

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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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 3, 2007

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

Re: Rod-N-Reel Transient Access Pier & Storage Area
Variance Application

Dear Mr. Watson:

Thank you for providing information on the above referenced variance. The applicants are requesting a variance to the 100-foot Buffer and Buffer Exemption Area (BEA) requirements in order to construct a 796 square foot transient access platform with stairs. The property is designated an Intensely Developed Area (IDA), a BEA, and is currently developed with a restaurant and marina. Based on the site plans provided, it appears that approximately 730 square feet of the deck is proposed within the BEA setback, while a small portion is proposed below the Mean High Water (MHW) line.

This office opposes granting the requested variance on this site because the applicant can construct the proposed structure outside of the BEA setback. Therefore, the standard of unwarranted hardship has not been met. The following is an analysis of the requested variance for this project as it relates to the Town of Chesapeake Beach's variance standards.

Construction of a Platform in the BEA Setback

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area Law, especially emphasizing the important of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdictions Critical Area program may be granted only if the Board finds that an applicant has satisfied the burden to prove that the requests meets each and every one of the Town'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 lot or parcel. 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 must make

TTY for the Deaf
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Bill Watson
Rod-N-Reel Transient Pier
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Page 2

an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this case, the proposed structure is located within the BEA setback. As you are aware, particular properties within the Critical Area are designated as Buffer Exempt where it has been demonstrated that the existing Buffer does not fulfill or provide all of the water quality and habitat functions outlined within the Critical Area Law due to existing grandfathered patterns of development or previous disturbance. This designation affords flexibility to landowners to locate development partially within the 100-foot Buffer, but outside of the defined setback area. In this case, the applicant is requesting to further exceed the flexibility provided in the law in order to locate a structure within the BEA setback. Storage of accessory boating equipment and the provision of public assembly areas are uses which can be accommodated outside of the BEA setback, and therefore do not qualify as water-dependent facilities. In addition, we note that the deck structure is proposed in the sole area which currently provides transitional habitat between the land and the water and which serves to provide water quality benefits. To locate an additional structure within this space would be in direct contrast with the spirit and intent of the Critical Area Criteria and with the goals for and intent of the Buffer and BEA.

Finally, it appears that the applicant currently enjoys reasonable and significant use of the property as evident by the existing restaurant and marina. Therefore, denial of this variance would not constitute an unwarranted hardship to the applicant. Since we believe that the applicant has failed to meet each and every one of the Town's variance standards, we recommend that the Board deny the variance request.

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

Sincerely,



Kerrie L. Gallo
Regional Program Chief
CB563-06

Martin O'Malley
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November 27, 2007

Ms. Aimee Dailey
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: Swan Point Buffer Management Plan Submittal

Dear Ms. Dailey:

This letter is in response to the Buffer Management Plan submitted in conjunction with the proposed subdivision request and growth allocation approval known as the Villages at Swan Point. I have reviewed the information submitted to date and provide the following comments:

General Comments

1. Please clarify where the 100-foot Buffer has been drawn from throughout the plan sheets. Specifically, it is not clear whether the location of Mean High Water (MHW) shown on the Buffer Management Plan sheets is detailed as it currently exists in the field today. As you are aware, the Commission explicitly included a condition regarding the delineation of the Buffer as a component of its March 7, 2007 growth allocation approval. The condition reads as follows:

The 100-foot Buffer shall be delineated landward from the mean high water line that MDE certifies in the field and is shown on an application, accepted by MDE, for shore erosion control measures as long as implementation is initiated within the time frame specified in the original license or authorization. Any requests for extensions will require re-certification of the mean high water line as of the date that the request for an extension is accepted by MDE.

This condition was approved by the full Commission to ensure that the limit of the 100-foot Buffer would be delineated in the field and would be based upon the current location of MHW as certified by MDE on the site. The applicant's response to our previous comments indicates that the location of MHW as shown on previous plans was based on a field delineation included in the December 2004/January 2005 MDE tidal wetland application. This delineation is not consistent with the Commission's condition of approval and would need to be amended. Please clarify whether the location of MHW as shown on the Buffer Management Plan sheets has been amended.



2. Please ensure that revised plans include greater detail regarding the condition of the existing shoreline, including clearly identifying the location of tidal wetlands, tidal guts, and nontidal wetlands. The current shoreline areas as depicted on the plan sheets are not detailed enough to determine whether the limits of the 100-foot Buffer have been properly delineated.
3. A significant portion of the proposed impacts to the Buffer relate to proposed shore erosion control measures. In general, the impacts proposed appear excessive and unnecessary. Specifically, grading within the Buffer far exceeds that which appears necessary to accommodate reasonable stabilization of the shoreline. In addition, it appears that a significant amount of disturbance to the Buffer is proposed to provide access to the shoreline. Given that the majority of shore erosion control measures include sills and sand fill, it would seem that installation could best be accomplished from the water or from the newly created beach area. While staff anticipates providing additional detailed comments regarding impacts to the Buffer associated with shore erosion control measures, the preliminary sediment and erosion control plans referenced throughout the plan sheets were not provided to this office. Therefore, we are unable to offer meaningful comments on this impact at this time. Please provide Commission staff with a copy of the appropriate plan sheets detailing the shore erosion control measures and their impacts.
4. Please provide information regarding the timing and/or phasing for completion of the proposed mitigation. Will the mitigation be provided as the subdivision is developed in phases or will the entirety of the mitigation be provided upfront? Please specify.
5. The plan sheets do not specify any impacts through the Buffer for stormwater outfalls. Any proposed outfalls will need to be included and shown on the Buffer Management Plan sheets at the time they are reviewed and approved by the Commission. Please clarify whether any outfalls are planned within the Buffer.
6. The width and location of the piers proposed throughout the Buffer Management Plan sheets do not match the width and location of piers shown on the Maryland Department of the Environment (MDE) wetlands permit application. Please ensure that these documents are rectified to reflect a consistent width and location.
7. Detailed cross section figures are needed for impacts associated with plan sheets 15-19. The cross sections must depict the 100-foot Buffer pre and post development, including existing and proposed grades and existing and proposed forested cover. The cross sections need to include not only the proposed sill or breakwater sections, but also the entire extent of the Buffer. The cross sections must contain sufficient detail to justify the amount of impact proposed within the Buffer and associated with the proposed shore erosion control measures.
8. In general, the proposed pedestrian trails should further minimize impacts to the Buffer. Throughout the plan sheets, the trails differ in width and in some places, propose an excessive width of 12 feet. Where piers are planned, trails should provide the most direct route through the Buffer to access the pier. In addition, it is not clear what type of construction material is planned for the trails. Where

located within the Buffer, the trails should utilize pervious construction materials such as wood or mulched paths.

Comments on Specific Plan Sheets

Plan Sheet 2/22

1. Within the Buffer Management Area (BMA), the 25 and 50-foot setbacks have been shown, but the limits of the 100-foot Buffer have not. Please have the limit of the 100-foot Buffer shown on future submittals.
2. Please verify that the proposed structures shown within the 25-foot BMA setback are single-family residential units. The narrative included with the plan sheets describes residential uses having a 25-foot setback and commercial uses having a 50-foot setback. We note that the 25-foot setback applies only for single-family residential. Multi-family structures require a 50-foot setback.
3. The Bufferyard planting chart proposes a 400 square foot planting credit for planting one tree and two shrubs. This credit structure is not adequate. To obtain 400 square feet of credit, the applicant must either plant a tree and three shrubs or utilize the chart within the Commission's Buffer Exemption Area (BEA) policy.

Plan Sheet 4/22

1. It does not appear that an existing forest cover line has been included within the plan sheets within the individual Buffer zones. In addition, the plan sheets should detail all existing vegetation within the Buffer in order to establish a baseline for existing site conditions. Please have these descriptive details added on all plan sheets.

Plan Sheet 5/22

1. It appears that the trail proposed through the Buffer to access the proposed pier is 12-feet wide. This width is excessive and should be further minimized. In addition, the trail has not been located in the location and/or alignment which affords the least amount of disturbance to the Buffer. The trail should be realigned to minimize the amount of disturbance to the Buffer. This could be accommodated by moving the proposed access trail to the west.

Plan Sheet 6/22

1. There appear to be impacts to the MDE 25-foot nontidal wetland Buffer for the purpose of constructing pedestrian trails. It does not appear that these impacts have been included within the wetlands permit requested from MDE.

Plan Sheet 8/22

1. It appears that a portion of the 100-foot Buffer has not been properly expanded to include an adjacent nontidal wetland (easternmost portion of this sheet).
2. Beginning on Sheet 8 and occurring throughout Sheet 14, the temporary impact area table is inconsistent with itself and with the table on other sheets in regard to the planting ratios used, total acreages, zone identifications, etc. Please have the applicant review each sheet to ensure that the information provided is accurate and consistent throughout.
3. The proposed pedestrian trail appears to end at the limits of the 100-foot Buffer. Please verify whether this is the intended effect or an error.

Plan Sheet 9/22

1. Throughout the County and State review of the proposed growth allocation for Swan Point, as well as within the preliminary subdivision plans, the existing golf course has been treated as a separate and individual grandfathered property and use. Therefore, all existing impacts within the Buffer, as well as summaries of any existing vegetation associated with the golf course property should be separated out from the remainder of the property, which is being reviewed as a newly platted subdivision.

Plan Sheet 13/22

1. There appear to be impacts shown within nontidal wetlands as well as within the 25-foot MDE nontidal wetland buffer for the purpose of shore erosion control which do not appear to be included in the MDE wetlands permit application. Please provide a reference to where these impacts can be found in the wetland permit application.
2. It appears that there are two lines shown which mark the limit of the 100-foot Buffer. One line is labeled CAB and the other is shown as a heavy, black line. The two lines do not match.
3. There appears to be an area on the easternmost portion of this sheet where the 100-foot Buffer has not been properly expanded to include contiguous nontidal wetlands.
4. Please provide explanation as to the need for a 20-foot wide temporary impact area. The proposed width seems excessive in order to accommodate shore erosion control. It appears that the shoreline could be best accessed by barge in this location. In addition, it appears that temporary impacts are proposed within a nontidal wetland. Please indicate whether this impact has been included within the MDE wetlands permit application.
5. The note at the bottom of this sheet states that if the final trail alignment does not impact trees, then no impact will be considered. Within the Buffer, all disturbance associated with the construction of the trail will require mitigation, regardless of whether individual trees will be removed. Disturbance

includes any grading, clearing of understory vegetation, and the placement of trail materials. On future submittals, please ensure that the entire limit of disturbance for the trail is calculated and mitigated for within the Buffer.

Plan Sheet 14/22

1. Impacts to a nontidal wetland and its buffer appear proposed in conjunction with what appears to be shore erosion control access. Please indicate whether this impact is included within the MDE wetlands permit application.

Plan Sheet 15/22

1. There appears to be a portion of the Buffer shown measuring less than 100 feet. Please correct this error.

Plan Sheet 16/22

1. There is a proposed beach access shown through the Buffer. Please verify that the proposed beach will be a public amenity. As with the proposed pedestrian trails within the Buffer, the public nature of the beach should be specified within the Buffer Management Plan narrative.

Plan Sheet 17/22

1. There are two access paths proposed through the Buffer leading to the proposed beach habitat area. Please provide an explanation as to why access to this area is necessary. Impacts to the Buffer to access an area otherwise intended to serve as a habitat protection area seem excessive and unnecessary.

Plan Sheet 18/22

1. Portions of the proposed Potomac Breeze Drive are located within the 100-foot Buffer. Road impacts to the Buffer in this location were not contemplated as part of the Commission's growth allocation approval. In addition, the road does not appear to have been included and calculated as a permanent impact. Commission staff will not recommend approval of the Buffer Management Plan where a new road is located in the Buffer and where a variance has not been properly obtained.
2. Please provide information which describes how the tidal flow will be maintained in the area of the tidal gut and proposed shore erosion control sill.

Plan Sheet 19/22

1. The extent and width of the proposed pedestrian trails throughout the 300-foot setback are excessive and inconsistent with the intent of the 300-foot setback area. Please have the applicant reduce the

overall impact to the area by eliminating portions of the proposed trails and by reducing the width of the remaining trails.

2. Please clarify the nature of the large looping area of impact shown at the shoreline on this sheet.

Plan Sheet 20/22

1. The expansive area of meadow proposed within the 300-foot setback is inconsistent with condition #12 of the Commission's growth allocation approval. Plantings within the setback must be altered to establish forested cover as a priority. Areas of meadow habitat as proposed may be included, but may not constitute the majority of the setback plantings. For reference, the Commission's condition #12 is provided below.

The 300-foot setback on the "Horse Farm Parcel" shall be established in forest vegetation like the 100-foot Buffer in order to provide appropriate riparian forest cover for wildlife that are currently using the site. The establishment and maintenance of this area shall be included within the Buffer Management Plan for the project. This area shall also be bonded to ensure effective implementation.

2. The area of permanent impact mitigation detailed on this sheet appears to be inaccurate. Specifically, it would appear that 5.93 acres of mitigation is necessary while only 5.14 acres is being provided. See comments under Plan Sheet 21 for additional clarification.

Plan Sheet 21/22

1. The Zone 1&2 impervious area mitigation plant list chart is inaccurate. Within the 100-foot Buffer Management Area, impervious surfaces must be mitigated at a 2:1 ratio (1.22 acres). Currently, it appears that mitigation has only been contemplated at a 1:1 ratio for all new impervious surfaces. Please correct the chart and mitigation totals.
2. The calculations within the overall permanent impact mitigation chart are not accurate. Specifically, impacts to Zone 5 require 1.47 acres of mitigation, resulting in an altered mitigation total of 4.71 acres. When this new total is added to the revised impervious surface area mitigation total, it appears that 5.93 acres of mitigation are required.

Proposed Plant Species

In general, the plant list provided requires additional variety and should be modified to match the conditions specific to varying portions of the site. For example, portions of the Swan Point property are vulnerable to windy conditions and/or salty conditions. In these locations, plants which tolerate wind and/or salt spray should be used. Currently, the Buffer Management Plan proposes to utilize only a handful of species as mitigation. These species choices do not appear to take into account the existing species composition of the forest onsite or the varied site conditions. Failure to consider such elements is likely to result in a high mortality rate and require additional plantings and maintenance. Provided below

Aimee Dailey
Swan Point Buffer Management Plan
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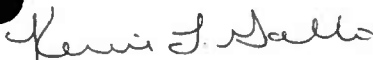
are additional plant species which would seem appropriate for the Swan Point property. Those listed with an asterisk indicate a tolerance for windy, salty conditions.

Loblolly Pine, Virginia Pine, Eastern Red Cedar*, Blackgum, Red Maple, Sassafras, Hackberry, Persimmon, Bayberry*, American Holly, High Tide Bush*, Highbush Blueberry*, River Birch, and Shadbush/Serviceberry*.

In addition to concerns regarding the species composition as proposed, staff requires additional justification for the differentiation in stock sizes, number of plantings, and spacing requirements proposed throughout the project areas. For example, mitigation using whips is proposed in some areas while seedlings and/or containerized plantings are proposed in other areas. What factors did the applicant consider in providing different stock sizes in different areas? If the applicant proposes to take site specific conditions and factors into consideration for choosing the sizes and quantity of mitigation plantings provided, it would seem that the same consideration could be given in expanding the diversity and suitability of plant species proposed.

Thank you for the opportunity to provide comments on the Buffer Management Plan. Please provide a revised set of plans which addresses the comments outlined above. If you have any questions, please contact me at 410-260-3482.

Sincerely,



Kerrie L. Gallo
Regional Program Chief

Cc: Ren Serey, CAC
Marianne Dise, Assistant Attorney General



Kevin - Reader

Martin O'Malley
Governor



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November 7, 2007

Mr. Charles Rice
Department of Planning and Growth Management
P.O. Box 2150
La Plata, Maryland 20646

RE: Swan Point FIDS Mitigation and Habitat Protection Area Plan

Dear Mr. Rice

The purpose of this letter is to follow up on the recent presentation to the Critical Area Commission on October 3, 2007 by Mr. Jon Dunn on behalf of the Swan Point Development Company and the subsequent meeting with you, Aimee Dailey, Critical Area Commission staff, and Patrick Naehu of the Nature Conservancy on October 16, 2007. The purpose of the meeting was to discuss the Critical Area Commission's condition of approval of the Swan Point growth allocation request relating to Forest Interior Dwelling Species mitigation, the mitigation credit for the protection of existing FIDS habitat, the provisions of the protective easements, the submittal requirements for the FIDS mitigation element of the Habitat Protection Plan, and the specific properties that are currently being considered as potential mitigation sites through planting of new forest or conservation of existing forest

Conditions of Approval

The Commission's approval of the growth allocation request includes the following two conditions that relate to the conservation of FIDS habitat and the mitigation for impacts to FIDS habitat:

- Prior to approval of the first preliminary plan by the County, the final habitat management plan shall be submitted to the full Commission for review and approval.
- Prior to approval of the first preliminary subdivision plan or preliminary site plan by the County for any portion of the Villages at Swan Point, the required 404 acres of FIDS mitigation shall be addressed within a revised habitat management plan. The plan shall clearly indicate all on-site areas that are proposed to be planted and provide a planting plan and maintenance program necessary to ensure the establishment of FIDS habitat at maturity. The final habitat management plan shall be submitted to the Commission for review and approval. In addition, all conservation easements for both on-site and off-site areas shall be





reviewed by Commission counsel and recorded prior to any local approvals of preliminary subdivision and site plans.

In order to comply with these conditions, the developer must submit a Habitat Protection Plan that includes the FIDS Mitigation Plan to the County for review. (The developer is also required to submit a Buffer Management Plan, but this should be a separate submittal.) If the submittal is satisfactory to the County, the submittal will then be forwarded by the County to the Commission. The submittal should be received by the Commission at least four weeks prior to the date of the Commission meeting at which the proposal will be discussed. This is necessary to allow adequate time for staff to review the proposal before it is mailed out to the Commission members ten days before the meeting date.

Mitigation Credit for Protection of FIDS Habitat

As you are aware, Commission staff has met with various representatives of the developer's team over the last year to discuss various mitigation proposals and strategies. At several meetings, alternative mitigation credits have been proposed, and there have been discussions about mitigation credits associated with the permanent protection of FIDS habitat inside and outside the Critical Area. Commission staff has discussed this matter with Department of Natural Resources Heritage Division and the original drafters of the Critical Area Commission's FIDS guidance. It was determined that in accordance with the Commission's guidance, FIDS mitigation credit for the placement of permanent protective easements on existing forested lands will be at a ratio of one-half to one, or one acre of credit for every two acres protected. This credit ratio will apply both inside and outside the Critical Area.

At a recent meeting with the developer's consultants, protection of forested lands at the Horse Farm Property at Swan Point was proposed as a potential element of the mitigation proposal. The forested lands on this property have already been factored into the overall FIDS calculations; therefore, this acreage cannot be counted towards meeting the mitigation requirement. Planting of open field areas on this property can count towards the mitigation requirement as long as the areas that are planted meet the acreage, configuration, and contiguity requirements.

Provisions of Protective Easements

At the recent meeting and over the last several weeks, there have been questions about the types of activities and land uses that can be permitted on properties that are proposed for FIDS habitat protection through execution of a permanent conservation easement. It is the Commission's position that any proposed activity or land use that is proposed should be explicitly provided for in the easement for that particular property. If an activity is not specifically included as a permissible activity, it would not be permitted on that property without revising the easement.

The following activities have been discussed as potentially permissible:

1. Pedestrian paths not to exceed six feet in width and designed to maintain canopy coverage and avoid clearing. Existing paths should be used to the greatest extent possible.



2. A picnic pavilion on the Heuer Tract, which is proposed to be constructed on the foundation of a dwelling that is proposed to be demolished. The pavilion would not exceed 600 square feet, and it would not be rented, leased, or used for special events or large gatherings. There would be no parking at the pavilion.
3. The harvesting of timber as part of a management plan to enhance the quality of the FIDS habitat.
4. The sale of Transferable Development Rights (TDRs).

Submittal Requirements for the FIDS Mitigation Element of the Habitat Protection Plan

In order for the Charles County and the Critical Area Commission to review and approve the FIDS Mitigation Element of the Habitat Protection Plan, the following information must be submitted for each property:

1. An aerial photograph of the property with the property boundaries and the areas proposed for mitigation credit clearly identified
2. A site context map showing the relationship of the area proposed for mitigation credit to other protected lands. Protected lands include, but are not limited to, lands protected for conservation purposes by Charles County, Maryland DNR, The Nature Conservancy, and the federal government.
3. Tax map and parcel number of the property.
4. Information or a map that shows the location of the property relative to roads and intersections.
5. The total acreage of the property.
6. The acreage of the property in the Critical Area if applicable.
7. The acreage of the property proposed for planting or for protection by easement.
8. A description of the property that includes information supporting its value as a FIDS mitigation site. This information should describe the existing forest cover, topography, and relevant physical characteristics. If the property requires specific management measures to qualify as FIDS habitat, the necessary management measures and an estimated time frame should be included. Any additional information that supports the consideration of the site for permanent protection for conservation purposes, such as the presence of threatened or endangered species should be included.
9. A draft conservation easement for the property. (In accordance with the conditions of approval, all conservation easements for the off-site areas shall be reviewed by Commission counsel and recorded prior to any local approvals of preliminary subdivision and site plans.)



Mr. Rice
November 7, 2007
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Inventory of Potential Mitigation Sites

Over the last year, Commission staff have reviewed and discussed numerous mitigation proposals including a variety of different sites proposed for planting, and a variety of different sites that are forested and proposed for permanent protection as FIDS habitat through conservation easements. At this time, it is the Commission's understanding that the properties identified and briefly described in Attachment A are currently proposed as potential mitigation sites and warrant continued evaluation and consideration. If some of these properties are no longer being considered, please advise Commission staff.

I hope this letter clarifies the status of the Commission's review of the preliminary information regarding the FIDS Mitigation Element of the Habitat Protection Plan and that it provides some direction regarding the next steps in obtaining approval of the Plan by the Commission. If you have any questions, please contact me at (410) 260-2382 or Mary Owens at (410) 260-3480.

Sincerely,



Kerrie Gallo
Regional Program Chief

cc: Saundra Canedo, OAG
LeeAnne Chandler
Aimee Dailey, Charles County Planning
Jon Dunn, U. S. Steel
Patrick Naehu, The Nature Conservancy
Mary Owens
Swan Point Development Company



ATTACHMENT A
INVENTORY OF POTENTIAL FIDS MITIGATION SITES

Coldspring Farm (Tax Map 53 - Parcel 40)

This partially forested property is a surface mine that is proposed for reclamation in the near future. The property is located south of Maryland Route 6 near the headwaters of Nanjemoy Creek. The property consists of 339 acres and approximately 192 acres are forested. The existing forest is fragmented by the mining operation. The property is characterized by varying topography that includes narrow ridges and flat bottomlands along numerous streams and drainageways that empty into Hilltop Fork, a major tributary of Nanjemoy Creek. The property is located just outside the Critical Area. It is the Commission's understanding that the reclamation plan does not require reforestation of the entire area that was mined, which may provide opportunities for FIDS habitat creation. At this time, the property is proposed for an undetermined acreage of FIDS habitat creation, and the property is proposed for FIDS habitat protection through a permanent conservation easement on existing forested lands. At this time, a mitigation credit for creation and protection cannot be estimated. This property has been discussed with Commission staff, but it has not been visited by Commission staff and DNR staff and has not yet been qualified as an acceptable mitigation site.

Former Heuer Tract (Tax Map 60 - Parcel 65)

This partially forested property is located off of Beaverdam Road near its intersection with Liverpool Road in Nanjemoy. The property is not located within the Critical Area; however Beaverdam Creek runs through the property. The former Heuer Tract consists of 126.37 acres and approximately 60 percent of the property is forested. The land is owned by The Nature Conservancy, and there are several open field areas that are proposed for afforestation. Field 1 consists of 21 acres, Field 2 consists of one acre, and Field 3 consists of one acre. The property is proposed for FIDS habitat creation through planting of 23 acres of open field for a mitigation credit of 23 acres. This property has been discussed with Commission staff and DNR staff, and it has been qualified as an acceptable mitigation site.

Former Shotwell Property (Tax Map 60 - Parcel 121, Lot B2B)

This small partially forested property is located off of Adams Willett Road southwest of Nanjemoy. The property is not located within the Critical Area. The tract consists of 7.25 acres and slightly more than 50 percent of the property is forested. The land is owned by The Nature Conservancy, and it is contiguous with other forested lands owned by The Nature Conservancy. This property can be considered as a potential component of the mitigation package because it is adjacent to other permanently protected forested lands that have been identified as FIDS habitat. The property is proposed for FIDS habitat creation through planting of three acres of open field for a mitigation credit of three acres. A site inspection is necessary to determine if the open field area has naturally regenerated, in which case, the property would not qualify as a FIDS habitat creation site. This property has been discussed with Commission staff and DNR staff, and it has been qualified as an acceptable mitigation site if the open field area is determined to be appropriate for planting.



Former Nanjemoy Group – Hancock Property (Tax Map 69 – Parcel 130)

This mostly forested property is located at the intersection of Route 6 and Hancock Run Road, south of Nanjemoy in the area known as Grayton. The property is located just outside the Critical Area boundary and is characterized by nontidal wetlands associated with Nanjemoy Creek. The tract consists of 401.6 acres and more than 90 percent of the property is forested. The land is owned by The Nature Conservancy, and it is protected by a permanent conservation easement. The property is proposed for FIDS habitat creation through planting of five acres of open field for a mitigation credit of five acres. This property has been discussed with Commission staff and DNR staff, and it has been qualified as an acceptable mitigation site.

Nanjemoy Creek-Jones Tract (Tax Map 50 – Parcel 16)

This mostly forested property is located on both sides of Riverside Road near the intersection of Liverpool Road, west of Nanjemoy near Mallows Bay. A portion of the property is located within the Critical Area. The entire tract consists of 275.22 acres with approximately 47.66 acres on the east side of Riverside Road and the remainder on the west side. Approximately half of the entire tract is within the Critical Area. The portion of the property that is being considered is located on the east side of Riverside Road. Except for the road, the entire property appears to be forested; however, detailed information about forest cover has not been submitted or evaluated. The property has been identified as FIDS habitat on DNR's Sensitive Species Protection Area mapping. The property is proposed for FIDS habitat protection through a permanent conservation easement on 47.66 acres of land for a mitigation credit of 23.83 acres. This property has been discussed with Commission staff, but it has not yet been qualified as an acceptable mitigation site.

Tract A (HSF-DK)

This forested property is located south of Nanjemoy. Approximately one-third of the property is located within the Critical Area with the remainder extending north outside the Critical Area. The tract consists of 394 acres and is virtually entirely forested, primarily forested with mixed deciduous/Virginia pine, with a small stand of approximately 20 acres of Loblolly pine. The land is currently being considered for acquisition by The Nature Conservancy, and it would be protected by a permanent conservation easement. The property is proposed for FIDS habitat protection through a permanent conservation easement on 394 acres of land for a mitigation credit of 197 acres. This property has been discussed with Commission staff and DNR staff, and it has been qualified as an acceptable mitigation site.

Trelogen - Schlotzhauer Property (Tax Map 69 – Parcel 57)

This forested property is located near the intersection of Smith Point Road and Maryland Point Road, well south of Nanjemoy near the area known as Maryland Point. The property is not located within the Critical Area but includes nontidal wetlands and one or more vernal pools. The entire tract consists of 183.86 acres. The property is completely forested; however, approximately 45 percent of the parcel is dominated by a Loblolly Pine plantation, which is not considered optimum FIDS habitat. It would appear that this is the reason that the entire property has not been identified as FIDS habitat. Regardless, the pine-dominated portion of the property has the potential to become high quality FIDS habitat with appropriate management.

Approximately 60 percent of the property is forested. Forested portions of the property have



Inventory of Potential FIDS Mitigation Sites

November 2, 2007

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been identified as FIDS habitat. The property is proposed for FIDS habitat protection through a permanent conservation easement on the entire 183.86 acres for a mitigation credit of 91.93 acres. This property has been discussed with Commission staff and DNR, and it has been qualified as an acceptable mitigation site.

Waldorf Lions Foundation – Camp Merrick (Tax Map 21 – Parcel 92)

This mostly forested tract is located at the intersection of Riverside Road and Rick Hamilton Place near Wellington Beach and Maryland Point. Approximately one third of the property is located within the Critical Area with the remainder extending just outside the Critical Area. The entire tract consists of 279.15 acres. The property is approximately 80 percent forested except for portions of the property that are cleared and developed with a youth camp and portions of the property that are tidal and nontidal wetlands associated with Mudds Marsh. Except for these areas, the entire property is identified as FIDS habitat on DNR's Sensitive Species Protection Area mapping. The property is proposed for FIDS habitat protection through a permanent conservation easement on approximately 185 acres for a mitigation credit of 92.5 acres. This property has been discussed with Commission staff, but has not been visited by Commission staff and DNR staff and has not yet been qualified as an acceptable mitigation site.



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 23, 2007

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

Re: Rod-N-Reel Transient Access Pier & Storage Area

Dear Mr. Watson:

Thank you for providing information on the above referenced site plan. The applicants are requesting site plan approval in order to construct a 756 square foot platform over a beach area. The property is designated an Intensely Developed Area (IDA), a Buffer Exemption Area (BEA) and is currently developed with a restaurant and marina.

While the site plans for this project include a modification to the size, name, and intended use of the proposed structure, Commission staff finds that the proposed transient access pier and storage area is largely the same proposal as the wedding pier reviewed by staff in previous submittals. Therefore, upon review of the latest site plans, it does not appear that the proposed structure qualifies as water dependent. Specifically, the intrinsic nature of the proposed structure does not require it to be located within the BEA setback. Further, it appears that ample opportunity exists outside of the setback to construct a storage and congregation area. Should the applicant wish to pursue locating the proposed structure within the BEA setback, a variance would be required.

Thank you for the opportunity to provide comments for this site plan submittal. If you have any questions, please contact me at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Kerrie Gallo".

Kerrie L. Gallo
Regional Program Chief
CB563-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 22, 2007

Ms. Betsy Walk
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 Ms. Walk:

Thank you for providing information on the above referenced subdivision proposal. The applicant is proposing to subdivide Parcel 64 to create two new lots. The property is located within a Limited Development Area (LDA), appears to be former agricultural land, and is currently undeveloped.

