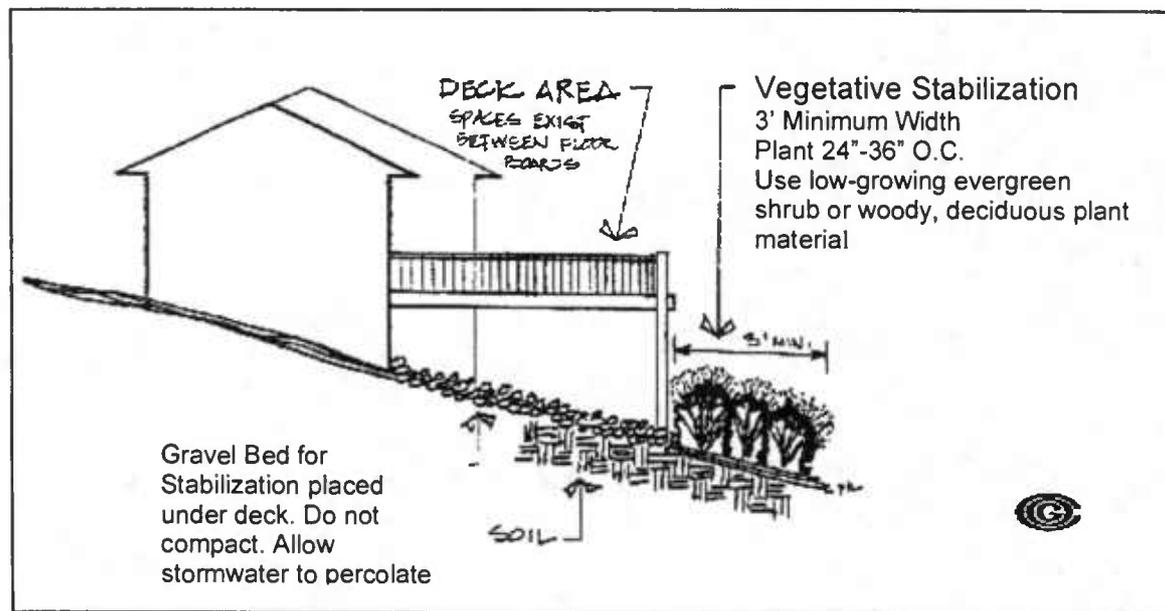
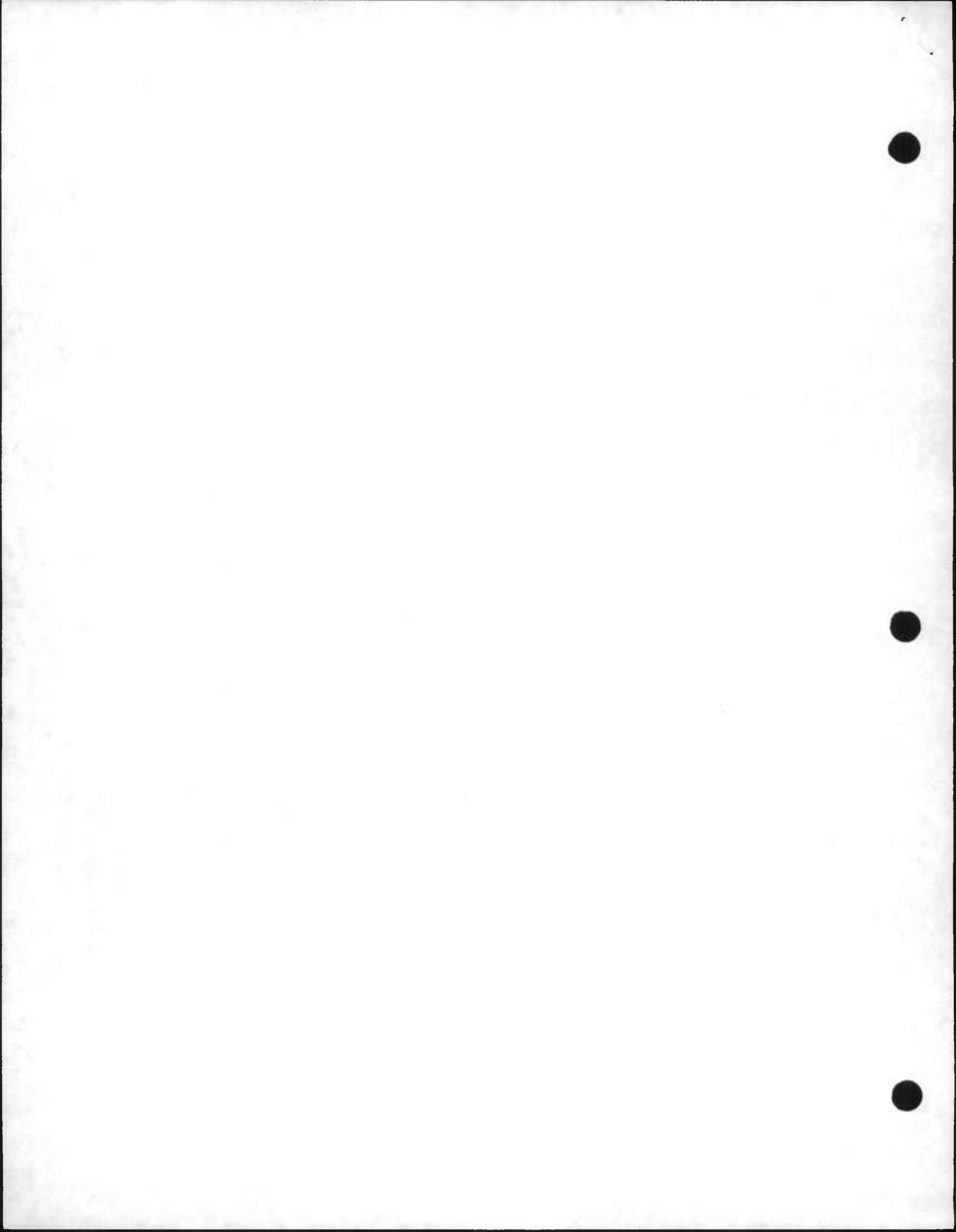


Figure F.7 Schematic of Pervious Deck Design



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

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

August 7, 2007

Ms. Dawnn McCleary
Maryland Transit Administration
6 St. Paul St.
Baltimore, MD 21202-1614

Re: MTA Bridge 13.27 over Chester River
T-0213-1940

Dear Ms. McCleary:

I have reviewed the above-referenced project to seal cracks and patch spalls in the concrete abutments and pier of Bridge No. 13.27 of the Massey/Centreville Freight Line over the Chester River. It is our understanding that these are minor repairs and that no site grading, clearing, tree removal or new impervious area will be proposed. A memorandum from the Department of Natural Resources Wildlife and Heritage Division dated April 16, 2007 was provided, which restricts any in-stream work on this site from March 15-June 15 and from August 15-September 30 to protect the Eastern Lampmussel. The area of disturbance is small, so permits from the Maryland Department of the Environment for sediment and erosion control and stormwater management are not required.

Based on the information provided, this action proposed by the Maryland Transit Authority does not constitute a development activity and *will likely not* require approval by the Commission. Once we receive an updated DNR Wildlife and Heritage letter, as well as the comments from the Maryland Historical Trust, Commission Staff will inform the Maryland Transit Authority of the appropriate review process.

This office supports the Maryland Transit Authority's efforts in repairing existing railroad bridges on State lands. In addition, we appreciate your continued efforts to provide Commission staff notice of these projects.

Thank you again for forwarding this request to this office. Please telephone me at (410) 260-3483 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: Mr. Tom Dopkin, Wilson T. Ballard Company



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 6, 2007

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: St. Michaels Annexation of Hatton's Gardens

Dear Ms. Renshaw:

We have received your July 26, 2007 letter requesting the withdrawal of the map amendment request for the above-referenced property. This letter is to notify you that the Commission will not take any action on the map amendment until a formal request for approval of the amendment is received. I apologize for any confusion in regards to this matter. If you have any questions about this project, 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: George Kinney, Talbot County Planning Officer



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 3, 2007

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

Re: Nicholson Variance
2007-0233-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow for an accessory structure with less setbacks and Buffer than required. The lot is 25,657 square feet (.59 acres), is zoned as an Intensely Developed Area (IDA), is located within a Buffer Exemption Area (BEA), and is currently developed with a two-story house, carport, concrete driveway, gravel driveway, pier, and walkway. The applicant proposes to build a twelve foot-by-twelve foot shed (144 square feet). Total disturbance on the site will be 256 square feet. Current impervious surface on this site is 4,826 square feet and will increase to 4,970 square feet if the variance is granted. No clearing will occur for shed construction.

Based on the information provided, we oppose the construction of this shed as requested. Anne Arundel County Code Article 17-8-702 (b) states that:

“No new impervious surface shall be placed nearer to the shoreline than the existing principal structure and landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure”

Additionally, Article 17-8-702 (c) mentions that:

“The structure or expansion shall be designed and located to maximize the distance from the shore and to enhance and protect the environmentally sensitive features on the site”

In reviewing the site plan, the current location of the proposed shed is closer to the shoreline than the existing two-story dwelling. It is recommended that the applicant place the shed elsewhere on the site, such as on the existing gravel drive and closer to the house, in order to maximize the distance from the shoreline.

In addition, we have the following comments on this project:

1. Please have the applicant provide on the site-plan a line showing the closest point of the existing two-story house to Mean High Water (MHW).
2. If the variance is granted, mitigation for any disturbance should be provided at a 3:1 ratio.
3. Because this property is designated as an IDA, water quality improvements must be provided to offset the proposed development. According to Section 16-3-205 of the County Ordinance, for disturbance of less than 1,000 square feet within the 100-foot Critical Area Buffer, the applicant must mitigate using one of three options: replanting at a 2:1 ratio for the new impervious surface within the Buffer, replanting at a 2:1 ratio for the new impervious surface outside of the 100-foot Buffer, or paying a fee-in-lieu of \$1.20 per square foot of new impervious surface. Planting inside the 100-foot Buffer is recommended.

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.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 447-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 26, 2007

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Easton Village Community Site Plan

Dear Mr. Thomas :

Thank you for providing follow-up information on the above-referenced site plan. The applicant is proposing to create a path from the pool area to a circular planting area within the 100-foot Buffer. The path will be six feet wide and will be made of a hardened surface. The proposed canoe rack has been removed from the site plan, and the pathway from the circular planting area to the pier will not be constructed until the pier is built. The site is in an Intensely Developed Area (IDA).

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

1. Please have the applicant provide details of the length of the proposed path in order to calculate the total amount of impervious surface located on this site.
2. Mitigation for any disturbance in the Buffer must occur at a 2:1 ratio.
3. Please have the applicant provide a site plan without the canoe storage rack and pathway to the pier. Also, please have the applicant provide more site information on the plat, including the proposed amount of impervious surface and proposed clearing.
4. We recommend reducing the amount of pathway located in the Buffer; in particular, we suggest removing the circle connecting the canoe launch and main buildings to other parts of the property.

Thank you for providing us the opportunity to review your building permit request. 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
cc: EA 357-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 25, 2007

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

Re: Cropper's Landing
Site Plan

Dear Mr. Smith:

Thank you for providing information on the above referenced application. Subsequent to my phone conversation with Ms. Gail Blazer, it is my understanding that the applicant has withdrawn this application. However, at Ms. Blazer's request, I have provided our comments below.

The applicant is proposing to build a condominium development, which consists of 43 bedroom units, and 54 townhouses. The area of the site is 3.896 acres and is located in an Intensely Developed Area (IDA). The site currently contains the Cropper Concrete Plant and pervious surface covers 2.80 acres (72%) of the site. Existing vegetation is limited to areas on the southern property line. Approximately 1,650 square feet of vegetated area is found within the 25-foot setback, and 3,540 of square feet is located outside the setback but within the 100-foot Buffer.

Proposed construction on the site will result in 2.37 acres (60.76%) of impervious surface, given that pervious pavers are considered to be 100% pervious. Critical Area issues for this site include stormwater management, pollutant removal, and afforestation.

The Commission has the following comments based upon the information provided:

1. The Maryland State Highway Administration is proposing renovations and a possible re-alignment of the Route 50 Bridge that will potentially impact this site. Is the applicant aware of this project and have any steps been taken to adjust this site plan for this?

2. The infiltration trench diagram on the site plan does not comply with what is allowed as a best management practice (BMP) for 10% use. From the figure, it is unclear if filtering or fabric is used at both the base of the trench as well as covering it, if an overflow berm is used, and what material will be used to fill the trench. Please refer to the Critical Area 10% Rule Guidance Manual (http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html) or the 2000 Maryland Stormwater Design Manual for more details on an acceptable version of an infiltration trench.
3. The plantable area plan provided with this application does not match where the plantings are located on the site plan. Please have the applicant correct the site plan to show the accurate planting areas.
4. Please have the applicant provide detailed profiles and plans of the proposed decks.
5. A boardwalk is shown parallel to the Bay on the Critical Area 100' Buffer overlay, but not on the site plan. Please have the applicant provide a detailed profile and plan of the proposed boardwalk.

Please be aware that pervious walkways in the Buffer are addressed in Section IV (d) (4) of the Town of Ocean City Atlantic Coastal Bays Critical Area Program. This section states that walkways are allowed, provided that the walkway is attached to a primary structure and is running perpendicular to the shoreline through the Buffer. The general intent is to allow waterfront access while simultaneously limiting impacts to the Buffer. In the summer of 2005, Commission Staff met with Town Staff from Ocean City to discuss, among other issues, the possibility of revising the Town's Critical Area Program to include a comprehensive Bay-side boardwalk element. We have continued to discuss Critical Area Program revisions with Town Staff over the past several months. At this point, until the City Code is clarified and amended to specifically address walkways within the 25-foot Buffer, this feature of the project cannot be approved. We remain available to assist the Town in designing appropriate provisions that will address this issue in the Town's Program.

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 180-07

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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July 25, 2007

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

RE: Site Plan – Kennington
21707-0900003

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan application. The applicant proposes to build a deck to an existing house within the 15-foot rear yard setback. The size of the lot is 5,368 square feet and is located in an Intensely Developed Area (IDA). Total existing impervious surface on this site is 2,597 square feet. If this applicant is approved, total impervious surface will increase to 2,798 square feet. Stormwater management, pollution removal, and afforestation will be required for the entire site.

The Town of Ocean City Atlantic Coastal Bays Critical Area Program, §30-554. (d)(2) c., states that "no impervious surfaces are permitted in the setback area." Based on the information provided with this application, the proposed deck would be considered impervious. In order to allow for such a structure within the 15-foot setback, the applicant would be required to apply for a variance. For this project, the applicant has not presented any information related to each one of the requirements for a variance as outlined under § 8-1808. (d) of the Annotated Code of Maryland. If the applicant applies for a variance for this deck, our initial comments would be as follows:

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 Zoning Appeals finds that an applicant has satisfied its burden to prove that the applicant meets each one of the Town's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law

establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Town must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

A variance to the 100-foot Buffer, or, in this case, the 15-foot setback, cannot be granted unless the applicant proves, and the Town of Ocean City Board of Zoning 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. Accordingly, we oppose this project and would request that the variance 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 property is developed with a two-story dwelling, deck, dock, walkway, and driveway. 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 Town has evidence on which to base a finding that, without the granting of a variance, the applicant would be denied reasonable and significant use of the land.

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. No property owner has the right to build an impervious deck within the 15-foot setback. Therefore, the rejection of a variance for the new impervious deck 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 a variance is granted, it would confer upon the applicant a special privilege, in this case building an impervious deck within the 15-foot setback, 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 (§330-61 (b) (3)). 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 could overcome this burden.

4. *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.*

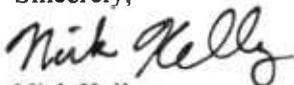
From the information provided, it does not appear that a variance request would be based on conditions or circumstances that are the result of the applicant or from a neighboring property. Therefore, it appears that the applicant may meet this standard.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

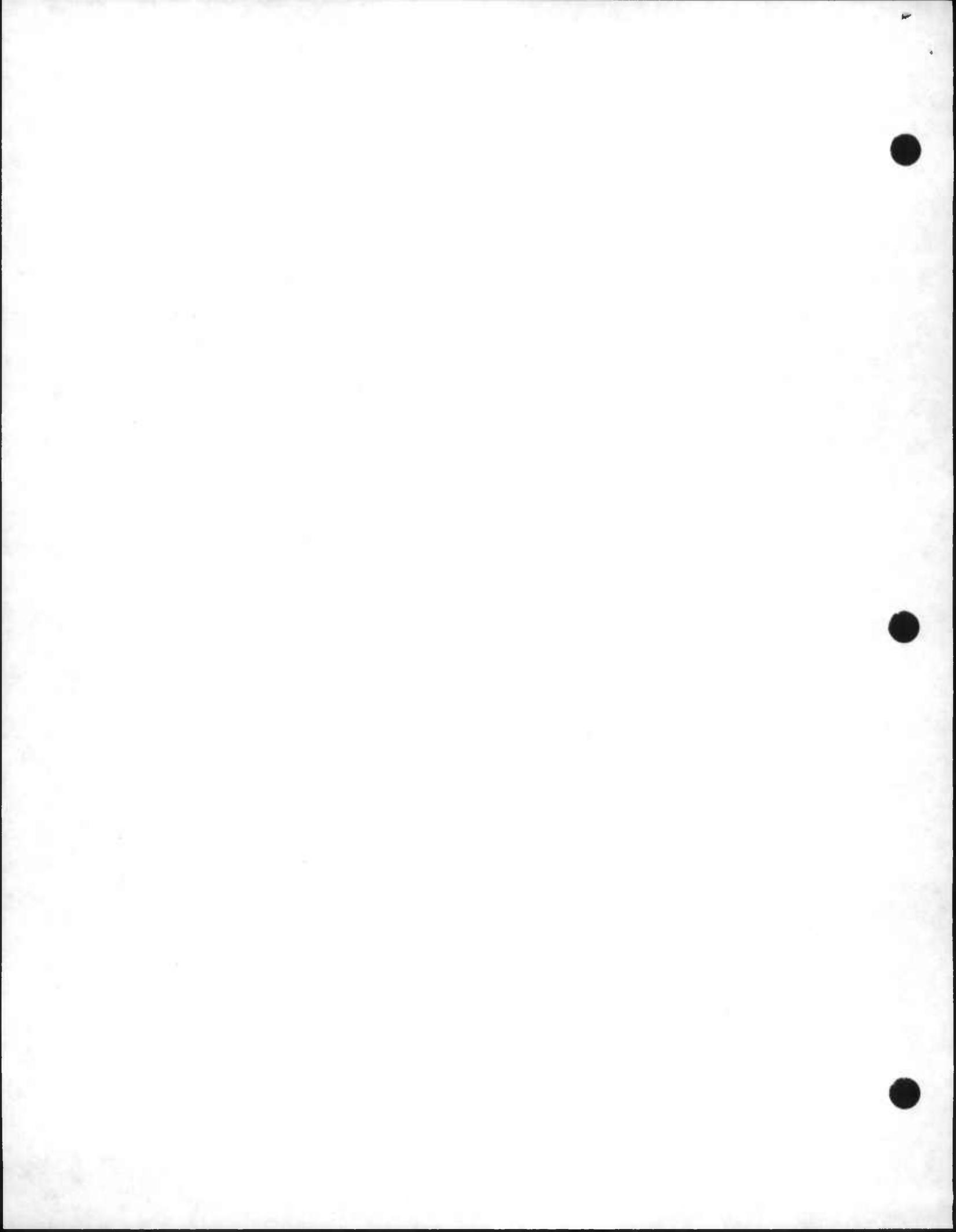
Granting of a variance in this situation would not be in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in impervious surface in the Buffer and consequential disturbance to the land results in increased stormwater, sediment runoff, and the loss of essential infiltration opportunities. Given that the applicant can adequately redevelop this property without the addition of a new impervious deck within the 15-foot setback, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

Thank you again for providing information for this project. 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, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: OC 427-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 25, 2007

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

RE: Site Plan – 67th Street; Ocean Isle Areas 1- 5; Case # 06-181000008

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to develop five separate areas into a single project. Total developable area on the site is 4.6562 acres (202,823 square feet). Parcel 2 is waterfront and is subject to a 10-foot setback, while Parcel 5 is waterfront and is subject to a 25-foot setback. Parcels 1, 3, and 4 are non-waterfront and are located outside of the 100-foot Buffer. All lands will be disturbed on this site, so stormwater management, pollution removal, and afforestation will be required for the entire site.