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

1. The plat indicates that the limit of the 100-foot Buffer was delineated from an approximate tidal wetlands line. In order to ensure that the limits of the Buffer are shown accurately on the recorded subdivision plat, the applicant must provide a field delineation defining the extent of the tidal wetlands present within the property boundaries. As you are aware, the limits of the 100-foot Buffer must be drawn from the current, field-verified location of the edge of tidal wetlands. Once the delineation is complete, please have the applicant include a plat note stating the name of the wetlands delineator and the date that the delineation was completed.
2. The property boundaries appear to be drawn out into Little Creek and encompass an expanse of tidal wetlands. Due to this feature, the property acreages of each proposed lot do not appear accurate. Specifically, open waters of the State as well as State-owned tidal wetlands must be subtracted from the property acreages for the purpose of calculating all Critical Area information including density, impervious surface area allotments, and forest retention or afforestation requirements. Please have the applicant determine the amount of State-owned areas included within each proposed lot and include the information on future plat submittals.
3. It appears that portions of the 100-foot Buffer on each of the proposed lots may require afforestation in accordance with the requirements of COMAR 27.01.09.01.C(6). This section of the criteria requires that the Buffer be established in native vegetation when agricultural lands are

TTY for the Deaf

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Betsy Walk
07-057 Pratt Subdivision
October 22, 2007
Page 2

converted to other uses. Please add a note to the plat stating this requirement and indicate how this requirement will be met. We recommend that the County require submission of a Buffer Management or Buffer Planting Plan at the time of subdivision review.

4. Currently, no information has been provided regarding the existing forest cover on the proposed lots. The lots are required to maintain or achieve a minimum of 15% forested cover. In calculating the area of existing forest cover, all tidal wetlands must be excluded. Please have the applicant provide a calculation of the existing forested cover on the proposed lots.

Thank you for the opportunity to provide comments for this revised subdivision request. Please have the applicant address our outstanding concerns and provide a revised plat for review. Please contact me at (410) 260-3480 if you have any questions.

Sincerely,



Kerrie L. Gallo
Regional Program Chief
CR321-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 19, 2007

Ms. Heather Kelley
Charles County Department of Planning
And Growth Management
P O Box 2150
La Plata, Maryland 20646

Re: XPN #07-0010
Swan Point Preliminary Subdivision Plans-Phase A

Dear Ms. Kelley:

This letter is in response to the revised preliminary subdivision plans received for Phase A of the Swan Point project. Based on my review of the revised plans, the following comments are provided:

1. Sheet 3/9: The labeling of the 300-foot Buffer should be changed to read 300-foot setback. This change is consistent with the language found within the Critical Area Law and Criteria.
2. Sheet 3/9: It appears that the limit of the 300-foot setback has been measured from the metes and bounds description line. It is not clear whether this property line coincides with the current location of Mean High Water (MHW) or the landward edge of tidal wetlands, and subsequently, whether the 300-foot setback has been properly delineated on the subdivision plans. Please have the applicants label the location of MHW and clarify where the 300-foot setback has been drawn from.
3. Consistent with comment #2 above, it is not clear that the limits of the 100-foot Critical Area Buffer have been drawn from the current location of MHW or the landward edge of tidal wetlands. As a component of its March 7, 2007 growth allocation approval, the Critical Area Commission included the following condition of approval: *The 100-foot Buffer shall be delineated landward from the mean high water line that MDE certifies in the field and is shown on an application, accepted by MDE, for shore erosion control measures as long as implementation is initiated within the time frame specified in the original license or authorization. Any requests for extensions will require re-certification of the mean high water line as of the date that the request for an extension is accepted by MDE.* This condition was approved by the full Commission to ensure that the limit of the 100-foot Buffer would be delineated in the field and would be based upon the current location of Mean High Water (MHW) as certified by MDE on the site. The applicant's response to our previous comments indicates that the location of MHW as shown on the plans is based on a field delineation included in the January 2005 MDE tidal wetland application. This delineation is not consistent with the Commission's condition of approval and will need to be amended.

4. Dependent upon the resolution of comments #2 and #3 above, it appears that portions of Potomac Breeze Drive may be located within the 300-foot setback and/or within the 100-foot Buffer. All roadways must be located outside of the 300-foot setback and the 100-foot Buffer.
5. Sheet 3/9: Please clarify the intent of the hatched lines throughout portions of the 300-foot setback. The lines appear to be floating throughout the area and their intent is not clear.
6. Throughout the layout of Phase A, the plans show significant areas of nontidal wetlands included within the proposed lot areas. As you are aware, nontidal wetlands are included within the County's Critical Area Program as Habitat Protection Areas (HPAs). The inclusion of the wetlands within the proposed lot lines is inconsistent with the approved preliminary Habitat Protection Plan (HPP) for Swan Point and with the intent of the provisions for protection of HPAs outlined within the County's Critical Area Program. Commission staff will not recommend approval of the final Habitat Protection and Management Plan to the full Commission where nontidal wetlands are included within new subdivision lots. Further, it is our understanding that the inclusion of these wetlands within new private lots may require review or permits from the Maryland Department of the Environment (MDE), yet MDE does appear to have been notified of this intent.
7. While the applicant has provided a general note regarding the intent to comply with the impervious surface area requirements within the Limited Development Area (LDA) and Resource Conservation Area (RCA) on the property, this note is not sufficient to determine that each of the proposed lots and the subdivision as a whole will be able to comply with the 25% and 15% limits respectively. A detailed chart and a breakdown of all impervious surface areas within the LDA and RCA, including roads, sidewalks, and dwelling unit footprints must be provided.
8. Sheet 4/9: This sheet proposes lots with split LDA and IDA designations. While detailed impervious surface area information has not yet been provided, we note that the amount of permitted impervious surface area within the LDA portion of those lots may only be calculated using the LDA acreage of the lots. The IDA acreage must be subtracted for the purpose of this calculation.
9. Sheet 5/9: The plan shows lot lines extended into the primary protection zone and "no disturbance" easement area for protection of the Bald Eagle. These lot lines are inconsistent with the intent of the provisions detailed within the approved preliminary HPP and must be removed. During the Commission staff's review and the full Commission's consideration of the preliminary HPP, it was presented by the applicants and therefore understood that complete avoidance of the protected easement area would be respected and that no encroachment into the 330-foot Eagle buffer would occur. The platting of lot lines into the 330-foot protection zone constitutes encroachment. Therefore, Commission staff will not recommend approval of the final Habitat Protection and Management Plan to the full Commission provided that lot lines are shown within the limits of the "no disturbance" eagle protection easement area and the 330-foot buffer zone.
10. Sheet 5/9: Please verify that the stormwater management facilities located within the LDA portions of Phase A treat only development located within the LDA and do not serve to treat development within the IDA.

Heather Kelley
Swan Point Subdivision-Phase A
October 19, 2007
Page 3 of 3

11. Sheet 5/9: Lot lines are shown extending into the 100-foot Buffer. The inclusion of the Buffer within the proposed lot lines is inconsistent with the approved preliminary HPP for Swan Point and with the intent of the provisions for protection of HPAs outlined within the County's Critical Area Program. Commission staff will not recommend approval of the final Habitat Protection and Management Plan or of the Buffer Management Plan to the full Commission where the Buffer is included within new subdivision lots.
12. Sheet 9/9: The notes regarding protection of the Bald Eagle onsite appear to utilize boilerplate language and are therefore not an accurate representation of the agreed upon protections for the Eagle as detailed within the preliminary HPP. The note section should reference the details of the HPP for protection of the eagle. Preferably, the correct provisions should be included on the plat and the boilerplate language should be eliminated.
13. Commission staff has received the preliminary stormwater calculations provided to this office in conjunction with the 10% pollutant reduction requirement within the IDA growth allocation envelopes. In order to determine whether compliance with the 10% Rule can be achieved in accordance with conditions #2 and #3 outlined within the Commission's growth allocation approval letters dated March 13, 2007 and April 11, 2007, Commission staff requires the following additional information:
 - For the entire IDA area of the Swan Point development, please provide information regarding the source of the impervious surface areas listed in the calculations. Specifically, no impervious surface area information has been provided on the preliminary subdivision plat for Phase A, so it is not clear where the impervious surface area information for the 10% calculations came from.
 - For the entire IDA area of Swan Point, please provide smaller scale plans which include specific details regarding each specific stormwater management type shown on the drainage area sheets.
 - For Phase A of the subdivision plat review, please provide detailed engineering plans for each of the stormwater management facilities proposed in the IDA. These plans must detail all associated grading and outfalls required for construction.

Once this information is received, Commission staff will provide additional comments to the County regarding stormwater management and compliance with the 10% Rule.

Thank you for the opportunity to provide comments on the revised subdivision plans for Phase A. Please provide a revised set of plans which addresses the comments outlined above. If you have any questions, please contact me at 410-260-3480.

Sincerely,



Kerrie L. Gallo
Regional Program Chief

Cc: Ren Serey, CAC
Marianne Dise, Assistant Attorney General



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 15, 2007

Mr. Bob Tabisz
Maryland Department of the Environment
Water Management Administration
1800 Washington Boulevard
Baltimore, MD 21230

200562503/05-WL-1266
United States Steel Corporation/Brookfield Homes LLC

Dear Mr. Tabisz:

This letter is provided in response to the above referenced Notice of Application received by this office on September 5, 2007. We have reviewed the plan sheets provided and have the following comments for your consideration.

1. It does not appear as though the limits of the 100-foot Critical Area Buffer, as shown on the plan sheets, have been drawn from the current location of Mean High Water (MHW). As a component of its March 7, 2007 growth allocation approval, the Critical Area Commission included the following condition of approval: *The 100-foot Buffer shall be delineated landward from the mean high water line that MDE certifies in the field and is shown on an application, accepted by MDE, for shore erosion control measures as long as implementation is initiated within the time frame specified in the original license or authorization. Any requests for extensions will require re-certification of the mean high water line as of the date that the request for an extension is accepted by MDE.* This condition was approved by the full Commission to ensure that the limit of the 100-foot Buffer would be delineated in the field and would be based upon the current location of Mean High Water (MHW) as certified by MDE on the site. It is our understanding that the limit of the 100-foot Buffer shown on the permit plan sheets is based on site conditions that existed in 2004. This delineation is not consistent with the Commission's condition of approval and will need to be amended.
2. There is a proposed outfall pipe shown on plan sheet 2 of 21. While we have no concerns regarding this outfall, preliminary stormwater management plans submitted to Commission staff indicate plans for additional stormwater outfalls at additional locations which do not appear to be included within the MDE permit application.

3. The preliminary subdivision plans received by Commission staff depict newly subdivided lots with significant areas of nontidal wetlands included within the lot areas. It is our understanding that the inclusion of these wetlands within new private lots may require review or permits from MDE, yet the request does not appear to be included within the MDE permit application. Further, while the applicant has indicated that impacts to the nontidal wetlands included in the proposed lot boundaries are not anticipated, the Commission will consider, during its review of the preliminary subdivision plan, whether the small lot sizes (ranging from approximately 9,000 to 15,000 square feet) can realistically accommodate a building footprint without impacting the nontidal wetlands.
4. Plan sheet 3 of 21 shows two structures on Cuba Island, including a proposed Harbormaster building, along with restrooms and showers. Cuba Island is currently designated as a Resource Conservation Area (RCA) and is largely encompassed by the 100-foot Buffer. While it is not clear from the plans exactly where the proposed restrooms or showers will be located, Commission staff is concerned that this proposal may not be consistent with the criteria for development within the RCA and Buffer. Further information regarding this aspect of the proposed development is needed.

Thank you for the opportunity to provide comments for this permit request. If you have any questions regarding the content of this letter, please feel free to contact me at 410-260-3460.

Sincerely,



Kerrie L. Gallo
Regional Program Chief

Cc: Judy Cole, MDE
Aimee Dailey, Charles County
Ren Serey, CAC
Marianne Dise, Assistant Attorney General

Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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Executive Director

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July 3, 2007

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

Re: The Villas at Severna Park
S01-038, Tax Map 32H, Parcel 148

Dear Ms. Krinetz:

Thank you for providing information regarding the above referenced revised subdivision. The applicant is proposing to subdivide a 24.94- acre property, 2.12 acres of which are located within the Critical Area and are designated as a Limited Development Area (LDA). Within the Critical Area, portions of four new lots appear proposed in addition to a roadway and multiple recreation areas.

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

1. While the applicant's Critical Area plans contain general notes regarding impervious surface area limits, additional information is needed to ensure that the proposed subdivision is consistent with the State and County laws regarding impervious surface area. Specifically, a chart is needed listing the different types of impervious surface areas proposed within the Critical Area in square feet, including roadways. Further, since only portions of Lots 24, 27 and 28 lie within the Critical Area, it is necessary for the applicant to demonstrate that the proposed impervious surfaces per lot in the Critical Area have been calculated based on the Critical Area acreage of each lot and not on the entire square footage of the lot. Please have the chart added to the plans. If there are to be any impervious surface areas included within the passive or active recreation areas within the Critical Area, these need to be included in the chart as well.
2. The letter provided by the Department of Natural Resources' (DNR) Wildlife and Heritage Division is six years old. Screenings for rare, threatened, and endangered species are required to be less than two years old. As such, a new evaluation of the property by DNR will be required to ensure that no new species have been located within the Critical Area portion of the property. Please provide a copy of this letter once it is received.

Kelly Krinetz
The Villas at Severna Park Subdivision
July 3, 2007
Page 2

3. We note that the Critical Area report states that the property contains 1.65 acres within the Critical Area, but the subdivision plat states that 2.12 acres are located within the Critical Area. Please ensure that these documents are consistent in future submittals.

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

Sincerely,



Kerrie L. Gallo
Natural Resources Planner
AA381-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 3, 2007

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

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

Dear Ms. Vidotto:

This letter is in regard to our continuing review of the above referenced subdivision. Based on the revised plat received on July 2, 2007, we provide the following comments:

It appears that the applicant has adequately addressed our previous comments and that the subdivision is now compliant with all Critical Area criteria as described within the County's zoning ordinance. Therefore, we have no further comments to offer.

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

Sincerely,

A handwritten signature in cursive script that reads "Kerrie Gallo".

Kerrie L. Gallo
Natural Resource Planner
CA412-06



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 3, 2007

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

Re: Steveling Replatting
(Tax Map 45B, Lots 53R and 52)

Dear Ms. Vidotto:

Thank you for providing information on the above referenced replatting request. The applicant is proposing to abandon the lot lines between two existing lots of record in order to create one new lot, Lot 53RR. The property appears to lie within the Limited Development Area (LDA).

It appears that the proposed lot line abandonment combines two grandfathered parcels of record in order to create one larger lot. It does not appear that any new development is proposed in conjunction with the proposed request. Therefore, this office is not generally opposed to the replatting. However, please note that the lot appears to lie within a designated sensitive species review area and that tidal wetlands appear to lie in close proximity, suggesting that the limits of the 100-foot Buffer may lie on the southern portion of the new lot 53RR. While no new development appears proposed in conjunction with this replatting request, the applicant should be aware that these site specific conditions will need to be addressed at the time of development. In addition, we recommend that plat note #9 be revised to state that Lot 53RR lies within the Critical Area and is designated as a Limited Development Area (LDA). This will help to ensure that the applicant is aware of the Critical Area restrictions applicable to the lot, specifically within the LDA overlay.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Kerrie Gallo".

Kerrie L. Gallo
Natural Resource Planner
CA392-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 3, 2007

Mr. Dirk Geratz
City of Annapolis
Department of Planning and Zoning
Municipal Building
160 Duke of Gloucester Street
Annapolis, MD 21401

Re: Eastport Landing/Hopkins Warehouse
SDP 2006-5-141

Dear Mr. Geratz:

Thank you for providing information regarding the above referenced revised site plan. It appears that the applicant is proposing to redevelop a property located within the Intensely Developed Area (IDA) by constructing a four story multi-use commercial and residential structure.

As you are aware, development and redevelopment within the IDA requires that the applicant provide a 10% reduction in overall pollutant loadings on the site post-development. In addition, the criteria for development in the IDA require the applicant to demonstrate that all pervious areas are planted to the extent possible with native plantings. While the applicant has provided a landscaping plan which appears to adequately meet the intent of the planting criteria, this office has not been provided with the required 10% Rule worksheet and calculations. The minimal information regarding this requirement stated on sheet 1 of the site development plan is inadequate to assess whether the pollutant reduction requirement has been met. Please have the applicant provide a copy of the 10% Rule worksheet and calculations to this office for review. Also, please note that the site area for which the pollutant reduction is calculated is based on the entire site acreage and takes into account both the existing impervious surface areas and the proposed impervious surface areas. The applicant will not be permitted to utilize a limit of disturbance that is less than the total site area in this case.

Thank you for the opportunity to provide comments for this revised site plan request. Once the 10% Rule worksheet and calculations are received, Commission staff will provide additional comments regarding compliance with all criteria for development within the IDA. Please contact me at (410) 260-3482 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kerrie L. Gallo".

Kerrie L. Gallo
Natural Resource Planner
AN292-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 3, 2007

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

Re: Variance 07-3443
Richard Fischer/Lighthouse Inn, Inc.

Dear Ms. Whitt:

This letter is in reference to the above referenced Board of Appeals case scheduled for consideration by the Board on July 5, 2007. While this office did not receive formal notification of this variance case, it appears that physical disturbance of the 30-foot Buffer Exemption Area (BEA) setback is proposed in order to accommodate the construction of two large raingardens. Since it is our view that the County ordinance requires a variance for all development within the BEA setback, we are providing comments and requesting that the Board consider whether the appropriate variances have been applied for and whether the case can be properly heard at this time.

In providing this letter, we acknowledge that the County Planning and Zoning office has interpreted Section 8-1.08.D.3.f of the County's zoning ordinance as permitting the proposed raingardens to be constructed without a variance, considering them to be an enhancement to the Buffer. While we agree that vegetative plantings within the setback would generally provide an improved BEA setback, we respectfully disagree with the Planning and Zoning office's determination that Section 8-1.08.D.3.f was intended to permit the construction of stormwater practices, otherwise required as a part of the 10% pollutant reduction requirement for development within the Intensely Developed Area (IDA), as the referenced "enhancement" to the Buffer. Conversely, it is our view that the construction of any type of engineered stormwater practice which requires physical disturbance of the land constitutes a development activity, and by definition is not permitted within the Buffer or BEA setback without a variance. Further, we question why the Planning and Zoning office would encourage the direction of stormwater runoff into the 30-foot setback when ample room appears to exist to treat the runoff further from the shoreline and in compliance with the requirements for development in the IDA.

As a component of the Board's consideration, we note that the BEA designation on this property affords the applicant flexibility in the Buffer provisions in recognition of the degraded state of the existing Buffer. In enjoying this designation, the property must comply with and incorporate a specific set of standards when development or redevelopment is proposed. These standards include the requirement to fully establish the 30-foot setback in native vegetation. This requirement was intended to provide exactly the type of enhancement that the applicant proposes the raingardens will provide.



Roxana Whitt
Case 07-3443
July 3, 2007
Page 2 of 2

Since the BEA setback is required to be enhanced per the requirements of the County's code, we question whether the applicant's position that the raingardens provide an enhancement to the Buffer is valid or whether the raingardens will have a less beneficial role in their proposed location than a fully planted setback. In addition, the standards for any development within the IDA require the applicant to provide a 10% reduction in overall pollutant loadings on the site. It is my understanding that the proposed raingardens are intended to meet this requirement and are therefore not being provided as an additional enhancement, but in fulfillment of the requirements for development. Regardless of the location of the proposed raingardens, the applicant will still be required to provide some form of stormwater treatment on the property. Finally, it is our position that the placement of the proposed raingardens within the BEA setback simply allows the applicant to maximize the amount of impervious surface area and development outside of the BEA setback rather than requiring a type of design which would minimize the overall impact on the site and provide ample room for construction of required stormwater practices outside of the BEA setback. To encourage development in this manner appears entirely inconsistent with the purpose, policies and goals of the County's Critical Area program.

In summary, it is our position that the proposed raingardens constitute a stormwater management practice and a development activity per the definitions within the County's ordinance. As such, it would appear that a variance is necessary in order to permit their construction within the BEA setback. Since a variance to the BEA setback has not been required, nor applied for or advertised, we recommend that the Board postpone any action on the variance at this time. Alternatively, should the Board choose to consider the remainder of the requested variances, we recommend that that a condition be imposed stating that all stormwater practices be located outside of the BEA setback and that a variance be required for any disturbance within the 30-foot BEA setback. Finally, we note that this office would not be able to support a future variance to locate the proposed raingardens in the BEA setback on this site. It appears that ample room appears to exist outside of the setback to address stormwater management requirements or that the applicant could minimize the footprint of the proposed structure so as to comply with all requirements for development within the IDA without the need for a variance.

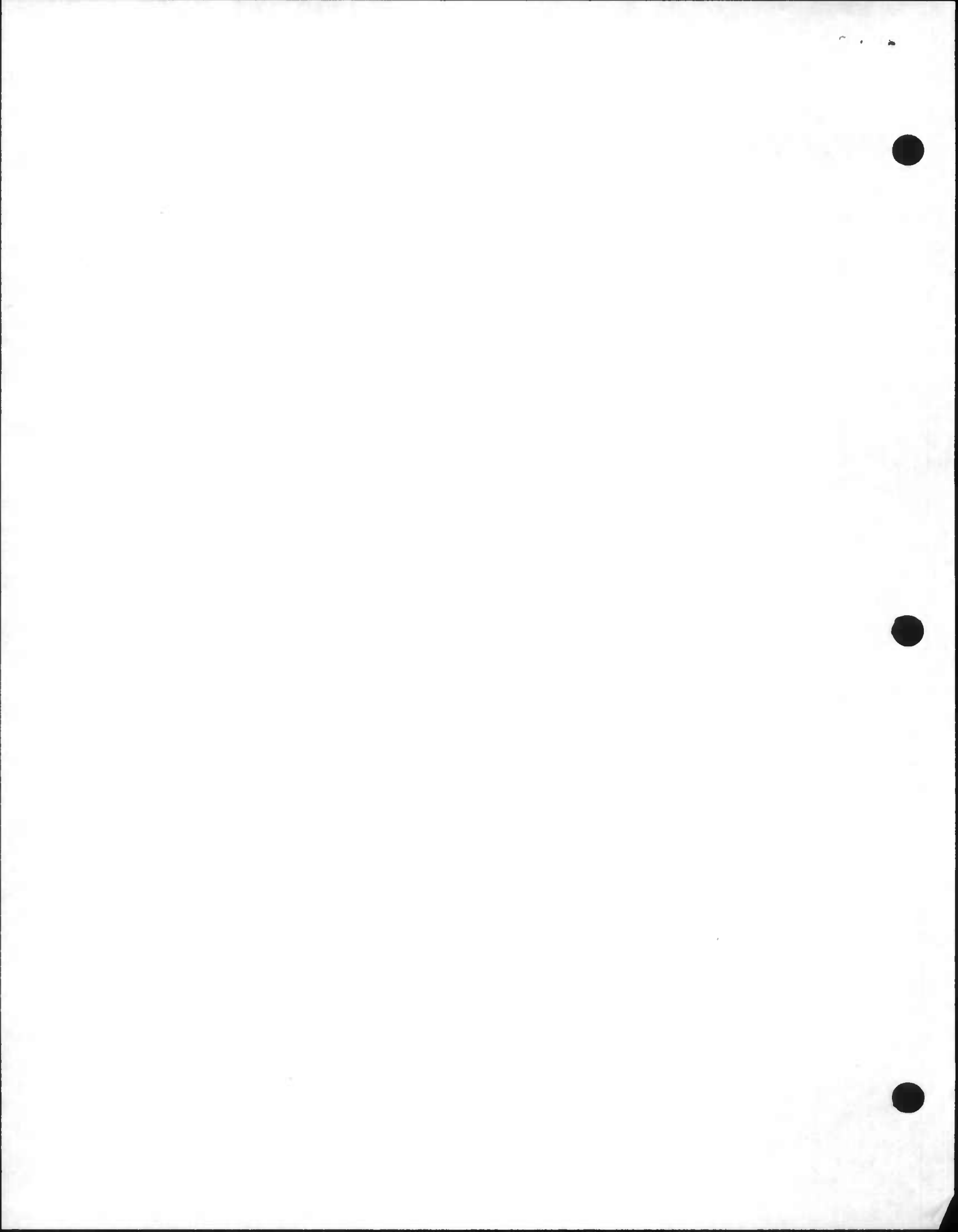
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner

Cc: Dave Brownlee, Calvert County
Chris Campany, Calvert County
Saundra Canedo, OAG



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

December 28, 2007

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

Ms. Regina Esslinger
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Variance – Guldán Property

Dear Ms. Esslinger:

Thank you for forwarding the additional information for the above referenced variance request. The applicant has provided a site plan showing the proposed dwelling unit as requested; however, the applicant has still not provided specific information on proposed impervious surfaces. We recommend that this information be provided on the plan. The applicant seeks a variance to combine two grandfathered lots (Lots 17 and 18) that are entirely within the expanded Buffer to build a single family dwelling unit and a continued use variance to maintain existing lawn. Currently, Lot 17 is encumbered almost entirely with nontidal wetlands. The proposed combined lot is 1.28 acres and is designated as Limited Development Area (LDA). The allowable impervious surface for this lot is 15%, or 8,264 square feet.

Provided the lot is properly grandfathered, we do not oppose this variance request. The applicant will be responsible for mitigation at a 3:1 ratio for disturbance in the expanded Buffer and should provide a plantings plan and schedule to the County for review and approval. We discourage the use of purchase in a Critical Area mitigation bank to achieve the required 3:1 mitigation, as is stated on the plat. We recommend that at least a portion of the required plantings occur on site, particularly in the 100-foot Buffer. The site plan indicates that the gazebo will be removed and this area should also be established in native vegetation. We do not oppose the continued use variance request for the grassed area to be used for water access.

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 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner
cc: BC 578-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 28, 2007

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

Re: 2007-0415-V – Celebrations on the Bay

Dear Ms. Rhodes:

Thank you for providing information on the above referenced variance. The applicant is requesting an after the fact variance to perfect a waterfront deck with less setbacks and Buffer than required. We conducted a site visit on December 17, 2007 and verified that there are inconsistencies with the site plan submitted and field conditions. Prior to the construction of this new segment of decking, a deck measuring 16 feet by 80 feet and was located adjacent to the existing building and over the existing stone revetment. The new area of deck, for which the applicant is requesting a variance, is 980 square feet. With the additional area of this deck, this structure juts out over the Mean High Water (MHW) line. The Critical Area Commission opposes this variance request.

Additionally, there is a nonconforming, unpermitted structure (gazebo) in the 100-foot Buffer (which is not located on the site plan); this structure may be in violation. It is unclear when this gazebo was constructed and whether it existed at the time of this applicant's previous filing for an after the fact variance in 2002. In considering the current variance request, the County should clarify the legal status of the gazebo and take appropriate measures to remedy any additional violations prior to granting any variances on this lot.

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. 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

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follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot."

In addition, 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 (or 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. This variance would be in direct contrast to the goals of the General Assembly and the goals of the Buffer. This lot is already subject to reasonable commercial use. Accordingly, we do not believe that the applicant can meet the standard of unwarranted hardship, and we oppose this variance request. I have addressed each of the standards as it pertains to this case:

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.*

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 already enjoys reasonable and significant use of the property by virtue of the ballroom, enclosed reception area, parking area, and decking. Based on this information, we do not believe that the County has evidence on which to base a favorable finding of this factor.

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

There is no inherent right to build an accessory structure in the Buffer. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. Commission staff would not support the similar requests to construct a deck in the Buffer and out over the water. 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 on conditions and circumstances which are the result of the actions of the applicant, as the deck for which the variance is requested has already been built. Therefore, the applicant has not 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.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. This proposal not only further reduces the functions provided by the Buffer on this site, but would contribute to the individual and cumulative impacts of development on the Bay. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the five standards have been 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 County or Hearing Officer deny the applicant's request for this variance and require that the illegal deck be removed and the Buffer restored. Mitigation should be required 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,



Julie Roberts
Natural Resource Planner
cc: AA 405-02



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 27, 2007

Mr. Jeffrey Thompson
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

Dear Mr. Thompson:

I have the following comments for the below-referenced project within Baltimore County:

200662027/06-NT-0051: Baltimore County Department of Public Works

Notice of Application was received for this project to assess the condition of the Patapsco Interceptor and Relief. As part of this assessment, permanent and temporary access roads are proposed for an ongoing inspection program mandated as part of the EPA's Consent Decree. This project will impact 18,000 square feet of emergent nontidal wetlands and 16,500 square feet of nontidal wetlands buffer. A 2004 letter from the Department of Natural Resources Wildlife and Heritage Program indicates that there is a record for a federally Threatened perennial wildflower, the Swamp Pink (*Helonias bullata*), as well as potential Forest Interior Bird (FID) habitat. The guidelines for the protection of habitat should be followed to the extent possible during the construction of the access roads. A mitigation plan should be in place prior to the construction of the temporary roads for their disturbance, as well as the disturbance associated with the permanent roads. Mitigation should be done as required by the County for the disturbance to the nontidal wetlands and their buffer (Title 2 § 33-2-303).

This proposal will require review and approval by the Critical Area Commission. Commission staff did perform a site visit approximately two years ago and some of the proposed impacts may overlap with the minimum 100-foot Buffer required by the Critical Area Criteria. Therefore, we recommend that due to the potential impacts to FIDs, the 100-foot Buffer, and any threatened or endangered species, that all clearing and permanent disturbance be minimized.

Mr. Jeffrey Thompson

12/27/2007

Page 2 of 2

Thank you for the opportunity to provide comments. Please feel to follow up with a phone call if you have any questions at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie", with a stylized flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: Regina Esslinger

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 27, 2007

Mr. John Fury
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

Re: 2007-0406-V – Dhanda, Anand & Urmil

Dear Mr. Fury:

Thank you for providing information on the above referenced variance. The applicant is requesting an after the fact variance to perfect a waterfront deck with less setbacks and Buffer than required. This lot is 7,500 square feet and located in a Buffer-Modified Intensely Developed Area (IDA). The deck to be perfected is approximately 966 square feet and is located 31-35 feet from Mean High Water (MHW). The Critical Area Commission opposes this variance request.

Additionally, there is a nonconforming structure (a wood deck platform) in the 100-foot Buffer. It is unclear when this deck platform was constructed, but based on aerial photographs, it appears that it has been built sometime in the last 3-4 years. We note that the Commission's 2001 review of the site plan and variance request for the existing dwelling does not include the deck/platform. In considering the current variance request, the County should clarify the legal status of the deck platform and take appropriate measures to remedy any additional violations.

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. 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."

In addition, 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. 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. This variance would be in direct contrast to the goals of the General Assembly and the goals for the Buffer, particularly as the applicant has not demonstrated minimization in the construction of this deck. This lot is already subject to reasonable residential use. Accordingly, we do not believe that the applicant can meet the standard of unwarranted hardship, and we oppose this variance request. I have addressed each of the standards as it pertains to this case:

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.*

As stated above, the General Assembly defined "unwarranted hardship" to mean that without the requested variance, the applicant would be denied reasonable and significant use of **the entire parcel or lot**. The applicant already enjoys reasonable and significant use of the property by virtue of the large house, driveway, and pier. Based on this information, we do not believe that the County has evidence on which to base a favorable finding of this factor.

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

There is no inherent right to build an accessory structure in the Buffer. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. Commission staff would not support similar requests to construct a deck in the Buffer. 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.*

Mr. John Fury

12/27/2007

Page 3 of 3

This variance request appears to be based on conditions and circumstances which are the direct result of the actions of the applicant, as the deck for which the variance is requested has already been built. Therefore, the applicant has not 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.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. This proposal not only further reduces the functions of the Buffer on this site, but would contribute to the individual and cumulative impacts of development on the Bay. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the five standards have been 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 Hearing Officer deny the applicant's request for this variance and require that the illegal deck be removed and the Buffer restored. Mitigation should be required 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,



Julie Roberts
Natural Resource Planner

cc: AA 446-01



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

Re: 2007-0418-V – Sweet Properties LLC

Dear Ms. Schappert:

Thank you for forwarding information on the above-referenced project. This lot is 5,000 square feet and is located in the lot is Limited Developed Area (LDA). The applicant proposes to build a single family dwelling and driveway for a total of impervious surface in the amount of 1,496 square feet, which is within the limits for a lot of this size. The applicant proposes to impact 3,741 square feet of nontidal wetlands and the 25-foot buffer to the wetlands. The applicant also proposes to clear 2,766 square feet, or 55% of this lot.

Provided the lot is properly grandfathered, we do not oppose this variance request for the construction of a modest sized dwelling and driveway on this lot. If the County determines this request, or some variation of this request can be granted, we recommend 3:1 mitigation for the area of impact to the nontidal wetlands and the 25-foot buffer. If mitigation cannot be done on site, a fee in lieu may be substituted. The applicant has shown three raingardens on the site plan and should provide the specifications for the raingardens to the County. Also, we recommend moving the TSA, if possible, out of the 25-foot buffer.

Permits from MDE may also be required to impact non-tidal wetlands. Please have the Hearing Officer ensure that any necessary MDE permits are obtained prior to the granting of the variance.

Ms. Suzanne Schappert
12/27/2007
Page 2 of 2

Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. I can be reached at 410-260-3476 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: Judy Cole, Maryland Department of the Environment

AA 740-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 19, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Curtain, Anne -- Shore Erosion Control

Dear Ms. Dailey:

Thank you for forwarding the above referenced project. The applicant proposes to construct a 347 linear-foot stone revetment behind Mean High Water (MHW). On March 26, 2007, Kate Schmidt of this office wrote a comment letter indicating that the shore erosion control measures should be the minimum necessary for this active shoreline. The applicant has since provided a revised plan. Based on the information provided, I have concluded that there appears to be two different elements to this project: shore erosion control and slope and/or bank stabilization.

As a shore erosion control project, we believe that the proposal exceeds the minimum necessary to prevent the erosive effects of normal wave action and storm events. While the applicant has indicated that the revised proposal will reduce the cut area of the bank to less than 5,000 square feet and that this is the minimal amount of final bank grading necessary, the overall extent of grading proposed remains significant and excessive. It appears that the shore erosion control aspect of this project could be accomplished without grading the bank, leaving the bank to fall to a natural angle of repose. Given that the revised project proposal as submitted does not meet the standard of minimization, we cannot support the request. We recommend that the applicant resubmit the proposal without the grading to the bank. If there is concern regarding specific trees on the bank falling on top of the proposed shore erosion control structure, a professional forester should mark specific trees to be cut and submit a plan for mitigation to the County. In addition, the applicant must mitigate at a ratio of 1:1 for the square area of disturbance in the Buffer associated with the revetment, including all grading.

A secondary aspect of this project is the bank stabilization proposal. It appears from the cross section that the overhang of the cliff will be removed and the soil used to create a slope down to the revetment. This represents a significant impact to the 100-foot Buffer and does not appear to be an integral part of the shore erosion control. As stated above, it appears that the proposed revetment would sufficiently hinder wave action at the toe of the bank, eliminating the need to grade the bank for shore erosion control purposes. It is not clear to us whether the property is experiencing

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Aimee Dailey

Page 2 of 2

12/19/2007

additional erosion associated with the runoff of unmanaged stormwater from the top of the bank which might necessitate structural bank stabilization. Should the applicant choose to pursue a separate and distinct bank stabilization proposal, a Buffer Management Plan must be submitted to the County for review and approval. As a component of any future bank stabilization project, stormwater management measures should be included which address impervious surface areas on the property. We note that disturbance within the Buffer associated with this type of proposal would require mitigation at a ratio of 3:1 for the total square footage of Buffer disturbed. The mitigation should be provided in the form of native plantings and should be located above the revetment, thus creating a functioning Buffer, consistent with the goals of the Critical Area Criteria.

In a separate conversation, the applicant's engineer discussed an alternative option of placing the revetment at mean high water. In this proposal, the bank would not be graded and fill would be used to create the desired slope. The applicant indicated that some planting could be done on this slope. If the applicant chooses to pursue this option, a site plan, as well as a Buffer Management Plan, must be submitted for review by the County.

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

Sincerely,



Julie Roberts
Natural Resources Planner

cc: CS 109-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 13, 2007

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

Re: Neigus/Meurs BEA

Dear Mr. Dodd:

Thank you for forwarding information on the above referenced building permit. The applicant proposes to construct a 12' x 24' (288 square feet) addition of a sunroom. This addition is proposed to be attached to the dwelling unit and no further waterward than the existing dwelling. The lot is 1.33 acres and is located in a Limited Development Area (LDA). The existing house is located 75-85 feet from the water's edge and is located in a Buffer Exempt Area (BEA). The existing impervious surface on this lot is currently 2,176 square feet, or 3%.

Provided this lot is properly grandfathered, we do not oppose this building permit. Per our BEA Policy, the applicant must mitigate at a 2:1 ratio for the area of new disturbance in the BEA, for a total of 576 square feet of plantings. These plantings should be placed waterward of the existing dwelling to the extent possible. The plantings should be done in the form of native species and the applicant shall provide to the County a schedule which includes the species, size, spacing, and proposed dates of plantings for your review and approval.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
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 10, 2007

Ms. Nancy Jones
University of Maryland
Center for Environmental Science
Horn Point Laboratory
PO Box 775
Cambridge, MD 21613-0075

Re: University of Maryland Center for Environmental Science (UMCES) Horn Point
Laboratory -- Oyster Cultivation Project

Dear Ms. Jones,

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On December 5, 2007, the Critical Area Commission unanimously approved the UMCES Horn Point Laboratory proposal and site plan to construct two buildings on piers to breed oysters for restoration purposes. This project was approved with the following conditions:

- (1) Within 60 days from the date of Commission approval, the University of Maryland Center for Environmental Science Horn Point Laboratory shall submit a planting plan to Commission staff demonstrating compliance with the 507 square feet of mitigation required for the proposed Buffer disturbance; and
- (2) Prior to commencement of construction, the Horn Point Laboratory shall obtain erosion and sediment control approval from the Maryland Department of the Environment.

In a note received after the project was approved, you indicated that mitigation will be completed on campus adjacent to the mitigation area used for the Aquaculture and Restoration Ecology building. This area was previously approved by a member of the Critical Area Commission staff.

Ms. Nancy Jones

12/10/2007

Page 2 of 2

Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a stylized, flowing script.

Julie Roberts

Natural Resources Planner

cc: 58-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
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December 10, 2007

Mr. Joe Kincaid
Maryland Department of the Environment
Water Management Administration
Salisbury District Court/Multi-Service Building
201 Baptist Street
Salisbury, MD 21801

Dear Mr. Kincaid:

I have the following comments for projects in Dorchester County:

200765194/08-WL-0553 Alan Beckett

The applicant has applied to emplace a 50-foot long by 12-foot side stone jetty within a maximum of 50 channelward of the mean high water line. It is unclear from the information provided if the applicant proposes to grade the bank as part of this project. If there are impacts to the 100-foot Buffer, a Buffer Management Plan must be submitted to Dorchester County for review. If necessary, the applicant must obtain a permit from the County in conjunction with the Buffer Management Plan for the proposed activities. This permit is in addition to the MDE authorization.

In the absence of any disturbance to the Buffer, we have no comments on this project.

200765293/08-WL-0575 Kenneth Scott and Dawn Wilson

The applicants have applied to emplace 900 feet of rip rap revetment within a maximum of 8 feet channelward of the mean high water for shore erosion control. It is unclear from the information submitted if "Exhibit 'A' – Typical Stone Revetment" is the actual proposal for this project. If so, it appears that there is extensive grading of the bank. With the limited cross-section provided, it is difficult to determine if this is the minimum necessary for this shore erosion control and if an alternative proposal could stabilize the

Mr. Joe Kincaid
12/10/2007
Page 2 of 2

toe of the cliff without grading back into the Buffer as proposed. Where less intrusive measures are possible, the applicant should be required to first explore these options.

As this grading represents a potentially significant impact to the 100-foot Buffer, the applicant must submit a Buffer Management Plan to Dorchester County. In conjunction with the Buffer Management Plan, the applicant must obtain a permit from the County for the proposed activities. This permit is in addition to the MDE authorization.

Please feel free to follow up with a phone call if you have any questions at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
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 10, 2007

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

Re: 2007-0395-V Arcscott, John and Cherie

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to allow a dwelling with less setbacks than required and with disturbance to slopes greater than 15%. The lot is designated as a Limited Development Area (LDA) and is entirely within the 100-foot Buffer. This lot is 0.39 acres and is currently improved with an existing dwelling unit. The existing impervious site coverage on this site is 3,361 square feet for the current house and driveway and the proposed impervious surface for the house, garage, screened porch, and driveway is 5,165 square feet which is within the allowable limits. The proposed dwelling unit is located further landward than the existing dwelling unit but proposes impacts to steep slopes.

We cannot support this variance request as proposed. Based on our review of the site plan, there appears to be adequate area on this parcel to build a reasonably sized dwelling without the need to disturb the steep slopes. In this case, the applicant should be required to construct a replacement dwelling in the already disturbed, level area north of the existing retaining wall. Alternatively, a smaller house and/or a house with a different configuration could avoid the need for a variance altogether. Considering these possibilities, it appears that the need for a variance is entirely self-created by the applicant's desire for a larger dwelling, and not the result of an unwarranted hardship. Further, it does not appear that the applicant has minimized their impacts to the extent possible nor overcome the burden to meet each and every one of the variance standards. Therefore, the variance should be denied.

Ms. Schappert
12/10/2007
Page 2 of 2

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

Sincerely,

A handwritten signature in dark ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 702-07

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 7, 2007

Mr. Dave Decker
Department of Natural Resources
Public Lands Policy and Planning, E4
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Fishing Bay WMA – Bestpitch Boat Ramp

Dear Mr. Decker,

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On December 5, 2007, the Critical Area Commission unanimously approved the Department of Natural Resources proposal and site plan to perform maintenance and repair the existing parking area, boat ramp, and timber bulkhead, and to build a soft canoe landing. This project was approved with the following conditions:

- (1) Within 60 days from the date of Commission approval, Maryland Department of Natural Resources shall submit a planting plan to Commission staff demonstrating compliance with the 2,073 square feet of mitigation required for the proposed Buffer disturbance; and
- (2) Prior to commencement of construction, the Maryland Department of Natural Resources shall obtain all necessary waivers or authorizations from the Maryland Department of the Environment.

Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: 58-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 6, 2007

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

Re: 2007-0401-V Williams, Randall

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to allow a dwelling addition with less Buffer and setbacks than required and greater impervious than allowed. The 16,200 square foot lot is designated as Limited Development Area (LDA) and is waterfront. It is currently improved with a dwelling unit, pool, and large porch. The proposed deck will be an in-kind replacement for the current deck and will be identical in size and shape as the existing deck.

Provided that this lot is properly grandfathered, we do not generally oppose the request for an in-kind replacement deck. However, we question whether the opportunity exists to minimize impacts to the Buffer by reducing the deck's extensive footprint as it is replaced. The applicant is required to demonstrate that the request is the minimum necessary prior to being granted a variance. In addition, we note that this office would not support a variance request for a deck of this size as a new addition. As this parcel is over its impervious surface limit, the deck must be constructed so as to be pervious. As is appears possible to utilize pervious construction standards, this office does not support an impervious surface area variance in regard to the replacement deck.

Pervious construction standards include 1-inch spacing between the deck boards, 6 inches of gravel under the entirety of the deck, and native plantings surrounding the base of the deck. We recommend that the applicant provide mitigation at a ratio of 3:1 for the area of disturbance in the Buffer and that these requirements are met by planting



Ms. Schappert

12/6/2007

Page 2 of 2

a mix of native species in the area waterward of the house (or under the deck as shown in the pictures), if possible. The applicant shall provide a plantings plan including species, size, spacing, and schedule for review and approval by the County. If the full amount of plantings cannot be done on site, a fee in lieu may be substituted. However, we note that ample room appears to exist in the Buffer to accommodate mitigation plantings.

We have no comment regarding the variance to setbacks.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 720-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 6, 2007

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

Re: 2007-0409-V Fick, David and Lee-Ann

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to allow an accessory structure (hot tub) with less setbacks and Buffer than required. The lot is designated as Intensely Developed Area (IDA) and is partially encompassed by the 100-foot Buffer. This lot is 9,000 square feet and is currently improved with an existing dwelling unit, porch, shed, and a walkway. The plastic foundation of the proposed accessory hot tub is approximately 72 square feet.

We cannot support the variance request for this accessory structure in the 100-foot Buffer. It appears that there may be room to put the hot tub on the covered wood porch; or alternately, a side-yard setback variance should be considered in order to place the structure outside of the Buffer. In considering the applicant's requests, we do not believe that each and every one of the variance standards have been met, including the standard of unwarranted hardship. In 2004, the General Assembly defined "unwarranted hardship" to mean that without the requested variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. The applicant already enjoys reasonable and significant use of the property by virtue of the residential development. Based on this information, we do not believe that the County has evidence on which to base a favorable finding that an unwarranted hardship exists or would exist without the variance. Therefore, the variance should be denied.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: AA 721-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 29, 2007

Mr. Thomas Lawton
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: GP 07-354 – Wicomico Airport Wetland Mitigation

Dear Mr. Lawton:

Thank you for forwarding the information for Phase II of the Wicomico Airport Wetland Mitigation. Phase II of this project proposes to perform a preservation and enhancement of the existing Buffer area by performing selective invasive species control. The second aspect of this project proposes the restoration of a large non-tidal wetland which will include the planting of 17,119 shrubs and trees.

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

1. If not already provided, please have the applicant provide a monitoring schedule to you specifying how often the site will be checked for growth progress, as well as provisions for replanting in the event of plant mortality.
2. If this newly created forested non-tidal wetland is contiguous to tidal waters, tidal wetlands, or a tributary stream, the 100-foot Buffer from these features shall be expanded to include this wetland. In addition, there shall be a minimum 25-foot buffer from the edge of the wetland.
3. The selection of species appears appropriate for the non-tidal wetlands.
4. It appears that the only work being performed in the 100-foot Buffer is the eradication of select invasive species. A Buffer Management Plan should be submitted to the County detailing how this work will be performed and what species will be removed.

We have no further comments on this project. If you have any questions, please call me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie", followed by a long horizontal flourish.

Julie Roberts
Natural Resource Planner



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 28, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: BOA Docket #1201 – Serenity Farm

Dear Ms. Dailey:

Thank you for forwarding the above-referenced request for variance. The applicant proposes construct an addition on their single family dwelling which is entirely within the 100-foot Buffer. The parcel is 29.68 acres and is located in the Resource Conservation Area (RCA). The proposed addition is 775 square feet and is no further waterward than the existing dwelling. As part of this proposal, the applicant plans to remove a large portion of driveway and a shed currently located in the Buffer, for a net total decrease of impervious surface in the 100-Buffer in the amount of 1,698 square feet. No forest removal is being proposed

Provided the lot is properly grandfathered, this office does not oppose this variance request. It appears that the applicant has minimized the impacts to the Buffer by placing the addition as a far back from the slopes as possible. Also, there is a net benefit to the Buffer as the total amount of impervious surface is reduced by 13%. Although there is a net decrease of impervious surface in the Buffer, new development in the Buffer requires mitigation at a ratio of 3:1. Mitigation may be done in the form of plantings and should be located in the 100-foot Buffer. The applicant should provide a plantings plan to the County.

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 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Cc: CS 698-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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November 28, 2007

Mr. Robert Tabisz
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

Dear Mr. Tabisz:

I have the following comments for the below-referenced project within Charles County:

200763594/08-WL-0145 John Denison

The applicant has applied to fill, grade and emplace 1,100 feet of stone revetment and, in another area, fill, grade, and plant marsh vegetation for a shore stabilization project located in the Resource Conservation Area (RCA). It appears from the information submitted that approximately 30 feet of the bank will be graded as part of this proposal. It is unclear from the information submitted whether this is the minimum necessary for this shore erosion control. We question whether an alternative proposal could stabilize the toe of the cliff without grading back into the Buffer as proposed. Where less intrusive measures are possible, the applicant should be required to first explore these options.

As this grading represents a potentially significant impact to the 100-foot Buffer, the applicant must submit a Buffer Management Plan to Charles County. In conjunction with the Buffer Management Plan, the applicant must obtain a permit from the County for the proposed activities. This permit is in addition to the MDE authorization.

Thank you for the opportunity to provide comments. Please feel to follow up with a phone call if you have any questions at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner
Cc: Aimee Dailey



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 27, 2007

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

Re: Local Case No. 526B – Windmill Cove

Dear Mr. Dodd:

Thank you for submitting an amended subdivision plan. The applicant proposes to subdivide two existing lots with dwelling units to build a new sewage reserve area. It appears that the comments from my letter dated August 23, 2007 have been addressed. The forested areas, minus the septic reserve area, should be placed in a permanent protective easement to meet the forest and woodland protection requirements. This area should be clearly shown on the plat, and the plat should include appropriate notes restricting this area from future development or disturbance. In addition, appropriate restrictions should be recorded with the deed for the affected property or properties.

Please provide a copy of the final plat and deed restrictions when they are recorded. We have no further comments on this project. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: DC 527-06



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 27, 2007

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

Re: Grab-a-Crab Restaurant

Dear Mr. Dennis:

Thank you for forwarding information on the above-referenced project. This parcel is 1.6 acres, or 70,872 square feet and is located in a Limited Developed Area (LDA). The applicant proposes to continue the use of the parcel as a restaurant with a parking area. Approximately 16,400 square feet of this parking area is in the 100-foot Buffer to a stream. A portion of this area is paved and the applicant will be paving over stone in the remainder of the existing parcel. There will be no additional disturbance or clearing associated with this paving.

Provided the parcel is properly grandfathered, we do not oppose this variance request for the continued use of the existing parking parcel. It appears that the appropriate protective signage has been placed in the reduced Buffer to the stream. If the County determines this request can be granted, we recommend mitigation as required by the County program.

Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. I can be reached at 410-260-3476 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: BC 707-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 26, 2007

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

Re: 2007-0369-V Dawson, Joyce

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to perfect a dwelling addition with less Buffer and setbacks than required. The lot is designated as Limited Development Area (LDA) and is within a buffer management area. The lot is currently improved with a house and a shared gravel drive. This lot is 5,250 square feet and is considered waterfront. The existing and proposed impervious surface for this lot is within the limit for a lot of this size. It appears that applicant has built an addition of a new deck which exceeds the footprint of the original deck by two feet waterward.

As this is a buffer modification area, and provided that this lot is properly grandfathered, we do not oppose the request for a deck slightly more waterward the original deck. Per the County's requirements, mitigation in the amount of 2:1 in the form of plantings is required for the area of disturbance in the Buffer; we also recommend that the applicant install a raingarden or use another stormwater management technique waterward of the deck.

Also, the site plans indicate that there are two sheds located in the Buffer. Absent a variance or local permit, these must be relocated outside of the Buffer.

We have no comment regarding the variance to setbacks.

Ms. Schappert
11/26/2007
Page 2 of 2

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

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 672-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 26, 2007

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

Re: DC 253-05 Riverton Phase III
Dorchester County Plan #338 D

Dear Mr. Dodd:

I have received the changes for the above-referenced subdivision application. It appears that the applicant has addressed the Commission's comments from the July 23, 2007 letter. Regarding my comment on forest cover, I spoke with Ron Gatton two weeks ago and he has provided information that there is sufficient forest cover (over 15%) on this project site. It is, however, unclear from the site plan what portion of the site is forested and what portion of the site will be permanently protected as forested land to meet the forest and woodland protection requirements. This area should be clearly shown on the plat, and the plat should include appropriate notes restricting this area from future development or disturbance. In addition, appropriate restrictions should be recorded with the deed for the affected property or properties.

Thank you for submitting an amended subdivision plan. Please provide a copy of the final plat and deed restrictions when they are recorded. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner
Cc: DC 253-05



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

Re: 2007-0381-V Stonington Homeowners Association

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to expand a currently existing community pier, by constructing more slips than allowed, with less setbacks than required and greater length than allowed. The associated residential area is designated as Limited Development Area (LDA). The currently existing community pier has 24 slips; the applicant is proposing to build 9 more, which is above the allotted slip number as calculated by the linear length of the shoreline, thus requiring a variance for three of the slips.

We cannot support a variance for the three additional slips as it is not consistent with the spirit and intent of the law. Also, the applicant has not proven that the variance standards have been met, nor has unwarranted hardship been proven. 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 already enjoys reasonable and significant use of the property by virtue of the residential development and currently existing community pier. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor. Therefore, the variance should be denied.

We have no comment regarding the variance to setbacks or greater length than allowed.

Ms. Schappert

11/26/2007

Page 2 of 2

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

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 682-07

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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MEMORANDUM

To: Marti Sullivan, Program Open Space
From: Julie Roberts *JR*
Date: November 16, 2007
RE: POS Project #5287-19-76 Great Hope Golf Course, Somerset County
Cart Path Repair Project

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to repair and resurface the original cart paths for the golf course. Based on the information provided, we have the following comments.

Tax Parcel 18 lies partially within the Critical Area in an area designated as a Resource Conservation Area (RCA). Based on the limited information provided, it is difficult to assess whether the proposed activities lie within the Critical Area portion of the site. Further information regarding the project's location will be necessary to determine whether additional County or Critical Area review is required. If the applicant is proposing an in-kind only replacement and repair of an existing path, formal review by the Critical Area Commission may not be necessary, however this determination cannot be made without additional information. Within the RCA, any development activity which proposes physical disturbance to the land requires review by the Somerset County Department of Community and Technical Services.

We recommend that the applicants or representatives for the proposed project work closely with the County Department of Technical and Community Services staff as early as possible in the planning process in order to determine any Critical Area review requirements. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3476.

Cc: Tom Lawton, Somerset 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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November 15, 2007

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

Re: 2007-0376-V Quandt

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to construct a dwelling addition less setbacks than required and with disturbance to steep slopes. The lot is designated as Limited Development Area (LDA) and is currently improved with a gravel pad and a portion of a shed and retaining wall. This lot is 12,851 square feet and is not waterfront. The proposed impervious surface for this lot is 3,423 square feet which is within the limits for a lot of this size. The applicant has indicated that 6,476 square feet of forest cover of this almost fully forested lot will be removed; this is within the limits for a lot of this size.


Provided that this lot is properly grandfathered, we do not oppose the request for a primary dwelling unit on this lot with slopes greater than 15%. Per the County's requirements, mitigation in the form of plantings is required for the area of forest cover cleared; if the plantings cannot be done on site, a fee in lieu may be substituted. Also, the applicants should provide the specifications for the stormwater improvements proposed on the Winchester Road side of the lot.

We have no comment regarding the variance to setbacks.

Ms. Schappert
11/15/2007
Page 2 of 2

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

Sincerely,

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

Julie Roberts
Natural Resources Planner

cc: AA 643-07

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 15, 2007

Mr. Thomas Lawton
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: CA VAR 07-901 – John A. Donahue Addition

Dear Mr. Lawton:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to construct a residential addition in the 100-foot Buffer. The applicant seeks a 33.5-foot Buffer variance for this proposed addition. This lot is located in the Resource Conservation Area (RCA) and is approximately 160.4 acres. This lot is currently improved by a house, a driveway, and four sheds, two of which are nonconforming and are located in the 100-Buffer to wetlands. In this instance, the applicant is requesting to demolish an existing porch which encroached 15.5 feet into the Buffer and to build a new addition which will encroach an additional 18 feet into the Buffer. The Critical Area Commission opposes this variance.

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. 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."

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 (or 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. This variance would be in direct contrast to the goals of the General Assembly and the goals of the Buffer. This lot is already subject to reasonable residential use. Accordingly, we do not believe that the applicant can meet the standard of unwarranted hardship, and we oppose this variance request. I have addressed each of the standards as it pertains to this case:

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.*

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 already enjoys reasonable and significant use of the property by virtue of the house, driveway, and sheds. In addition, there is adequate room for an expansion outside of 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.

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.*

There is no "right" to build a structure in the Buffer. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. No other property would be permitted to build and further encroach into the Buffer, so to allow this variance would be a special privilege. 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.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. This 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. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County.

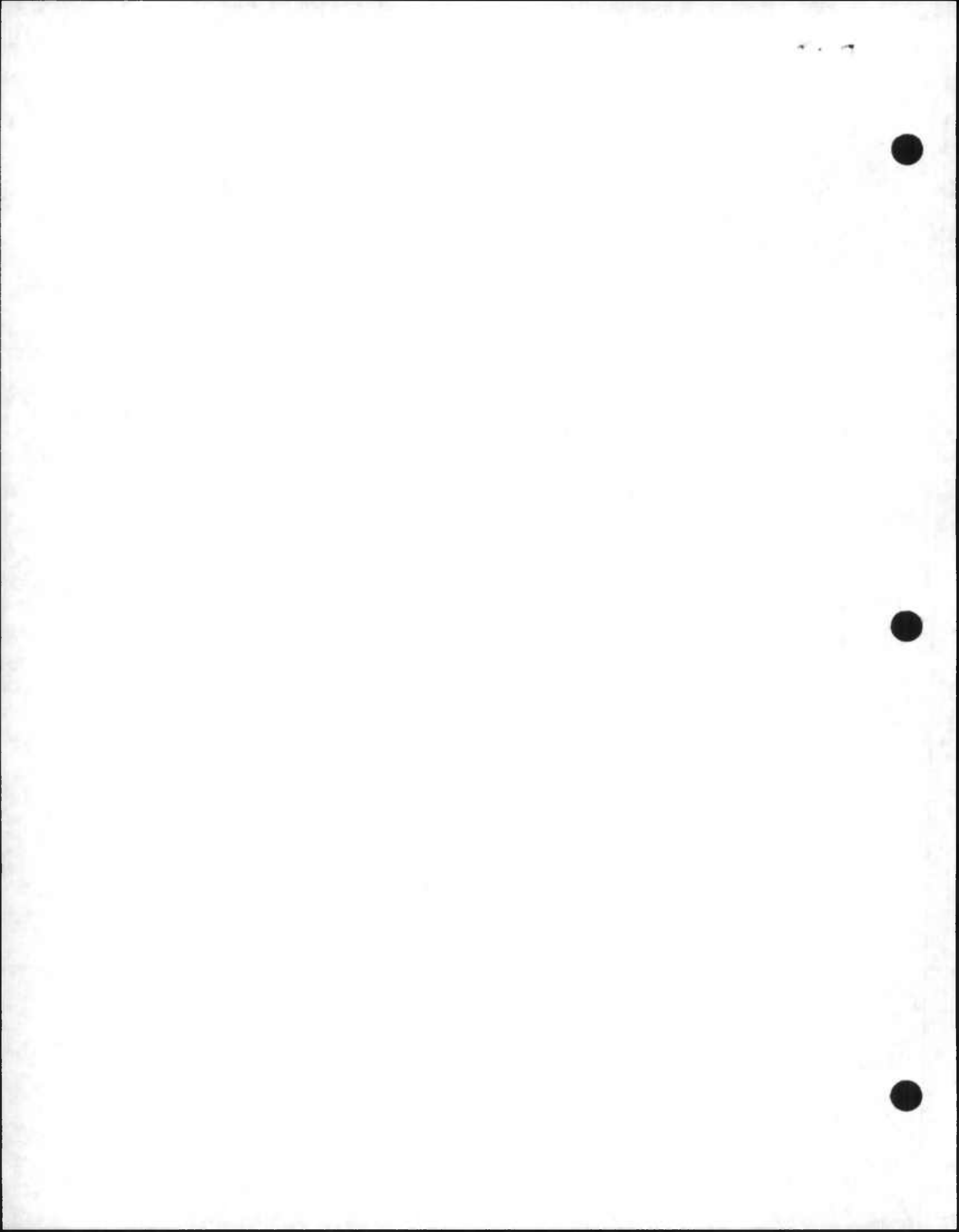
This letter has addressed five of the relevant variance standards. Based on the information provided, only one of the five standards is met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed 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.

Sincerely,



Julie Roberts
Natural Resource Planner
cc: SO 679-07



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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Memorandum

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

From: Julie Roberts, Critical Area Commission

Date: November 14, 2007

Re: **Indian Head/White Plains Rail Trail, Charles County**

Dear Mr. Price:

Thank you for providing information for the above-referenced project. The applicant proposes to develop a 13-mile hiker/biker trail on an abandoned railroad corridor that was donated to Charles County through the Federal Lands-to-Park Program. The trail is proposed to extend from the Town of Indian Head to the White Plains community.

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

1. We advise that Charles County work closely with the Commission staff as early as possible on this project since the development proposal is a disturbance to sensitive areas. The railroad corridor appears to be located in areas that are designated in the Resource Conservation Area (RCA) and Limited Development Area (LDA). The proposed trail also appears to be in or adjacent to both tidal and nontidal wetlands and Forest Interior Dwelling (FID) bird habitat.
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 are any additional threatened or endangered species onsite. The applicant must address all recommendations from DNR for protection of this species.
3. The trail must meet impervious surface limits. In addition, 15% of the site must remain forested.
4. Projects on property owned by a local jurisdiction require a determination of consistency with the state Critical Area Program, (i.e. impervious surface limits are met, habitat protection areas are protected), 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 Critical Area Law and Criteria. Therefore, the proposed development activity will require further review by Commission staff to determine whether the project is otherwise consistent with the County program.