Thank you for sending the revised plans and comment letter from Roger Kahl of AES, dated February 23, 2007 and addressed to Mary Owens. Based on the information provided, we have the following comments to provide:

1. The note for sheet C2.1 should replace the word "LANDLORD" with "LANDWARD."
2. Please have the applicant provide a copy of the Department of Natural Resources' Wildlife and Heritage letter to this office.

Thank you again for providing clarification for this project. I look forward to your responses and receiving the above information so that I can complete the review of 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
cc: OC 814-05



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 23, 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 construction of a sunroom, attached garage, and storage room for a home that is located within the 100-foot Shoreline Development Buffer on a grandfathered lot. The property is 47,480 square feet (1.09 acres), is zoned as a Rural Conservation Area (RCA), and is currently developed. 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. Total impervious surface currently located on-site is 6,774 square feet (14.26% of the entire lot). If granted, the amount of impervious surface on-site will fall to 6,771 square feet (14.26%) due to the reduction of impervious driveway surface.

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 sunroom, attached garage, and storage room 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.

On May 21, 2007, the Talbot County Board of Appeals heard the arguments by the applicant to seek the following five variances to the 100-foot Buffer:

1. Converting an existing patio to a screened porch with a deck above
2. Installing an in-ground pool
3. Installing a concrete deck
4. Constructing a detached garage
5. Installing vertical expansions and additions to the existing residence

The Talbot County Board of Appeals approved variances 1 and 5, but denied variances 2, 3, and 4. In terms of denying variance 4, the detached garage, the Board found the following:

1. There were no special conditions or circumstances exist [*sic*] that are peculiar to the land or structure such that a literal enforcement of the ordinance result in unwarranted hardship to the property owner. The new garage would be new development activity on the property within the Buffer. The majority of the Board could not find that the denial of the proposed variance would deny the Applicant reasonable and significant use of his property. Since the existing structure includes a garage, kitchen, and a library there is already a reasonable and significant use and enhancements to the home’s amenities for the convenience and to the taste of the Applicant should be accomplished with in the footprint of the existing structure [*sic*].
2. A literal interpretation of the ordinance would not deprive the property owner of rights commonly enjoyed by other property owners in the same zone.
3. The granting of the variance would confer upon the property owner a special privilege that would be denied by the ordinance to other owners of lands or structures within the same zone.
4. The Applicant did not present evidence sufficient to overcome the presumption that the project does not comply with the spirit and intent of the law. In fact, the Applicant noted the environmental concerns near the proposed garage (drainage swale) but offered no mitigation steps to offset the impact of a new development activity.¹

In this case the applicant is proposing to construct a new sunroom, attached garage, and storage room within the Buffer². The Critical Area Buffer establishes an area of

¹ Decision, Talbot County Board of Appeals, Appeal No. 1459, May 21, 2007.

² It should be noted that the new site plan proposal has this garage located in the same area as in the site plan presented to the Talbot County Board of Appeals on May 21, 2007.

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 (Code of Talbot County, Maryland §190-93).

A variance to the 100-foot Buffer cannot be granted unless the applicant proves, and the Talbot County Planning Officer 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 feel that the Talbot County Board of Appeals verified this at their hearing on May 21, 2007. 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 (to be converted to a living area in accordance with the variance granted by the Talbot County Board of Appeals on May 21, 2007), porch, screened porch (granted as a variance by the Talbot County Board of Appeals on May 21, 2007), 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 modestly add new impervious surface to the lot. Overall, 4,712 square feet of impervious surface will be located within the Buffer. However, the proposed sunroom, attached garage, and storage room are placed inside the original 100-foot Buffer, with portions of the garage and sunroom not 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 sunroom, attached garage, and storage room, 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. The Code of Talbot County, Maryland §190-93 E (3) (c) states that:

“New development activities, including structures, fences, 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 or individual private piers.”

No property owner has the right to build a new sunroom, attached garage, and storage room within the Buffer. Therefore, the rejection of a variance for the new sunroom, attached garage, and storage room 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, in this case building a new sunroom, attached garage, and storage room within the Buffer and partially located over pervious land, which would be denied to others in this area as well as in similar places found within the County's Critical Area. To grant a variance to the Buffer would confer a special privilege on the applicant (§190-97 E). 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.*

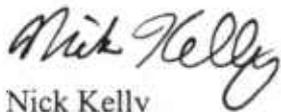
This variance request is based upon circumstances which are the result of the actions by the applicant. As previously mentioned, on May 21, 2007, the Talbot County Board of Appeals denied this applicant the variance to construct a new detached garage, citing that the proposed new garage would be new development activity on the property within the Buffer. As a result, the applicant cannot reapply for the detached garage variance before the Talbot County Board of Appeals for eighteen months. Because of this circumstance, which is the result of the actions of the applicant, the applicant is requesting an administrative variance to apply for a new sunroom, attached garage, and storage room in the 100-foot Buffer. Granting of such a variance would not be in accordance with The Code of Talbot County, Maryland §190-93 E (3) (c), which disallows any new development activities, including new structures, within the Buffer.

- 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.*

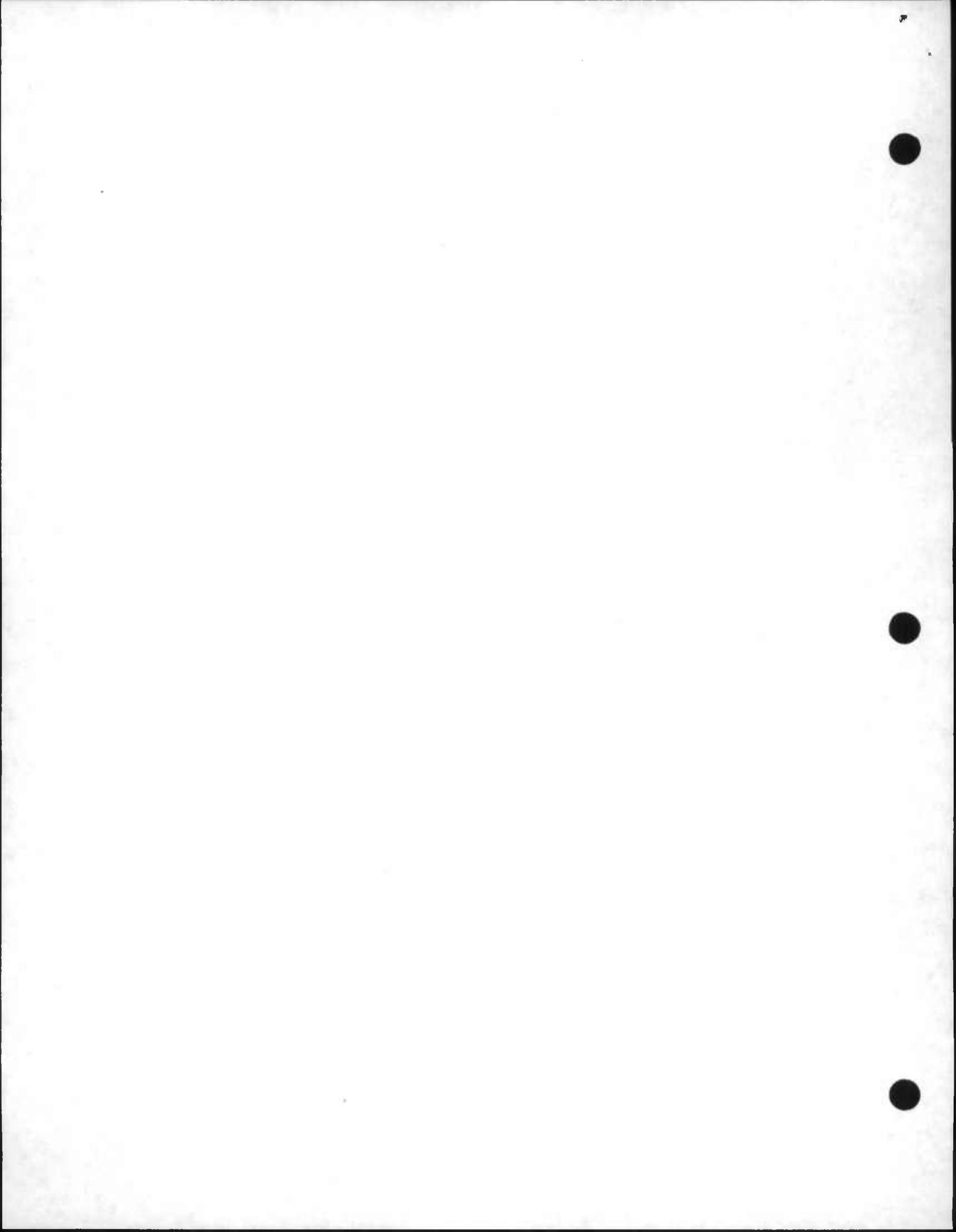
Granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. Disturbance to the land in the Buffer based on new development activity results in increased stormwater, sediment runoff, and the loss of essential infiltration opportunities. Given that the applicant can adequately redevelop this property without the addition of a new sunroom, attached garage, and storage room 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
Natural Resource Planner
cc: TC 90-07



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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(410) 260-3460 Fax: (410) 974-5338
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July 19, 2007

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

Re: Wilensky Variance
A099

Dear Ms. Verdery:

Thank you providing information on the above reference variance request. The applicant is requesting a variance to enclose an existing roofed porch to create a library extension to the master bedroom. The lot is 159,286 square feet (3.65 acres) and is located in a Rural Conservation Area (RCA). For this project, a total of 6,796 square feet of impervious surface is allowed on site, based on the 15% impervious surface permitted on lots zoned RCA. Total impervious surface on this site is currently 3,975 square feet (2.4 % of the total area), and no new impervious surface will be added.

Provided the lot is properly grandfathered we do not oppose this variance. However, we have the following comments on this project:

1. Please have the applicant delineate the 100-foot Buffer on the site plan.
2. Mitigation to any disturbance within the Buffer must occur at a 2:1 ratio.
3. Please have the applicant list the amount of forest coverage located on-site. All lots must meet the 15% afforestation requirement.

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 435-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 18, 2007

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

Re: Clark, Jerome & Pat
2005-0489-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow for an accessory structure with less setbacks and Buffer than required. The area is 1.10 acres, is zoned Limited Development Area (LDA), and is currently being developed with a single-family dwelling unit, garage, wood ramp, breezeway, two decks, retaining wall, covered porch, timber walk and steps, wood platform, shed, and pier. The applicant plans to remove the existing shed and construct a gazebo over the existing footprint, which is composed of sand and cinder blocks. The gazebo will be located as close as 12 feet from Mean High Water (MHW). Current impervious surface on this site is 4,202 square feet (8% of the site) and will remain the same if this variance is granted. Total forested area on-site is .26 acres, and no trees will be cleared for this project.

The office generally does not oppose modest additions and renovations requested for an existing dwelling on a grandfathered lot. However, we do oppose the variance to build a free-standing gazebo within 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 gazebo 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 (Anne Arundel County Code 17-8-301(b)).

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.*

The lot is currently being developed with a single-family dwelling unit, garage, wood ramp, breezeway, two decks, retaining wall, covered porch, timber walk and steps, wood platform, shed, and pier. Overall, 4202 square feet of impervious surface is located on-site. However, 356 square feet of this total impervious is located on cinder blocks within the Buffer where the shed currently exists. This area is planned to be a gazebo. 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**. Considering the amount of development that is already being developed on-site, we do not believe that the County has evidence on which to base a finding that, without the roof porch, 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 an addition that is attached to a house. No property owner has the right to build a free-standing accessory structure within the 100-foot Buffer.

Therefore, the rejection of a variance for the gazebo 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 gazebo on cinder blocks within the 100-foot Buffer, which would be denied to others in this area, as well as similar areas found elsewhere within 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.*

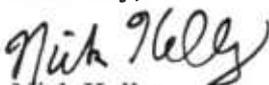
From the information provided, it does not appear that the variance request is based on conditions or circumstances that are the result of the applicant or from a neighboring property. Therefore, it appears that the applicant has met this standard.

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.*

Given that the applicant can adequately develop this property and enjoy outdoor activities without the addition of a gazebo within the 100-foot Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area law and regulations.

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

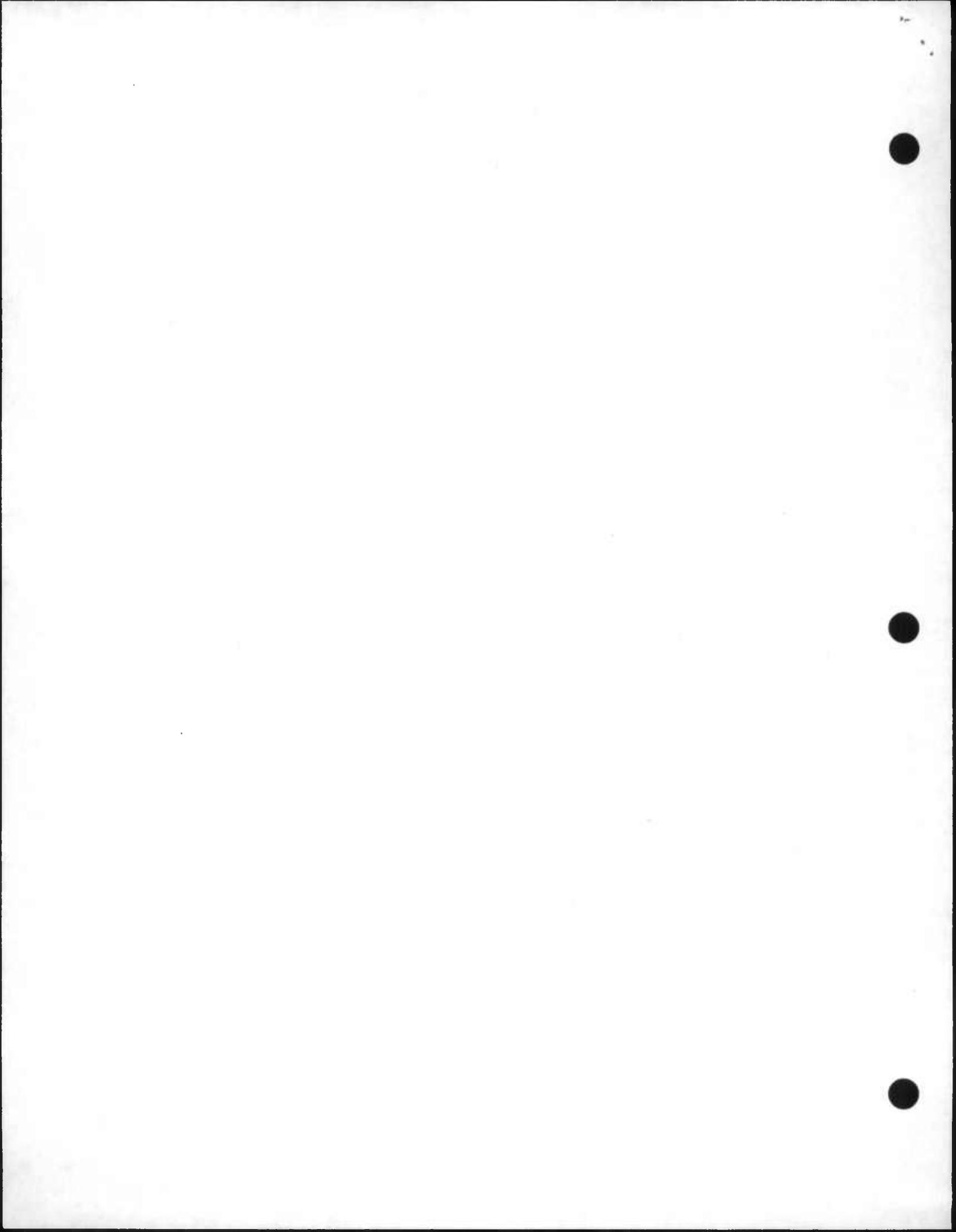
Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 0008-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 16, 2007

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Millington Waterfront Park Planting Plan

Dear Ms. Skilling:

Thank you for submitting the planting plan for the Town of Millington Waterfront Park, which was required as a condition of approval of this project prior to the commencement of construction. Total mitigation required for this project is 10,963 square feet. The applicant is proposing to provide 12,000 square feet of plantings on the site plan. Most planting is occurring within the 100-foot Buffer.

Based on the information provided, we cannot approve this planting plan. A new planting plan must be submitted, taking the following issues into account:

- The trees that are listed on the site plan do not meet the requirements for mitigation credit. Trees must have a minimum two-inch caliper to acquire 100 square feet of mitigation. Additionally, to receive 400 square feet of mitigation, a 2-inch caliper tree and understory vegetation (two small trees and three shrubs) must be combined.
- Shrubs must have a minimum three gallon container to receive 50 square feet of mitigation credit. Please have the applicant provide information explaining what a #3 container is to ensure that it is a 3-gallon container. A copy of the "Recommended Credit for Forest Mitigation" will be provided with this letter for reference.
- In lieu of the large amount of planting occurring on the landscaped area of the parking lot, please have the applicant attempt to perform more mitigation, particularly when combining trees and shrubs, around the trail area within the Buffer.

Thank you for your help with this matter.. 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

TABLE 3

Recommended Credits for Forest Mitigation		
Recommended Credit (Local jurisdictions can determine planting credits)	Plant Size	Plant Spacing
100 sq. ft.	1 tree(2-inch caliper)	10-foot center
400 sq. ft.	1 tree (minimum: 2-inch caliper and either balled and burlapped or container grown) and understory vegetation (minimum: 2 small trees or 3 shrubs)	tree: 20-foot center understory: 10-foot center
50 sq. ft.	1 tree (seedlings)	7-foot center
50 sq. ft.	1 shrub	3 to 7-foot center

Source: Guidance Information and Analysis for Critical Area Decision Makers: Forest Mitigation <http://www.dnr.state.md.us/criticalarea/giaca.html> (Accessed: 13-Jul-07).