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Thank you again for the opportunity to provide comments on this project. If you have any questions, feel free to call me at (410) 260-3476.

cc: Aimee Dailey, Charles County

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, MD 21401

Re: 2007-0371-V Saunder's Point

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to allow a lot with less area and width than required and greater density than allowed. The lot is designated as Intensely Development Area (IDA) and is currently unimproved. This lot is 9,329 square feet and the proposed impervious surface for the house and driveway is 2,081 square feet (22.3%) which is within the limit for a lot of this size.

It is our position that it is improper to grant a variance to density requirements. The proper mechanism to change the potential density on a parcel or lot is through the rezoning process, and within the Critical Area, through the use of growth allocation. Therefore, we are not able to offer support for the variance as requested.

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

Sincerely,

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

Julie Roberts
Natural Resources Planner

cc: AA 673-07

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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November 6, 2007

Mr. Bill McInturff
Wildlife and Heritage Service
32733 Dublin Road
Princess Anne, MD 21853

Re: Deal Island Wildlife Management Area (WMA) Road Maintenance

Dear Mr. McInturff:

I have reviewed the above-referenced project to perform road and parking lot repair and resurfacing. The project will repair holes in three miles of access road, grade and apply a layer of crushed stone, as well as repair and resurface two main parking areas. Since there will be no expansion of the roads or parking areas, this action by the Department does not constitute a development activity and does not require approval by the Commission.

This office supports the Department's efforts in repairing existing public facilities 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 call me at (410) 260-3476 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 5, 2007

Ms. Megan Blum
Maryland Transportation Authority
2310 Broening Highway Suite 150
Baltimore, MD 21224

Re: Nice Bridge Improvement Project Purpose and Needs Study

Dear Ms. Blum,

Thank you for forwarding the draft combined Purpose and Need (P&N) / Alternates Retained for Detailed Study (ARDS) package for the Nice Bridge Improvement Project. As the Environmental Resources section of the ARDS indicates, it is anticipated that 10.1 to 14.0 acres within the Critical Area will be impacted by the build alternates, which includes areas noted for the presence of Federal and State listed species and a waterbird colony. In addition, there are aquatic resources including submerged aquatic vegetation (SAV), anadromous fish species, and natural oyster bars that may be impacted by the proposal.

Please be advised that under COMAR 27.02, development in the Critical Area resulting from state and local agency programs must be reviewed and approved by the Critical Area Commission. As the project moves into Stage 2, please be in contact with me regarding our review and approval process. I am including our checklist of items that will need to be secured and forwarded to us prior to Commission review.

I look forward to working with you as the project progresses. Please contact me with any questions at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: 59-07

Enclosure



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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November 5, 2007

Mr. Robert Tabisz
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

Dear Mr. Tabisz:

I have the following comments for the below-referenced project within Charles County:

200761459/07-WL-1142 William Flood

Notice of Application was received for this project to replace a timber bulkhead and add revetment within a maximum of 10 feet channelward of the mean high water line. This project also includes a marsh creation for the purposes of shoreline stabilization and access. A Buffer Management Plan (BMP) was recently submitted to this office for this site as well due to a previous violation associated with an attempt to replace the bulkhead last year. While this violation has been mitigated through the BMP, any further grading, clearing or fill within the Buffer associated with the revetment or marsh creation will require additional mitigation and the resubmittal of a new BMP. The applicant must also obtain a permit from Charles County in addition to the MDE permit for the proposed shore erosion control activities. Please find the attached copy of our recent letter regarding this project.

200763046/07-WL-1802 Jimmie Blake

The applicant has applied to fill, grade and plant marsh vegetation for a shore stabilization project. It does not appear that any grading will take place above Mean High Water (MHW). Information provided also indicates that there "will be a minimal effect on the bank and trees" and that the "revetment will stop [where] the revegetation starts." Should any trees or shrubs need to be removed for this project, or if any additional grading is necessary that impacts the 100-foot Buffer (above MHW), a Buffer

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Mr. Joe Kincaid

11/5/2007

Page 2 of 2

Management Plan may be necessary. The applicant must obtain a permit from the County for the proposed activities in addition to the MDE authorization. Mitigation for lost tree cover will be required at a 1:1 ratio.

Thank you for the opportunity to provide comments. Please feel to follow up with a phone call if you have any questions at 410-260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Julie', followed by a long horizontal flourish.

Julie Roberts

Natural Resources Planner

Cc: Aimee Dailey

Enclosure

Martin O'Malley
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Memorandum

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

From: Julie Roberts, Critical Area Commission

Date: November 5, 2007

Re: **Karll Trust Property Acquisition, Baltimore County**

Dear Mr. Price:

Thank you for providing information for the above-referenced project. The project consists of the acquisition of a 20.5 acre portion of a parcel that abuts the Sparrows Point High School Recreation Center. This land is being proposed to provide additional area for school recreation activities, associated facilities and parking areas. This parcel is located in the Limited Development Area (LDA).

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

1. We advise that Baltimore County work closely with the Commission staff as early as possible on this project.
2. Since the project is located in an LDA, impervious surface amounts are limited to 15%. In addition, 15% of the site must remain forested.
3. This site appears to be almost fully forested. Clearing under 20% must be mitigated at a 1:1 ratio; Clearing between 20% and 30% must be mitigated at a 1.5:1 ratio. If there is not adequate area on site for replacement plantings, a fee in lieu may be substituted.
4. Only water dependent activities are permitted in the 100-foot Buffer.
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 County must address all recommendations from DNR for protection of this species.
6. Projects on lands owned by a local jurisdiction require confirmation of consistency with the Critical Area Program, (i.e. impervious surface limits are met, habitat protection areas are protected), or the project may require 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 a review by Commission staff to determine the process for review.
7. As indicated in the information submitted and corroborated through aerial photographs, this parcel is adjacent to a large area of tidal wetlands. Tidal wetlands must be delineated and the

area of the wetlands may not be included in the impervious surface allowance. Disturbance of the wetlands must be avoided and any proposed developed activities must be forwarded to MDE.

Thank you again for the opportunity to provide comments on this project. If you have any questions, feel free to call me at (410) 260-3476.

cc: Pat Farr, Baltimore County

Martin O'Malley
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Anthony G. Brown
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Executive Director

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November 2, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Gunston Pointe – Local Case No. SFD 70420

Dear Ms. Dailey:

Thank you for forwarding the above-referenced building permit application. This lot is 10.50 acres, 9.78 acres of which is located in the Resource Conservation Area (RCA). The applicant proposes to build a single family dwelling unit and driveway for a total impervious surface amount of 11,690 square feet (2.5% of site). Based on the information provided, I have the following comments:

1. According to a letter from the Department of Natural Resources Wildlife and Heritage Service dated May 26, 2007, Forest Interior Dwelling (FID) bird habitat is present within this subdivision. It appears that the guidelines have been followed, as building is restricted to non-forested areas.
2. It appears that the only clearing of forest cover is for the purposes of building the driveway. This 0.09 acres, or 3,9204 square feet must be mitigated for at a ratio of 1:1 in the form of native plantings on site. Please have the applicant forward a plantings plan with the species, size, spacing, and schedule for your review and comment prior to the commencement of construction.
3. It is unclear what method the applicant used in expanding the Buffer to steep slopes. Please have the applicant explain how the Buffer was expanded on this lot.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts

Natural Resources Planner



Martin O'Malley
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November 2, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Buffer Management Plan – Flood Property

Dear Ms. Dailey:

Thank you for forwarding the above-referenced buffer management plan. This buffer management plan was submitted as the result of a violation for grading and filling without a permit. The applicant appears to have cleared or disturbed 9,912 square feet partially in the 25-foot Buffer Exemption Area (BEA) and partially in the 100-foot Buffer. Mitigation in the form of plantings is required at a ratio of 3:1 for this violation in the Buffer areas.

The applicant proposes to plant native species in a 3-tiered formation along three sides of the lot. It appears that the plantings have been placed in the Buffer areas to the extent feasible, as well as in the adjacent area. The applicant has provided the species, size, and spacing of the plantings and should provide to the County the proposed schedule when it becomes available. The applicant also appears to be planning a marsh creation and has attained a permit from MDE.

It is my understanding that the planting credits associated with this management plan will be amended to the Critical Area Commission's guidelines during the upcoming program update.

Thank you for opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: CS 21-07



Martin O'Malley
Governor

Anthony G. Brown
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Executive Director

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November 1, 2007

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

Re: Garten-Finnerty Property Minor Subdivision

Dear Mr. Dennis:

Thank you for forwarding the above referenced project. The applicant proposes to subdivide Lots 104 and 105 to build three single family dwelling units. The applicant also indicates that the remaining forest is to be protected by placing it in a Critical Area easement. The property is 1.35 acres, or 58,806 square feet, in the Limited Development Area (LDA). Based on the information provided, I have the following comments:

1. The application indicates that 29,185 square feet, or almost half of the 58,806 square feet of the lots are forested. It appears from recent aerials that there is more forest cover present than is indicated on the site plans, particularly on lot 105. Please have the applicant confirm the amount of forest cover on site.
2. The applicant has provided a table which indicates the size of the proposed lot areas. Please have the applicant provide the impervious surface limitations for each lot on the final plat and individual deeds.
3. Please have the applicant add a Critical Area note to indicate that these lots are located in the Limited Development Area (LDA). Note 3 should be revised to correctly reflect this information.
4. The applicant has provided a table with information regarding the mitigation which includes the species, size, and spacing. Prior to the start of construction, the applicant should provide a planting schedule to the County.
5. The applicant has indicated that they will put the remaining forest area on their property in an easement. A Protective Covenants note has been shown on the Forest Protection and Establishment plan. The applicant should provided details on signage as well. We recommend these details and notes be added to the final plat.
6. Please have the applicant provide a letter from the Department of Natural Resources Wildlife and Heritage Service indicating whether there may be the known presence of any threatened, rare, or endangered species on site.

Mr. Paul Dennis

11/1/2007

Page 2 of 2

Thank you for the opportunity to provide comments. Please forward the revised site plans when they become available. If you have any questions, please call me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie', followed by a long horizontal flourish.

Julie Roberts
Natural Resources Planner

Cc: BC 668-07

Martin O'Malley
Governor

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October 30, 2007

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

Re: 2007-0350-V Henderson

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to allow a dwelling addition with less setbacks and Buffer than required. The lot is designated as Intensely Development Area (IDA) and is improved with a dwelling unit and pavilion. This lot is 12,166 square feet and the proposed limit of disturbance (LOD) for the addition appears to be 700 square feet plus a 20 x 6 foot deck.

Provided that this lot is properly grandfathered, we do not oppose the request for a variance for an addition and deck in the IDA with less Buffer than required. Pervious construction of the deck should be required as well as mitigation for the addition. We note that the pervious construction standards include 1-inch spacing between the deck boards, 6 inches of gravel under the entirety of the deck, and native plantings surrounding the base of the deck. Per the County's requirements, mitigation in the form of plantings is required inside the 100-foot Critical Area Buffer of an area two times the area of new impervious surface. It appears from the site plan that there is adequate space to plant. The applicant should provide the County with a plantings plan indicating the species, size, spacing, and schedule for review and comment.

In addition to the mitigation requirements for Buffer disturbance, the County must also ensure that the applicant has met their 10% pollutant removal requirements for residential development. This can be achieved through a best management practice like a rain garden.

Ms. Schappert
10/30/2007
Page 2 of 2

We have no comment regarding the variance to setbacks.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 644-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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Memorandum

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

From: Julie Roberts, Critical Area Commission

Date: October 30, 2007

Re: **Pirate's Wharf Development Study**

Dear Mr. Price:

Thank you for providing information for the above-referenced project. The applicant proposes to develop a sensitive areas delineation study to determine future use and potential development of recreational facilities on this 342.2 acre parcel. Portions of this property are in the Critical Area and are designated as a Resource Conservation Area (RCA).

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

1. We advise that Wicomico County work closely with the Commission staff as early as possible on this project since the proposal appears to contemplate active recreation in a Resource Conservation Area, which is generally not permitted unless the County seeks a conditional approval from the Critical Area Commission.
2. Since the project is located in an RCA, impervious surface amounts are limited to 15%. In addition, 15% of the site must remain forested.
3. Only water dependent activities are permitted in the 100-foot Buffer.
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.
5. Projects on property owned by a local jurisdiction require confirmation of consistency with the Critical Area Program, (i.e. impervious surface limits are met, habitat protection areas are protected), 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 a review by Commission staff to determine whether the project is otherwise consistent with the County program, notwithstanding the Resource Conservation Area issue outlined above.



Thank you again for the opportunity to provide comments on this project. If you have any questions, feel free to call me at (410) 260-3476.

cc: Jimmy Sharp, Wicomico County



Martin O'Malley
Governor

Anthony G. Brown
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October 30, 2007

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

Re: 2007-0355-V Plus Properties, LLC

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. A similar request was received and commented on in 2005. The applicant indicates that the previous permit expired before the work was performed. The applicant is again requesting a variance to allow a dwelling with less setbacks and Buffer than required. The lot is designated as Intensely Development Area (IDA) and is currently forested with non-tidal wetlands. This lot is 6,169 square feet and the applicant proposes to build a dwelling and driveway for a total of 1,436 square feet of impervious surface.

Provided that this lot is properly grandfathered, we do not oppose the request for a variance for a modestly sized dwelling and driveway in the IDA with less Buffer than required. The previous decision made by the hearing officer required mitigation at a 3:1 ratio for the area of disturbance in the Buffer; we recommend that this requirement be carried through to this variance request. As the majority of this lot is forested, we recommend that the Limit of Disturbance (LOD) is minimized where possible to preserve the natural forest cover that currently exists. Also, it appears from the site plan that there is adequate space to plant and that the applicant has provided the species, spacing, and size for the impervious surface associated with the house and driveway. However, the total number of plantings that the applicant has shown is unclear.

The applicant also proposes to construct a raingarden for stormwater management which satisfies a comment provided by planner Gary Green in his letter dated

Ms. Schappert
10/30/2007
Page 2 of 2

July 26, 2005. The County must verify that the proposed raingarden is adequately sized to address the pollutant removal requirement.

We have no comment regarding the variance to setbacks.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 490-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 26, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Pine Grove Subdivision – ORD 70206

Dear Ms. Dailey:

Thank you for forwarding the above-referenced buffer management plan. This buffer management plan was submitted as the result of a zoning violation and order. The applicant appears to have cleared or disturbed 5,761 square feet within the 100-foot Buffer. As we discussed this afternoon, there are multiple problems with the applicant's submission. Based on the information submitted, I have these comments:

1. The applicant is responsible for mitigating at a ratio of 3:1 for disturbance in the Buffer, for a total of 17,283 square feet.
2. Mitigation should be in the form of native trees and shrubs and should mimic natural forest using a three-tiered planting plan.
3. Grasses and sod are not sufficient for mitigation planting.
4. The applicant must resubmit a clean, legible site plan to the County which includes the species, size, spacing, and schedule for plantings for your review and comment.

Thank you for opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
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
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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October 25, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Pine Grove Subdivision – GRD 70207

Dear Ms. Dailey:

Thank you for forwarding the above-referenced buffer management plan. This buffer management plan was submitted as the result of a zoning violation and order. The applicant appears to have cleared or disturbed 10,049 square feet of the 25-foot Buffer Exemption Area (BEA). Mitigation in the form of plantings is required at a ratio of 3:1 for this violation in the BEA.

The applicant proposes to plant native species in a 3-tiered formation along three sides of the lot. It appears that the plantings have been placed in the BEA to the extent feasible, as well as in the adjacent area which show hydric soils. The applicant has provided the species and size of the plantings and should provide to the County the proposed schedule and spacing for the plantings.

As we discussed this morning, the credits provided per plant differ from the guidelines the County generally follows for mitigation. It is my understanding that the planting credits will be amended to the Critical Area Commission's guidelines during the upcoming program update.

Thank you for opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

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

Julie Roberts
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 25, 2007

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

Re: 2007-0359-V Richardson, Julian

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to perfect a dwelling addition by enclosing the currently existing deck with a roof and windows with less setbacks and Buffer than required. The lot is designated as Intensely Development Area (IDA) and is improved with a dwelling unit, driveway, pool, shed and deck area. This lot is 9,575 square feet and the proposed limit of disturbance (LOD) for this enclosed deck is 227 square feet. The applicant has indicated that no vegetation will be removed in the building process.

Provided that this lot is properly grandfathered, we do not oppose the request for a variance for an attached, enclosed deck in the IDA with less Buffer than required. Per the County's requirements, mitigation in the form of plantings is required inside the 100-foot Critical Area Buffer of an area two times the area of new impervious surface. It appears from the site plan that there is adequate space to plant. The applicant should provide the County with a plantings plan indicating the species, size, spacing, and schedule for review and comment.

We have no comment regarding the variance to setbacks.

Ms. Schappert
10/25/2007
Page 2 of 2

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

Sincerely,

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

Julie Roberts
Natural Resources Planner

cc: AA 647-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 23, 2007

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

Re: 2007-0354-V Sparhawk, Joel

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant proposes to build a deck with less setbacks and Buffer than required. The lot is designated as Limited Development Area (LDA) and is improved with a dwelling unit, carport, narrow strip of porch and walkway. This lot is 12,500 square feet and is within the impervious surface limit for a lot of this size.

Provided that this lot is properly grandfathered, we do not oppose the request for a variance for a moderately sized, attached deck with less Buffer than required. Pervious construction of this deck should be required as well as mitigation for the addition. We note that the pervious construction standards include 1-inch spacing between the deck boards, 6 inches of gravel under the entirety of the deck, and native plantings surrounding the base of the deck. We recommend that the applicant provide mitigation at a ratio of 3:1 for the area of new disturbance in the Buffer and that these requirements are met by planting a mix of native species in the area waterward of the house. The applicant shall provide a plantings plan including species, size, spacing, and schedule for review and approval by the County.

The project application also shows that 345 square feet of impervious walkway will be removed from the area waterward of the dwelling unit. We support the removal of this walkway.

We have no comment regarding the variance to setbacks.

Ms. Schappert

10/23/2007

Page 2 of 2

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 649-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 23, 2007

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

Re: 2007-0362-V

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant is requesting a variance to allow mooring pilings with less setbacks than required. The mooring piles are below Mean High Water and therefore require review and a permit from the Maryland Department of Environment (MDE). Provided the applicant obtains the necessary permits, we have no comment on this variance request.

Please contact me at 410-260-3476 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 648-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 23, 2007

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

Re: 2007-0363-V

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant is requesting a variance to renovate an existing accessory structure (barn) in the front yard and with less setbacks than required. This lot is designated as Limited Development Area (LDA) and is currently improved with a house, porch, pool, barn, and driveway. Critical Area Commission staff reviewed this variance request and wrote a letter dated April 18, 2002 indicating that as long as the lot is properly grandfathered, this office does not oppose this variance request. It appears that the applicant did not perform the renovations on the barn within the allotted time frame (2 years) per Anne Arundel County Code Section 11-102.2 and has therefore resubmitted the request to perform the same work.

Providing this lot is properly grandfathered, we do not oppose this variance request. According to the information submitted, it appears that all work will be performed in the same footprint of the existing structure and that no clearing or grading will be performed. The applicant has also indicated that 270 square feet of impervious surface will be removed as a result of this project, therefore no mitigation is necessary. As previously noted in our 2002 letter, storm water runoff from the renovated structure should outfall to an area with vegetative stabilization to provide water quality benefits.

We have no comments on the request for less setbacks.

Ms. Schappert
10/23/2007
Page 2 of 2

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 227-02

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 22, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Preliminary Subdivision Plan: XPN 07-0001
Key Pointe Woods

Dear Ms. Dailey:

I have received the revised site plans. Revisions were made in response to a conference call with the applicant on October 1, 2007. I have these remaining comments:

1. During our conference call with the applicant, we further discussed using a portion of the FIDs habitat as a conservation mitigation bank. In previous letters, we have indicated that we were opposed to this mitigation bank and we continue to be opposed. This project was submitted to this office for comment and review as a preliminary subdivision. At the point of that first submission, the Critical Area law and criteria were triggered by a proposed development activity in the Critical Area. In conjunction with the proposed development activity the applicant followed the guidelines for development in FIDs habitat including the placement of an easement on the remaining 80% of forest at the time of subdivision recordation. Hence, this land will be protected in perpetuity to serve as FIDs habitat.

The applicant has proposed to use this same land area as a mitigation bank in conjunction with the Forest Conservation Act requirements. As indicated in COMAR 5-1607(ii), the standards and options for Forest Conservation include "Acquisition as a mitigation technique of an off-site protective easement for existing forested areas **not currently protected**..." Since Commission staff is reviewing the applicant's proposal in the context of a subdivision where a FIDs conservation easement will protect the same land area, it appears that the applicant's mitigation bank proposal is in conflict with COMAR 5-1607(ii) and therefore not permitted.

Ms. Aimee Dailey

10/22/2007

Page 2 of 2

2. Please have the applicant amend the area labeled "CBCA FIDs Habitat Retained" to "CBCA FIDs Interior Habitat Retained".
3. The total amount of acreage in the Critical Area listed on the Critical Area Lots table differs from the amount of Critical Area listed under the FIDs Conservation Worksheet. The "worksheet" indicates that there are 136.07 acres of Critical Area. The addition of the lots plus roads on the table only adds to 134.43 acres, leaving a discrepancy of 1.64 acres. Please have the applicant clarify.
4. We continue to recommend a community pier for this proposed subdivision. Individual piers are not guaranteed, but are evaluated by the Maryland Department of the Environment (MDE) on a case-by-case basis. Commission staff will recommend a community pier to MDE as a means to minimize access through and impact to the Buffer.
5. The preliminary subdivision plans do not show wells, although they are included in the legend. The well location for each lot should be shown and taken into account, as the limit of disturbance for each site has been minimized due to FIDs habitat concerns. Please have the applicant add the area of the wells and make any appropriate changes to clearing calculations.
6. We are unable to provide the requested letter in support of the Section 104 modification as it not an activity regulated under COMAR for the purpose of Critical Area review.

If you have any questions, please contact me at (410) 260-3746.

Sincerely,



Julie Roberts
Natural Resources Planner
cc: CS 98-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 22, 2007

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

Re: Ambar, LLC Siteplan
C 07-0096

Dear Ms. Krinetz,

I have received the above-referenced siteplan for review. The applicant proposes to remove an existing commercial building and construct a new commercial building and two parking lots on an existing 1.23 acre lot. The property is classified as an Intensely Developed Area (IDA).

1. The proposed development requires impacts to 4,752 square feet of nontidal wetlands and their 25-foot buffers. We note that the applicant has applied for the required state permit with Maryland Department of the Environment (MDE) for the proposed nontidal wetland impacts. However, the proposed wetland disturbance is in conflict with Anne Arundel County Code § 17-6-401 which prohibits such development within nontidal wetlands and their 25-foot buffers. Therefore, it appears that the applicant must obtain a variance from Anne Arundel County in order to construct the project as proposed.
2. The applicant must demonstrate how the 10% pollutant removal requirement will be met for development of this property. Please provide a copy of the 10% rule worksheets for this office to review.
3. COMAR 27.01.02.03.D(4) requires that if practicable, permeable areas within IDA shall be established in vegetation. Please provide a landscape plan demonstrating that this requirement has been addressed.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Ms. Krinetz
October 22, 2007
Page Two

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 622-07
Pam Cotter

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 22, 2007

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

Re: Columbia Beach Lots 6-8
Modification # 9754, Permit # G02013110

Dear Ms. Cotter,

I have received the above-referenced request for a modification to Anne Arundel County Code § 17-6-401. The applicant requests this modification to the County Code provision that prohibits development within a nontidal wetland or its 25-foot buffer for the purpose of constructing a single family dwelling within the 25-foot buffer. The property is currently undeveloped and is classified as an Intensely Developed Area (IDA). I have outlined my comments below.

1. The nontidal wetland that the applicant has identified is mapped as a tidal wetland on the DNR wetlands map. If the wetland was tidal, the 100-foot Critical Area Buffer would be mapped from the edge of tidal waters and the applicant would have to obtain a variance for disturbance to the 100-foot Buffer. It appears that tidal flow to this wetland may have become blocked by construction of stone revetment along the shoreline surrounding the wetland. However, assuming this wetland has been converted from a tidal to a nontidal wetland, the Buffer still covers the entire property due to its expansion for hydric soils. Anne Arundel County Code § 18-13-104 provides that the 100-foot Buffer shall be expanded beyond 100 feet to include contiguous sensitive areas such as hydric soils. The applicant's plans identify the predominant soil type on the property as Deale Shadyoak Urban Land (DeA), which is a hydric soil. This hydric soil is also shown as the predominant soil from the shoreline of the adjacent property, throughout the 100-foot Buffer, and continuing throughout the majority of the applicant's property. The edge of the applicant's property that is closest to the nontidal wetland is mapped as Mispillion (MZA) which is also a hydric soil, and the 100-foot Buffer would be extended to cover this portion of the property as well. Therefore, the proposed development of this property will create disturbance within the Critical Area Buffer and a variance for this disturbance is required.
2. The applicant must demonstrate how the 10% pollutant removal requirement will be met for development of this property.

Ms. Cotter
October 22, 2007
Page Two

3. The applicant must obtain a permit from Maryland Department of the Environment (MDE) for the proposed disturbance within the 25-foot buffer of a nontidal wetland.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 638-07
Kelly Krinetz

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 22, 2007

Mr. Bill Love
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Bayhead Farms
S 78-333, P 07-00174

Dear Mr. Love:

Thank you for forwarding the revised sketch plans for the above-referenced subdivision request. It appears that the applicant has addressed this office's comments from Kerrie Gallo's letter dated June 19, 2007. I have outlined my remaining comments below.

1. It appears that the applicant has provided the required stormwater treatment facilities outside of the RCA. If so, then the proposed series of step pools and cascades which comprise an environmentally sensitive outfall alternative may be located as proposed within the RCA. However, we recommend that the last pool be relocated so that it is outside of the 25-foot non-tidal wetland buffer. Also, it is unclear why the applicant has proposed to clear such a large swath of existing forested area surrounding the proposed step pools. Please have the applicant reduce this proposed clearing to what is the minimum necessary for construction of the outfall structure.
2. The proposed use of the RCA as both a recreational open space parcel and a residential lot is not permitted within the RCA lands as shown on the plat. Specifically, the existing RCA land area currently consists of less than 20 acres. Any further division of this area results in increased nonconformity within the RCA and is not consistent with the Anne Arundel County Critical Area Program. Therefore, the entire area of the RCA must be included within the boundary of proposed lot 17.
3. There are several existing structures within the RCA on proposed lot 17. Please have the applicant include a note on the plat and plans that these structures will not be used as dwellings.
4. As the applicant has noted, no more than 20% of the existing forested area on the RCA portion of the property can be cleared. Yet, currently the applicant proposes to clear 25% of the existing forest in the RCA. Anne Arundel County Code § 17-8-601 provides that, "clearing on lots in the LDA and RCA other than residential lots of one-half acre or less in existence on or

before December 1, 1985 may not exceed 20% of the lot, except that the Office of Planning and Zoning may approve clearing up to 30%." It appears that on this property, it is unnecessary to clear greater than 20% of the site, especially to accommodate development of one dwelling and a stormwater management outfall within a 16-acre portion of RCA. It seems that there are ample opportunities on the site for the applicant to reduce the area of proposed clearing. This office's suggestions for reduction of the proposed clearing are described below.

- The proposed area to be cleared surrounding the house is far greater than what is necessary to accommodate construction. We recommend that this proposed clearing be reduced to what is necessary to accommodate a reasonable limit of disturbance for construction of the house.
 - It is unclear why there is proposed clearing within the proposed boundary for lot 17 where it borders the proposed boundaries of lots 3, 4 and 5. Please explain the need for clearing in this area, or remove this area of proposed clearing from the plans.
 - The proposed access road for lot 17 via proposed road 'C' appears to create significantly more disturbance of existing forested area than would be created if a shorter access road were constructed from proposed road 'B' and connected with what appears to be an existing cleared path through the forest cover. Further, it is unclear why the disturbance to the existing contiguous forest cover for construction of the proposed house on lot 17 could not be minimized to a greater extent by locating the dwelling closer to the other proposed lots outside of the RCA. Please have the applicant explain why the proposed access road and dwelling location can not be modified to minimize disturbance to the existing forested areas.
5. The remaining 80% of forest coverage in the RCA must be placed in a conservation easement. This should be noted on the plat and plans.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 49-07

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 22, 2007

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

Re: Phelps Property/Gerard Park
S 06-051, P 07-0100

Dear Ms. Krinetz:

Thank you for forwarding the final plans for the above-referenced subdivision application. The applicant proposes to subdivide a 5.78 acre property to create eight new lots and one of these lots is within the Critical Area. The Critical Area portion of the property consists of approximately .72 acres and is designated as a Limited Development Area (LDA). It appears that the applicant has addressed all of this office's comments from Kerrie Gallo's June 25, 2007 letter. I have included my remaining comment below.

1. We note that the applicant has included notations on the plat and plan that mitigation for the forest clearing within the Critical Area will be required at a 1.5:1 ratio. We recommend that a portion of this mitigation be provided on lot 8, the lot that is within the Critical Area, to the extent feasible.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 695-03



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 19, 2007

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

Re: Zafiriou, Linda Ann
S 07-064, P 07-0175

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision request. The applicant proposes to subdivide an existing parcel into two lots, to retain the existing house on one lot and to construct a new house on the other proposed lot. The property is classified as a Limited Development Area ("LDA"). I have my provided my comments below.

1. The proposed impervious surface area is currently at 14.9%, which leaves only 15 square feet of allowable impervious surface area for future property owners to make residential improvements such as impervious porches, sheds or patios. We recommend that the applicant reduce the proposed impervious surface so that future property owners will not be prevented from making reasonable use of their property in conformance with the Anne Arundel County's Critical Area program. This office will not support future requests for variances to impervious surface area limits for either lot in this subdivision.
2. Please have the applicant quantify the area of tree coverage on the property. If at least 15% of the property is not forested, the applicant will have to provide plantings to meet the County's afforestation requirement. These afforestation plantings should be shown on the plat and plan and placed in a conservation easement. We recommend that the applicant show the existing and proposed forest cover calculations in a table on the plat and plan.
3. It appears from our records and from the pictures submitted in the application materials that there is a portion of a non-tidal wetland and its buffer within the border of the property. The applicant should have a certified wetland delineator map the limits of the wetland and its 25-foot buffer on the property. This information must be included on the plat and plan in future submittals. Construction activities must not be proposed within any wetlands or wetland buffers on the property.