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 16, 2007

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

Re: 2007-0182
Wulff Variance

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 and disturbance to slopes greater than 15%. The lot is 7,423 square feet, is zoned as an Intensely Developed Area (IDA), and is currently developed with a two-story house, shed, pier, wooden step walkway from the home to the pier, concrete pad, concrete walk, concrete walls, concrete stoop, and driveway. The applicant proposes to construct a 12 foot by 30 foot wooden deck with steps over the existing concrete pad. Total impervious surface on-site is currently 1,207 square feet (16.36% of total acreage) and will fall to 1,141 square feet (15/37%). Total forest coverage on-site is 2,000 square feet (24.16%), and no trees will be cleared.

Provided the lot is properly grandfathered, we do not oppose this project. However, based on the information provided, we have the following comments on this application:

1. Because this property is designated as an IDA, water quality improvements must be provided to offset the proposed development; therefore, prior to the approval of this project, please have the applicant submit a 10% Critical Area Stormwater Management Plan, according to Section 16-3-205 of the County Ordinance.
2. The site plan shows a proposed covered porch. This was not included in the application. Is this the construction mentioned in the application that has acquired Building Permit No. B02223685? Please ensure that the applicant has applied for a variance for the covered porch on this property as well, as it falls within the 100-foot Buffer.
3. Mitigation for any disturbance within the Buffer must be performed at a 2:1 ratio.
4. The project application site inventory numbers do not match the statistics found on the site plan. In particular, the site plan mentions that total acreage is 7,423 square feet (.17 acres), while the application sheet states that the total acreage is 8,276.4 square feet (.19 acres). Additionally, total impervious falls to 1,141 square feet on the site plan, but no impervious surface changes in the application. Please have the applicant verify that the impervious surface calculations are correct, as this will affect the amount of stormwater management necessary for this IDA project.

5. Please have the applicant clarify how impervious surface on this site is falling. The site plans shows the construct of a 12 foot by 30 foot wooden deck, as well as the covered porch (although the porch was not included in this variance. See #2 above). In addition, please have the applicant include a detailed outline of the amount of impervious surface located on-site for each structure (dwelling unit, porch, deck, walkway, etc.).
6. The site plan mentions that the concrete pad will remain, but it does not appear on the proposed site portion of the site plan. Is this concrete pad located entirely under the wooden deck? Please have the applicant verify this.

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.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: AA 411-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 16, 2007

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

Re: 710 141st Street Building Permit

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to add a pervious deck and new porch to an existing single-family dwelling unit. Currently, the site is composed of a home, sidewalk, driveway, and porch. The area of the site is 4,500 square feet and is located in an Intensely Developed Area (IDA). Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total existing impervious surface on this site will increase from 1,819 square feet (40.4%) to 2,090 square feet (46.4%). To meet mitigation requirements in the 100-foot Buffer, \$600 of landscaping is required, and to meet afforestation requirements, the applicant must provide 675 square feet of landscaping. For 10% requirements, plantings to cover 2,090 square feet of new impervious is required. The applicant plans to address these matters on-site using 20 small shrubs and two trees.

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

1. The provided site-plan only shows the location of 18 shrubs and two trees. Please have the applicant submit a location plan that shows 20 shrubs and two trees.
2. Please have the applicant provide a plant schedule and cost values for the required plantings.

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 407-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 12, 2007

Ms. Angela Willis, Environmental Analyst
Maryland State Highway Administration
Highway Hydraulics Division
707 N. Calvert Street
Baltimore, Maryland 21202

Re: Project No. AA535A21
I-97 and MD 100 SWM Facilities Functional Upgrades
BMPs: 2210 & 2211
Anne Arundel County

Dear Ms. Willis:

Thank you for forwarding the above-referenced project for review. Commission staff has reviewed this project and determined that it *does not* qualify under Code of Maryland Regulations Title 27.02.03, General Approval of State Agency Programs, and subsequently, the Memorandum of Understanding (MOU) between the Department of Transportation and the Critical Area Commission.

Specifically, this project does not meet the requirements for General Approval under Exhibit B1, Section 2(b), which states that:

Projects which involve disturbance to the Buffer qualify for general approval only if the project involves in-kind repair, replacement, or removal of existing structures or surfaces within the Buffer. Projects which place new structures or impervious surfaces within the Buffer do not qualify for general approval.

It is our understanding that there will be riprap outfall protection occurring within the Buffer. This rip-rap constitutes a new structure that would be placed within the Buffer. In addition, grading is proposed inside the Buffer, and runoff from this project is proposed to be piped into Sawmill Creek that otherwise would not reach this body of water. Based on this information, this project cannot qualify for general approval. An application for full review by the Critical Area Commission, including 10% calculations, will be required.

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

Sincerely,

Nick Kelly

Nick Kelly
Natural Resources Planner

cc: Mr. Abdul Wakil, SHA
Ms. Meg Andrews, DOT Commission Member

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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July 10, 2007

Ms. Angela Willis, Environmental Analyst
Maryland State Highway Administration
Highway Hydraulics Division
707 N. Calvert Street
Baltimore, Maryland 21202

Re: Project No. AA535A21
I-97 and MD 100 SWM Facilities Functional Upgrades
BMPs: 2210 & 2211
Anne Arundel County

Dear Ms. Willis:

Thank you for forwarding the above-referenced project for review. Commission staff has reviewed this project and determined that it qualifies under Code of Maryland Regulations Title 27.02.03, General Approval of State Agency Programs, and subsequently, the Memorandum of Understanding (MOU) between the Department of Transportation and the Critical Area Commission.

Specifically, this project meets the requirements for General Approval under Exhibit B1, Section 3(b) since it is our understanding that there will be no addition of impervious area, is considered to be routine maintenance, and will not increase the quantity or lessen the quality of runoff. Provided that the work is limited to the existing footprint of the stormwater management facility, no further review by this office is necessary, notwithstanding any other required State or federal permits.

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

Sincerely,


Nick Kelly
Natural Resources Planner

cc: Mr. Abdul Wakil, SHA
Ms. Meg Andrews, DOT Commission Member



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 6, 2007

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Easton Village Community Site Plan

Dear Mr. Thomas :

Thank you for providing information on the above-referenced site plan. The applicant is proposing to create a canoe-rack and oyster shell path within the 100-foot Buffer. The canoe rack will be composed of 4-foot concrete pads and will encompass a 12-foot by 20-foot area (240 square feet). The Growth Allocation approved for Easton Village included a canoe/kayak launch site on the plans. The area is zoned as an Intensely Developed Area (IDA).

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

1. Please have the applicant provide details of the length and width of the proposed path.
2. The application designates this project as a "canoe rack." The Critical Area Commission approved a "canoe/kayak launch site" for Easton Village. As stated in COMAR 27.01.09.01(2), new development activities within the 100-foot Buffer are not permitted unless they are associated with water-dependent facilities. Canoe racks are not considered to be water-dependent, as they are simply a storage area for canoes and are considered to be a permanent impervious structure within the Buffer. Therefore, while the canoe launch is permitted within the Buffer, the racks themselves must be placed somewhere outside of the Buffer area.
3. Mitigation for any disturbance in the Buffer must occur at a 2:1 ratio.
4. When the growth allocation was approved in January, 2004, a canoe/kayak launch area was proposed to be built in Quad-6. Based on the drawings provided, it appears that the canoe rack will be installed in Quad-7. We do not oppose having

the canoe launch area in Quad-7; however, please have the applicant provide information to clarify whether the pathway shown in Quad-6 will still be built, regardless of moving the canoe launch to another quadrant.

5. The applicant proposes to construct an oyster shell path in the Buffer. However, in a letter addressed to Mr. Tom Hamilton, dated May 11, 2005, the following condition that was approved by the Critical Area Commission included:

The trail to the canoe/kayak launch in Quad-6 shall be a maximum of six feet wide, and shall consist of a mulch surface.

Despite be moved to Quad-7, the pathway to the canoe rack must still be composed of mulch, not oyster shells. The request cannot be granted without the applicant meeting this stipulation.

6. Please have the applicant provide more site information on the plat,. Including proposed impervious surface and proposed clearing.
7. We recommend reducing the amount of pathway located in the Buffer; in particular, we suggest removing the circle connecting the canoe launch and main buildings to other parts of the property.

Thank you for providing us the opportunity to review your building permit request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: EA 357-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 6, 2007

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

Re: 2007-0164
MacBride Special Exception

Dear Ms. Schappert:

Thank you for providing information on the above referenced special exception. The applicant is requesting to remove two existing cottages within the 100-foot Buffer and to build a guest cottage outside of the Buffer. The property is designated as an Intensely Development Area (IDA) and is currently developed with the two cottages previously mentioned, shed, two additional buildings (which are located within the Buffer), and a pier. The main dwelling unit, with a porch, deck, and driveway, is currently being built on this lot and is located outside of the 100-foot Buffer. Total acreage on the site is 1.21 acres. By demolishing the two existing cottages, a total of 1,776 square feet of impervious surface will be removed on-site. Total impervious surface to remain after the construction of the new home and guest house will be .158 acres (6,901 square feet), or 13.05% of the acreage of this site.

While this office does not oppose this special exception request, we have the following comments regarding the development proposal and site plan:

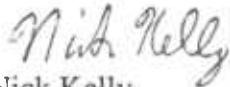
1. The western edge of the proposed guest cottage touches the 100-foot Buffer line. Having the guest cottage this close to the Buffer may necessitate future variances for this cottage (deck, patio, driveway, etc.) We recommend moving the guest cottage away from the Buffer line and closer to the main dwelling unit in order to avoid requiring variances for any future amenities to the cottage.
2. Because this property is designated as IDA, water quality improvements must be provided to offset the proposed development; therefore, please submit a 10%

Critical Area Stormwater Management Plan, according to Section 16-3-205 of the County Ordinance.

3. Total impervious surface located on this site is 13.05%, not 13.01% as stated on the site plan.
4. For clarity, we recommend that the applicant label the existing buildings.

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,



Nick Kelly
Natural Resource Planner
cc: AA374-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 6, 2007

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

Re: 2007-0159
Hershner Variance

Dear Ms. Schappert:

Thank you for providing information on the above-referenced variance. The applicant is requesting a variance to modify a dwelling addition with less setbacks than required. The area is 7,500 square feet, is zoned as a Limited Development Area (LDA), and is currently developed with a dwelling unit, garage, driveway, wooden deck, and balcony. The applicant proposes to enclose the balcony in order to create a 12 foot by 12 foot sunroom (144 square feet). For lots under 8,000 square feet, total impervious surface allowed is 25% of the site + 500 additional square feet (2,375 square feet). Total current impervious surface on this site is 2,122 square feet. Upon constructing the porch, total impervious surface will increase to 2,266 square feet.

Based on the information provided, we have the following comment on this project:

- Please have the applicant provide mitigation for increased impervious surface at a rate of 2:1.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: AA 387-07



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

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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July 6, 2007

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

Re: 2007-0157
Cochran Variance

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 and disturbance to slopes greater than 15%. The lot is .2245 acres, is zoned as a Limited Development Area (LDA), and is currently undeveloped. The applicant proposes to construct a house with garage, driveway, and walkway. Total impervious surface on-site will be .0283 acres (11.57% of total acreage). Clearing of .0402 acres (16%) will occur on-site, and mitigation of .0459 acres of plantings (5 trees and 15 shrubs) is provided. Stormwater management planting is also provided (9 trees and 12 shrubs).

Provided the lot is properly grandfathered, we do not oppose this variance. However, we do have the following comments on this application:

1. At its current size, the dwelling unit encompasses most of the space on the property that can be developed without another variance. We recommend minimizing the footprint of the dwelling unit in order to avoid future variances for the non-tidal wetland Buffer for any additions to the home (decks, patios, etc.) and to further minimize disturbance within the expanded Buffer.
2. Mitigation for any disturbance within the Buffer must be performed at a 3:1 ratio.

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

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: AA 384-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 6, 2007

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

Re: 2007-0159
Brauer Variance

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 area is 6,500 square feet, is zoned as a Resource Conservation Area (RCA), and is currently undeveloped. The applicant proposes to build a dwelling unit, house, and sidewalk on the site. Total proposed impervious surface will be 1,455 square feet (22.38% of the site), which falls under the 25% + 500 square feet of impervious surface allowed for a lot under 8,000 square feet. Clearing of 1,963 square feet of woods will occur on-site, which is under the limited of 6,534 square feet allowed for lots under one-half acre.

Provided the lot is properly grandfathered, we do not oppose this variance.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. 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: AA 386-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 5, 2007

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

Re: Schneider Building Permit

Dear Mr. Smith:

Thank you for providing information on the above referenced application. The applicant proposes to add a porch to an existing single-family dwelling unit. Currently, the site is composed of a home, pool, and brick walk. The area of the site is 7,410 square feet and is located in an Intensely Developed Area (IDA). Critical Area issues include stormwater management, pollutant removal, and afforestation.

Total existing impervious surface on this site will increase from 3,185 square feet to 3,541 square feet. To meet mitigation requirements in the 100-foot Buffer, \$640 of landscaping is required. The applicant plans to address this matter on-site using two small trees and 15 small shrubs. The 10% requirements will be met by either paying a fee-in-lieu of \$736, installing a water quality Best Management Practice that manages a volume of 30 cubic feet, planting 10 trees or 32 shrubs, or planting 2 trees, 15 shrubs, and paying \$450 as a fee-in-lieu.

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

1. Please have applicant correct the percentage of existing impervious surface to 42% and the proposed impervious surface to 47% on the first page of the application.
2. Total landscaping provided for this application is 950 square feet. However, 15% afforestation of the parcel size (1,111.5 square feet) is required. Please have the applicant submit more landscaping for this project to meet this requirement.
3. Please have the applicant submit a planting plan if trees or shrubs will be planted to meet 10% requirements. Likewise, please have the applicant submit a site plan showing the Water Quality BMP provided if that will be used to meet the 10% requirement.

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 382-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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MEMORANDUM

To: James Price, Program Open Space
From: Nick Kelly, CAC
Date: July 3, 2007
RE: **POS # 5153-23-185 Fiesta 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 a pavilion and restroom for the park. 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 Ocean City and in the Critical Area Intensely Developed Area (IDA). 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, will be required to comply with the local requirements for development within the IDA, including compliance with the Critical Area 10% pollution reduction requirement. Projects on property owned by local jurisdictions require confirmation of consistency with local Critical Area Programs, or may require Conditional Approval from the Critical Area Commission if any element of the project does not meet all requirements of the local Critical Area Program.

We recommend that Ocean City 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 410-260-3483.

cc: Blaine Smith, Ocean City
Janet Davis, Worcester County



Martin O'Malley
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Anthony G. Brown
Lt. Governor



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Executive Director

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July 3, 2007

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: Baltimore Station Site Plan

Dear Mr. Letteron:

Thank you for providing information on the above referenced site plan. The applicant is proposing to build an addition to a previously existing building on a lot that is completely impervious. A green roof will be installed on the building. The area is zoned as an Intensely Developed Area (IDA). Total impervious surface on-site currently is .16 acres. Upon completion of this project, .05 acres of green roofing will be utilized, thus lowering impervious surface to .11 acres. Critical Area 10% requirements have been met for this project by reducing impervious surface through the use of the green roof. To meet afforestation requirements, the applicant plans to plant 4 trees.

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

1. To meet 15% afforestation requirements, an applicant must plant 400 trees per acre, or 1,200 shrubs per acre (1 tree = 3 shrubs). For this project, .024 acres of afforestation is required (15%*.16 acres in the Critical Area). Therefore, 10 trees, 29 shrubs, or a combination of the two must be located within the Critical Area portion of the site to meet afforestation requirements. For this project, the applicant plans to plant 4 trees; therefore, the applicant must plant 6 additional trees or 18 additional shrubs to meet the Critical Area requirements.
2. Please have the applicant submit a landscape plan for the garden plot to this office prior to construction to determine whether this area can supplement some of the required afforestation.

Thank you for providing the information on 10% calculations and afforestation for this site plan. 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
CC: BA 376-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

July 3, 2007

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: Harbor Hill Apartments Site Plan

Dear Mr. Letteron:

Thank you for providing information on the above referenced site plan. The applicant is proposing to build an addition to an existing apartment building over an existing parking lot. The area is zoned as an Intensely Developed Area (IDA) and is currently composed of a three-story brick building and parking lot. Total impervious surface on-site currently is .415 acres. Upon completion of this project, .440 acres will exist. Calculations to meet the Critical Area 10% requirements have been performed, and .153 pounds of phosphorus per year are required to be removed. The applicant proposes to either install an underground sand filter or a perimeter sand filter. Both will remove .282 pounds per year of phosphorus, thus meeting the 10% requirements. To meet afforestation requirements and to replace six existing trees that will be removed, the applicant plans to plant 14 trees and 18 shrubs.

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

1. To meet 15% afforestation requirements, an applicant must plant 400 trees per acre, or 1200 shrubs per acre (1 tree = 3 shrubs). For this project, .075 acres of afforestation is required (15%*.5 acres in the Critical Area). Therefore, 30 trees, 90 shrubs, or a combination of the two must be located within the Critical Area portion of the site to meet afforestation requirements. For this project, the applicant plans to plant trees and 18 shrubs on site while removing six trees; therefore, the applicant must plant 10 additional trees or 30 additional shrubs to meet the Critical Area requirements.
2. Please have the applicant submit the final landscape plan to this office prior to construction.

Thank you for providing the information on 10% calculations and afforestation for this site plan. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,


Nick Kelly
Natural Resource Planner
CC: BA 359-07



Martin O'Malley
Governor



Margaret G. McHale
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Anthony G. Brown
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Executive Director

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July 2, 2007

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

Re: Powell Variance
A098

Dear Ms. Verdery:

Thank you providing information on the above reference variance request. The applicant is requesting a variance to extend a set of stairs off an existing grass terrace. In addition, the applicant proposes to add a set of stairs and covered roof over an existing brick patio. The closest point to Mean High Water (MHW) for the existing dwelling is 71.1 feet; none of the proposed changes occur closer than 83.7 feet from MHW. The lot is zoned Rural Conservation Area (RC) and is 7.088 acres in size.

For this project, a total 46,313 square feet of impervious surface is allowed on site, based on the 15% impervious surface permitted on lots zoned RCA. Total impervious surface on this site is currently 22,008 square feet (7.12% of the total area). A seven foot retaining wall is proposed to be removed in this project, and a total of 70 square feet of impervious surface will be added by building the steps and retaining wall. Total impervious surface on this site, if the variance is granted, will be 22,071 square feet (7.14%).

Provided the lot is properly grandfathered we do not oppose this variance. However, we have the following comments on this project:

- Mitigation to any disturbance within the Buffer must occur at a 2:1 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 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 360-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 2, 2007

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

Re: Tyler-Braver Variance
A097

Dear Ms. Verdery:

Thank you providing information on the above reference variance request. The applicant is requesting a variance to enclose a pre-existing covered porch over an existing stoop and to construct a 60-foot bay window. The lot is zoned Rural Residential (RR) and is 151 acres in size. The existing setback for this property is 95 feet, which will remain the same if this variance is granted.

Provided the lot is properly grandfathered, we do not oppose this variance to enclose a pre-existing porch and install a bay window. However, we do have the following comments about this project:

1. Please provide the total amount of impervious surface located on site to ensure that the property remains under the 15% impervious allotment permitted under Critical Area Law.
2. The applicant must provide mitigation for any disturbance in the Buffer related to this project at a ratio of 2:1.

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 360-07



Mary-Header

Martin O'Malley
Governor



Margaret G. McHale
Chair

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Executive Director

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December 18, 2007

Mr. Steve Dodd
Dorchester County Planning and Zoning Office
P. O. Box 107
Cambridge, Maryland 21613

RE: CC 4-07 Gordy Jones Subdivision

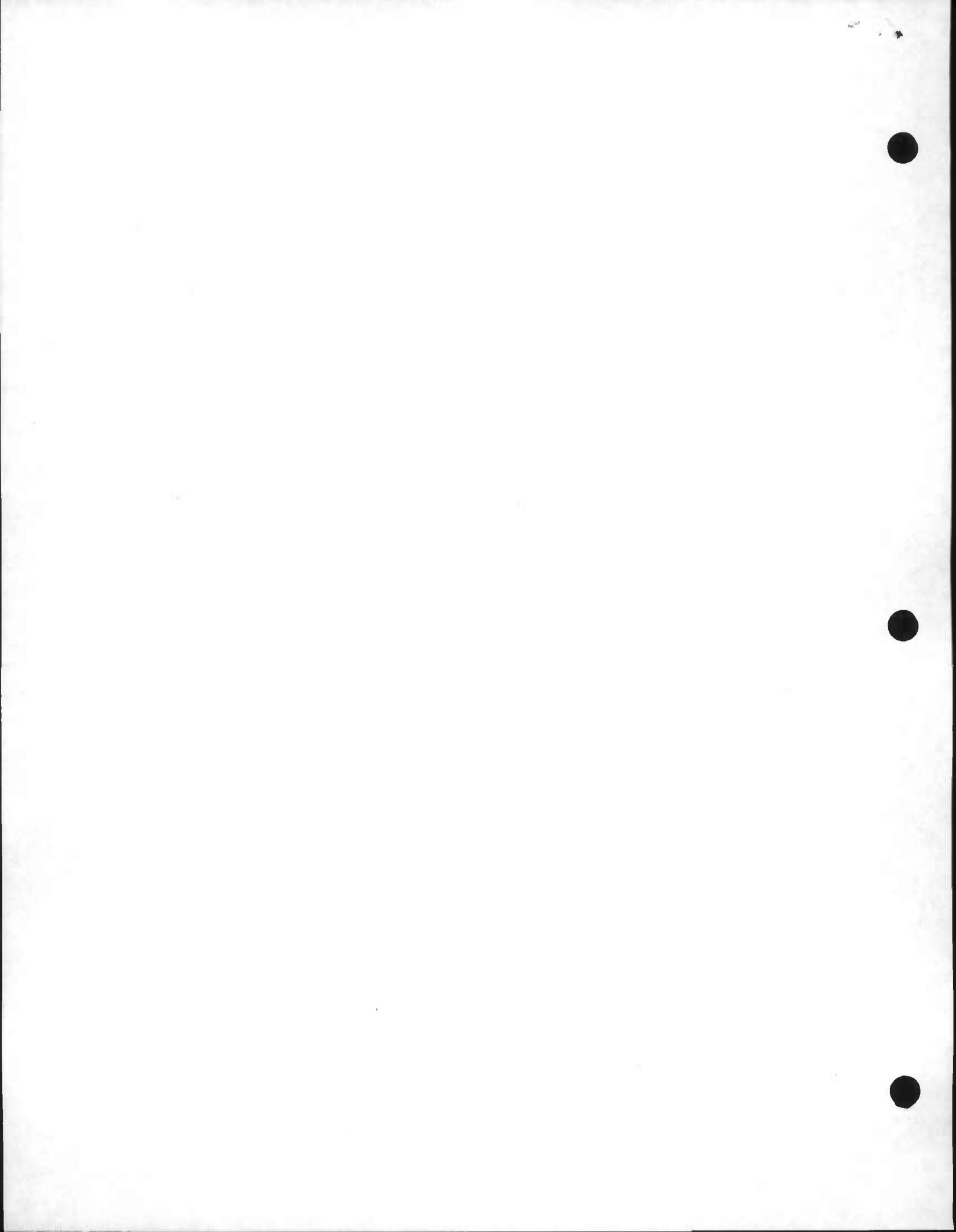
Dear Mr. Dodd:

I am writing to follow up on our telephone conversation regarding the status of the referenced application to construct a dwelling on site identified as Lot 1 of the Subdivision of Gordy E. Jones, Jr. and Shelly H. Jones. As you recall, Commission staff met with you; the County Attorney, Tommy Merriweather; the Mayor of Church Creek, Mr. Robert Herbert; the Town Attorney, Mr. Lawrence Bohlen; and the property owner, Mr. Gordy Jones several months ago. The purpose of the meeting was to determine whether the subdivision of Mr. Jones' property was a legal subdivision and if so, how to address proposed development on the newly created lot that was severely constrained by the 100-foot Buffer.

During the meeting, it was determined that the subdivision had not been reviewed and approved in accordance with appropriate local subdivision regulations because the Town of Church Creek does not have its own subdivision regulations. It was also discussed that it was not the County's understanding that the County had assumed responsibility for reviewing and approving subdivisions within the Town. There also seemed to be some confusion regarding the Town's "exclusion resolution," entitled "Town of Church Creek Resolution" and dated December 13, 1999, and the entity responsible for ensuring that development activities comply with the Critical Area regulations.

After lengthy discussion of these issues, it was determined that there may have been a procedural error on the part of the Town, and that this situation resulted from an overall lack of understanding of how the Town and the County coordinate to implement the Town's Critical Area "exclusion resolution."

There was no permanent resolution of the coordination issue; however, it was agreed that the Mr. Jones' application for a building permit could be reviewed, and potentially approved, subject to the following:



Mr. Dodd
September 27, 2007
Page 2

A subdivision plat shall be prepared for review by the County for compliance with the "Critical Area Requirements for the Town of Church Creek" as set forth in the "Town of Church Creek Resolution" and dated December 13, 1999. The subdivision plat shall be submitted to Critical Area Commission staff for review and comment. Following coordination between the Commission and the County as may be necessary to resolve any outstanding issues, the plat shall be recorded to supersede the current recorded plat.

The subdivision plat shall show the 100-foot Buffer on Lot 1 and shall show the location of the proposed dwelling and driveway.

County staff and Commission staff shall review the plat to ensure that impacts to the 100-foot Buffer are the minimum necessary to place a house and driveway on the property and that the proposal generally complies with the Buffer Exemption Area provisions in the "Town of Church Creek Resolution." The applicant shall design the site to locate the house as close to the north and west property lines as possible, shall minimize the footprint of the proposed dwelling, and shall configure the driveway to avoid or minimize impacts to the 100-foot Buffer. The plan shall specify that impacts to the Buffer cannot exceed 1,000 square feet, and that planted mitigation in the form of trees and shrubs shall be planted at a two-to-one ratio for the footprint of the development activity within the Buffer.

The plat shall include appropriate notes indicating that no further development or disturbance within the Buffer can be permitted and appropriate deed restrictions shall be recorded.

I hope the direction provided in this letter will allow the Town, the County, and the property owner to resolve this situation. We expect the Town to acknowledge that the "Town of Church Creek Resolution" was developed to allow for modest expansion of existing dwellings on existing lots through the County's Critical Area review process used for building permits. Any other type of zoning, subdivision, land development activity or land use change that affects land within the Critical Area will require that the Town develop and adopt a complete Critical Area Program.

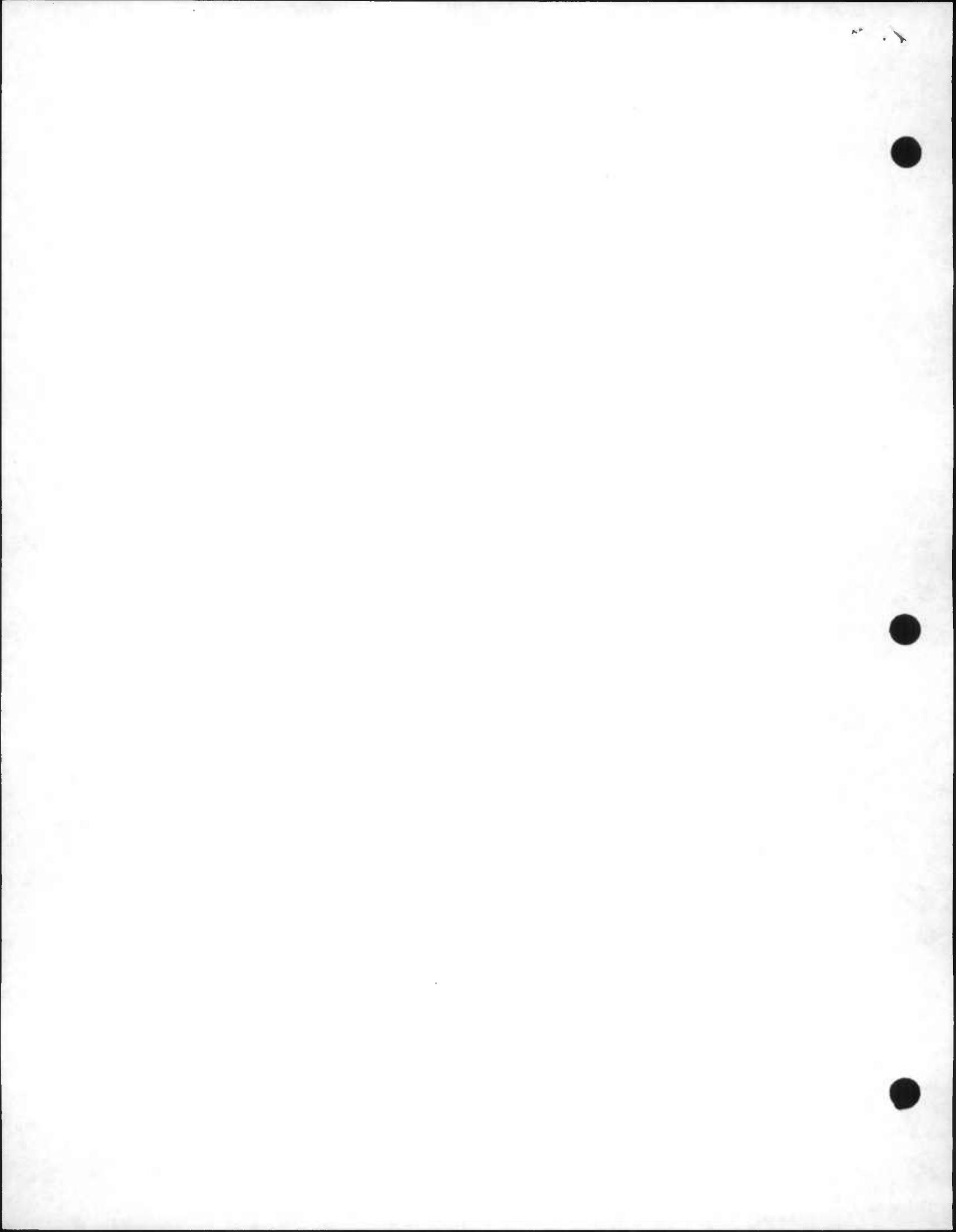
Thank you for your patience as we have worked to resolve this issue. If you have any questions, please do not hesitate to call me at (410) 260-3480.

Sincerely,



Mary R. Owens
Education and Conservation Coordinator

cc: Gordy Jones, Property Owner
The Honorable Robert Herbert, Church Creek
Lawrence Bohlen, Attorney
E. Thomas Merryweather, Attorney At Law



Martin O'Malley
Governor



Margaret G. McHale
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1804 West Street, Suite 100, Annapolis, Maryland 21401

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December 10, 2007

Ms. Mary Alves
Historic St. Mary's City
P.O. Box 39
St. Mary's City, Maryland 20686

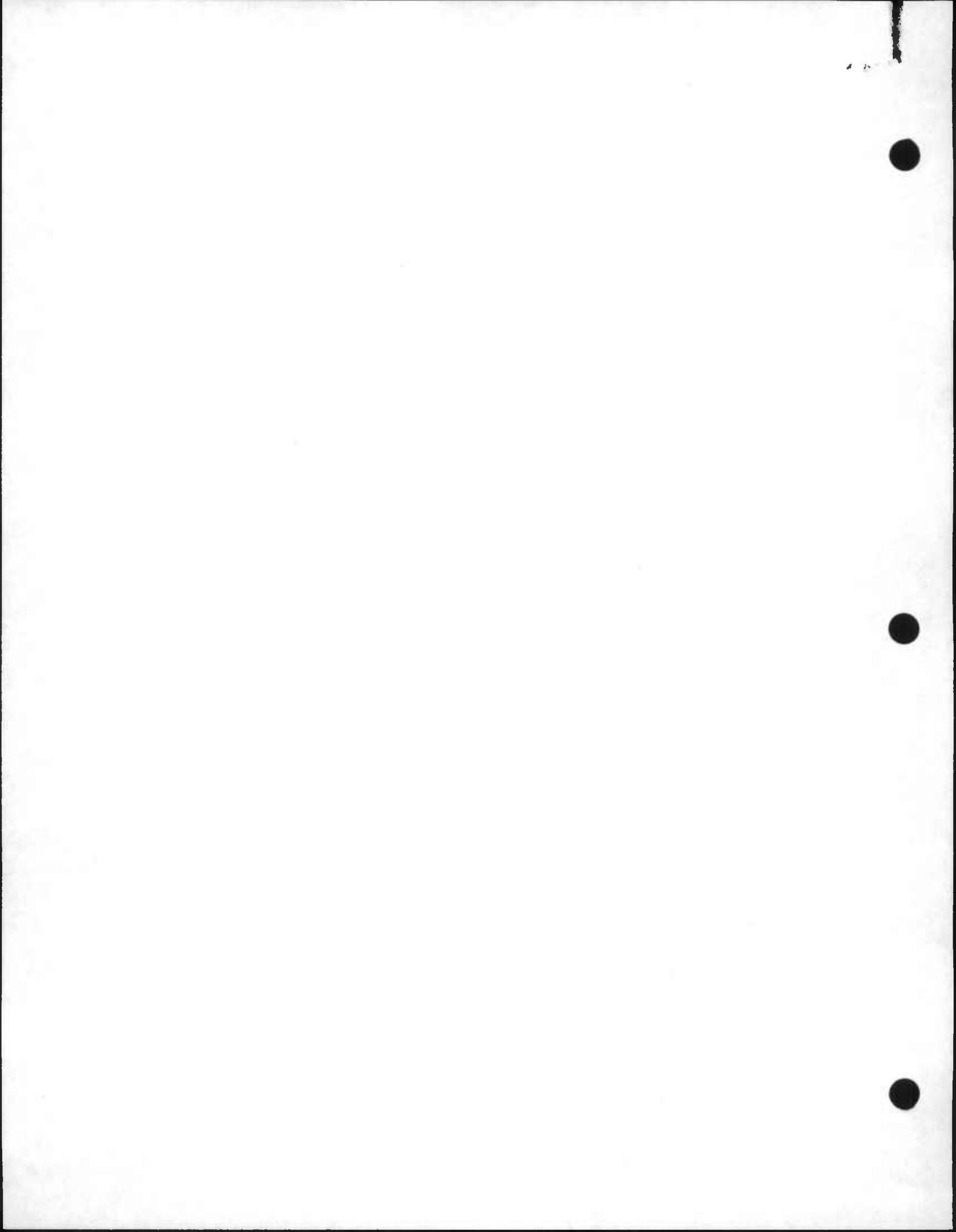
**RE: SMC 45-02
St. Mary's College St. John's Archaeological Exhibit**

Dear Ms. Alves:

I am writing to follow up on our meeting regarding the mitigation planting associated with the St. John's Archaeological Exhibit Project. The Project was reviewed and approved by the Commission on November 1, 2006, and the Commission's approval included specific mitigation requirements for the trees removed prior to the Commission's approval of the project. Based on the information in the file, the mitigation requirements for the project are as follows:

1. Three-to-one mitigation for 2,010 square feet of disturbance to the Buffer and the removal of two trees in the Buffer for a total of 6,630 square feet.
2. Three-to-one mitigation for the removal of 30 trees outside the Buffer prior to Commission approval of the Project for a total of 90 trees or 9,000 square feet of mitigation.
3. One-to-one mitigation for the removal of a tree outside the Buffer that was damaged by the contractors.

The total mitigation requirement for the Project is 15,730 square feet. Based on my review of the landscape plan dated November 14, 2003, 44 trees and 137 shrubs were proposed to be planted on the project site for a total mitigation credit of 11,250 square feet. Based on our recent discussion, it is my understanding that the number of shrubs has been increased to 179 which results in a mitigation credit of 13,350. Based on this revision, the required off-site mitigation is 2,380 square feet or approximately 24 trees.



Ms. Alves

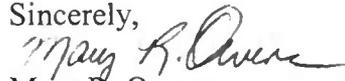
December 10, 2007

Page 2

I have reviewed several maps of the area that we discussed as a potential off-site mitigation area. The Department of Natural Resources MERLIN system identifies the drainageway behind the Visitor's Center as a tributary stream, so this area is an acceptable location for mitigation plantings associated with impacts to the 100-foot Buffer. It appears that the stream ends on the west side of Rosecroft Road, so all plantings should be located on the west side of the road and to the extent possible, within the Critical Area. The attached sketch shows the approximate location of the tributary stream, the Critical Area boundary, and the potential planting areas. For your records, I have also included a copy of the map from the MERLIN system showing the extent of the tributary stream.

Thank you for the opportunity to comment on the proposed off-site mitigation plan. If you have any questions, please feel free to call me at (410) 260-3480.