Ms. Krinetz
October 19, 2007
Page Two

4. Please have the applicant obtain and submit a letter from Maryland Department of Natural Resources Wildlife Heritage Service confirming that there are no rare, threatened or endangered species or other Habitat Protection Areas on the property.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 576-07

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 18, 2007

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

Re: Village Down River, Review and Approval of Site Plan and Buffer Management
Plan by full Critical Area Commission

Dear Mr. McKenzie:

Critical Area Commission staff have completed the review of the site plans and the Buffer management plan for the Village Down River growth allocation project. In addition, we received the requested Environmental Restrictions document from the applicant's attorney yesterday, October 17, 2007. The Attorney General's Office is reviewing this document, and will comment directly to the applicant's attorney.

Our letter of September 25, 2007 set forth several concerns regarding the habitat enhancements proposed in lieu of the 300-foot setback, as shown on the final plans submitted to this office. Specifically, staff has concerns regarding consistency of the proposed enhancements with those approved by the Commission as part of its March 12, 2007 growth allocation approval. In accordance with the Commission's conditions of approval for growth allocation, staff finds it necessary for the full Commission to review and vote on the final site plan and Buffer Management Plan. It is important to note that, until final Commission approval of these documents is obtained, the conditions of approval remain outstanding.

We will work with you to schedule this project on the Commission's agenda. If you have any questions, please call me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner
cc: WI 593-06



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

Re: Local case number 1116 – Wayne Markey

Dear Mr. Dodd:

Thank you for forwarding me information on the above-referenced project. The applicant proposes to subdivide 23.53 acres to create three lots through intrafamily transfer in the Resource Conservation Area (RCA). Based on the information submitted, I have the following comments:

1. Please have the applicant provide the date of the wetland delineation, as well as a legend indicating the meaning of the flag symbols.
2. A note should be added to the plat indicating that the all development and intrafamily transfer rights have been exhausted for this parcel (may be added to note 16).
3. Conflicting information between the Critical Area Notes and the general notes section should be clarified. The Critical Area Notes should be amended to match the general "notes" section. For example, Critical Area Note 2 should be amended to indicate the Eagle's nest or should be removed, as Note 19 indicates the presence of the nest.
4. Note 19 should be corrected to indicate the correct resource agencies. The Department of Natural Resources (DNR), not the Maryland Department of the Environment (MDE), supplies review and recommendations.
5. Although Critical Area Note 1 indicates that this site is known to contain FIDs, our records indicate that this parcel is adjacent to FIDs but do not show the area as FIDs habitat. Please have the applicant clarify and amend the note if necessary.
 - a. If this area is, in fact, FIDs habitat, it does not appear that the impact to FIDs habitat has been minimized or the Critical Area Commission guidelines followed. The applicant will need a habitat protection plan describing their impact, how they've followed guidelines, and how mitigation will be accomplished.
 - b. If the development guidelines are not followed, the applicant will be responsible for additional FIDs mitigation.
6. Note 20 indicates that a Buffer management plan has been approved for these lots. Please include this plan with the resubmittal of this plan.

7. The applicant has provided a table showing the impervious surface limits for each site. It is unclear as to whether the tidal wetlands are state or privately owned.
 - a. If the tidal wetlands are state owned, the applicant must subtract the area of tidal wetlands from the total land area and base the 15% impervious surface allotment on this calculation.
 - b. If the tidal wetlands are private, the applicant may use that acreage to calculate the 15% limits.
 - c. If the applicant chooses not to do the field work assessing the state or private status, they may deduct all tidal wetlands out of the calculations.
 - d. Please have the applicant specify and resubmit the calculations based on the above listed options.
8. It appears that these lots are almost fully forested and that 10.9%, or 2.5 acres, are to be cleared for development. The plan does not address how the required 2.5 acres of plantings will be addressed. Please have the applicant clarify.

Please forward me the revised plans for review. Thank you for the opportunity for review and comment on these plans. I can be reached for any questions at 410-260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

Cc: DC 367-07

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 18, 2007

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

Re: Local case number 1125 – Linkous - Dorworth

Dear Mr. Dodd:

I have received the revised information on the above-referenced project. It appears that the applicant has satisfied the comments made in previous letters. I have these remaining comments:

1. The applicant's letter indicates that the plantings plan and agreement will be submitted under separate cover to your office.
2. The soil type of the "upland" area has not been specified. Please have the applicant submit a revised site plan that indicates the upland soil type.

Thank you for the opportunity to provide comments on this project. Please call me with any questions at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: DC 367-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 17, 2007

Mr. Tom Burke
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

Re: Helms Property-Shoreland Plat A Lot 149
S 86-055, P 06-0153

Dear Mr. Burke:

I have received another resubmittal for the above-referenced subdivision request. The applicant has addressed the comments of my last letter dated July 2, 2007. I have reviewed the plat and plan submitted and I have no further comments.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in dark ink, appearing to read 'AWidmayer'.

Amber Widmayer
Natural Resources Planner

cc: AA 801-06

TTY for the Deaf

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





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Governor

Anthony G. Brown
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October 16, 2007

Mr. Kevin Brittingham
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Lagna Property

Dear Mr. Brittingham:

Thank you for forwarding information on the above-referenced project. This lot is 25,273 square feet and is located in the lot is Limited Developed Area (LDA). The applicant proposes to build a single family dwelling, garage, and driveway for a total of impervious surface in the amount of 5,376, which is within the limits for a lot of this size. The applicant proposes to impact 7,165 square feet of nontidal wetlands and the 25-foot buffer to the wetlands. The applicant also proposes to clear 3,960 square feet, or 27.9% of this lot.

Provided the lot is properly grandfathered, we do not oppose this variance request for the construction of a modest sized dwelling and driveway on this lot, however the applicant has not demonstrated minimization. We recommend that the garage either be attached to the house or removed from the variance request. Also the house could be reduced in size and shifted forward to the extent possible, further reducing the impacts to the nontidal wetlands. Permits from MDE will also be required to impact non-tidal wetlands.

If the County determines this request, or some variation of this request can be granted, we recommend 3:1 mitigation for the area of impact to the nontidal wetlands and the 25-foot buffer. The applicant is also responsible for mitigation as a ratio of 1.5:1 for any area cleared to build the dwelling and driveway.

Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. I can be reached at 410-260-3476 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: BC 575-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 16, 2007

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

Re: Local case number 1173 – Cedar Grove Subdivision

Dear Mr. Dodd:

Thank you for forwarding me information on the above-referenced project. The applicant proposes to build 26 single family units on 26.8 acres located in the Limited Development Area (LDA). Based on the information submitted, I have the following comments:

1. The applicant must provide a letter from the Department of Natural Resources Wildlife and Heritage Program indicating whether rare, threatened, or endangered species are known to occur on or near this project area.
2. Please have the applicant provide a table indicating the proposed impervious surface area for each lot. If this information is not available, the maximum allowed impervious surface may be substituted. The applicant should also include impervious surface information for the roads in these calculations. Each lot is subject to a 15% impervious surface limit based on lot size.
3. Please have the applicant provide information regarding any forest to be cleared for development. Any forest to be cleared up to 20% must be mitigated for at a 1:1 ratio. Forest clearing between 20-30% must be mitigated for at a 1.5:1 basis.
 - a. This site is currently forested on 5.16 acres. As the plan notes, required forest area for this site is 4.02 acres. Afforestation requirements will be applicable to the subdivision should the applicant clear more than 1.14 acres for development.
 - b. The remaining forest must be placed in a permanent easement and the applicant must place a note on the plat to this effect.
4. Our records indicate that there are tidal wetlands along Wright's Creek and possibly the stream adjoining the creek. The site plan does not indicate that there has been any delineation of these wetlands. These wetlands must be delineated in the field and the 100-foot Buffer must be drawn from the edge of the tidal wetlands. Please provide a copy of this delineation once available.

Mr. Steve Dodd
10/16/2007
Page 2 of 2

I look forward to seeing the revised plan. Please call me with any questions at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal line extending to the right.

Julie Roberts
Natural Resources Planner

Cc: DC 367-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 16, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Clifton on the Potomac – SFD 70424

Dear Ms. Dailey:

Thank you for forwarding the above-referenced project. The applicant proposes to build a single family dwelling unit on a 19,458 square foot lot in the Limited Development Area (LDA). Based on the information provided, I have the following comments:

1. The applicant proposed to build a house, driveway and porch for a total amount of impervious surface of 4,047 square feet, or 21% of the site which is within the impervious surface limits for a lot of this size.
2. This lot is currently fully forested. The site plan indicates that 7,308 square foot of woodlands is proposed to be disturbed (38%) of the site. The plan also indicates that the total disturbed area is 12,150 square feet (63%). This information appears to be inconsistent. Please have the applicant clarify.
3. According to Charles County Code § 297-132G.(7)(e)[6], a ratio of 3:1 mitigation is required for all clearing above 30%. The mitigation plantings plan has been provided indicating that plantings in the amount of 13,544 square feet are proposed to be done on-site, with an off-site retention of 8,380 square feet. These mitigation requirements are consistent with the amount of woodlands to be disturbed, but must be clarified in reference to comment 2.

I look forward to seeing the revised plans. Thank you for opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

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October 16, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Clifton on the Potomac – SFD 70443

Dear Ms. Dailey:

Thank you for forwarding the above-referenced project. The applicant proposes to build a single family dwelling unit on a 15,750 square foot lot in the Limited Development Area (LDA). Based on the information provided, I have the following comments:

1. The applicant proposed to build a house, driveway and porch for a total amount of impervious surface of 3,357 square feet, or 23% of the site which is within the impervious surface limits for a lot of this size.
2. This lot is currently fully forested and the applicant proposed to remove 10,548 square feet of forest cover. To the extent possible, the applicant should preserve the natural forest cover on the site.
3. According to Charles County Code § 297-132G.(7)(e)[6], a ratio of 3:1 mitigation is required for all clearing above 30%. The mitigation plantings plan has been provided indicating that plantings in the amount of 10,344 square feet are proposed to be done on-site, with an off-site retention of 21,300 square feet. The mitigation plan shows that some trees are to be planted beyond the limit of disturbance (LOD) and inside the current tree line. Please confirm the accuracy of this plan and if this is an appropriate area for plantings, as it appears that this area is forested.

Thank you for opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

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CS L27-07



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October 16, 2007

Ms. Regina Esslinger
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Local Government Consistency Report – Stemmers Run Pumping Station

Dear Ms. Esslinger:

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 involves repaving an existing parking lot at the Stemmers Run Pumping Station as required by the consent decree. After reviewing the consistency report this office agrees that the project is consistent with the Baltimore County Critical Area Program for the reasons outlined below.

- The proposed upgrades are required subject to a Federal Consent Decree.
- While a portion of the proposed upgrades are within the 100-foot Buffer, the County Code permits utilities in Habitat Protection Areas provided no feasible alternative exists and the location, design, construction and maintenance provides erosion protection and minimizes impacts.
- The pumping station site existed within the 100-foot Buffer prior to the adoption of the Baltimore County Critical Area Program.
- There will be no additional impacts or disturbance to the Buffer.
- There will be a net decrease of 1,665 square feet of impervious surface through removal of a portion of paved parking lot.
- Stormwater management and sediment and erosion control approvals will be provided.

Since the project is consistent with the local program, it will not require formal approval by the Chesapeake Bay Critical Area Commission, notwithstanding any other required resource agency approvals.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner



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October 16, 2007

Mr. David Decker
Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, MD 21401

Re: Proposed Marine Railway Replacement; Cambridge Marine Terminal
Consistency Report

Dear Mr. Decker:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.05 – State Agency Actions Resulting in Development on State-Owned Lands in the Critical Area. The project involves the replacement of approximately 80 feet (above mean high water) of an existing marine railway, as well as dredging and pier relocation in the 100-foot Buffer in an area of intense development. Since this is an in-kind replacement and there will be no expansion or increased impervious surface associated with the rail repair, this action by the Department does not constitute a development activity and does not require approval by the Commission.

This office supports the Department's efforts in repairing existing public facilities on State lands. If there are changes or additions to this project to this project, it must be resubmitted for review and comment.

We appreciate your continued efforts to provide Commission staff notice of these projects. Please call me at (410) 260-3476 if you have any questions.

Sincerely,

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

Julie Roberts
Natural Resources Planner

cc: 52-07



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

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Clifton on the Potomac – BOA File Docket 1197

Dear Ms. Dailey:

Thank you for forward the above-referenced request for variance. The applicant proposes to merge two lots to build a single family dwelling unit on the combined 0.4185 acre. This proposed lot is in the Limited Development Area (LDA) and in the extended Buffer to steep slopes and hydric soils. The total wetland acreage of this site is 0.1355 acres, or 5,092 square feet. The buildable, upland acreage is 0.28 acres, or 12,330 square feet and is entirely forested. The proposed impervious surface for this lot is 1,397 square feet, or 11.3% of the upland area, which is within the impervious surface limit.

Given the constraints on this lot and provided the lot is properly grandfathered, this office does not oppose this variance request. It appears that the applicant has minimized impacts to the extended Buffer by limiting the house footprint and placing the house as a far back from the slopes and as close to the road as possible. The removal of forest cover should be mitigated at a rate of 3:1. The applicant has provided a buffer management plan which shows a combination of native trees and shrubs to be planted on site for a total of 8,000 square feet. This appears to be the extent possible on this site. The applicant also proposes to retain the remainder of the plantings, in the amount of 2,902 square feet, off-site, therefore satisfying their mitigation requirements.

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 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: CS 595-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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October 15, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Clifton on the Potomac – BOA File Docket 1196

Dear Ms. Dailey:

Thank you for forwarding the above-referenced request for variance. The applicant proposes to merge two lots to build a single family dwelling unit on the combined 0.5765 acres, or 25,115 square feet. This proposed lot is in the Limited Development Area (LDA) and in the extended Buffer to steep slopes and hydric soils. The total wetland acreage of this site is 0.2075 acres, or 9,042 square feet. The buildable, upland acreage is 0.36 acres, or 16,073 square feet and is entirely forested. The proposed impervious surface for this lot is 2,113 square feet, or 13.1% of the upland area, which is within the impervious surface limit.

Given the constraints on this lot and provided the lot is properly grandfathered, this office does not oppose this variance request. It appears that the applicant has minimized impacts to the extended Buffer by limiting the house footprint and placing the house as far back from the slopes and as close to the road as possible. The removal of forest cover should be mitigated at a rate of 3:1. The applicant has provided a buffer management plan which shows a combination of native trees and shrubs to be planted on site for a total of 7,376 square feet. This appears to be the extent possible on this site. The applicant also proposes to retain the remainder of the plantings, in the amount of 9,109 square feet, off-site, therefore satisfying their mitigation requirements.

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 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Cc: CS594-07



Martin O'Malley
Governor

Anthony G. Brown
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October 15, 2007

1804 West Street, Suite 100, Annapolis, Maryland 21401
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Ms. Regina Esslinger
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Variance – Guldán Property

Dear Ms. Esslinger:

Thank you for forwarding the above referenced variance request. The applicant seeks a variance to combine two grandfathered lots (Lots 17 and 18) that are entirely within the expanded Buffer to build a single family dwelling unit and a continued use variance to maintain existing lawn. Currently, Lot 17 is encumbered almost entirely with nontidal wetlands. The proposed combined lot is 1.28 acres and is designated as Limited Development Area (LDA). The applicant has a proposed building envelope of what appears to be approximately 6,000 square feet. The allowable impervious surface for this lot is 15%, or 8,264 square feet. The applicant has not provided specific information on proposed impervious surfaces.

We strongly discourage the use of a building envelope for variance requests. It is our position that an applicant for a variance request should show the County the exact location of the proposed development activities (dwelling unit, driveway, etc.) so that the County is able to make the necessary variance findings. Once the applicant has provided the County with a revised plan showing this information, this office will provide further comments. Absent this information, we are unable to provide comments at this time concerning the proposed dwelling unit. The applicant will be responsible for mitigation at a 3:1 ratio for disturbance in the expanded Buffer and should provide a plantings plan and schedule to the County for review and approval.

If the applicant can demonstrate that the gazebo existed prior to the inception of the County's Critical Area Program, we will not oppose the continued use. However, the area of the 100-foot Buffer from Galloway Creek should be established in native vegetation.

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 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner
cc: BC 578-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Executive Director

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October 15, 2007

Mr. Robert Tabisz
Maryland Department of the Environment
1800 Washington Blvd.
Suite 430
Baltimore, MD 21230

Re: 200761473/07-WL-1311 Comcast Communication fiber optic cable

Dear Mr. Tabisz,

We have received notification for the above-referenced project for comment. The proposed project is for the installation of a steel casing pipe and fiber optic cable 30 feet below river substrate. While it is not possible to determine whether the proposed activity will impact the Buffer, the applicant should avoid disturbance to the 100-foot Buffer to extent possible. Any Buffer disturbance will require mitigation, and will necessitate submission of detailed site plans, as well as a buffer management plan.

Please have the applicant coordinate with Charles County Department of Technical and Community Services early in the planning process to ensure that the project is consistent with the County and State Critical Area programs. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: Aimee Dailey, Charles County DTCS



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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October 15, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Growth Allocation Request for Benedict on the Patuxent
Preliminary Comments

Dear Ms. Dailey:

Thank you for forwarding information regarding the request to use growth allocation for the above-referenced project. The applicant is requesting consideration of a proposal to use 1.95 acres of growth allocation for a 1.95 acre property currently designated as a Limited Development Area (LDA). The project involves the construction of a commercial restaurant and brew pub, with additional, limited commercial use.

The applicants have provided findings related to the growth allocation request. The Design Criteria for the project appears to be in accordance with Charles County Code §297-134.C and the Critical Area Commission guidelines for locating new intensely developed areas as set out in COMAR §8-1808.1(c). Please be advised that the following items need to be addressed:

1. The application must include sufficient information for the Commission to determine that the project meets the requirements for development in the IDA. Please have the applicant provide a conceptual stormwater management design and a 10% pollutant removal worksheet for the site.
2. Specifications for the extended detention/wet meadow are necessary, as it does not appear to be listed as a best management practice (BMP) in the 2000 Maryland Stormwater Design Manual and may not qualify as an appropriate stormwater management measure to meet the 10% pollutant removal requirements for this site. The applicant should consult the MDE manual in determination of the best BMP for the site.
3. These lots are located in a designated Buffer Exempt Area (BEA); therefore, any development activities within the Buffer must comply with the provisions of Charles County Code § 297-131.C.3.h, which states that "new multifamily residential, institutional, commercial, and industrial development and redevelopment shall be subject

Aimee Dailey
Page 2 of 2
10/12/2007

- to the standards and mitigation requirements as specified in the Critical Area Commission's Buffer Exemption Area policy." This Commission's policy is enclosed.
4. The application must include a letter from the Department of Natural Resources indicating that the project has been reviewed for potential impacts to HPAs or rare, threatened, or endangered species on site.
 5. The application must clearly indicate existing conditions on site and proposed development activities. If this cannot be clearly shown on a single drawing then separate drawings may be necessary.

The preceding comments represent the review and evaluation of the materials the applicant submitted to the Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

Cc: 606-07

Enclosure by mail only

Martin O'Malley
Governor



Margaret G. McHale
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Anthony G. Brown
Lt. Governor

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Executive Director

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October 12, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Clifton on the Potomac – Local Case No. SFD 70416

Dear Ms. Dailey:

Thank you for forward the above-referenced project. The applicant proposes to build a single family dwelling unit on a 13,550 square foot lot located in the Limited Development Area (LDA). Based on the information provided, I have the following comments:

1. The applicant proposes to build a house with a porch, attached garage, a gravel drive, and concrete walk for a total of 3,198 square feet of impervious surface. This is within the allowable impervious surface for a lot of this size which is 31.25% or 4,234 square feet.
2. The limit of disturbance (LOD) and corresponding grading appear excessive and should be further minimized prior to approval of a building permit. For example, it appears that the grading and clearing along the southeast corner of the lot could be entirely avoided.
3. Currently, 12,038 square feet of this lot is forested (89%). The applicant proposes to clear 10,817 square feet of forest to build the house. While we maintain that further minimization is possible, based on the proposed amount of clearing of this submittal, the applicant will be responsible for mitigation for the area cleared at a ratio of 1.5:1, or 16,226 square feet.
 - a. The site plans indicate that 10 flowering dogwoods will be planted, for an assumed total of 4,000 square feet of mitigation.
 - b. It is unclear how the applicant will mitigate for the remaining 12,226 square feet. Please have the applicant specify via submission of a revised site plan.

Thank you for the opportunity to provide comments. Please provide a revised site plan which addresses the comments above. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: CS 531-07



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 12, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case No. XRS 70051 -- Rice Subdivision

Dear Ms. Dailey:

Thank you for forwarding the revised plans for this subdivision. As Lot 5 is a new development lot, the 100-foot Buffer must be fully-established at the time of development. Please have the applicant provide a plat note to this effect. If the applicant chooses, a portion of the afforestation planting may be moved to the unforested portion of the Buffer on Lot 5. The applicant appears to have satisfied each of our other comments and has provided requested information. We have no further comments on this project.

If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: CS 426-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 9, 2007

Mr. Shawn Ryan
Department of Natural Resources
Tawes State Office Building, D-3
580 Taylor Avenue
Annapolis, MD 21401

Re: Little Deal Island Shore Erosion Control Project

Dear Mr. Ryan:

At its meeting on October 3, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the above-referenced project with the following condition:

1. Prior to commencement of construction, the Department of Natural Resources shall provide Commission staff with a proposed planting date.

I have enclosed the Plantings Agreement form that you should use to indicate the proposed planting date. I have highlighted those sections of the form that require completion. Thank you and your staff for your assistance with this project. Please call me if you have any questions at (410) 260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Enclosure

Cc: 10-07



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

Re: 2007-0334-V Summit Point Trading Co.

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant proposes to build a single family dwelling unit with less setbacks and Buffer than required. The lot is 67,584 square feet, or 1.55 acres, and is located in the Resource Conservation Area (RCA) and Limited Development Area (LDA). A significant portion of the lot is encumbered by tidal wetlands. Based on this information, I have the following comments:

1. According the plat, 21,850 square feet of the lot is upland of the tidal wetlands. It is unclear how these tidal wetlands were delineated.
2. The existing and proposed impervious surface for this lot is 4,419 square feet. The allowable impervious surface for this lot is 5,445 square feet.
3. The proposed dwelling is no further waterward than the demolished dwelling (at 68 feet from the edge of the tidal wetlands).
4. The applicant has proposed three rain gardens between the house and the edge of tidal wetlands, although no specifications have been provided.
5. It appears that mitigation for disturbance to the 100-foot Buffer will be provided in the form of plantings and that the applicant will provide details to the County at the time the grading permit is granted. Without a plantings schedule, it cannot be determined if mitigation for this site is appropriate.
6. It appears that the applicant proposes to remove 1,736 square feet of forest cover from the upland. The removal of this forest cover leaves a deficit of 407 square feet from the required 15% forestation on site. Please have the applicant afforest

TTY for the Deaf

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the lot in this amount and include this square footage in addition to the mitigation necessary for this site.

7. In addition to the proposed natural conservation easement of 0.72 acres, which appears to include the areas of tidal wetlands, the mitigation plantings should be included to the extent possible within this easement, as well as the afforestation plantings.

Provided that this lot is properly grandfathered and that the tidal wetlands have been properly delineated, we do not oppose this request for variance for less Buffer than required. Prior to granting a variance, consideration should be given to whether impacts to the Buffer could be further reduced by limiting the size of the dwelling. We recommend that the applicant provide mitigation at a ratio of 3:1 for new impervious surface in the Buffer and that these requirements are met by planting a mix of native species in the area waterward of the house, similar as to what is currently proposed on the plan. The applicant shall provide a plantings plan including species, size, spacing, and schedule for review and approval by the County.

We have no comment for the request for variance to setbacks.

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

Sincerely,



Julie Roberts
Natural Resources Planner

cc: AA 586-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 9, 2007

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

Re: Yinger BEA

Dear Mr. Bonsteel:

Thank you for forwarding information on the above referenced building permit. The applicant proposes to demolish an existing approximately 960 square foot building used for crabbing storage and replace it with a slightly smaller 900 square foot shed at another location on the property. The lot is 5662.8 square feet and is located in a Limited Development Area (LDA). The existing shed is located 20 feet from the bulkheaded shoreline and is located in a Buffer Exempt Area (BEA). Based on the information submitted, I have the following comments:

1. The existing and proposed impervious surface for this lot is 1,336 square feet. The allowable impervious surface for a lot of this size is 1,915.7 square feet.
2. The new shed should be located no further waterward than the existing shed proposed to be demolished.
3. The application shows only 271 square feet of disturbed area. This does not appear to be correct. Per our BEA Policy, the applicant must mitigate at a 2:1 ratio for the area of new disturbance in the BEA, for a total of 1,800 square feet of plantings. These plantings should be placed waterward of the existing dwelling to the extent possible. The plantings should be done in the form of native species and the applicant shall provide to the County a schedule which includes the species, size, spacing, and proposed dates of plantings for your review and approval.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Enclosure



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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October 2, 2007

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

Re: Beseris Property Minor Subdivision

Dear Mr. Dennis:

Thank you for forwarding the revised information for the above referenced project. During our discussion this morning, we talked about finding a replacement site for the lost FID habitat associated with this project, as there is not adequate space on these lots to replace the 44,020 square feet of proposed cleared forest. You indicated to me that this would take further conversations with others at the County. In regards to the site plans resubmitted, I have these remaining comments:

1. There is some confusion on the part of the applicant regarding FID clearing. The applicant has separated proposed clearing on-site and the FID impacts. The entire forested area is considered FID habitat which includes both edge and interior; therefore, any clearing on these lots must be considered FID clearing. To address this issue, we recommend the following:
 - a. The applicant should remove from the Forest Clearing Table reference to the 5,062 square feet of FID impact.
 - b. The direct clearing will be the required FID mitigation.
 - c. The current plan incorrectly shows the 300-foot edge and incorrectly references 5,062 square feet as impacted FID habitat. These issues should be corrected.
2. The notes regarding the Critical Area Easement should be placed on the final plat and recorded.
3. To the extent possible, the 44,020 square feet of FID habitat lost should be replaced in-kind adjacent to existing FID habitat. Collection of a fee-in-lieu for lost FID habitat should be avoided unless there is no other feasible solution. This mitigation can be at an off-site FID location.
4. The proposed \$0.40 per square foot is too low for the County to effectively replace FID habitat off-site. We recommend the County consider a higher fee.

Mr. Paul Dennis
10/2/2007
Page 2 of 2

Thank you for the opportunity to provide comments. Please update me when the County determines how the FID mitigation will be handled in this case. If you have any questions, please telephone me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: BC 358-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 2, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Cobb Island Volunteer Fire Department

Dear Ms. Dailey:

The applicant has forwarded us revised 10% calculations for the above-referenced project. Based on this most recent submittal, I have these remaining comments:

- According to these calculations, the pollutant removal requirements have been met;
- The applicant has provided the planting schedule for the 153 on-site trees and shrubs. The applicant should provide the approximate planting dates for review.

Provided the planting schedule is appropriate for this site, we have no further comments on this project. Thank you for the opportunity to provide comments on this project. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Enclosure *by fax only*

cc: CS 724-05



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 2, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case Nos. 070024 and 060085 - SDP Morgantown FGD Project, Coal Barge Unloader, and Railroad Upgrade

Dear Ms. Dailey:

Thank you for forwarding additional information on the above-referenced project. We have sent an email and left a phone message for Bob Harrington regarding the revised specifications that the applicants have requested for the dry swale. Pending Mr. Harrington's review and approval of these specifications, we have no further comments on the proposed projects.

Thank you for the opportunity to provide comments throughout this process. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: CS 247-07

enclosure





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
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October 2, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Charleston Estates – Local No. SFD 70389

Dear Ms. Dailey:

Thank you for forwarding the letter from Mr. Tomlinson, the Land Surveyor for above-mentioned property. Mr. Tomlinson responded to my comment letter dated September 7, 2007 questioning why the Buffer was expanded on the plat. His letter states that the Buffer has been expanded to recognize the erosion that has taken place with this active shoreline and noted that the Buffer on the plat did not reflect this erosion.

We have no further comments on this project. Thank you for forwarding the requested materials. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: CS 531-07





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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October 1, 2007

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

Re: Jiwa, Salim -- Violation to 100-foot Buffer

Dear Mr. Sharp:

As we spoke about this morning, I received a call from Mr. Salim Jiwa regarding the large shed he has built in the 100-foot Buffer. As you have documented through pictures and emails, as well as during our phone conversations, Mr. Jiwa has been repeatedly told to remove the very large shed from the Buffer. It is my understanding that he has continued work and has now added siding and windows to this structure. I spoke with Mr. Jiwa on Friday, September 28, 2007, and alerted him that Wicomico County has correctly told him that he is in violation and that the structure must be removed.