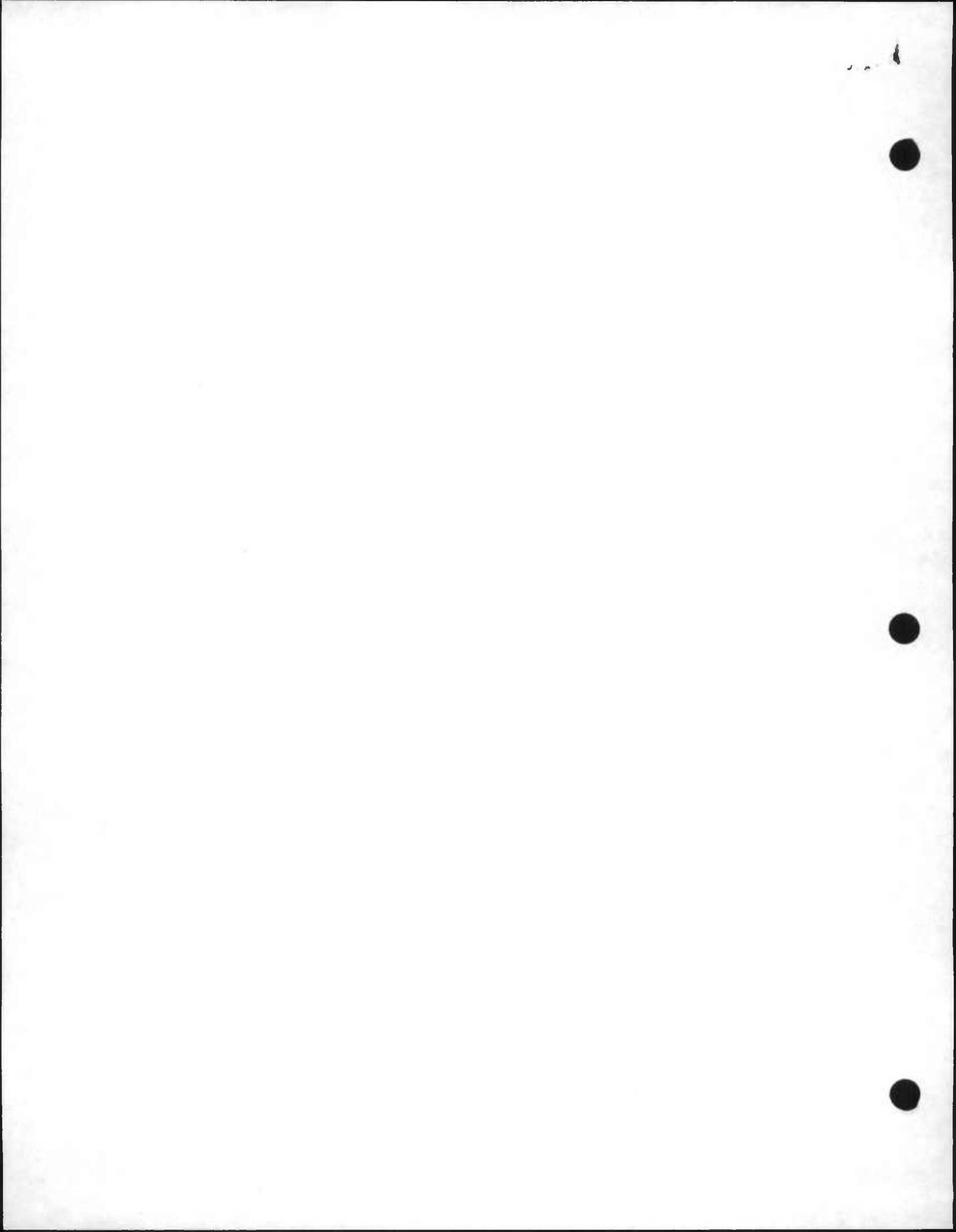
Sincerely,



Mary R. Owens

Education and Conservation Coordinator

cc: Mr. Bill Sholten, St. Mary's College Facilities



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 7, 2007

Mr. Dan Branigan
St. Mary's College
Office of Facilities
18952 East Fisher Road
St. Mary's City, Maryland 20686

**RE: St. Mary's College – New River and Rowing Center Mitigation Plan
SMC 59-06**

Dear Mr. Branigan:

I am writing to provide additional comments on the referenced mitigation plan as a follow up to my letter to you dated June 14, 2007. I have received the revised mitigation calculations and final landscape plan for the on-site mitigation. I have not received a response to the comments in my letter regarding the off-site mitigation; therefore, they are included here.

1. In accordance with the Critical Area Commission's approval of the referenced project, mitigation is required at two-to-one for all development activities within the 100-foot Buffer and mitigation equivalent to the establishment of a 25-foot setback is required. Final calculations indicate that the project will result in 18,775 square feet of impacts to the Buffer and that the project includes 500 linear feet of shoreline. The total required mitigation is 50,050 square feet.
2. The landscape plan for the River and Rowing Center includes native species plantings that total 23,715 square feet of mitigation credit. This number is slightly different than the calculations submitted by the consultant because not all of the shrub species received 50 square feet of credit because of their size, and the Delaware Valley White Azalea is not a native species. The mitigation credits are as follows:

Quantity	Stocking	Credit	Total Credit
7	Canopy Tree and Understory Tree Cluster	400 each	2,800 SF
2	Canopy Tree and Large Shrub Cluster	400 each	800 SF
305	Large Shrubs	50 each	15,250 SF
115	Small Shrubs	25 each	2,875 SF
995	Herbaceous	2 each	1,990 SF
TOTAL			23,715 SF

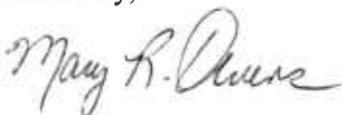
11



3. The total off-site mitigation required is 26,335 square feet.
4. Of the total confirmed mitigation area of 26,335 square feet, at least 12,500 square feet must be within the 100-foot Buffer, preferably directly adjacent to tidal waters or tidal wetlands, and at least 25-feet wide. It does not appear that all of the plantings shown in Planting Zone A and Planting Zone B meet these requirements. Can the planting shown on the second sheet, adjacent to Mill Creek be expanded? Have sites directly adjacent to tidal water or tidal wetlands, such as around St. John's Pond or other areas directly adjacent to the St. Mary's River been evaluated as potential mitigation sites?
5. The proposed mitigation areas total 11,250 square feet, and a total of 26,335 square feet of mitigation is required. Where will the remainder of the mitigation be located? It is strongly recommended that this mitigation be located within the 100-foot Buffer in an area near the project site.
6. *Vinca minor* is not a species that is native to the Chesapeake Bay watershed, and it is highly invasive. There are numerous herbaceous plant and vine species that are similar 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.
7. Future submittals should include both a planting plan and a complete landscape schedule that includes the quantity (total number of plants), species (common name and Latin name), size (6-foot tall, 3-gallon, etc.), and stock-type (container, balled and burlapped, etc.). This information is needed for each planting zone to ensure that the appropriate mitigation credit can be determined, and the plan can be correctly implemented. The landscape plans should include sufficient location information and a north arrow, so that the location of the mitigation areas can be readily identified. All plans submitted should have a title block that includes the name of the project; the date; the name, address, and contact information of the designer; and a revision schedule.

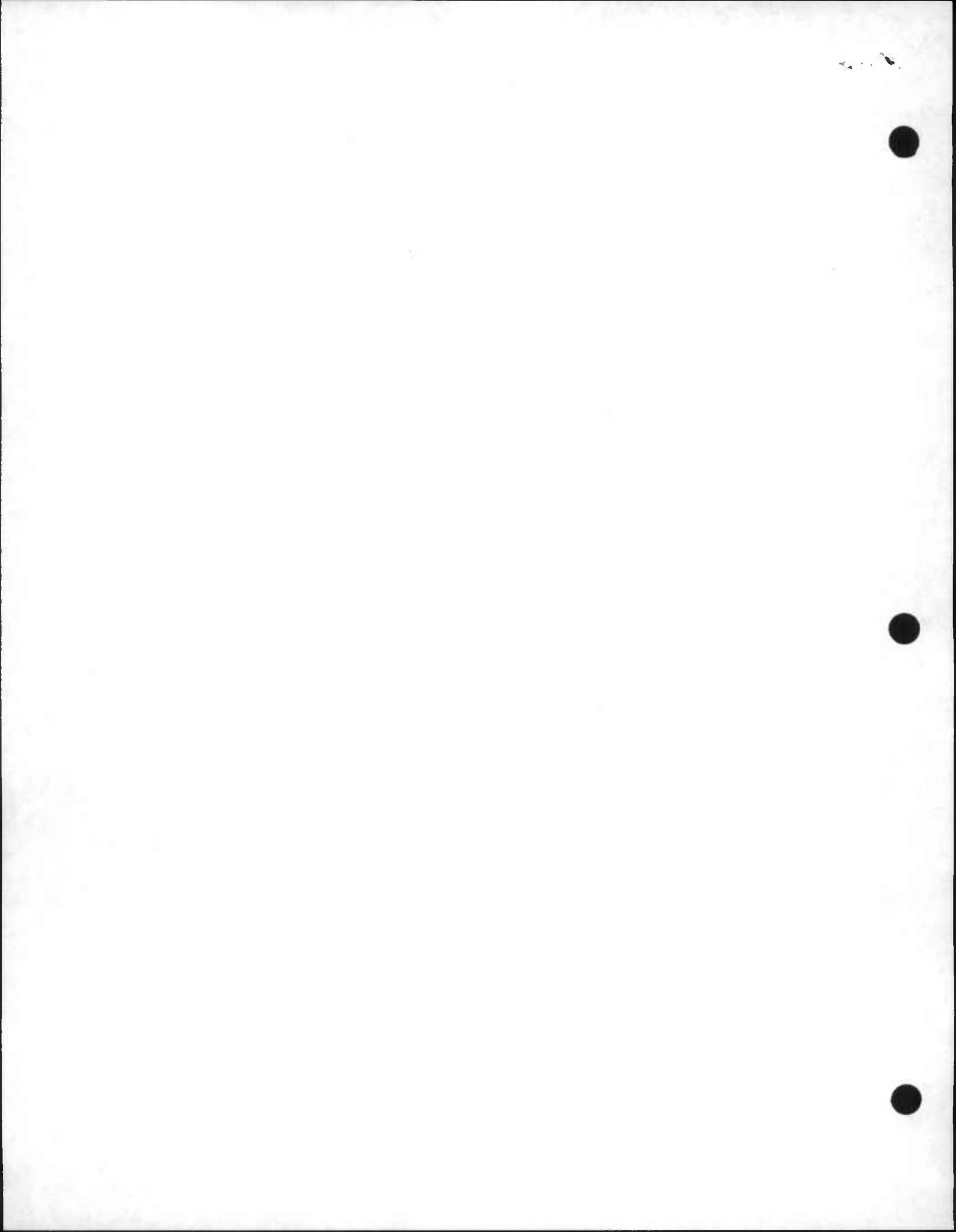
Thank you for the opportunity to provide additional comments on the River and Rowing Center Mitigation Plan. As you know, this project has generated a substantial amount of public interest and concern; therefore, it is important that the mitigation plans be as clear as possible so all interested parties will be able to understand them. If you have any questions, please feel free to call me at (410) 260-3480.

Sincerely,



Mary R. Owens
Education and Conservation Coordinator

cc: Margaret McHale



Mary Reader

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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November 5, 2007

Mr. Duncan Stuart
Baltimore City Planning Commission
Charles L. Benton, Jr. Building
417 East Fayette Street, Eighth Floor
Baltimore, Maryland 21202-3416

RE: Critical Area Management Program Staff

Dear Mr. Stuart: *Duncan*

I am writing to follow up on an issue that we discussed earlier this year and then again recently regarding the use of a portion of the offset fees collected by Baltimore City for administration of the Buffer Offset Fee Program and the Stormwater Offset Fee Program. Specifically, the City is proposing to raise the Buffer Offset Fees from \$2.50 per square foot to \$3.00 per square foot and to set aside approximately \$63,000 annually to fund the salary and benefits of a Planner II level position. This planner would be responsible for administering both the Buffer Offset Fee Program and the Stormwater Offset Fee Program.

The Commission does not object to the City using a portion of the offset fees collected to administer the offset fee programs; however, it is recommended that the City evaluate the amount of the offset fees assessed at the time of each comprehensive review. This will be necessary to ensure that the fees are adequate to cover both the cost of implementing the required Buffer mitigation or stormwater offset measures and the cost of administering the program. The City should be prepared to provide a report on the fees collected and expended for both projects and administration as part of the comprehensive review.

Thank you for providing information to the Commission about the administration of the City's offset fee programs, and we look forward to working with you on the specific offset and mitigation projects. If you have any questions, please call me at (410) 260-3480.

Sincerely,

Mary R. Owens

Mary R. Owens
Education and Conservation Coordinator



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 1, 2007

Don Regenhardt
Queenstown Planning Commission
P. O. Box 4
Queenstown, MD 21658

**RE: Town of Queenstown – Queenstown Harbor Inn and Resort Growth Allocation
QT 674-07**

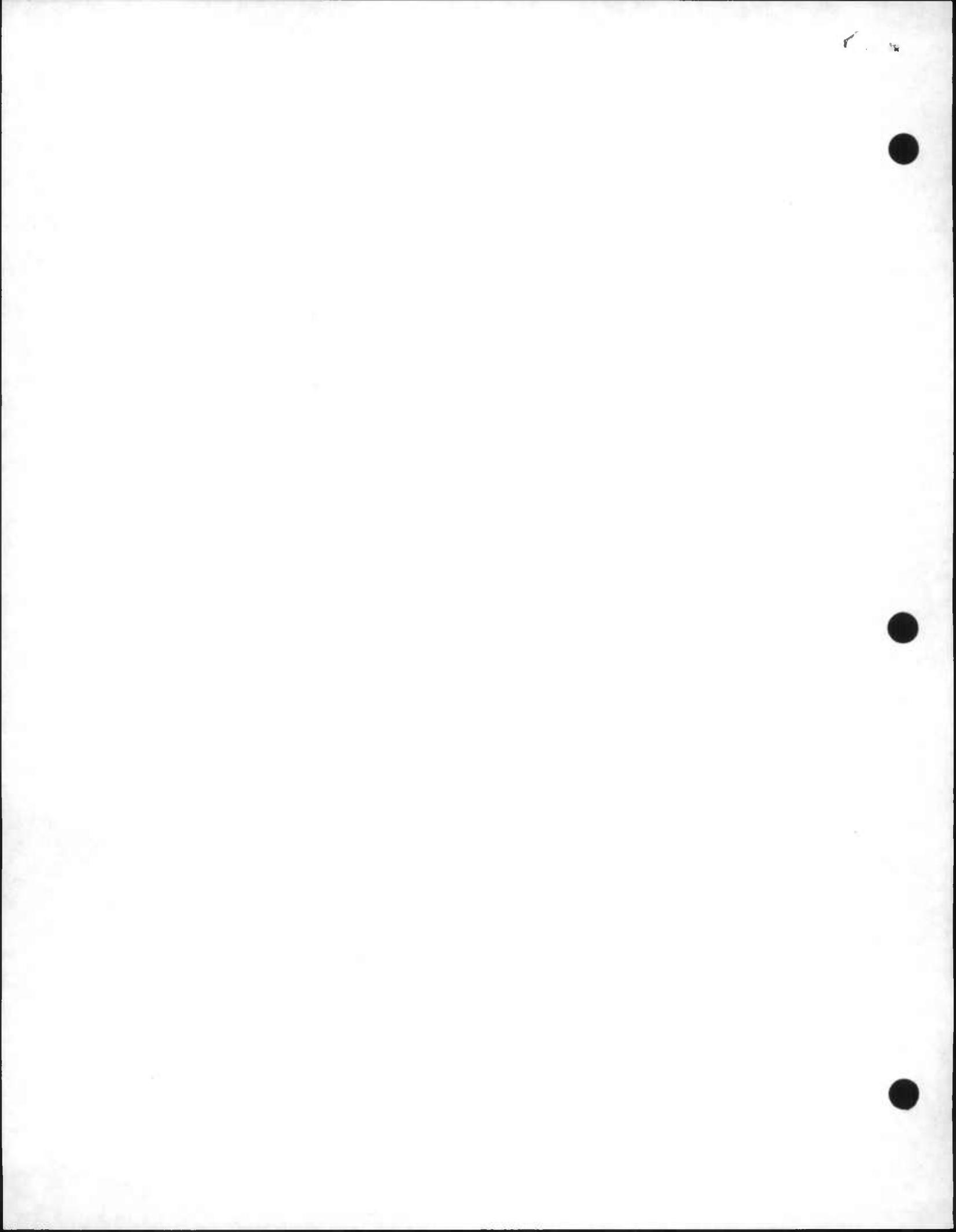
Dear Mr. Regenhardt:

Thank you for your letter of September 20, 2007 describing the Planning Commission's understanding and intentions regarding the above referenced project and proposed program text amendments. As you are aware, the Program Subcommittee at the August 1, 2007 Critical Area Commission meeting discussed the process for reviewing the Queenstown Harbor Inn and Resort proposal relative to the current growth allocation locational guidelines in State law and the relocation of an existing approved growth allocation award.

The proposed text amendments to the Queenstown Critical Area Ordinance that include specific provisions for the relocation of previously awarded growth allocation reflect the guidance provided in the Subcommittee discussion and incorporate the recommendations of staff. In staff's view, the proposed text allows for the relocation of a previously approved use of growth allocation and provides locational standards that can be used as a comparable alternative to the adjacency requirements in reviewing these proposals.

As you have outlined in your letter, this text amendment will be reviewed by the Planning Commission and then forwarded to the Town Commissioners. The Commissioners will hold a public hearing and assuming a favorable vote on the matter by the Commissioners, an ordinance will be forwarded to the Critical Area Commission for review and approval.

With regard to the use of growth allocation for the Queenstown Harbor Inn and Resort Project, the Subcommittee discussed that if the zoning text change is approved as proposed, the Town's submission to the Commission to relocate the growth allocation will need to address the rest of the locational requirements in Section 14.I.3 of the Queenstown Critical Area Ordinance. The provisions in the ordinance and in the Critical Area statute pertaining to the 300-foot setback, the minimization of impacts to Habitat Protection Areas, and the optimization of benefits to water

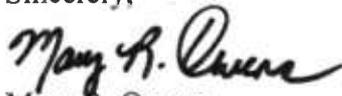


quality will be significant. The Town will also need to ensure that the proposal fully complies with all of the purposes, policies, goals and provisions of the Law and criteria.

As you know, the Critical Area Program requires that the 100-foot Buffer be fully established in natural vegetation. There was significant discussion by the Program Subcommittee about this issue when the developer displayed the conceptual plans for the project. Establishing the Buffer and, in some cases the 300-foot setback, with native vegetation is a key aspect of the water quality and habitat protection goals of the Critical Area Program, and is therefore a significant concern of the Commission. The Town and the developer are strongly encouraged to continue working with Commission staff on this issue. The Subcommittee also discussed how the policy regarding golf courses in the RCA would apply to the Queenstown Harbor Golf Course project and indicated that the policy would affect the configuration and size of the development envelope. The Subcommittee did acknowledge that the Queenstown Harbor Golf Links is an existing golf course that was developed prior to adoption of the Commission's policy. However, the members agreed that the policy must be considered when alterations to an existing course are proposed, especially since the proposal occurs in connection with a growth allocation submission.

Thank you for your cooperation in working with the Commission to identify and clarify the appropriate process necessary to address the relocation of an existing growth allocation award and the revisions to the growth allocation provisions in the law. If you have any questions please feel free to call me at (410) 260-3479.