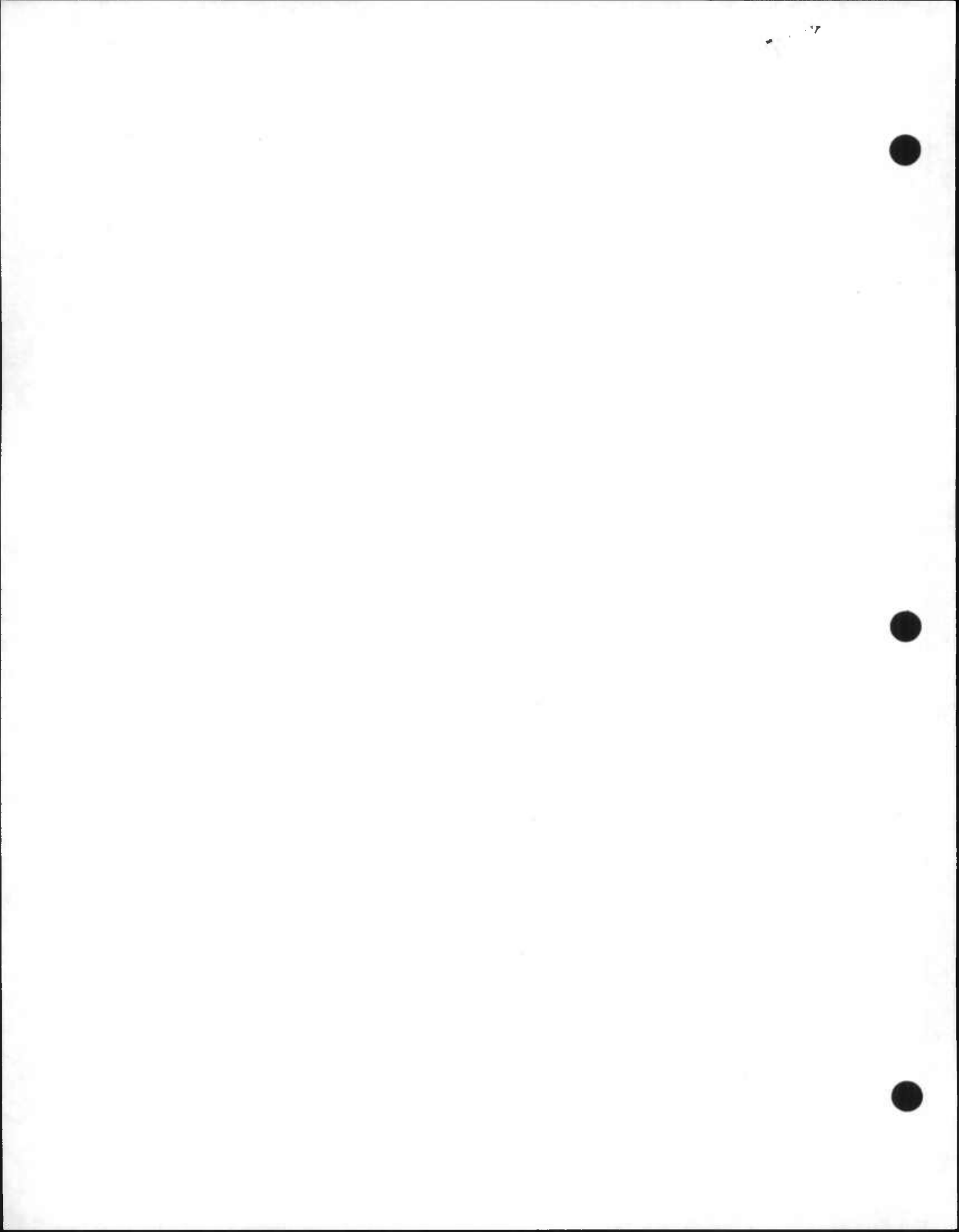
It is my understanding that you are going to start issuing daily fines until the structure has been removed. Please continue to keep the Commission staff apprised of the progress in this case.

We continue to support the County's efforts to administer and enforce the County's Critical Area Program. Please let me know if there is anything more that I can provide assistance with regarding this violation. I can be reached at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

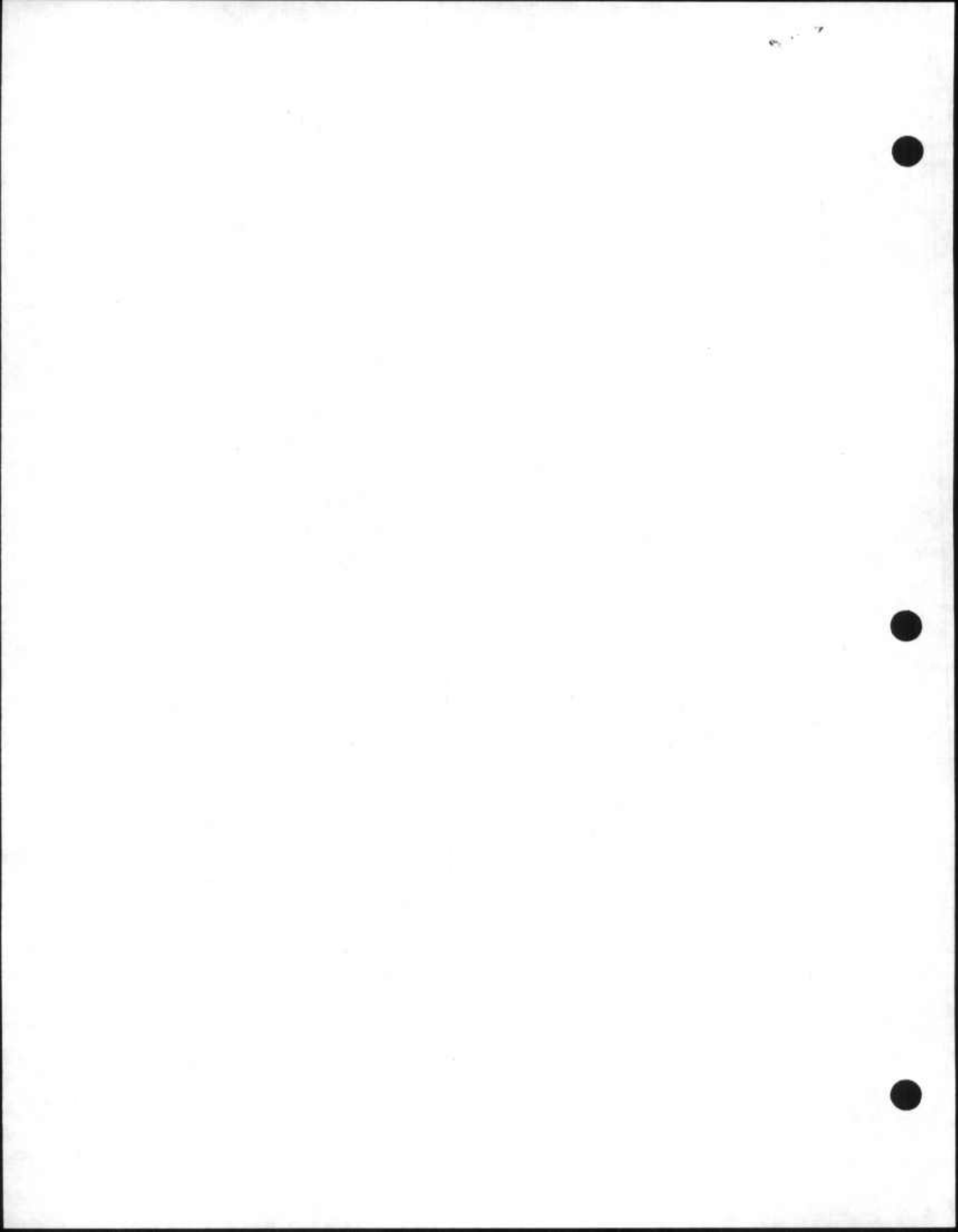
Julie Roberts
Natural Resources Planner



Approximation. Not field verified.



2.2 ft is Mean High Water Elevation.
100 ft buffer is measured 100ft landward from mean high water line.



Martin O'Malley
Governor

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Chair

Ren Serey
Executive Director

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September 28, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Edelen Property – Local Case No. SFD 70401

Dear Ms. Dailey:

Thank you for forwarding the above-referenced building permit application. The applicant proposes to partially demolish and rebuild a single family dwelling unit on 67,112 square foot lot (1.54 acres), 42,439 square feet of which is in the Resource Conservation Area (RCA). Although this lot currently is improved with a dwelling, it is located out of the Critical Area. Based on this information, I have the following comments:

1. According to Charles County records, the current dwelling unit was built in 1972, and is therefore grandfathered.
2. The site plans show that only a small corner of the dwelling unit (130 square feet) will be located in the RCA, as well as an attached wood deck which is 149 square feet. Both the primary mound system and reserved mound system are located almost exclusively in the RCA, which will require clearing in the amount of 5,694 square feet, or 13% of the acreage within the Critical Area.
3. The applicant must provide mitigation at a 1:1 ratio for the area cleared. As indicated on the site plan, the applicant proposes to plant 14 large trees and 4 large shrubs.
 - a. We recommend using the Critical Area Commission mitigation guide of 100 square feet for 2-inch caliper trees and 50 square feet of credit for seedlings and shrubs or the combination approach of 400 square feet of credit for one 2-inch caliper tree and three shrubs or two seedlings.
 - b. The applicant must provide the size, spacing, and planting schedule for the mitigation plantings.
4. A plat note should be added to state that no further development may be permitted in the Critical Area portion of the lot.

Aimee Dailey
Page 2 of 2
9/27/2007

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: CS 539-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 27, 2007

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

Re: City of Crisfield – Liberatore Variance Request

Dear Mr. Lackie:

Thank you for forwarding the above-referenced request for variance. The applicant proposes to elevate the existing dwelling unit on pilings twelve feet above-grade and increase the existing footprint of the house and driveway. The lot is 49,718 square feet, or 1.14 acres, and is located in the Resource Conservation Area (RCA). The entire lot is encumbered by the 100-foot Buffer and hydric soils. Based on this information, I have the following comments:

- The chart with the existing and proposed impervious surfaces should be revised to reflect the total amount of impervious surface. For example, the proposed impervious shows the square footage of the house with the additions and the new driveway, but does not include the length of driveway to be retained.
 - a. My calculations indicate that the applicant is proposing to increase the size of the house by 1,045 square feet and increase the size of the driveway by 679 square feet, for a total increase of impervious surface in the amount of 1,724 square feet.
 - b. The applicant proposes to remove a portion of driveway in the amount of 1,320 square feet. This is a net total increase of impervious surface in the amount of 404 square feet, which is within the impervious surface limit of a lot of this size (7,457 square feet is the maximum allowance).

Provided the Board determines that this request meets all variance standards and this lot is properly grandfathered, this office does not oppose this variance request. It appears that these are reasonable expansions in the Buffer. We recommend that the applicant provide 3:1 mitigation for the disturbance to the Buffer in the form of native species; these plantings should be placed waterward of the dwelling to mitigate runoff impacts.

Mr. Lackie
9/28/2007
Page 2 of 2

Thank you for forwarding these materials. Please include this letter as part of the proceedings and notify the Commission of the decision made in this case. Please feel free to call me if you have any questions at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: CF 523-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 27, 2007

Mr. Rob Konowal
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

Re: Phillips Drive 2 Level Deck – 2007-0199-V

Dear Mr. Konowal:

I have received the site plan for the above-referenced variance request to allow a deck and landing with less setback and buffer than required, as well as a request to allow mooring piles with less setbacks. The applicant proposes to build a 305 square foot deck with a pergola with an additional 70 square foot 2nd floor balcony above that. This 14,230 square foot lot is located in the Limited Development Area (LDA). This area is Buffer Exempt. Based on the information provided by the applicant, I have the following comments:

- The applicant has indicated that the lot currently has 4,475 square feet of impervious in his Critical Area narrative (although this varies from the information he has provided in his narrative to the Zoning Board). The impervious surface limit for a lot of this size is 4,447 square feet ($14,230 \text{ square feet} \times 31.25\% = 4,447 \text{ square feet}$); therefore, the lot slightly exceeds permitted impervious surface limits.
- It is our position that the area of the decks is impervious; therefore, the applicant will need to remove an equivalent are of impervious surface on the site. Otherwise, an impervious surface variance is necessary.

Provided the Board determines that this request meets all variance standards and this lot is properly grandfathered, this office does not oppose this variance request. We recommend that the applicant provide 3:1 mitigation for the disturbance to the expanded Buffer in the form of native species. These plantings should be placed waterward of the decks to further mitigate runoff impacts.

We have no comment on the variance request to allow mooring piles with less setbacks.

Mr. Rob Konowal
9/27/2007
Page 2 of 2

Thank you for forwarding these materials. Please include this letter as part of the proceedings on October 9, 2007 and notify the Commission of the decision made in this case. I can be reached at 410-260-3476 should you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie", followed by a long horizontal flourish.

Julie Roberts
Natural Resources Planner

AA 506-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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September 27, 2007

Mr. Jonathan Bowman
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Local Government Consistency Report -- Patapsco Sewage Pumping Station

Dear Mr. Bowman:

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 involves repaving an existing parking lot at the Patapsco Sewage Pumping Station as required by the consent decree. After reviewing the consistency report this office agrees that the project is consistent with the Baltimore County Critical Area Program for the reasons outlined below.

- The proposed upgrades are required subject to a Federal Consent Decree.
- While a portion of the proposed upgrades are within the 100-foot Buffer, the County Code permits utilities in Habitat Protection Areas provided no feasible alternative exists and the location, design, construction and maintenance provides erosion protection and minimizes impacts.
- The pumping station site existed within the 100-foot Buffer prior to the adoption of the Baltimore County Critical Area Program.
- There will be no additional impacts or disturbance to the Buffer.
- There will be a net decrease of 4,170 square feet of impervious surface through removal of a portion of paved parking lot.
- Stormwater management and sediment and erosion control approvals will be provided.

Since the project is consistent with the local program, it will not require formal approval by the Chesapeake Bay Critical Area Commission, notwithstanding any other required resource agency approvals.

Sincerely,

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

Julie Roberts
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 26, 2007

Mr. Thomas Lawton
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: SA-07-405 – Subdivision – Lands of Annabelle Glascock

Dear Mr. Lawton:

Thank you for forwarding the above-referenced subdivision request. The applicant proposes to subdivide two lots, parcels 191 and 217, to create four new lots. The area of the two lots totals 7.9 acres and is located in the Limited Development Area (LDA). Currently, 0.84 acres is forested. Based on the information submitted, I have the following comments:

1. There is some confusion about both where the parcels are located and which of them is in the Critical Area. For example, there is a note on the site location sheet indicating that parcel 217 is "mislocated"; the meaning of this note is unclear. Also, as you noted, the Critical Area boundary line is incorrectly drawn on the site plan, excluding most of the parcel 191 and all of 217 from the Critical Area. The note on the plat indicates "parcel 217 is located entirely within the Critical Area" and that parcel 191 is "partially located in the Critical Area." According to aerial photography, both parcel 217 and 191 are located within the Critical Area. Please have the applicant resolve these inconsistencies, correct note 9, and adjust the Critical Area boundary line.
2. According to the plans, this site has 0.84 acres of tree cover. The applicant proposes to remove 0.08 acres of tree cover during the construction process, leaving 0.76 of tree cover intact. The applicant then proposes to afforest a section of lot 4 in the amount of 0.395 acres. The 15% tree cover requirement for an area of this size is 1.185 acres ($7.9 \text{ acres} \times .15 = 1.185$). The site plan indicates a total of 1.155 acres of tree cover with afforestation. It appears that the applicant must additionally afforest one of the lots with 0.03 acres of trees.
3. Please have the applicant provide a plantings plan with species, plant size, spacing, and schedule. The plantings should mimic a natural forest with canopy trees, understory, and ground cover. This area must be put in easement or protected through covenant.
4. The applicant has not shown the proposed impervious surface for each lot. A table should be added to the plat indicating the maximum square footage allowance of 15% impervious for each individual lot.

Mr. Lawton
9/26/2007
Page 2 of 2

5. Please have the applicant provide a letter from the Department of Natural Resources indicating that there are not threatened, endangered, or rare species on this site.

Thank you for the opportunity to provide comments. I look forward to seeing the revised plans. If you have any questions, please call me at 410-260-3476.

Sincerely,



Julie Roberts
Natural Resource Planner

Cc: SO 526-07

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/

September 26, 2007

Ms. Awilda Hernandez
Board of Appeals
Town of Indian Head
4195 Indian Head Highway
Indian Head, Maryland 20640

Re: Mattingly Subdivision Variance

Dear Ms. Hernandez:

I have received your letter regarding the above referenced subdivision request. Condition 2 of the variance to steep slopes, as indicated by the Board of Zoning Appeals of the Town of Indian Head, requires the applicant to obtain approval on the location, type and number of all required mitigation plantings. Mr. Cruz received guidance regarding appropriate plantings during a visit to our office this summer. Please have the applicant submit a final plantings plan for review by the Critical Area Commission staff.

Also, in the future, please provide notice of decision from the Board of Zoning Appeals within the applicable appeals period. Thank you and if you have any questions, please feel free to call me at 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resource Planner

Cc: IH673-06



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 25, 2007

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

Re: Village Down River, 4th Review

Dear Mr. Sharp:

Thank you for the revised plans submitted by the applicant. There are a few outstanding issues that I have outlined below:

1. We have requested from the applicant's lawyer, Mr. Victor Laws, a legal document which is permanently protective of the 100-foot Buffer and its expanded areas, the stream enhancement area, and areas with tidal and non-tidal wetlands.
2. Tidal wetlands lines are still crossing non-tidal wetland lines on some site plans (C1.4).
3. The note on Buffer 1 regarding Forested Management Area has not been removed.
4. There are significant inconsistencies between the Sediment and Erosion Control plans ("civil plans"), the detailed Buffer plans and the approved non-tidal wetland permit drawings. Large areas of non-tidal wetlands are not shown on the civil plans and in fact appear to be proposed to be disturbed. These inconsistencies must be resolved.
5. Please have the applicant add language to Index #2 under "Reporting" indicating that Critical Area Commission staff must also be included in the bi-annual Buffer Management Inspection reporting process.
6. It is the expectation of Critical Area Commission staff that this project will need to be brought before the full Commission at a future meeting date for these reasons:
 - a. This growth allocation at the time of presentation to the Critical Area Commission on March 7, 2007 was awarded to accommodate 47 single family residential units. At some point between the approval of the growth allocation and the June 12, 2007 Wicomico County Council meeting, the applicant increased the number of proposed units to 49. The increase in units is inconsistent with information provided to the Commission on March 7, 2007 and on which they made their decision of approval.

Mr. Jimmy Sharp

9/25/2007

Page 2 of 2

- b. Also, the Village DownRiver Community offered as an offset to the 6.29 acre reduction in the 300 foot setback area to "create non-tidal wetland adjacent to existing channelized agricultural drainage stream from Riverside Drive to Whites Creek." An element of this wetland was proposed "to treat agriculture runoff by filtration of more than 200 off-site acres." [Please see attached.] During a meeting with Alex Dolgas on August 7, 2007, it was brought to the staff's attention that this stream enhancement, in fact, treats only 19 acres of runoff. This information is also inconsistent with what was presented to the Commission panel when they were formulating a recommendation during the March 7, 2007 meeting.
- c. An additional offset was listed as planting 3.38 acres of non-tidal wetland buffer where it extends beyond the limit of the 100-foot Buffer. The majority of this area is already forested.

Thank you for the opportunity to comment. If Mr. Maizel has any questions regarding item 6 in this letter, please direct him to Marianne Dise at 410-260-3466.

Sincerely,



Julie Roberts
Natural Resources Planner

cc: WI 593-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 20, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case Nos. 070024 and 060085 - SDP Morgantown FGD Project, Coal Barge Unloader, and Railroad Upgrade

Dear Ms. Dailey:

Thank you for forwarding additional information on the above-referenced projects. I have received: 1) a Buffer Mitigation Planting Plan for Morgantown Station Barge Unloader and Railroad (RR) Upgrade; 2) 10% Worksheet for Pollutant Removal Requirements; and 3) Final Chesapeake Bay Critical Area site plans. Based on the information submitted, I have these comments:

Buffer Mitigation Planting Plan for Unloader and Railroad Upgrade

1. The plantings area that has been drawn in the Buffer Mitigation Plan should also be specified on the Critical Area site plans, so these areas are not disturbed in the future.
2. The applicant has provided a species listing to be planted at the mitigation site, as well as spacing. Please have the applicant provide the size of the trees and shrubs and the proposed schedule for planting.
3. The railroad upgrade is permissible in the Buffer under Charles County Code §297-131 without a variance.

10% Worksheet for Pollutant Removal Requirements

4. Clarification is needed in both the 10% Worksheet and on the site plans. The applicant proposes a "grass swale" to meet the pollutant removal requirements. The cross-section of the proposed grass swale shown on the site plans appears to meet the specifications of a grass channel, which is a credit, not a BMP. In order for the pollutant removal requirements to be met using this BMP, the proposed grass swale must be constructed to the specifications of a dry swale as

Aimee Dailey
Page 2 of 2
9/20/2007

indicated in the MDE stormwater manual, Section 3.5. Please have the applicant clarify on the site plans and in Section 5 of the 10% Worksheet.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: CS 247-07

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

September 18, 2007

Mr. Kevin Brittingham
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Variance – Portera and Bonomo Property

Dear Mr. Brittingham:

Thank you for forwarding the above referenced project. The applicant seeks a variance to construct a dwelling with a driveway in the 35-foot setback to the 25-foot buffer to non-tidal wetlands. The lot is 0.689 acres, or 30,012 square feet, and has a designation of Limited Development Area (LDA) and Resource Conservation Area (RCA). The applicant proposes to construct a single family dwelling and driveway totaling 2,960 square feet of impervious surface. Based on this information, I have the following comments:

Provided the lot is properly grandfathered, and the County is satisfied the applicant has demonstrated minimization, this office does not oppose this variance request to build a dwelling unit and driveway in the 35-foot setback to the 25-foot buffer to non-tidal wetlands. The applicant is responsible for mitigation at a ratio of 1:1 for any area cleared to build the dwelling unit and driveway, as well as any additional mitigation the County deems for disturbance to the 35-foot setback. If possible, the mitigation should be done on-site in the form of native plantings.

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 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

cc: BC 514-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 18, 2007

Mr. Kevin Brittingham
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Painter Property

Dear Mr. Brittingham:

I have received the above-referenced variance request to construct a 24 x 24 garage within the 100-foot Buffer to Schoolhouse Cove. The Critical Area designation of this lot is Limited Developed Area (LDA). The site is 8,100 square feet and currently supports 2,104 square feet of impervious surface, or 26% of the property; a site of this size may have up to 31.25% of impervious surface. The application also indicates that 200 square feet of impervious surface have been removed. I have outlined my comments and recommendations below.

We recommend the proposed garage be reduced in footprint to minimize disturbance to the 100-foot Buffer and that it be sited as close to the dwelling as possible to minimize intrusion into the Buffer. We also recommend that the existing shed be removed, reducing to the extent possible, the waterward intrusion of impervious surfaces in the Buffer.

If the County determines this request, or some variation of this request can be granted, we recommend 3:1 mitigation for the area of the new shed.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: BC 550-07



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

Re: Local Case No. 1005 – Robert Singer Subdivision

Dear Mr. Dodd:

Thank you forwarding the above-referenced subdivision request. The applicant proposes to build two single family dwelling units on two individual lots, Lot 1 and Lot 2. Lot 1 is 4.535 acres; and Lot 2 is 3.603 acres and currently improved with a bermed infiltration point (BIM). Both Lots are located in the Resource Conservation Area (RCA). Based on the information submitted, I have the following comments:

1. A Critical Area note must be added to the plat indicating that these lots are located in the RCA.
2. An updated letter must be obtained from the Department of Natural Resources Wildlife and Heritage Service, since the last letter received is from August 26, 2002.
3. Due to the potential Delmarva Fox Squirrel habitat, the applicant should be coordinating with the US Fish and Wildlife Service to determine whether this project meets federal guidelines.
4. Note 14 regarding endangered and threatened species should be amended to indicate that both Forest Interior Dwelling (FIDs) Birds and Delmarva Fox Squirrel habitat have been known to occur on or near the site, assuming the Wildlife and Heritage letter is still accurate.
5. It appears that the applicant has followed the FID guidelines by limiting the clearing and disturbance of both FIDs habitat by placing the dwellings and one of the driveways in areas already cleared.
 - a. It does not appear that clearing has occurred for the development of Lot 2.
 - b. The applicant proposes to clear 4,500 square feet on Lot 1 which includes area for the proposed driveway, garage, and expanded area for the construction of the

- driveway and the garage. We recommend the garage be accommodated elsewhere to avoid clearing.
- c. We recommend the dwelling be placed a reasonable distance from the 100-foot Buffer to provide for future waterward additions (decks and patios) to avoid the need for a variance.
 - d. The applicant appears to be providing mitigation for the area cleared at a ratio of 1:1. The site plan shows an area of afforestation for Lot 1 in the Buffer.
6. It does not appear that the applicant has updated the impervious surface table with the proposed dwelling units, driveways, and garage located on the "Site Plan and Tree Replacement Plan." Please have the applicant correct this information.
 7. Please have the applicant submit a plantings schedule including species, spacing, sizing, and a proposed timeline for planting. Plantings should be in the form of native species and should mimic the contiguous forest.
 8. The reserve sewage area should remain forested until which time it is needed. At that time, the BIM must be replanted with native species.

I look forward to seeing the revised site plan and with updated letters regarding the Fox Squirrel habitat. Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

Cc: DC 434-02

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 13, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Fenwick Shores – Local Case No. SFD 70399

Dear Ms. Dailey:

Thank you for forwarding the above-referenced building permit application. This lot is 4.96 acres and is located in the Resource Conservation Area (RCA). The applicant proposes to clear 1.33 acres, or 58,000 square feet which comprises 27% of the site and build a single family dwelling unit and driveway. Based on the information provided, I have the following comments:

1. According to a letter from the Department of Natural Resources Wildlife and Heritage Service dated September 12, 2007, this lot contains Forest Interior Dwelling (FID) bird habitat.
2. Due to the size of the dwelling and the amount of clearing, it does not appear that the Critical Area Commission FID guidelines were considered in this proposal. Please have the applicant revise these plans so as to meet the FID guidelines.
3. A Habitat Protection Plan must be created in conjunction with the development of this lot and submitted to this office with the associated site plans to demonstrate how the FID guidelines were addressed and to calculate the required FID mitigation.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner
cc: CS 538-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 7, 2007

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

Re: Reese Condominium Project

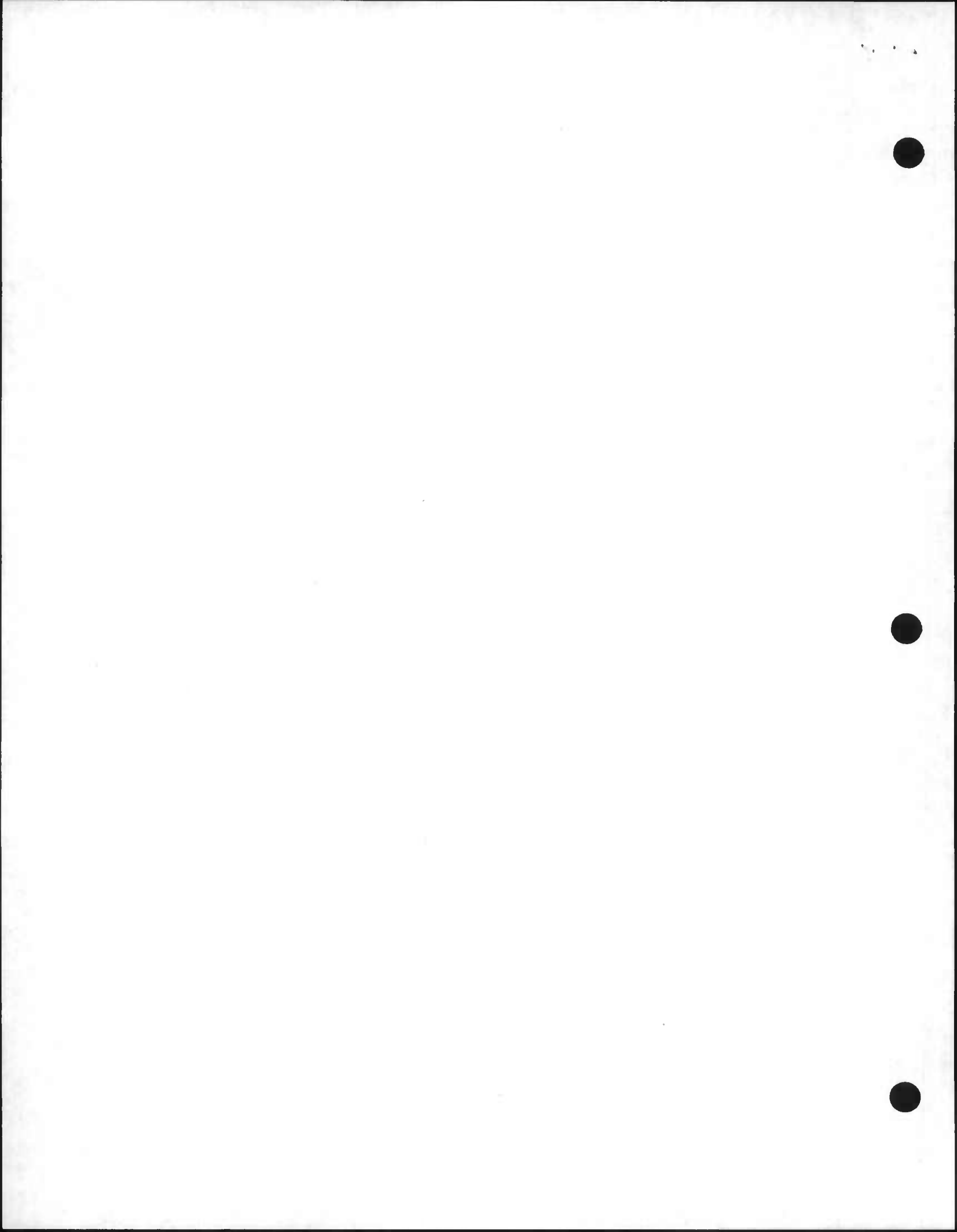
Dear Mr. Lackie:

Thank you for forwarding the above-referenced project to this office for review and comment. As you know the Commission's Program Subcommittee reviewed this site plan with particular concern for the proposed walkway. I have reviewed the plans and spoke with Mr. Randy Eckert on September 5, 2007. Mr. Eckert indicated that the walkways were reduced to a width equal to those of the Jersey Island Condo project (four feet wide). This satisfies the subcommittee's request concerning the walkway.

The Program Subcommittee also indicated that the remainder of the 25-foot setback should be fully vegetated. From a review of the site plans and associated planting schedules, it appears that the applicant has satisfied this request of the subcommittee. The plant selection in the form of native species was made from our guidance paper; and the density of the plants appears to follow our Buffer Exemption Area Guidance to the degree that some of the plantings will need to go outside the setback due to the walkway, which accounts for approximately 1,400 square feet of the setback area.

Although not specified, the trees proposed in the landscaping plan should be 1 1/2 to 2-inch caliper. The shrub size should be a minimum of 3 gallons. Please have the applicant amend the landscape schedule to include the species size.

We have also reviewed the applicant's 10% Pollutant Removal Requirements. It appears that the removal requirement has been met and that the BMP chosen will adequately meet the removal requirement provided it is designed according to MDE specifications.



Mr. Keith Lackie
Page 2 of 2
9/7/2007

Please feel free to call me if you have any questions at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long, sweeping horizontal line extending to the right.

Julie Roberts
Natural Resources Planner

cc: Randy Eckert, Iott Architecture and Engineering

CF335-06



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

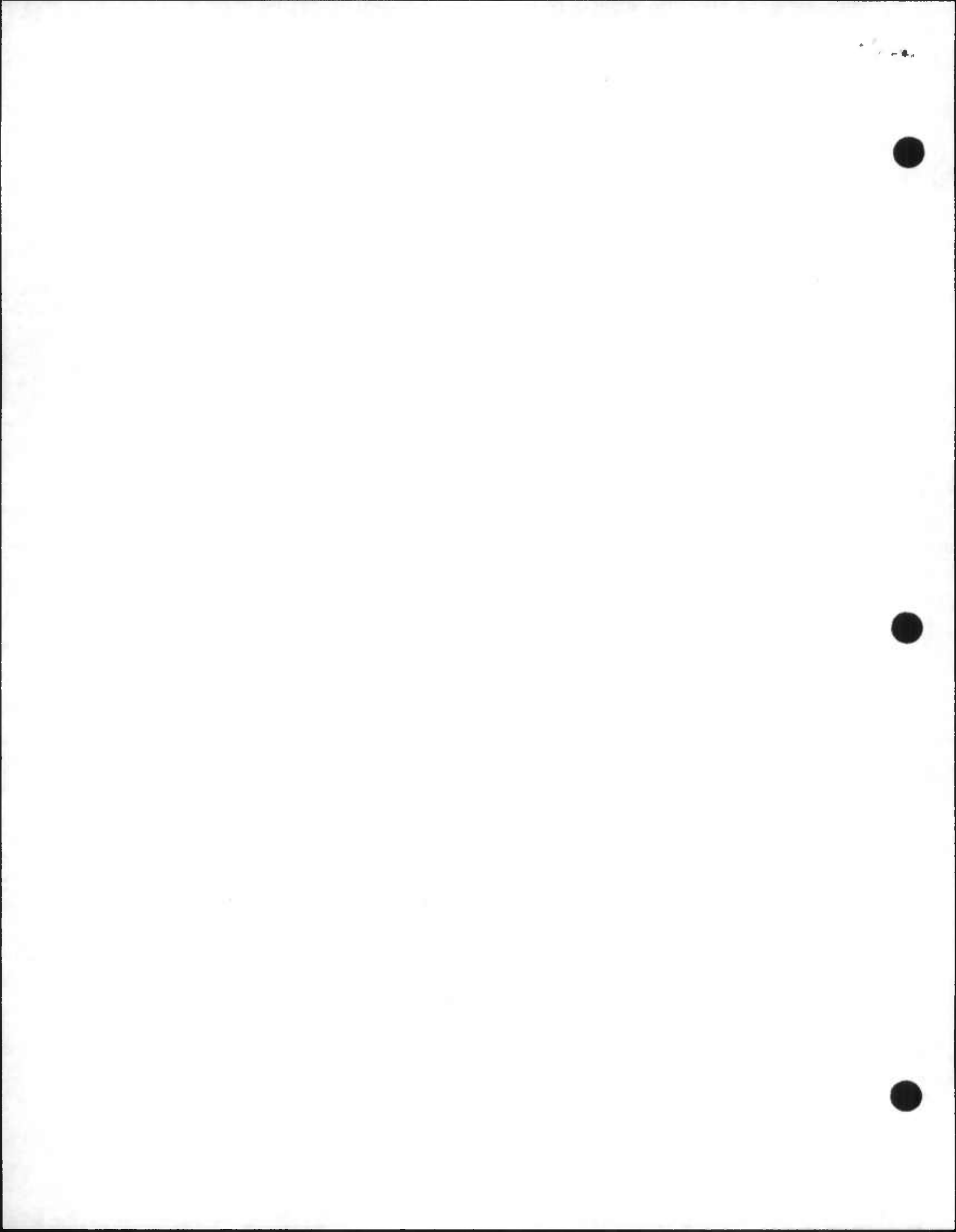
Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Charleston Estates – Local No. SFD 70389

Dear Ms. Dailey:

Thank you for forwarding the above-referenced building permit application. The applicant proposes to build a single family dwelling unit on 22.2418 acres in the Resource Conservation Area (RCA). The lot is currently improved with a gravel driveway equaling 21,068 square feet and the applicant proposes to build an additional 7,648 square feet of gravel drive onto the existing drive. The applicant also proposes to build a 4,829 square foot dwelling unit. Based on this information, I have the following comments:

1. The applicant has shown the 100-foot Buffer on the plan and does not propose any development in this area.
2. Although hydric soils are present on-site (Othello Fine Sandy Loam), it does not appear that the Buffer must be expanded, as the soil is only present on a small portion of this lot which is not contiguous to the Buffer.
3. The applicant has provided information concerning the existing forest cover for this lot of which 7.22 acres, or 32.5%, is forested; therefore, afforestation is not required. No clearing is proposed for the development of this site.
4. The proposed impervious surface is within the limits for a property of this size. The applicant proposes 19,187 square feet of development, or 1.9% (showing the gravel drive at 50% impervious), or 23,011 square feet of development, or 2.4% (with the gravel drive at full impervious).
5. Please have the applicant specify why the Buffer has been expanded in the southwest quadrant of the site.
6. Our records do not indicate the presence of any rare or threatened wildlife, FIDs, or any other areas of special concern.



Aimee Dailey
Page 2 of 2
9/7/2007

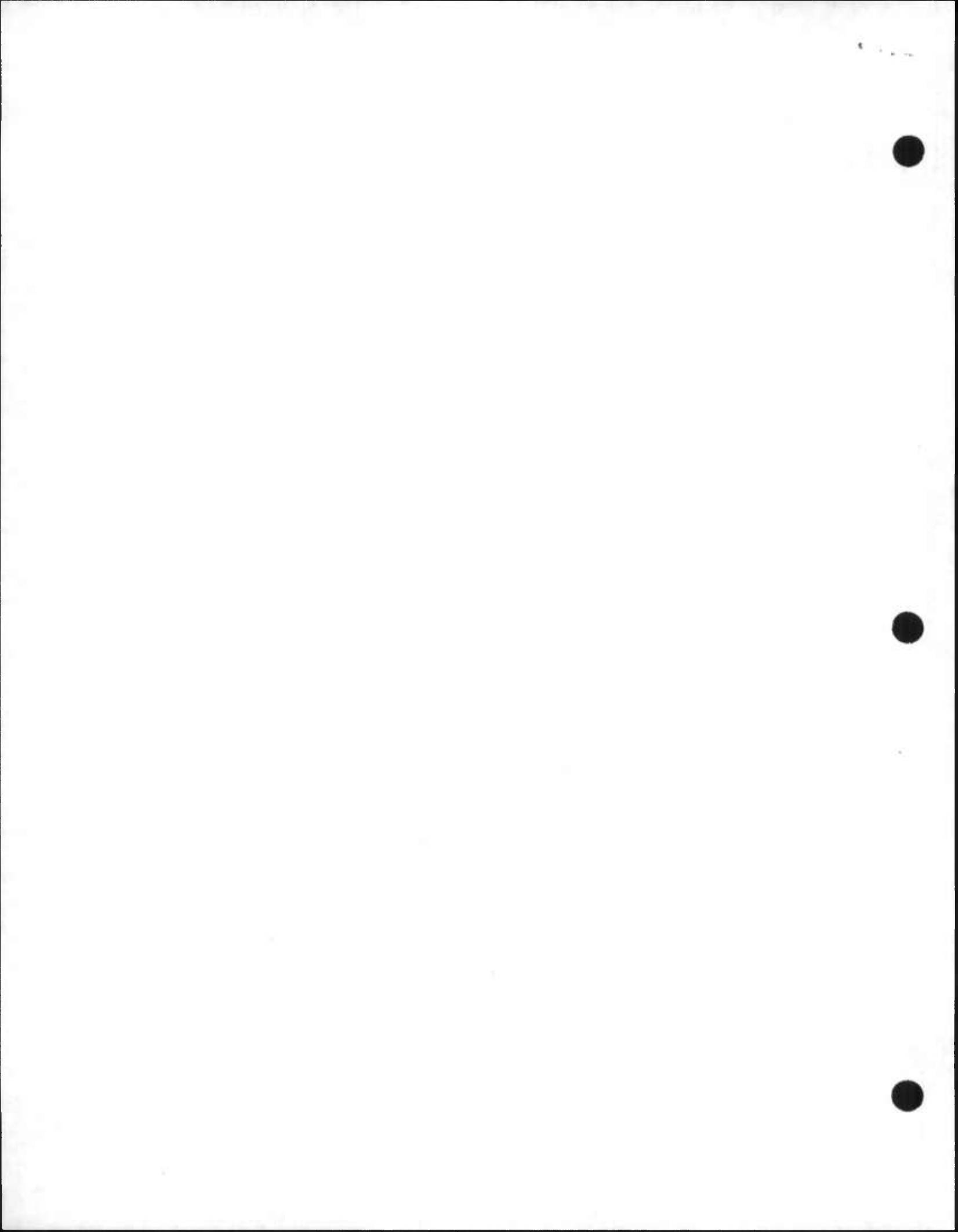
Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: CS 531-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 7, 2007

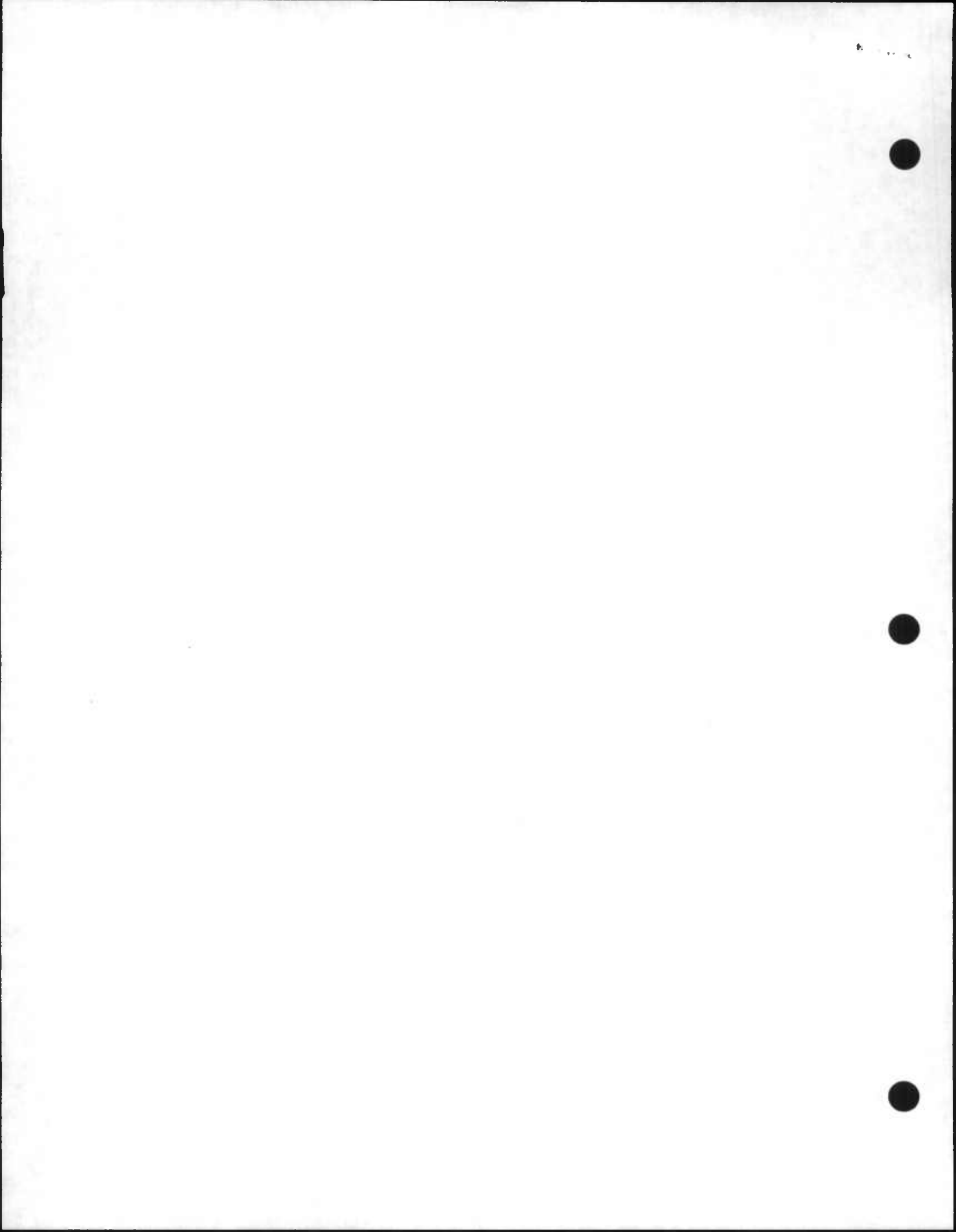
Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case No. XRS 70051 -- Rice Subdivision

Dear Ms. Dailey:

Thank you for forwarding the revised plans for this subdivision. The applicant proposes to subdivide 15.79 acres in the Resource Conservation Area (RCA) into three lots through intrafamily transfer development rights. Conversations with you have indicated that these lots are grandfathered, as they have been on record since July 31, 1985. Based on the information provided, I have the following comments:

1. A proposed dwelling unit has been shown on the revised site plan along with the existing gravel driveway to Lot 3 and Lot 4. No driveway has been shown to the dwelling unit on Lot 5, but appears that due to the allowable impervious surface of 41,117 square feet, the lot will be within in the impervious surface limits. Please have applicant show the proposed driveway and provide the proposed impervious surface for Lot 5.
2. The tree line has been added to the plat and a table has been provided for the minimum required forest cover of 15%. The subdivision is below the minimum coverage and shall be afforested to 15%.
 - a. Lot 3 requires an additional 12, 471 square feet of coverage; Lot 4 and Lot 5 appear to have the minimum necessary coverage.
 - b. If any clearing takes place on Lot 5 for development, mitigation for cleared areas may be necessary.
 - c. Afforestation should take place to the extent feasible in the 100-foot Buffer and should mimic natural forest with canopy, understory, and shrubs using native species. Plantings should also mimic make up of the contiguous forest.
 - d. Afforested portions of the lot should be placed in permanent easement. Any future clearing will require reforestation.



Aimee Dailey
Page 2 of 2
9/7/2007

- e. Please have the applicant provide a plantings schedule indicating the type of plants, size of the plant, and spacing that will be used to afforest these lots. We recommend using the Critical Area Commission mitigation guide of 100 square feet for 2-inch caliper trees and 50 square feet for seedlings and shrubs or the combination approach of 400 square feet for one 2-inch caliper tree and three shrubs or two seedlings.
3. A note should be added to the final plat that no further intrafamily rights are permitted.

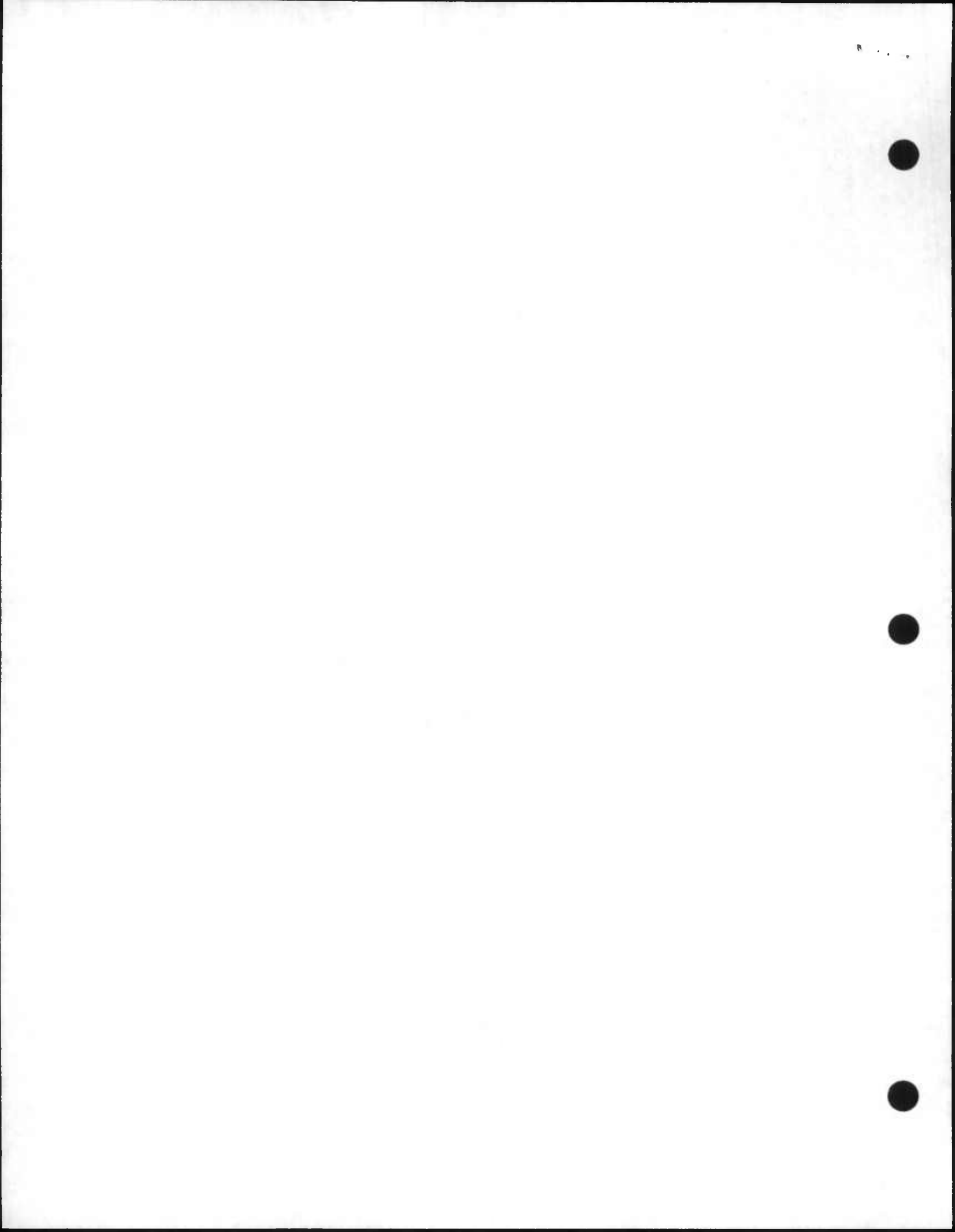
Thank you for the opportunity to provide comments on this plan. If you have any questions, please contact me at (410) 260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

cc: CS 426-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 7, 2007

Ms. Joan Kean
Somerset County Department of
Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: Westover Sewer Service Project
Consistency Report

Dear Ms. Kean:

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 involves the installation of a centralized sewer collection and transmission system in the Resource Conservation Area (RCA). After reviewing the consistency report this office agrees that the project is consistent with the Somerset County Critical Area Program for the reasons outlined below:

- There are no Buffer impacts.
- This project does not interfere with any other Habitat Protection Areas.
- Temporary disturbance of 2,180 square feet is proposed to occur in grassed and paved areas. Therefore, no clearing is necessary.
- MDE permit #2007 64138 has been received by your office for impacts to non-tidal wetlands.
- Stormwater management and sediment and erosion control approvals were received.

Since the project is consistent with the local program, it will not require formal approval by the Chesapeake Bay Critical Area Commission, notwithstanding any other required resource agency approvals.



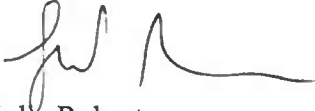
Ms. Joan Kean

Page 2 of 2

9/7/2007

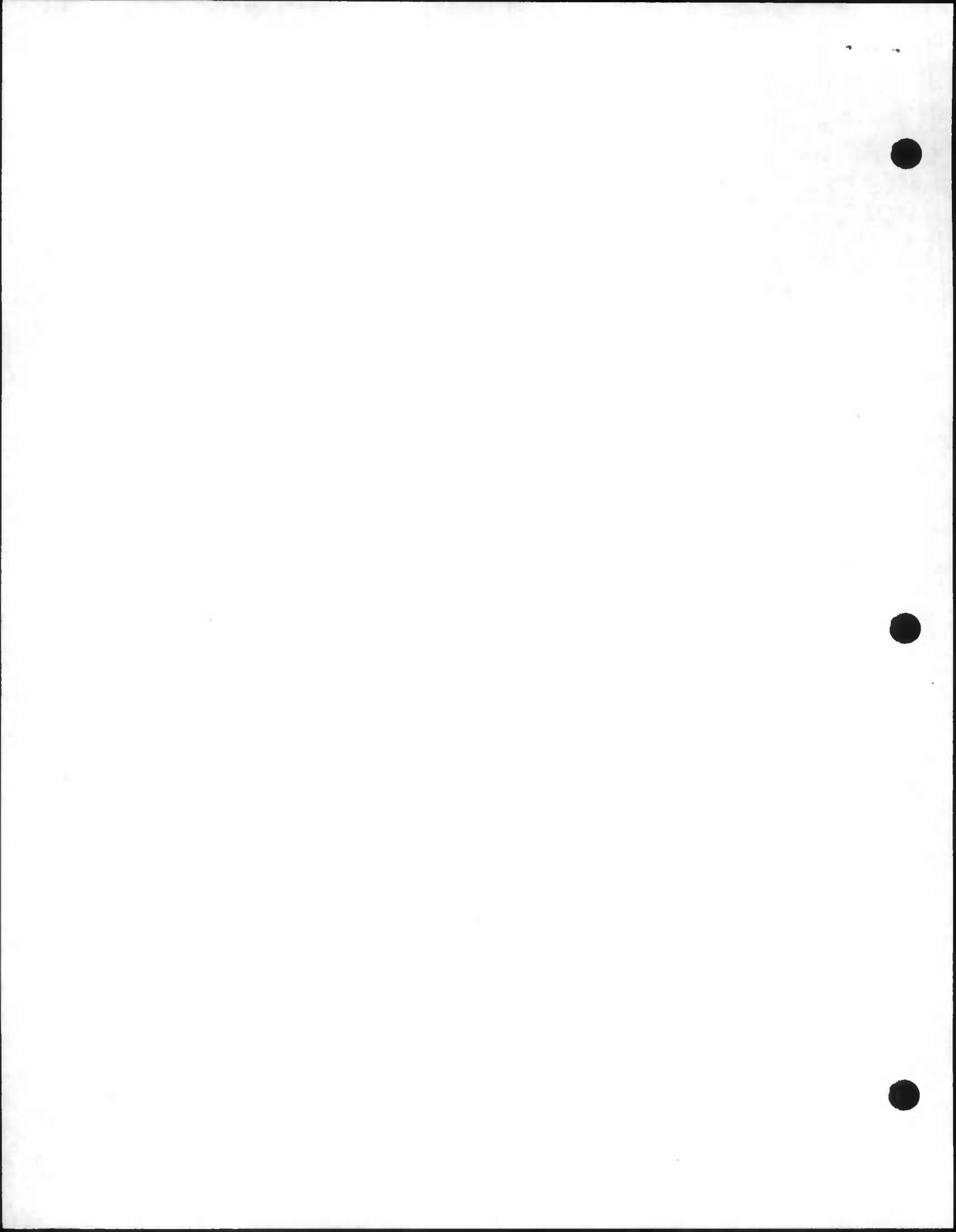
Thank you for the opportunity to comment. Please call me at (410) 260-3476 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: SO 239-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 6, 2007

Mr. Kevin Brittingham
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Variance -- Merritt

Dear Mr. Brittingham:

Thank you for forwarding the above referenced variance. The applicant seeks a variance to construct a dwelling with a driveway on a lot almost fully encumbered by non-tidal wetlands and non-tidal wetland buffer. The lot is 1.55 acres, or 67,518 square feet, in the Limited Development Area (LDA). The applicant proposes to clear 12,195 square feet of forest for development, equaling 20% of total forest on-site. The applicant also proposes to disturb 1,900 square feet of non-tidal wetlands and its associated buffer. It is my understanding from our conversations that there is little room to shift the house so as to minimize disturbance to the wetlands.

Provided the lot is properly grandfathered, and the County is satisfied the applicant has demonstrated minimization, this office does not oppose this variance request to build a dwelling and driveway. The applicant is responsible for mitigation at a ratio of 1:1 for any area cleared to build the dwelling and driveway. The applicant is also responsible for mitigation at a 3:1 ratio for disturbance to the non-tidal wetland buffer. A fee-in-lieu may be substituted for this clearing as there is little room on-site for reforestation. Permits from MDE will also be required to impact non-tidal wetlands.

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 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner
cc: BC 503-07



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/

September 6, 2007

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

Re: 6601 Cherry Walk Road – Scott, Elena and Joseph

Dear Mr. Sharp:

Thank you for forwarding the above-referenced request for resubdivision. The applicant proposes to resubdivide with a lot line adjustment of 55.07 acres in the Resource Conservation Area (RCA). It is my understanding from conversations with the consultant that currently Parcel 1 is 53.52 acres and Parcel 59 is currently 1.55 acres. The applicants propose to subdivide Parcel 1 into two separate Tracts (Tract 1 = 16.80 acres and Tract 2 = 8.14 acres) and an additional lot (Lot 2 = 20.62 acres). Parcel 1 will have a lot line adjustment, increasing the acreage of Parcel 59 from 1.55 to 9.51 acres. Building rights will be retained on Parcel 1-Tract 1, Parcel 1-Lot 2, and Parcel 59-Lot 1. No building rights will be retained on Parcel 1-Tract 2.

Based on the information submitted, I have the following comments:

1. Supplemental information has been provided indicating that Lot 59 was an approved lot as of December 28, 1979 and is therefore grandfathered.
2. Please have the applicant place a note on the plat indicating that no intrafamily transfer rights will be retained on the three reconfigured lots.
3. Please have the applicant amend Note 12 to indicate that no building rights will be retained on Parcel 1-Tract 2.
4. Parcel 1-Tract 2 should be formally incorporated into Parcel 1, if it is not already.

Mr. Sharp
9/6/2007
Page 2 of 2

5. Please have the applicant ensure that there are no hydric soils adjacent to the 100-foot Buffer. If hydric soils are present, the Buffer must be expanded to include these sensitive soils.
6. Each buildable lot will be limited to 15% impervious surface. We recommend a note be added to the final plat indicating the impervious surface limitation.
7. Please have the applicant place a note on the plat indicating the forest cover on each of the lots. If each lot is not currently forested at 15%, afforestation will be required.
8. Please have the applicant provide a letter from the Department of Natural Resources indicating whether there are endangered or threatened species on-site prior to final plat approval.

Please forward us the final plat when it becomes available. Thank you for the opportunity to comment. Please feel free to call with any questions concerning the above comments at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a long horizontal flourish extending to the right.

Julie Roberts
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 4, 2007

Ms. Anne Roane
City of Cambridge
Planning and Zoning
705 Leonard Lane
Cambridge, Maryland 21613

Re: Local Case No. 04-08 – Henry's Overlook Subdivision

Dear Ms. Roane:

Mr. Showalter forwarded me the application for the above-referenced project. The applicant proposes to subdivide a 263.407 acre parcel to build 635 single-family residential lots. Of that acreage, 3.82 acres is in the Resource Conservation Area (RCA) and no building is proposed. It is my understanding from conversations with Mr. Showalter that this project is in its conceptual stage and that the 3.82 acres of RCA will potentially be afforested with loblolly pines to meet their Forest Conservation requirements. Based on this information, I have the following comments:

1. The applicant should provide afforestation that mimics natural forest, with canopy, understory, and shrubs. It is unclear from the site plans submitted if the plantings will be contiguous to currently existing forest. If feasible, plantings should also mimic the contiguous forest.
2. Please advise the applicant to submit a planting schedule including number, size, and spacing of plants for the area to be afforested.
3. Appropriate protective signage or stone markers shall be provided at the time of afforestation. We recommend fencing along those portions of afforestation areas that abut lots.
4. Any future clearing of this area will be viewed as Critical Area clearing and may therefore require Critical Area mitigation and Forest Conservation Area mitigation. Please advise the applicant of this issue, and have the applicant add a note to the final plat with this requirement.



Ms. Roane
9/4/2007
Page 2 of 2

Thank you for the opportunity to provide comments. Please feel free to call me if you have any questions at (410) 260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie", followed by a long horizontal flourish.

Julie Roberts
Natural Resources Planner

cc: Ryan Showalter, Miles & Stockbridge, PC
Roby Hurley, MDP

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 28, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: RH Scott Subdivision – Local No. SFD70365

Dear Ms. Dailey:

Thank you for forwarding the above-referenced building permit application. This lot is 0.37 acres, or 16,117 square feet located in a Limited Developed Area (LDA). The applicant proposes to rebuild a single family dwelling unit in a larger foot print, change the configuration of the driveway and move other accessories on the property. Based on the information provided, I have the following comments:

1. The applicant has removed accessory structures out of the 100-foot Buffer.
2. The applicant may have up to 31.25% or 5,037 square feet of impervious surface on a lot of this size. The proposed replacement house, driveway and other structures represent a total of 4,113 square feet and are thus within the limits of impervious surface. The totals listed on the plat differ from these calculations; please have the applicant amend them.
3. It appears from the site plan that this lot has only two trees which are located on the eastern side of the property.
 - a. As this lot has less than 15% forest cover, afforestation for a total of 2,418 square feet is necessary. This planting should first occur within the 100-foot Buffer.
 - b. The applicant proposes to plant six trees and five shrubs to afforest the lot, in addition the currently existing two trees. Please have the applicant explain how this meets the County's mitigation requirements.
 - c. We recommend using the Critical Area Commission mitigation guide of 100 square feet for 2-inch caliper trees and 50 square feet for seedlings and shrubs or the combination approach of 400 square feet for one 2-inch caliper tree and three shrubs or two seedlings.

Aimee Dailey
Page 2 of 2
8/28/2007

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', with a stylized flourish at the end.

Julie Roberts
Natural Resources Planner

cc: CS 489-07

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

Re: Local Case No. 1164 – Jones Subdivision

Dear Mr. Dodd:

This office has received revised information for the above referenced subdivision proposal. I have provided additional comments:

1. A letter from the Wildlife and Heritage Division of the Department of Natural Resources (DNR) indicates that the endangered Delmarva Fox Squirrel is known to occur on or in the immediate vicinity of this area. A note has been placed on the plat to this affect. The applicant's engineer has indicated in his letter dated July 27, 2007 that "this project in particular has been designed so as to meet the suggestions contained in the letter."
2. It does not appear from our records or from the DNR letter that FIDs habitat is present on this site. Notes on the site plan should be amended to reflect this.
3. A subsection to note 23 should indicate that intra-family transfer rights for this property have been exhausted as three lots have been created.
4. A small portion of the building envelope for Lot 2 crosses into the 25-foot buffer to non-tidal wetlands. Please have the applicant move the Limit of Disturbance for Lot 2 out of the 25-foot buffer to the wetlands.
5. Although the property shows hydric soils, it does not appear that the 100-foot Buffer must be expanded to include these soils or that any proposed disturbance will take place in these areas. The site should be graded to drain away from the wetlands.
6. It does not appear that the Forestation Plan and Buffer Management Plan were included in the submission to this office. Please forward these documents to us prior to final plat approval for our review.