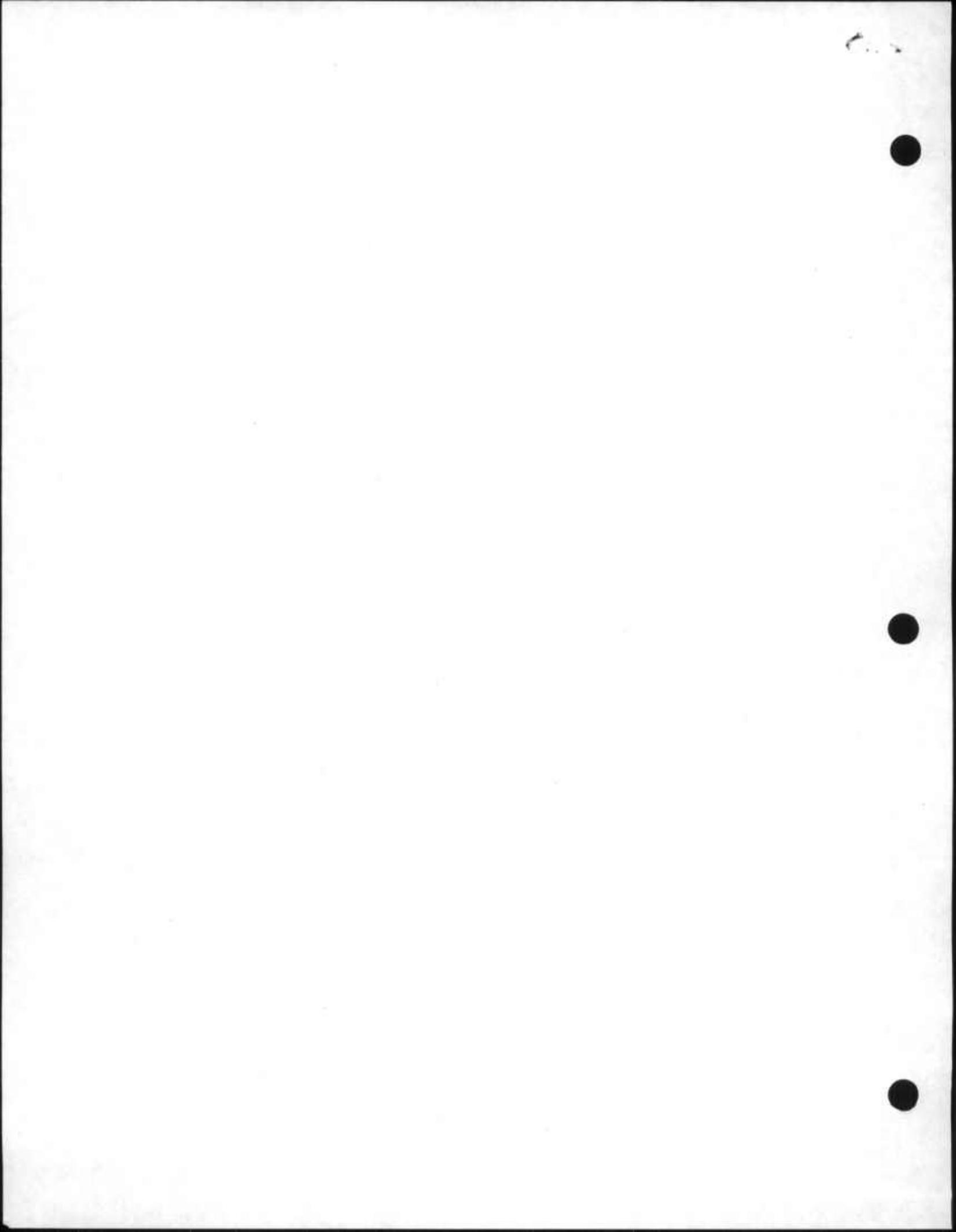
Sincerely,



Mary R. Owens

Education and Conservation Coordinator

cc: Town Commissioners
Bruce Galloway, Town Planner
Roby Hurley, MDP
Lex Birney, Washington Brick and Terra Cotta Company
Ryan Showalter, Esq., Miles and Stockbridge
Marianne Dise, Esq., OAG
Anthony G. Gorski, Esq.



Martin O'Malley
Governor

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Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 1, 2007

Mr. Charles Jackson
St. Mary's College of Maryland
Office of Facilities
18952 East Fisher Road
St. Mary's City, Maryland 20686-3001

**RE: St. Mary's College River and Rowing Center
SMC 59-06**

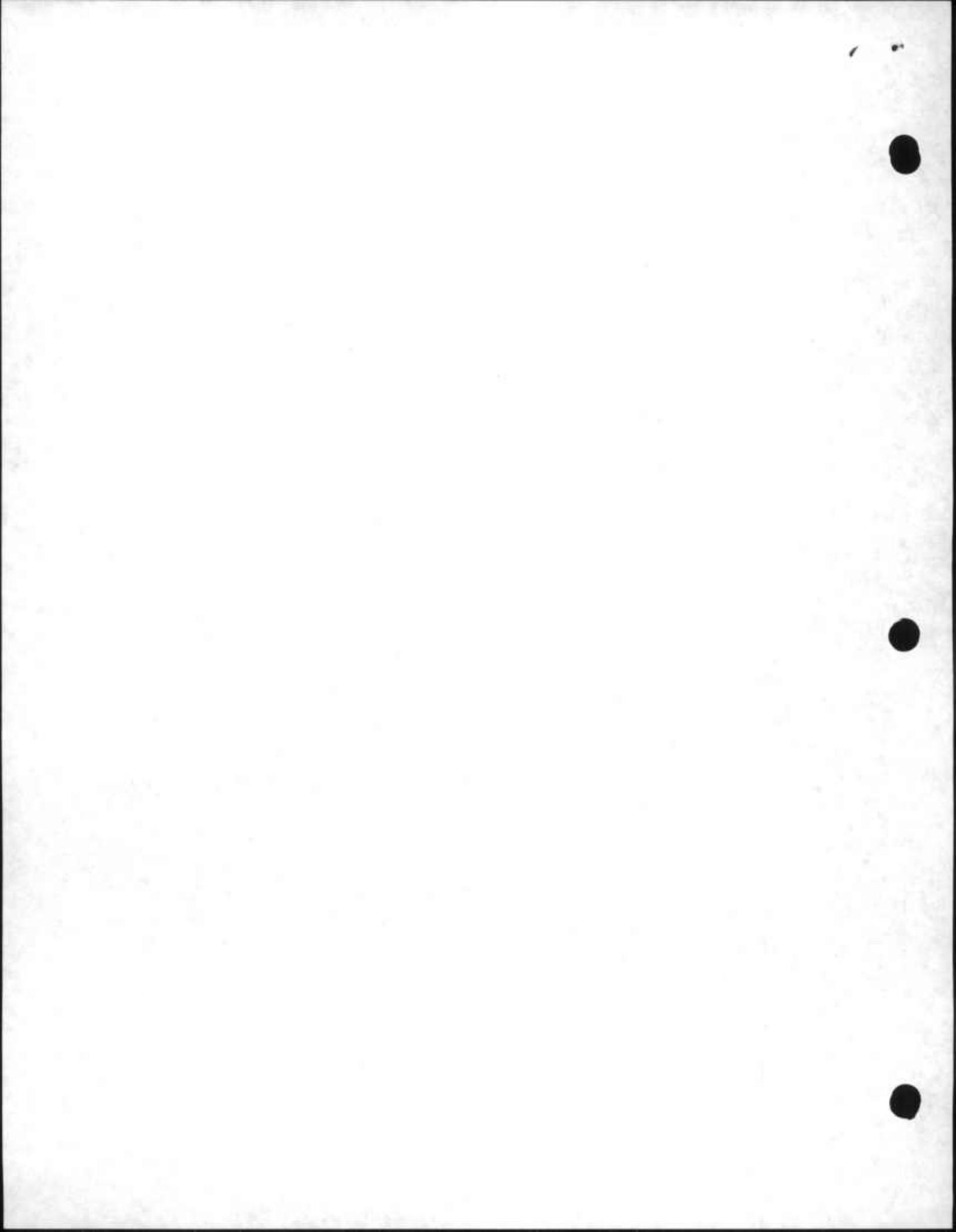
Dear Mr. Jackson:

I am writing to follow up on our recent conversation regarding the St. Mary's College River and Rowing Center Project and the Buffer Management Area designation for the project site. As you know, the Buffer Management Area designation was reviewed and approved by the Critical Area Commission on June 5, 2002; and the River and Rowing Center Project was approved on February 7, 2007. In accordance with the Critical Area Commission's approval, the mapped Buffer Management Area extends roughly from the western edge of the existing pier to the inlet to St. John's Pond. The Commission approved this Buffer Management Area after determining that the existing pattern of development in the area prevented the Buffer from fulfilling the functions of the Buffer as set forth in the Critical Area Criteria. Attachment A shows the limits of the Buffer Management Area designation.

As we discussed, the designation of a new or expanded Buffer Management Area at St. Mary's College would require a full analysis and review by the Critical Area Commission to determine that the existing pattern of development prevented the Buffer from functioning. Areas that are heavily used; developed with roads, parking lots, structures, and utilities; and having little or no natural vegetation are typical of areas that the Commission could consider for Buffer Management Area designation. In general when a Buffer Management Area is designated on a State property with extensive shoreline, it is desirable to limit any impacts to the Buffer to that area. This allows for the remainder of the Buffer to be maintained, restored, or enhanced in order to compensate for the Buffer impacts in the mapped Buffer Management Area.

TTY for the Deaf

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



Mr. Jackson
October 1, 2007
Page 2

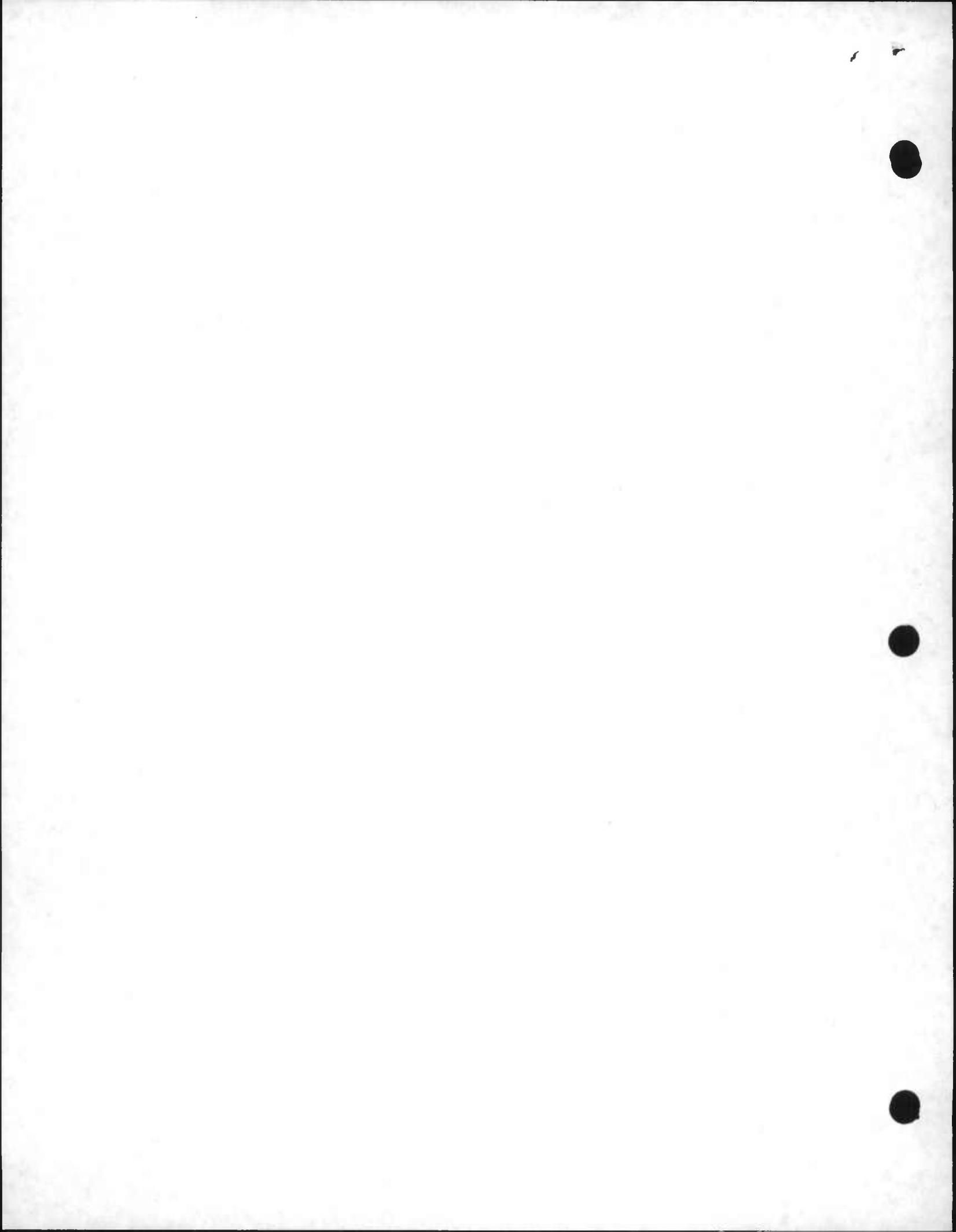
We also discussed the possibility of reconfiguring development on the site and within the Buffer associated with the River and Rowing Center Project. It may be possible to do this depending on the nature and extent of the changes, particularly if the changes to the design reduce the area of disturbance and impervious surface area proposed within the Buffer. Depending on the nature and extent of any revisions to the Plan, they may need to be reviewed by the Critical Area Commission.

I hope this letter provides the clarifications that you need as you and your colleagues continue your discussions about the project. If you have any questions, please call me at (410) 260-3480.

Sincerely,

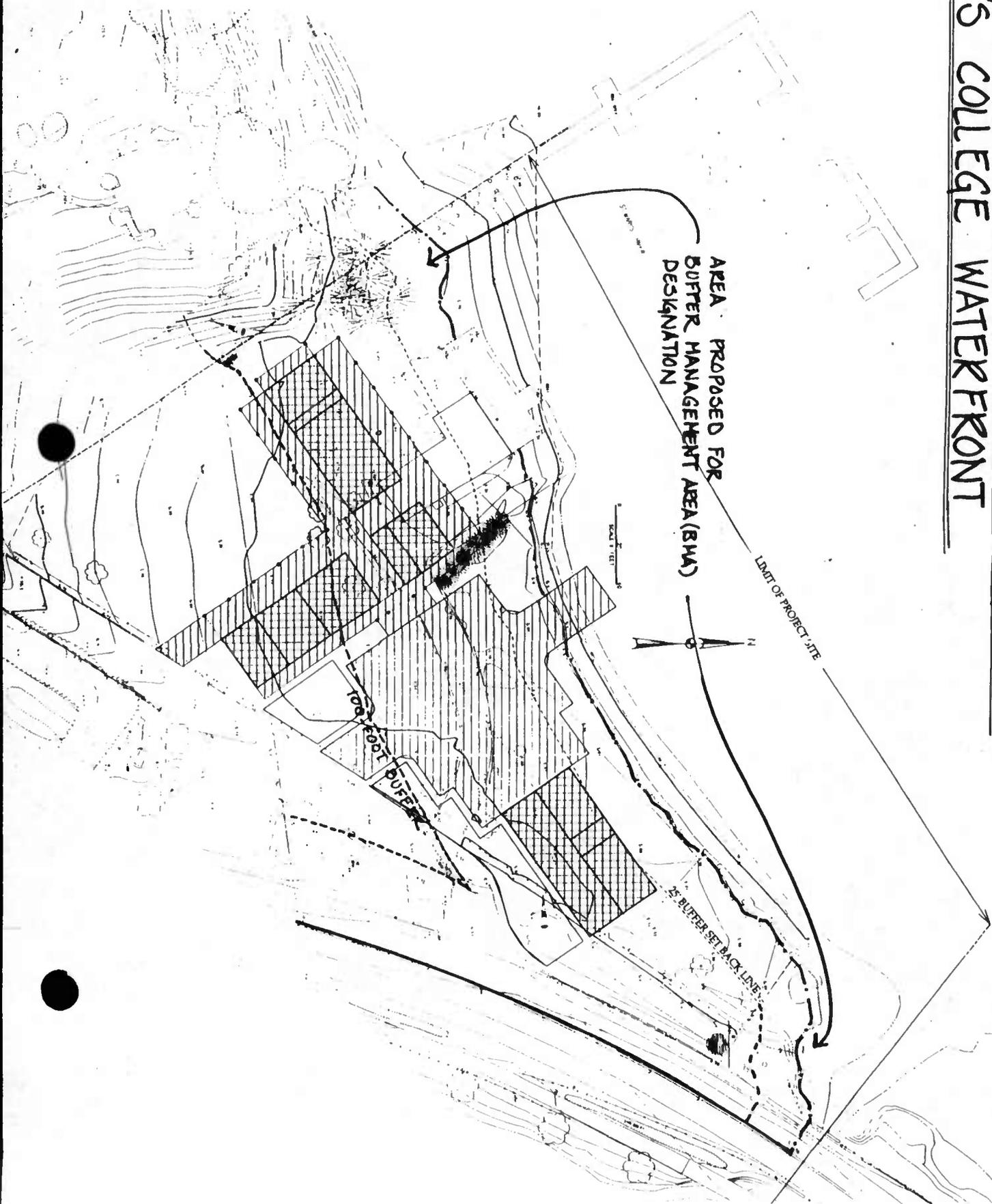


Mary R. Owens
Education and Conservation Coordinator



BUFFER MANAGEMENT AREA (BMA) DESIGNINATION
ST. MARY'S COLLEGE WATERFRONT

SCALE: 1" = 50'-0"



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 19, 2007

Ms. Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P. O. Box 653
Leonardtown, Maryland 20650

**RE: Correction of Critical Area Mapping Mistake, St. Mary's – Ryken High School
Request for Growth Allocation, St. Mary's – Ryken High School**

Dear Ms. Veith:

Thank you for writing regarding the referenced map amendment proposals, which involve changes in the Critical Area designation of the St. Mary's - Ryken High School Property. The property is identified as Parcel 7 on Tax Map 41, Grid 7. The first proposed amendment would change the Critical Area classification of 25.513 acres from Resource Conservation Area (RCA) to Limited Development Area (LDA) to correct a mapping mistake. The second change involves the use of 25.558 acres of growth allocation to change the 25.513 acres of land affected by the mapping mistake plus an additional 3.045 acres of RCA to Intensely Developed Area (IDA). The information submitted has been determined to be complete, and Commission staff will move forward with processing the map amendments. The Chair will make an amendment or refinement determination on both issues within 30 days of the date of this letter, and Commission staff will notify you of her determinations 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



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
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September 18, 2007

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

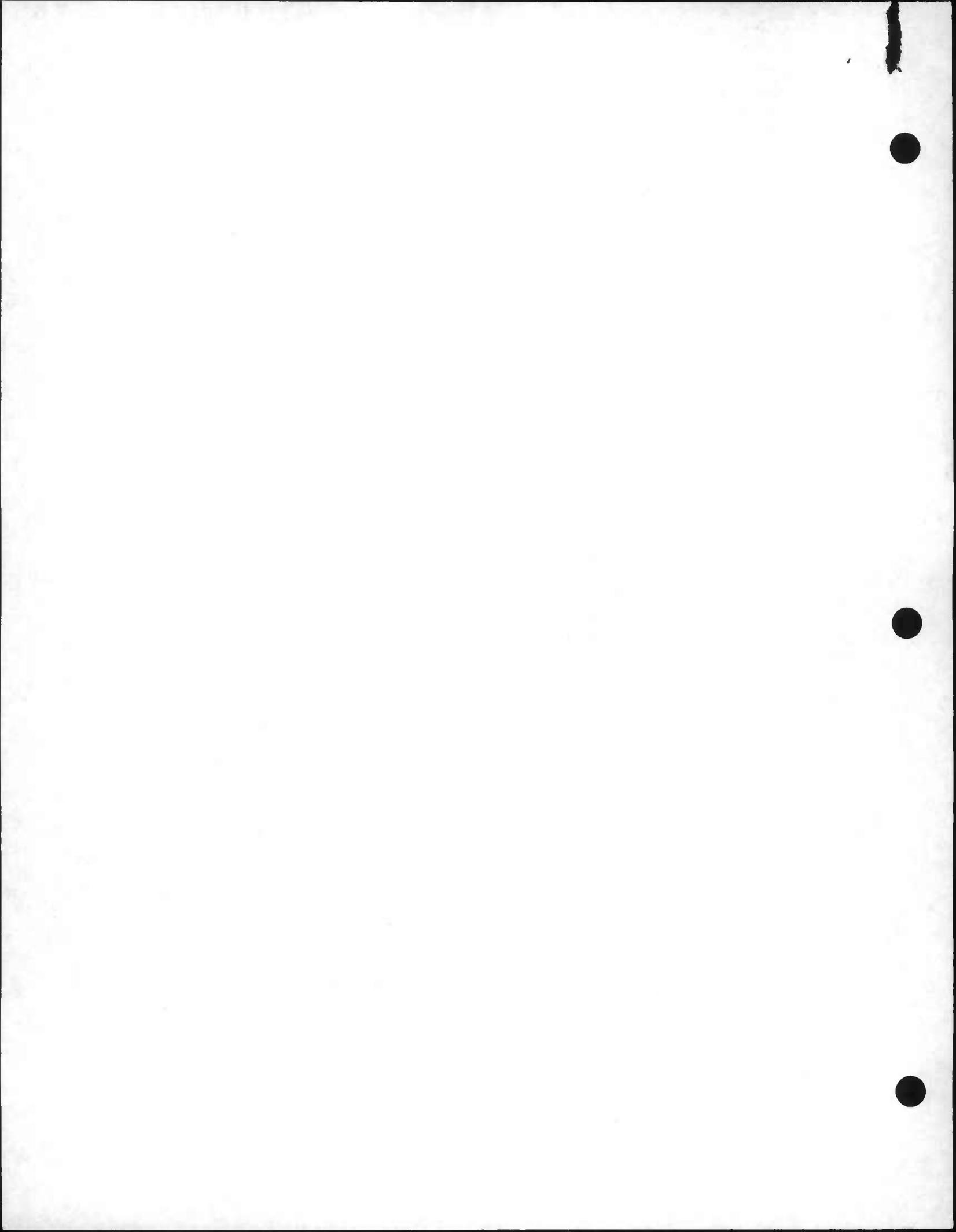
RE: Rousby Hall Woods

Dear Mr. Bowen:

I am writing in response to your request for some additional information regarding the Rousby Hall Woods Subdivision and the issues raised by Ms. Anissa Swanzy in an e-mail sent on September 4, 2007. As we discussed, I have spoken to Ms. Swanzy several times over the last month and attempted to provide clarification regarding the Critical Area regulations.

I agree with the statement in Ms. Swanzy's first comment that it would be difficult to determine that the majority of the property is designated RCA by reviewing the record plat (Plat One Lots 2 Through 7, 19 Through 22 and Conservation Open Space, Rousby Hall Woods). The Critical Area designation is not shown on the lot lay-out, nor is it covered in the "Notes." With regard to her comment regarding variances, we discussed that new subdivisions proposed in the Critical Area cannot be platted if they require variances. The Critical Area Commission would oppose any requests for variances associated with the creation of new lots in the Critical Area.

In her second comment, Ms. Swanzy states that a note on the plat indicates that lots 2, 3, and 22 are allowed in excess of one acre of impervious area each. She is correct; Note 20 states, "The total amount of allowed impervious area for the critical area portion of this subdivision is 4.47 acres. Lots 2, 3 and 22 are allowed up to 1.35 acres of impervious area each." This note, however, is inconsistent with State law. In § 8-1808.3(d)(1) of the Natural Resources Article of the Annotated Code of Maryland, impervious surfaces are limited to 15% of a parcel or lot. This requirement applies to the subdivision as a whole, including the access road, and to each individual lot. The impervious surface limit for the lots would be 12,264 square feet for Lot 2; 9,468 square feet for Lot 3; and 9,690 square feet for Lot 22. There is not enough information on the plat to determine whether the subdivision has been developed in such a way as to have



Mr. Bowen
September 18, 2007
Page 2

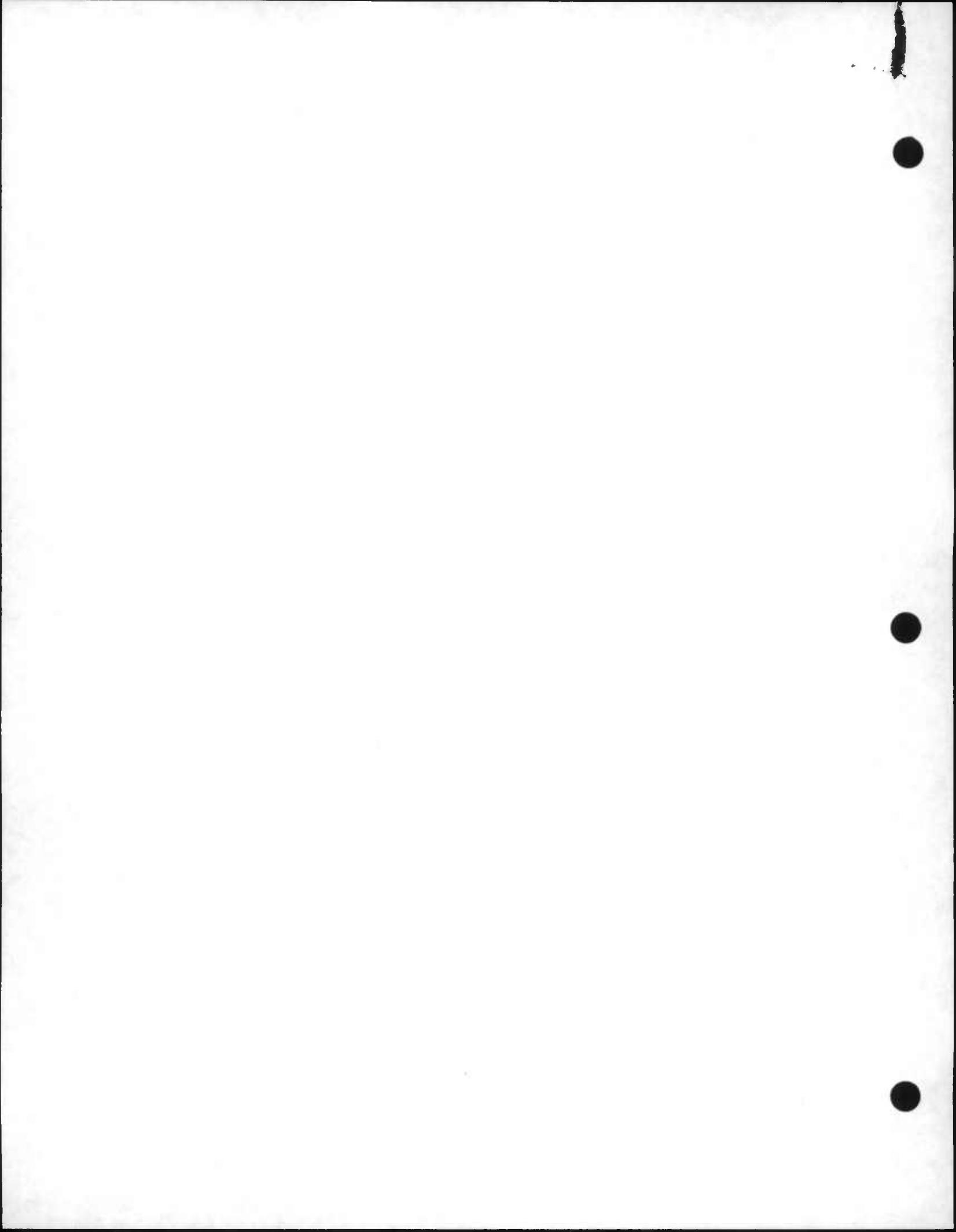
reached or exceeded the impervious surface limit; however, it appears unlikely that this is the case. Regardless, Note 20 as written is problematic.

In Ms. Swanzy's third comment, she states that the problems of the lot owners in the Rousby Hall Woods Subdivision are two-fold, presumably referring to the RCA density issue and the impervious surface area issue. She concludes that the impervious surface area issue may be resolvable, as long as Lots 2, 3, and 22 have not exceeded the 15 percent impervious surface limit on the individual lots, and the area of the road does not exceed the impervious surface limit of the "Conservation Open Space." Based on additional information provided by Dave Brownlee of your staff, it appears that the impervious surface limit has not been exceeded.

With regard to the reference to the "illegal" intrafamily transfer lots, you are probably aware of the controversy surrounding the creation of these lots and their almost immediate subsequent conveyance to non-family members. In 2004, the Commission notified the County that this situation was problematic and inconsistent with the intent of the intrafamily transfer provisions in the Critical Area law. Since then, necessary changes have been made to the County's procedures, and they will be codified when the county's six-year comprehensive review is completed.

The real issue for the property owners on Lots 18 through 21 is that land within the Critical Area was subdivided and included in lots that were not "Critical Area lots." The allowable RCA density for the property was used to create Lots 2, 3, and 22. Any Critical Area land included in other lots in the subdivision is not developable for garages, sheds, or other accessory structures, because all development potential has been exhausted by these three lots. Unfortunately, the poor design of the subdivision created non-Critical Area lots where the portion of the lot outside the Critical Area, the actual developable area, was extremely small relative to the size of the lot. Plat note 13 states that no structures are permitted within the Critical Area of Lots 18 through 21; however, it is my understanding that this note was not transferred to the individual lot surveys provided to the lot purchasers. There is no graphic indication on the plan itself indicating that the Critical Area portion of these lots is restricted from development.

As we discussed in July, the County could use growth allocation to change the designation of the Critical Area portion of the property from RCA to LDA, which would remove the density limitation and allow lots 18 through 21 to be considered developable Critical Area lots. However, in order to do so, the County would need to approve a change to Section 8-1.06 of the County's zoning ordinance to remove the restriction that prevents growth allocation from being used for residential projects. I understand that in general the County does not wish to allow growth allocation to be used for residential projects. However, I believe it would be possible for the County to develop language that would only apply to cases, such as this one, where mistakes (or a lack of clarity) were made in the recording process that have created lots with severe development constraints.



Mr. Bowen
September 18, 2007
Page 3

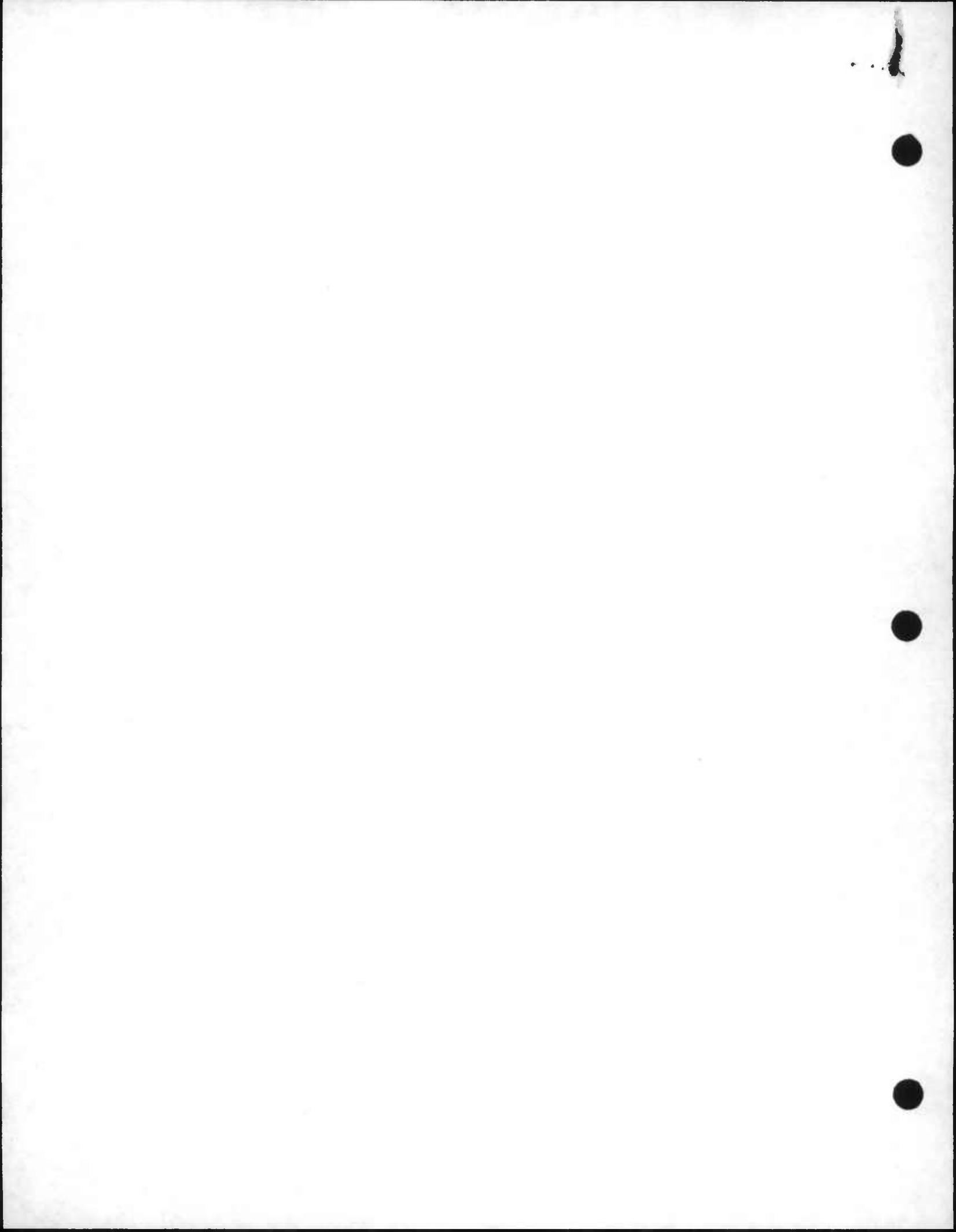
With regard to the fourth issue raised by Ms. Swanzy regarding the installation of a sign for the subdivision, this issue is somewhat different from the issue regarding structures in the Critical Area portion of non-Critical Area lots. I believe that it may be possible to install a sign in the Critical Area portion of the site because the subdivision includes Critical Area lots and the primary subdivision road runs through the Critical Area. The sign would need to be located outside of the 100-foot Buffer, expanded Buffer, and away from steep slopes, and should be located on the north side of the subdivision road (near the lots), not on the "Conservation Open Space" side. Because of the many environmental constraints and required easements near the subdivision entrance, it may be difficult to find an acceptable location for a sign unless a more detailed site plan is prepared.

I hope I have addressed the issues in Ms. Swanzy's e-mail that relate to the County's Critical Area Program. If you and the County Commissioners would like Commission staff to attend a meeting to discuss these issues in more detail, please do not hesitate to call me at (410) 260-3480.

Sincerely,



Mary R. Owens, Chief
Program Implementation Division



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Mary - Leader

Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 9, 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*

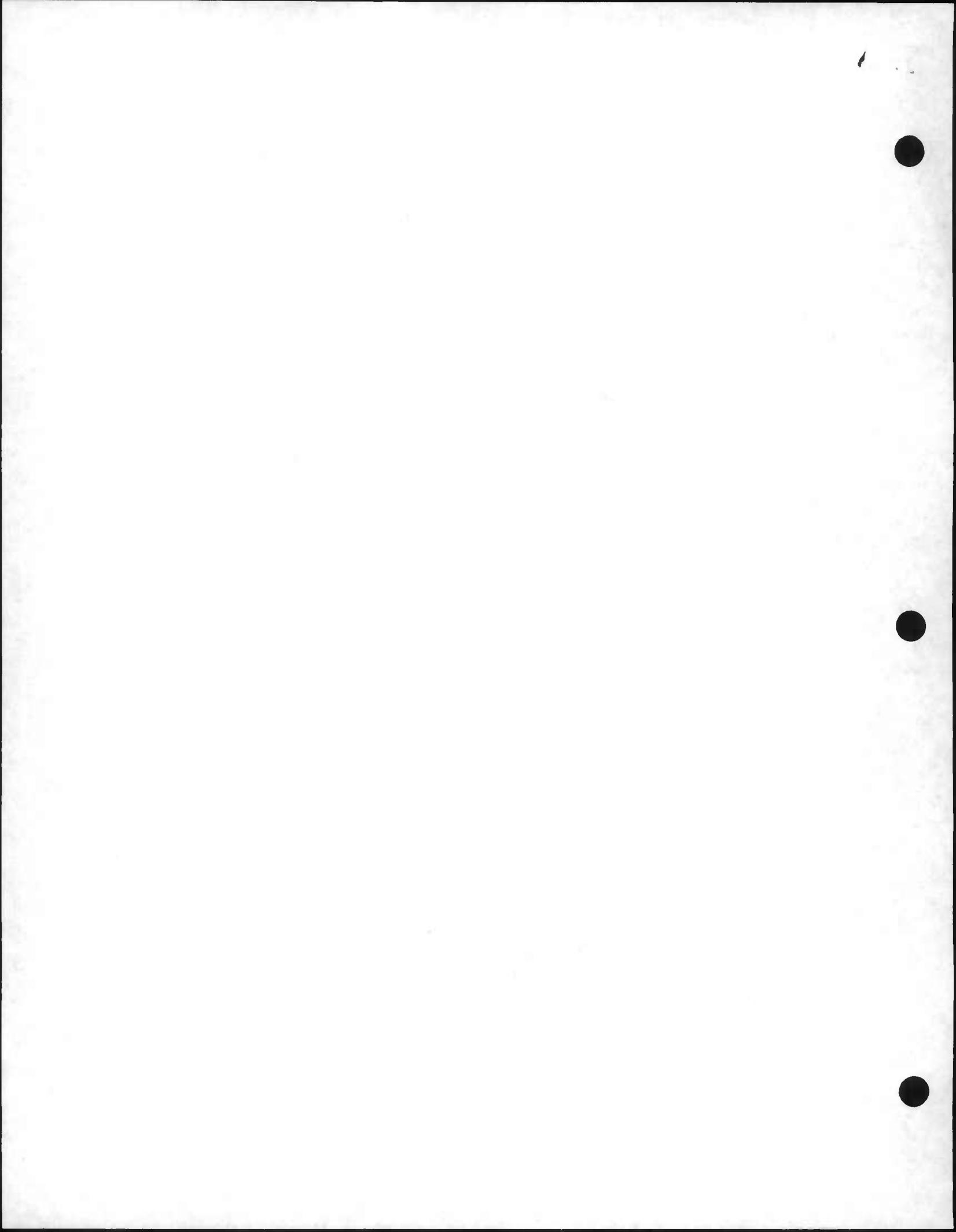
Thank you for providing me with additional information regarding the proposed subdivision. I have reviewed this information and the deeds and plats that you provided me with last month. Based on this information, I have summarized my understanding of the parcel history:

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:

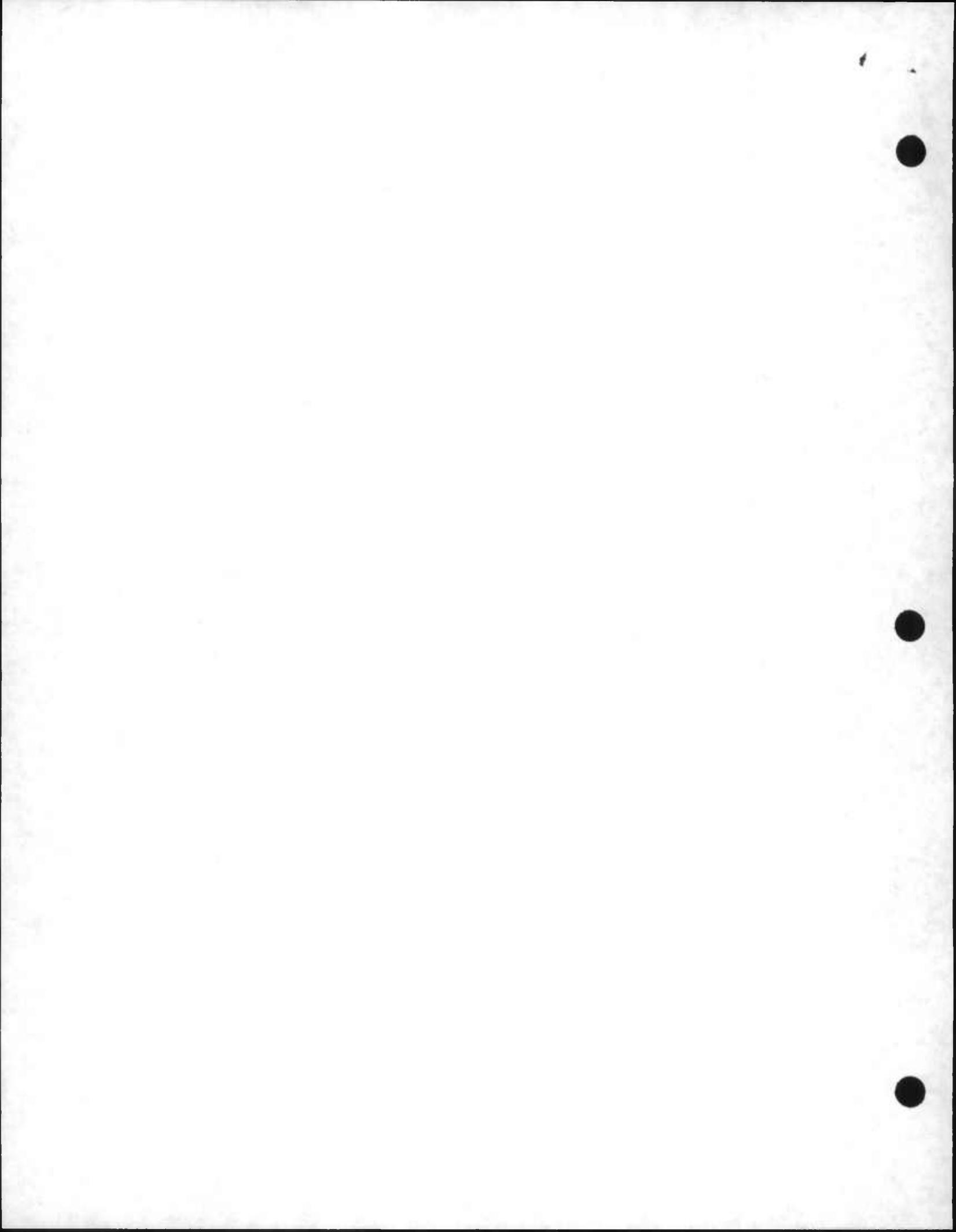
1. The Environmental Report addresses both Parcel 340 and part of Parcel 15. It is my understanding that growth allocation is only being requested for Parcel 340 and Parcel 328. Please clarify.
2. The soil types described in the Environmental Report do not match those types shown on the Growth Allocation Plan for Hodges Family Property – Lot 1. Please verify that the soil types shown on both Parcel 340 and Parcel 328 are correct and include the appropriate information in the Environmental Report. If any soil types on the site are highly erodible or hydric, then expansion of the 100-foot may be required, and this issue must be addressed.
3. It is my understanding that no streams or nontidal wetlands are present on Parcel 340 and Parcel 328.
4. The Commission received correspondence from the Heritage Division of the Department of Natural Resources indicating 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. Further correspondence from Katharine McCarthy in an e-mail dated July 5, 2007 states that because the proposal involves the construction of a single home on each of the two parcels, Parcel 328 and Parcel 340, and these areas are not forested, it is unlikely the construction activity will disturb the breeding colony. Therefore, the Heritage Division has no further comments of the project.



5. The Growth Allocation Plan shows a 300-foot buffer from tidal waters; however, in accordance with Section 41.9.3.e of the St. Mary's County Comprehensive Zoning Ordinance, the sewage easements and all development activities (pools, driveways, sheds, decks, etc.) must be located outside of this area. It is my understanding that the County would also require that this area be established in natural forest vegetation through planting and/or natural regeneration. A conceptual Landscape Plan or Buffer Management Plan addressing this requirement would facilitate the Commission's review of this proposal.

6. As you know, the provisions of § 8-1808.2(c) of the Natural Resources Article of the Annotated Code of Maryland were amended in 2006, and as a result, the Commission's review of growth allocation requests has become more comprehensive. As part of the County's submittal of a formal request for growth allocation to the Commission, the County should address 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 and the following provisions of the Critical Area law:
 - Locate a new Intensely Developed Area in a Limited Development Area or adjacent to an existing Intensely Developed Area.
 - Locate a new Limited Development Area adjacent to an existing Limited Development Area or an Intensely Developed Area.
 - Locate a new Limited Development Area or an Intensely Developed Area in a manner that minimizes impacts to a Habitat Protection Area as specified in COMAR 27.01.09, and in an area and manner that optimizes benefits to water quality.
 - Locate a new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.
 - New Intensely Developed or Limited Development Areas to be located in the Resource Conservation Area shall conform to all criteria of the Commission and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with Section 8-1809(g) (during the required six-year comprehensive review of a local jurisdiction's entire Critical Area Program) of this subtitle.
 - New Intensely Developed Areas should be located where they minimize impacts to the defined land uses of the Resource Conservation Area.

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 submittal is formally submitted to the Critical Area Commission for review and approval, the



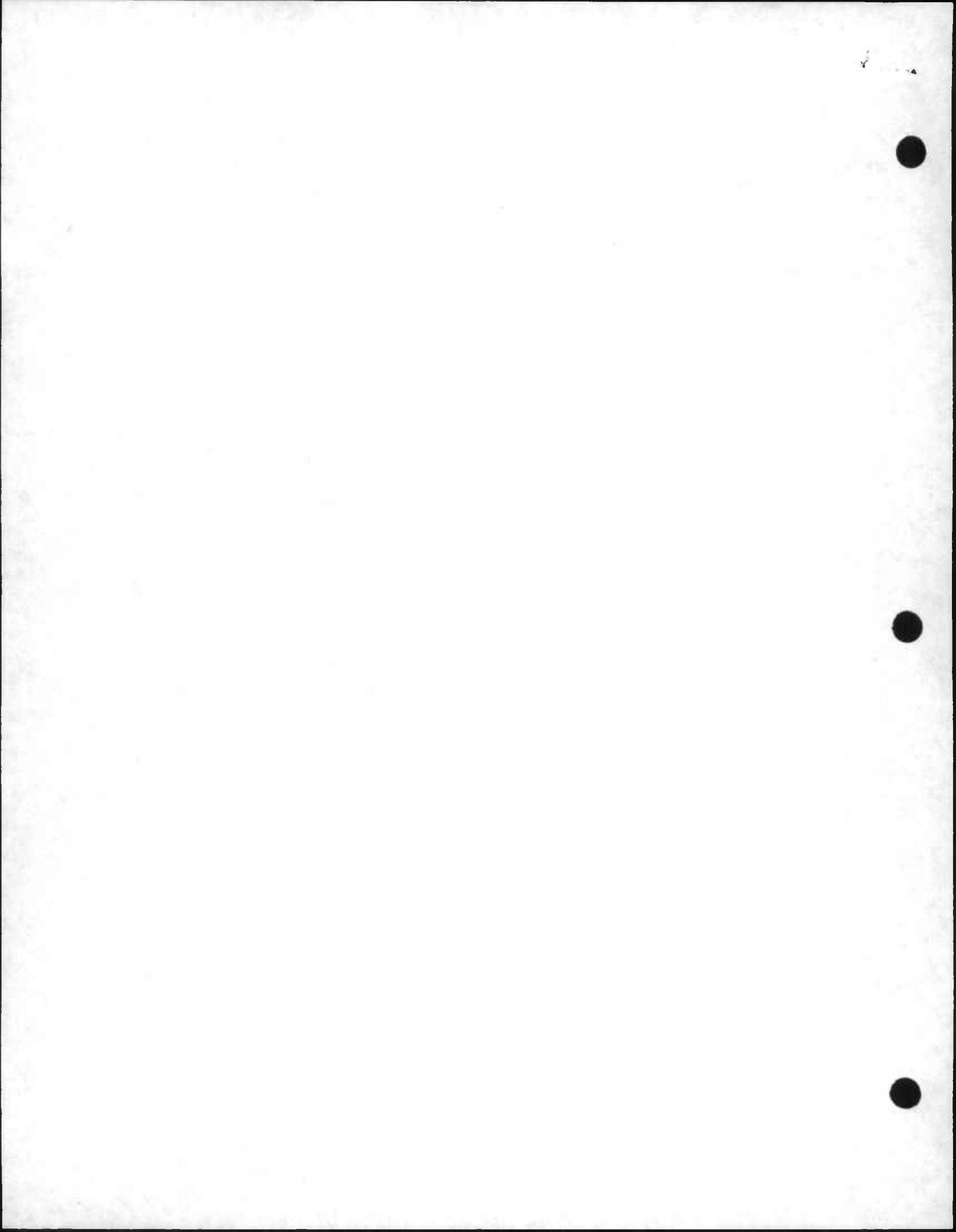
Ms. Veith
August 9, 2007
Page 4

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,



Mary Owens, Chief
Program Implementation Division



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**

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

July 25, 2007

Ms. Norma Powers
558 Rolling Hills Road
P.O. Box 164, Dowell, MD 20629

RE: Preliminary Landscape Plan for the Harbours at Solomons

Dear Ms. Powers:

Enclosed is the current Landscape Plan for the Harbours at Solomons showing the proposed plantings along the road and around the stormwater management facilities. In addition to these plantings, there will be dense plantings in the 30-foot setback from tidal waters and significant plantings on each lot.

Recently Commission staff met with the developer's consultants to discuss possible locations that would be appropriate for "living shorelines" in order to create vegetated wetland habitat in the intertidal zone. Several possible locations were identified, and the consultants are working with Maryland Department of the Environment staff and Commission staff to develop a preliminary design.

If you need any additional information, 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



Mary-Reader

Martin O'Malley
Governor



Margaret G. McHale
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July 18, 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: *Keith*

Thank you for providing revised information on the referenced project. I have reviewed the Site Plans and 10% Rule calculations. The 10% Rule calculations are correct, and the proposed management measures provide the necessary pollutant removal.

The Landscape Plan that was submitted does not include any understory tree species, and these species are desirable in order to create structural diversity. If small shrub species (height generally less than three feet) such as azaleas are proposed to be used, then the quantities of these species should be increased. To the extent possible, lawn areas should be minimized. Of the shrub species proposed, all species except for *Ilex glabra* are non-native species. In general unless the site has specific planting constraints, all plantings should be native species. The U.S. Fish and Wildlife Service publication, *Native Plants for Wildlife Habitat and Conservation - Chesapeake Bay Watershed* provides a comprehensive list of more than 400 native plant species that are appropriate for Critical Area projects.

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

Mary R. Owens, Chief
Program Implementation Division



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**

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

July 16, 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 latest 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. It is my understanding that the latest revision addresses my previous comments and reflects an adjustment to the size and dimensions of the area of forest to be placed under a protective easement. I have reviewed the Mitigation Plan, dated June 2007, and I believe that if the variance request is approved, the proposed Mitigation Plan is acceptable. Thank you for the opportunity to comment on this variance request. If I can provide further assistance, 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

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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July 12, 2007

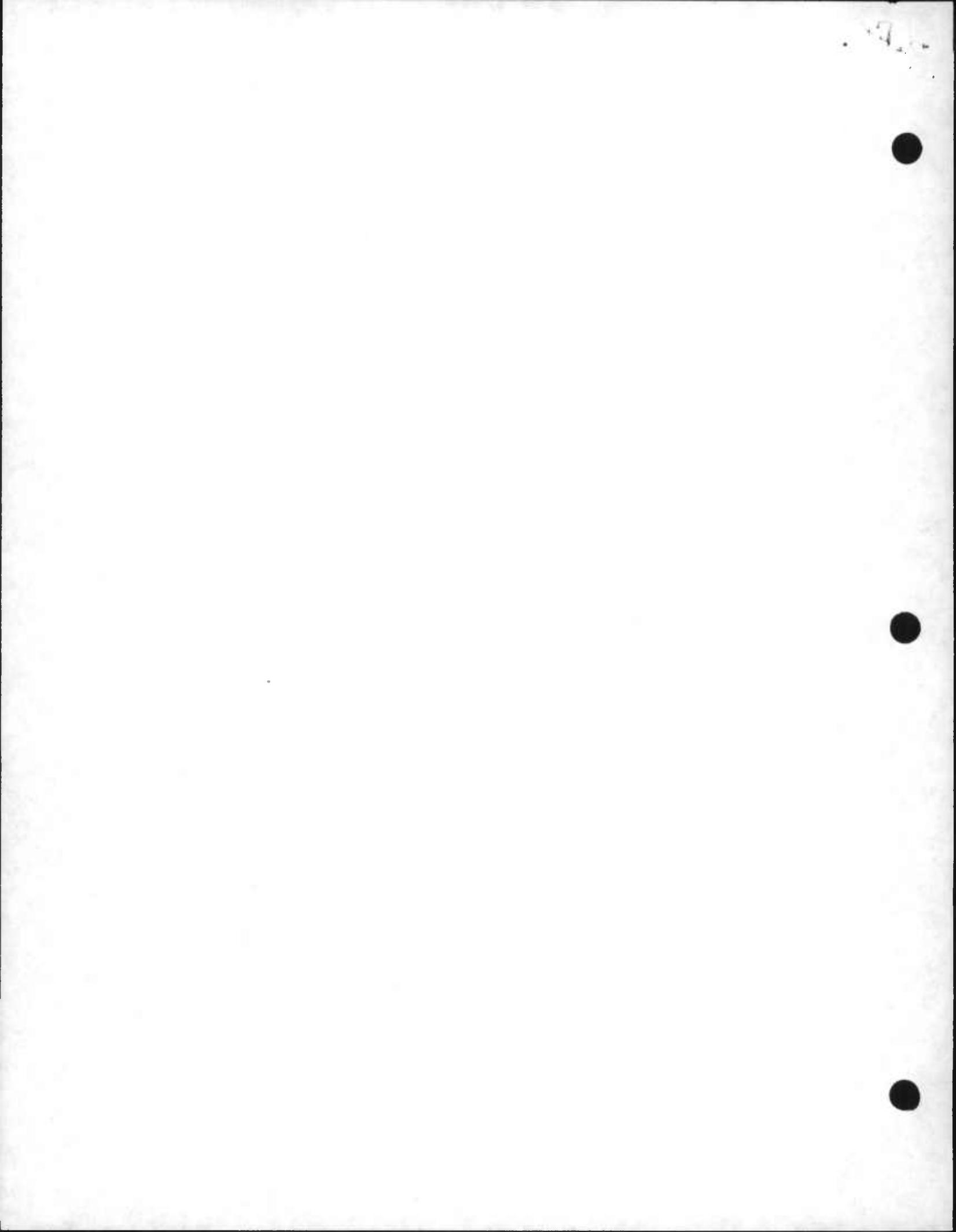
Ms. Anne D. Roane
City of Cambridge
Department of Public Works
705 Leonard Lane
Cambridge, MD 21613

**Re: Hyatt Residences at River Marsh
Multi-Family Residences #1 and Multi-Family Residences #2**

Dear Ms. Roane: *Anne*

Thank you for sending the information for the above referenced project for Multi-Family Residences #1 (MFR #1) and Multi-Family Residences #2 (MFR #2), phases of the Residences at River Marsh. I have reviewed the information submitted and I have the following comments:

1. The plans should include a Critical Area Note that indicates the amount of the site area that is within the Critical Area for MFR #1 and MFR #2.
2. The 10% pollutant reduction calculations, which must be performed for each phase of the project as part of the site plan review, indicate that the pollutant removal requirements for River Parcel #1, MFR #1, and MFR #2 have been satisfied by evaluating these three phases as an overall project and reviewing each phase as an individual drainage area.
 - MFR #1 has a pollutant removal requirement of 4.03 lbs./year, and the load removed for this phase is 3.11 lbs./year, which leaves a deficit of 0.92 lbs./year.
 - MFR #2 has a pollutant removal requirement of 0.39 lbs./year, and the load removed for this phase is 0.33 lbs./year, which leaves a deficit of 0.06 lbs./year.
 - River Parcel #1 has a pollutant removal requirement of 3.12 lbs./year, and the load removed for this site is 4.16 lbs./year, which leaves a surplus 1.04 lbs./year. (These calculations are based on the current proposed build out of this phase with three buildings and associated parking.)

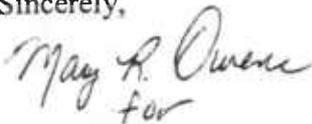


Ms. Roane
Page 2 of 2
July 12, 2007

- In evaluating the three phases as three separate drainage areas, the total pollutant removal requirement for the three phases is 7.54 lbs./year; and the total load removed is 7.60 lbs./year; therefore, the pollutant removal requirement has been satisfied. It should be noted that any area within the drainage area of these three phases should not be included in any calculations for any other phases of the overall development plan for the property.
3. In reference to the pumping station which is located at Impact Site N, it appears that the impact is greater than what had previously been proposed. Please provide revised information for the impact to this site, including a revised mitigation strategy.
 4. It is not clear if the Buffer Management Plan in the areas of MFR #1 and MFR #2 has been, or will be, implemented and maintained in accordance with the Buffer Management Plan approved by the Commission. Prior to the issuance of any occupancy permits for the units in these phases, City staff, with assistance from Maryland Department of Planning staff and Commission staff, shall verify that the Buffer Management Plan has been properly implemented.
 5. On prior site visits an accessory structure, a gazebo, was observed in the Heron Point Area, and it appears to be within the 100-foot Buffer. New development activities and structures are prohibited in this area in accordance with the Commission's approval for this project in 1998. This structure should be removed before any additional authorizations or approvals are issued by the City.

Thank you for the opportunity to provide comments. Please feel free to call me should you have any questions at 410-260-3476.

Sincerely,



May R. Owens
for

Julie Roberts
Natural Resources Planner

Cc: CM 276-07
Ned Howe, Beazer Homes, Inc.
Roby Hurley, MDP