TTY for the Deaf

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

Mr. Dodd
8/28/2007
Page 2 of 2

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie', with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

Cc: DC 339-07

CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

MEMORANDUM

To: Mr. Ray C. Dintaman, Jr., Environmental Review Unit,
Department of Natural Resources

From: Julie Roberts *JR*

Date: August 28, 2007

Subject: Crisfield Industrial Park – State Clearinghouse **MD20070801-0833**

The above referenced project was sent to this office for review. As it is not in the Critical Area, we do not have any comments on this project.

Thank you for forwarding the information on this project. Please call me if you have any questions at (410) 260-3476.



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 28, 2007

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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

Mr. Roland Limpert
Environmental Review Unit
Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, MD 21401

Re: Fishing Island Erosion Control
Application No. 200763731 T63740

Dear Mr. Limpert,

Thank you for forwarding information on the above-referenced application. This application is to permit a 240-foot long by 11 foot-wide stone revetment to be constructed on an existing sand/shell beach 2 feet landward of the Mean High Water (MHW) line, with no impact to wetlands. It is my understanding from a conversation with Joe Kincaid on August 24, 2007 that the proposed stone revetment is to be placed in the high highwater line for protection to this narrow strip between upland and a tidally influenced non-tidal marsh. In addition, a natural oyster bed and marsh vegetation was in danger of being eroded in this area.

Typically, shore erosion control projects require mitigation at a ratio of 1:1 for disturbance to the Buffer. It appears from the site plan provided that the proposed revetment may be in the Critical Area Buffer and that therefore, mitigation may be necessary. Mitigation should be in the form of native species. Should the applicant propose additional revetment on the property, mitigation may also be necessary for any temporary or permanent disturbance to the Buffer.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Cc: Joe Kincaid, Maryland Department of Environment



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 24, 2007

Ms. Joan Kean
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: Critical Area Program Amendments

Dear Ms. Kean:

Thank you for providing information on the Somerset County Critical Area Program Amendments included in your letter dated August 8, 2007. Four items were included in your submission:

1. Amendments to Section 1.7E "Variance Provisions" and Section 10.3 "Variances" of the Somerset County Critical Area Program;
2. Amendments to Section 2.6 "Forest and Developed Woodlands" of the Somerset County Critical Area Program;
3. Revisions to Section 6.13 "CA-1 Critical Area Overlay District," Section 9.3 "Variances," and Section 16 "Definitions" of the Somerset County Zoning Ordinance; and
4. Revisions to various provisions of Section 6.13.h "Development Standards in LDA and RCA," of the Somerset County Zoning Ordinance that pertain to clearing, reforestation, and afforestation.

These changes are accepted as a complete submittal for processing. Staff has reviewed the submittal and believes that the Critical Area Commission may have questions regarding several issues. If possible, please provide additional information regarding the following issues so that Commission staff can prepare appropriate documentation for the Commission's review:

- The status of the 2006 legislative changes that are required to be incorporated into the County's Critical Area Program as set forth in a letter from Chairman Madden dated December 18, 2006;
- Supporting documentation regarding the sufficiency of the fees-in-lieu amount, specifically, documentation that reforestation projects can be successfully implemented at the proposed rate of \$900 per acre; and

TTY for the Deaf

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



Ms. Kean
8/24/2007
Page 2 of 2

- Supporting documentation and clarification regarding the changes in required survival rates and the preference for seedlings over other larger planting stock.

Please provide any supporting information you may have that will help address these concerns by September 7, 2007. If you have questions about this additional information or what the Commission may wish to review, please call me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a stylized flourish at the end.

Julie Roberts
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 23, 2007

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

Re: Local Case No. 526B – Windmill Cove

Dear Mr. Dodd:

This office has received revised information for the above referenced project. The applicant proposes to subdivide two existing lots with dwelling units to build a new sewage reserve area. Please find my comments below:

1. Notes have been provided indicating that these lots are in Limited Development Area (LDA), as well as impervious surface calculations.
2. The plan indicates the existence of non-tidal wetlands. A 25' buffer should be maintained around these areas.
3. Areas with forest cover are shown. The letter from Lane Engineering dated July 23, 2007 indicates that 24% of the site is forested and that no additional clearing is necessary as the SRA is to be established over the existing BIP.
4. A letter has been provided from the Department of Natural Resources Wildlife and Heritage Division indicating that the endangered Delmarva Fox Squirrel is known to occur on or in the immediate vicinity of these properties. Note 14 should be amended to reflect this information.
5. Although the potential Fox Squirrel habitat is fairly fragmented on these lots, any disturbance to Habitat Protection Areas on site should be minimized.
6. The septic reserve area should remain forested until it is necessary to use it and any proposed clearing should be reviewed by the U.S. Fish and Wildlife Service.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: DC 527-06



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 9, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case No. SFD 70240

Dear Ms. Dailey:

I have received the updated plan for the above-referenced building permit. These additional plans show the zoning violation notes and accompanying mitigation plantings plan. The zoning violation notes indicate a total mitigation requirement of 9,318 square feet for the relocation of a shed in the Buffer Exempt Area and additional disturbance.

We will retain this plan for our records. Thank you for forwarding it.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner
cc: CS 323-07



Martin O'Malley
Governor



Anthony G. Brown
Lt. Governor

Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 9, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Morgantown Station FGD Project – Local Project No. SDP 60085

Dear Ms. Dailey:

Thank you for forwarding the plans and 10% calculations for the Morgantown Station FGD project. We discussed several issues regarding information submitted on the Coal Barge Unloader and the FGD project with the applicant at our meeting on Friday, August 3, 2007. Comments were sent on August 6, 2007 regarding the Coal Barge Unloader. In regards to the FGD project, I have the following comments regarding the 10% calculations submitted:

1. The applicant should base the 10% calculations for this project on the Limit of Disturbance (LOD) within the Critical Area. Removal requirements can then be calculated using acreage in the Critical Area.
2. Only those best management practices (BMPs) in the Critical Area LOD may be used to offset the removal requirements in Step 5.
3. Using these calculations, it can then be determined if the removal requirement has been met. If they have not been, additional BMPs will be needed.

The applicant may call me directly if they have further questions on how to perform the 10% calculations for this project; Or if you have any questions, please contact me at (410) 260-3746.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie R".

Julie Roberts
Natural Resources Planner

cc: CS 247-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 9, 2007

Mr. Thomas Lawton
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: CA SE 07-2356 & GP 07-365
Hobbs Borrow Pit

Dear Mr. Lawton:

Thank you for forwarding the information on the above referenced special exception and grading permit. The applicant seeks to expand an existing borrow pit located on 4.9 acres of Resource Conservation Area (RCA). Our records do not indicate that the existing borrow pit is located in threatened or endangered species habitat, areas of highly erodible soils, or within the 100-foot Buffer. Therefore, the expansion of this borrow pit appears to be in accordance with COMAR 27.01.07.03.D, as there is no indication that the area is "unsuitable."

COMAR 27.01.07.03.C(2) and Section 7 of the County's Critical Area Program, the Mineral Resources Program, indicate that appropriate post-excavation uses, such as recreation, habitat restoration, open space, and development, must be considered. A plan must be submitted to the County and the Surface Mining Division of DNR for reclamation. County regulations also require that existing mined areas are reclaimed "as soon as practicable."

Therefore, as long as the appropriate permits have been received and the existing borrow pit is in compliance with State regulations, this office does not oppose the special exception or grading permit request. As required in COMAR 27.01.07.03.G, "to the fullest extent possible, existing sand and gravel operations shall conduct their extraction activities so as to provide, at a minimum, a 100-foot buffer of natural vegetation between the operation and the mean high water line of tidal waters or the edges of streams, and tidal wetlands, whichever is further inland." The applicant should minimize the area of grading to the extent necessary to perform mining activities. Also, please have the applicant specify whether additional clearing is necessary for the expansion of the borrow pit.

Mr. Lawton
8/9/2007
Page 2 of 2

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Julie Roberts', written in dark ink.

Julie Roberts
Natural Resource Planner

cc: SO 222-07

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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(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

August 9, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case No. SFD 70240

Dear Ms. Dailey:

I have received the updated plan for the above-referenced building permit. These additional plans show the zoning violation notes and accompanying mitigation plantings plan. The zoning violation notes indicate a total mitigation requirement of 9,318 square feet for the relocation of a shed in the Buffer Exempt Area and additional disturbance.

We will retain this plan for our records. Thank you for forwarding it.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner
cc: CS 323-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 9, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Morgantown Station FGD Project – Local Project No. SDP 60085

Dear Ms. Dailey:

Thank you for forwarding the plans and 10% calculations for the Morgantown Station FGD project. We discussed several issues regarding information submitted on the Coal Barge Unloader and the FGD project with the applicant at our meeting on Friday, August 3, 2007. Comments were sent on August 6, 2007 regarding the Coal Barge Unloader. In regards to the FGD project, I have the following comments regarding the 10% calculations submitted:

1. The applicant should base the 10% calculations for this project on the Limit of Disturbance (LOD) within the Critical Area. Removal requirements can then be calculated using acreage in the Critical Area.
2. Only those best management practices (BMPs) in the Critical Area LOD may be used to offset the removal requirements in Step 5.
3. Using these calculations, it can then be determined if the removal requirement has been met. If they have not been, additional BMPs will be needed.

The applicant may call me directly if they have further questions on how to perform the 10% calculations for this project; Or if you have any questions, please contact me at (410) 260-3746.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie R".

Julie Roberts
Natural Resources Planner

cc: CS 247-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 22, 2007

Mr. Thomas Lawton
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: GP 07-354 – Wicomico Airport Wetland Mitigation

Dear Mr. Lawton:

Thank you for forwarding the information on the above referenced after-the-fact grading permit. This surface excavation and grading permit are for the restoration of an agricultural field to a forested wetland as mitigation for impacts to wetlands at the Salisbury Wicomico County Airport (which is outside of the Critical Area). It is my understanding from conversations with you that this project is to take place in two phases. This project application is for Phase I and the work has been completed. Phase II permits have not yet been applied for. The planting schedule details the work that has been completed on the 43.96 acres located in the Resource Conservation Area (RCA). According to the planting details and schedules, a combination of approximately 37,400 canopy trees, understory trees, and shrubs, as well as native grasses were planted. The Limit of Disturbance (LOD) for these plantings was not within the 100-foot Buffer.

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

1. Please advise the applicant to secure appropriate permits and submit a project application to you prior to work being started for Phase II. All mitigation projects in the Critical Area, particularly one of this size, must be reviewed by Critical Area staff prior to the inception of work.
2. Please have the applicant provide a monitoring schedule to you specifying how often the site will be checked for growth progress and provisions for replanting due to plant mortality, if the applicant has not already provided that to you.
3. If this newly created forested non-tidal wetland is contiguous to tidal waters, tidal wetlands, or a tributary stream, the 100-foot Buffer from these features shall be expanded to include this wetland. In addition, shall be a minimum 25-foot buffer from the edge of the wetland.

Mr. Lawton
8/22/2007
Page 2 of 2

Thank you for the opportunity to provide comments. If you have any questions, please call me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie', with a long horizontal flourish extending to the right.

Julie Roberts
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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1804 West Street, Suite 100, Annapolis, Maryland 21401

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August 21, 2007

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

Re: Local Case No. 1023 – Baumgartner Subdivision

Dear Mr. Dodd:

This office has received revised information for the above referenced subdivision proposal. I have provided additional comments:

1. The applicant has provided a wetland delineation report in accordance with previous Critical Area letters.
2. Note 7 on the plat identifies the site as located in the Resource Conservation Area. Please have the applicant correct this note to Limited Development Area.
3. Note 13 should be amended to indicate that this project site represents habitat occupied or potentially occupied by the endangered Delmarva Fox Squirrel, and that as such, a Habitat Conservation Plan has been prepared for this site in accordance with State and federal law.
4. Please have the applicant provide a table indicating the total impervious surface allowed for each lot and the total for the site, including roads.
5. We recommend a note be added to the final plat that requires either a shared pier for Lots 6 and 7, or that the applicant provide a community pier access point and pier in order to minimize disturbance to the wetlands bordering Secretary Creek.
6. In regard to clearing in excess of the initial cleared area (20%), we recommend removal of the current note and that a restrictive note be placed on the plat and in the final deeds that no further clearing will be authorized on individual lots, and that all retained and planted forest and wetlands on the site will be placed in a Chesapeake Bay Critical Area Easement.
 - a. By leaving the option to individual home buyers to clear more forest on their property (up to 30%), more of this Habitat Protection Area will be removed and habitat degraded.
 - b. If the County requires this restriction, the Habitat Conservation Plan (HCP) should be revised to reflect these changes.

TTY for the Deaf

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- c. If the County does not require this restriction, please advise the applicant that mitigation for clearing up to 30% is "1.5 times the total surface acreage of the disturbed forest or developed woodland area, or both" [COMAR 27.01.02.04.C.4]. This should be corrected in the HCP and additional mitigation provided for, as their figures show a 1.5:1 ratio for the clearing and not the entire site.
7. The Final Draft of the Habitat Conservation Plan details how the endangered Delmarva Fox Squirrel and its habitat will be protected on this site. The HCP mitigation accounts for the effects of forest loss and forest degradation of Delmarva Fox Squirrel habitat in response to both State and federal regulations.
 - a. There are numerical inconsistencies within the HCP regarding forest loss, etc. Please have the applicant revise all numbers (for example, section 6.2 shows 3.66 acres of loss when earlier sections show the revised acreage of 3.96).
 - b. The applicant proposes to mitigate for the loss of 3.96 acres of mature forestland at a ratio of 1:1. The applicant proposes to afforest portions of Lot 10, Lot 13, Lot 1 and Outparcel A totaling 1.33 acres to meet these requirements on site. The remaining 2.63 acres of mitigation will be paid to the Dorchester County Afforestation Fee-in-Lieu (HCP, page 10).
 - i. According to the site plan, 0.29 acres of this on-site mitigation is outside of the Critical Area. Typically, mitigation should be required within the Critical Area. In this particular instance, it does not appear that more afforestation could be performed on site, and that more potential Delmarva Fox Squirrel habitat is being created contiguous to existing habitat; therefore, this mitigation location is appropriate.
 - c. The above mentioned 3.96 acres will also be mitigated at a 3:1 ratio for a total of 11.88 acres for forest loss. A total of 7.24 acres of on-site forest habitat will be considered "degraded", as after construction is completed, it will be within 150 feet of developed areas and will therefore be mitigated at a 2.5:1 ratio. The applicant intends to meet their mitigation requirements in the amount of 35.92 acres by purchasing mitigation credits at a 95-acre mitigation bank currently proposed in Dorchester County (HCP, page 27).

This office recommends that a final, corrected version of the HCP be provided prior to the final plat approval. The applicant shall certify this document has been reviewed and approved by the US Fish and Wildlife Service. The final plat should also be provided to the US Fish and Wildlife Service for their review and comment prior to the final plat approval.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner
Cc: DC 413-03

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 15, 2007

John McDonnell, City Manager
City of Fruitland
401 East Main Street
Fruitland, MD 21826-0120

RE: Critical Area Program, City of Fruitland – Six-year Review

Dear Mr. McDonnell,

Thank you for your letter regarding the City of Fruitland's six-year comprehensive review of its Chesapeake Bay Critical Area Ordinance. The City of Fruitland has five properties in the Critical Area, totaling approximately 38 acres of undeveloped land. As your letter notes, there have been no additions or development projects in the City's Critical Area.

In July of 2000, the Critical Area Commission approved the City of Fruitland's Ordinance as a "consolidated, streamlined ordinance." In accordance with COMAR §8-1809(g)(1-4), Commission staff has determined that your comprehensive review is complete, and the City is not proposing any amendments to the Critical Area Ordinance. The Commission will be informed of the completion of the City's comprehensive review at the October 3, 2007 Critical Area Commission meeting. The City of Fruitland Critical Area Program will be due for its next review in 2013.

Thank you for this submission. If you have any questions, you or Keith Lackie may contact me at 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Cc: Keith Lackie, MDP Circuit Rider
Margaret McHale, Chair, Critical Area Commission



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 10, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Preliminary Subdivision Plan: XPN 07-0001
Key Pointe Woods

Dear Ms. Dailey:

This letter is in follow-up to the meeting held at your offices on August 3, 2007. In attendance at that meeting were you, Scott Burroughs, Tim Lessner, Mary Owens, and myself. We discussed several items, including development rights for lots in the Resource Conservation Area (RCA/RCZ), piers for the RCA lots, and FIDs habitat protection issues. There are three items that I wanted to provide some additional follow-up on at this time:

1. Lot 8 (82.5110 acres) has area that is both in and outside of the Critical Area. The lots should be reconfigured so that the acreage within the Critical Area (56.0906 acres) is associated with a lot that has development rights within the RCA, otherwise it has no riparian rights.
2. Given prior conversations with MDE and our understanding of their position on permit issues, it is not our expectation that they will issue a permit for the proposed piers over tidal marsh, nor provide permits for dredging the shallow and narrow areas of Pomonkey Creek. We recommend the applicant further explore the option of the community pier that we discussed at the meeting.
3. In addition to the MDE permit issue, I have consulted with the Commission's Science Advisor concerning FIDs habitat on this site, and it is her position that six independent access points through the FIDs habitat does not adequately protect and conserve this habitat and is therefore not in keeping with the general spirit and intent of the County's Critical Area Program.
4. Should the applicant choose to pursue individual piers for the lots in the RCA, only the lots with dwelling units in the RCA may have a pier. If the applicant proposes six individual piers for the dwelling units located in the RCA, access to the water will be considered exhausted. Please remind the applicant that while piers are proposed, permits



Ms. Aimee Dailey

8/10/2007

Page 2 of 2

from MDE may not be granted. We recommend consulting with MDE on this issue. At a minimum, a note should be added to the final plat and individual deeds that permits for piers are not guaranteed.

Thank you for organizing the meeting last Friday. I look forward to continued conversations on this subdivision. If you have any questions, please contact me at (410) 260-3746.

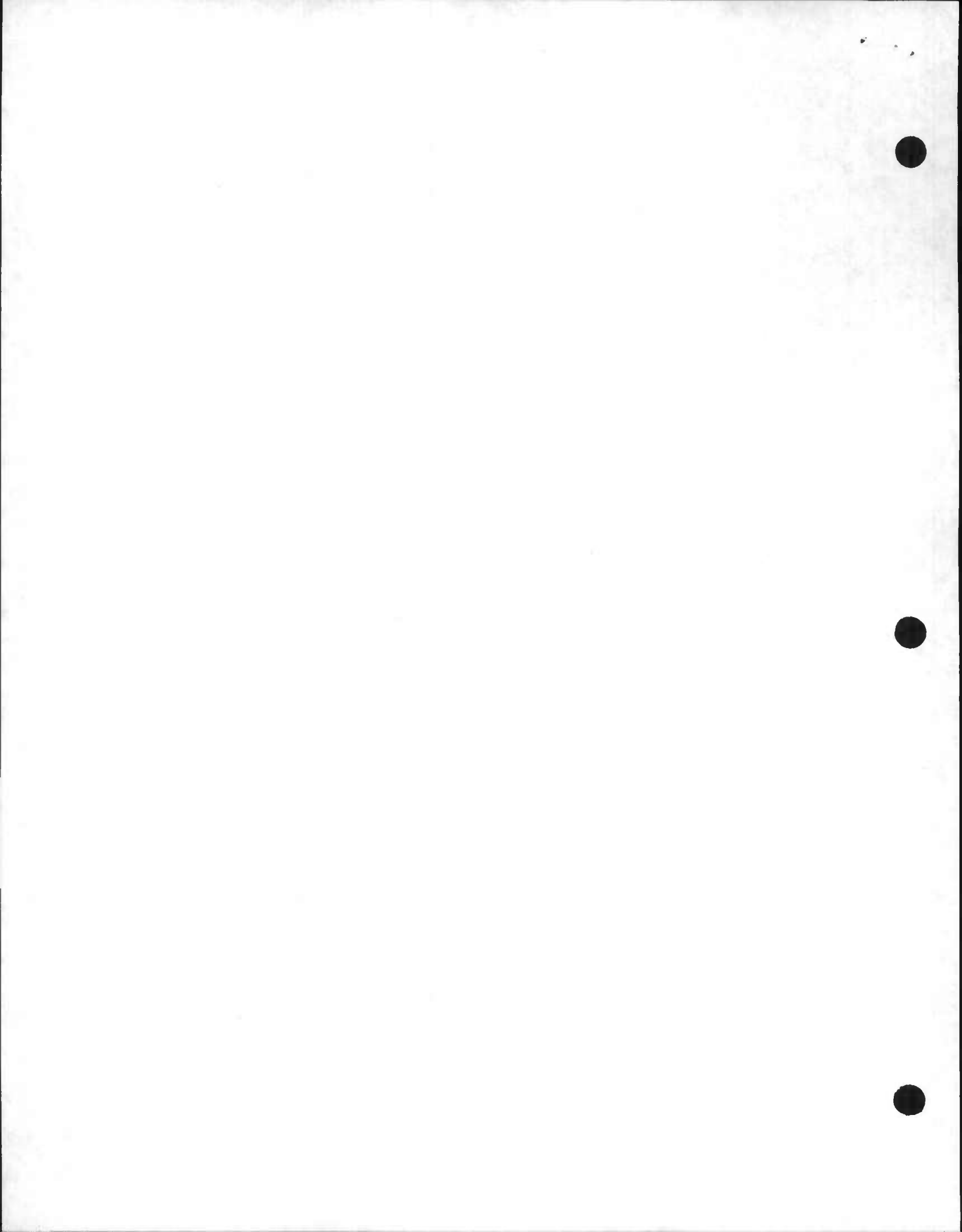
Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts

Natural Resources Planner

cc: CS 98-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 6, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Coal Barge Unloader – Local Project No. SDP 60085

Dear Ms. Dailey:

Thank you for forwarding the plans and 10% calculations for the Morgantown Station Coal Barge Unloader. We discussed several issues regarding information submitted on the Coal Barge Unloader and the FGD project with the applicant at our meeting on Friday, August 3, 2007. I understand comments are needed immediately on the Coal Barge Unloader. I have one comment:

- The calculations provided for the Coal Barge Unloader were not correct due to a mathematical error. Also, the applicant should use the area of the conveyer as well as its footer when filling in Step 1.A.1. Please have the applicant provide a corrected worksheet.

Thank you for the opportunity to provide comments. We will be sending comments shortly on the FGD project. If you have any questions, please contact me at (410) 260-3746.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: CS 247-07



Martin O'Malley
Governor



Margaret G. McHale
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August 6, 2007

Ms. Regina Esslinger
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Variance – Gruber, 11308 Beach Road

Dear Ms. Esslinger:

Thank you for forwarding the above referenced variance request. The applicant seeks an after-the-fact variance for clearing on this residential lot located in the Limited Development Area (LDA). The clearing done on this lot was for the purposes of building a single family dwelling unit. This lot is 19,674 square feet and the applicant has currently cleared 9,444 square feet, or 48%, of the previously fully-forested lot. Although forested, this lot was not forest interior dwelling bird (FIDs) habitat.

Commission staff cannot support this variance request. The State law provides that variances to a local jurisdiction's Critical Area program may be granted only if it can be found that an applicant has satisfied its burden to prove that each one of the county's variance standards, including the standard of "unwarranted hardship," has been met. The applicant has not met all of the standards for a variance, specifically variance standards 3, 4, and 5:

- Variance standard 3 specifies 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.
- Variance standard 4 specifies 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." This variance request is based on conditions resulting on the actions of the applicants.
- Variance standard 5 specifies 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." In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. Tree cover is essential for both water quality and animal and plant habitat.

Ms. Regina Esslinger

8/6/2007

Page 2 of 2

Since the applicant has not provided sufficient evidence demonstrating compliance with all of the variance standards, this office cannot support this request. COMAR 27.01.02.04.C.5(c) indicates that "forests which have been cleared before obtaining a grading permit, or that exceed the maximum area allowed in section C(4) shall be replanted at three times the aerial extent of the cleared forest." We therefore recommend mitigation at a 3:1 ratio in the form of native species. These plantings should be performed on site to the extent possible. A fee-in-lieu may be substituted for the remainder of the plantings that cannot be performed on site.

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 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Roberts', written in a cursive style.

Julie Roberts
Natural Resources Planner

cc: BC 449-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 6, 2007

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

RE: Alice Byrd Tawes Nursing Home Redevelopment, Final Comments

Dear Mr. Lackie:

Thank you for forwarding the final revisions for the Alice Byrd Tawes Nursing Home. These revisions were in response to my letter of July 13, 2007. It is my understanding that the Crisfield has the appropriate fee-in-lieu program to meet the pollutant removal requirements that could not be met on-site.

We have no further comments on this project at this time. Thank you for the opportunity to provide comments throughout this process. Should you have any remaining questions, please feel free to call me at (410) 260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: CF 0139-07



Martin O'Malley
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August 3, 2007

Mr. Dolden Moore
Board of Public Works
Wetlands Administration
P.O. Box 1510
Annapolis, MD 21404

Re: Sunnyside Landing Community Pier

Dear Mr. Moore:

In response to your inquiry regarding the Sunnyside Landing Community pier, it appears that the applicants have fulfilled their obligations to meet the Dorchester County Critical Area Program requirements. A note was added to the final plat referring to the community pier and appropriate easements are in place. The number of slips proposed (15) is consistent with slip formula in the National Resources Article 8-1808.5(d).

Please feel free to contact me if you have any further questions at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

Cc: DC 203-05



Martin O'Malley
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Anthony G. Brown
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August 3, 2007

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

Re: Bullen – 2006-0307-V

By FAX and mail

Dear Ms. Cotter:

I have received the revised site plan for the above-referenced variance request. Previous letters (March 16, 2007, April 13, 2007, and September 29, 2006) recommended that stormwater management quality and quantity be addressed for this site. This revised site plan details proposed stormwater management techniques for the proposed dwelling unit. As the engineer has detailed in his letter dated June 13, 2007, the proposed driveway has been shifted from the front of the house to the side. A roof drain piping system has also been proposed to convey the runoff down the slope to a bioretention facility. While piping the stormwater over a long distance may not be the preferred method, in this case, it appears to address this office's previous concerns regarding how stormwater management will be handled on site.

Provided the Board determines that this request meets all variance standards and this lot is properly grandfathered, this office does not oppose this variance request. We recommend that the applicant provide 3:1 mitigation for the disturbance to steep slopes in the form of native species.

Ms. Patricia Cotter
8/3/2007
Page 2 of 2

Thank you for forwarding these revised materials. Please include this letter as part of the proceedings on August 22, 2007 and notify the Commission of the decision made in this case. I can be reached at 410-260-3476 should you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie", followed by a long horizontal flourish.

Julie Roberts
Natural Resources Planner

cc: Board of Appeals

AA 602-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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July 30, 2007

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

Re: 2007-0175-V – Wargo, Chris

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant proposes to build a single family dwelling unit with less setbacks and buffer than required. The lot is 0.52 acres, or 22,651 square feet, and is entirely located in the Limited Development Area (LDA) of the Critical Area. The lot is encumbered in its entirety with a non-tidal wetland (NTW) and its 25-foot buffer. A revised plan was faxed today. Based on this information, I have the following comments:

1. The proposed dwelling unit is approximately 3,200 square feet, with a total proposed amount of impervious surface of 4,605 square feet. The allowable impervious surface for this lot is 5,445 square feet.
2. The plan faxed today indicates that the proposed dwelling unit has been shifted to what appears to be the extent possible out of the non-tidal wetland. A portion of the dwelling unit is still within the non-tidal wetland and lies mostly within the buffer to the non-tidal wetland.
3. Although the dwelling unit has been shifted, its footprint appears to have increased with the addition of a 200 square foot deck.
4. The narrative included indicates that mitigation cannot be done onsite due to geographical constraints and that a mitigation bank will be utilized for the required 4,800 square feet.

This office cannot support this variance request, as minimization of disturbance to a sensitive area has not been shown. Impacts to sensitive areas such as non-tidal wetlands

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Ms. Schappert

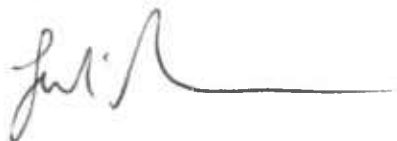
7/30/2007

Page 2 of 2

should be minimized to the extent possible and the variance the minimum necessary. Although the applicant has shifted the proposed dwelling unit out of the non-tidal wetland to the extent possible, he has not shown minimization in the size of the dwelling and has, in fact, increased the footprint of the unit by the addition of a deck.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts", followed by a long horizontal line extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 388-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 27, 2007

Ms. Raj Williams
Public Lands, Policy and Planning
Department of Natural Resources
580 Taylor Avenue, E-4
Annapolis, Maryland 21401

Re: Fairmount Wildlife Management Area (WMA) Trail Maintenance

Dear Ms. Williams:

I have reviewed the above-referenced project to grade and add road fill to two motorized trails and two parking lots. I visited this site on July 12, 2007 with Matt Lyons, Bill McInturff, and John Moulis. The two motorized trails (0.4 miles) and parking areas (4,470 square feet) require maintenance due to normal wear and tear. These parking areas will provide access to approximately 4.5 miles of foot and bike trails through tidal wetland and forested habitat. Since there will be no expansion of the trails or parking areas, this action by the Department does not constitute a development activity and does not require approval by the Commission.

This office supports the Department's efforts in repairing existing public facilities 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 call me at (410) 260-3476 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner

cc: Mr. Bill McInturff, Habitat Manager, Wildlife and Heritage Service
Mr. John Moulis, Regional Manager, Wildlife and Heritage Service



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July 27, 2007

Mr. Ralph Taylor
Somerset County Roads Dept.
8981 Sign Post Road
Westover, Maryland 21871

Re: Replacement Bridge No. S-12 on Cavalry Road, Jenkins Creek.

Dear Mr. Taylor:

Thank you for forwarding the information on the above-reference bridge replacement over Jenkins Creek. It is my understanding that this project was previously reviewed and approved as consistent with the local area Critical Area program. According to the information provided, the bridge replacement project work has been reduced to reduce the overall cost of the project. This in turn reduced the total disturbance in the Critical Area as well as the mitigation plantings. A summary of these changes was provided. They include:

1. Disturbance of the Buffer Exempt Area (BEA) is proposed at 1,825 square feet (down from 3,535 square feet);
2. Disturbance in the Buffer is now proposed at 1,280 square feet (down from 3,370 square feet);
3. Total reforestation for disturbance in the BEA and Buffer is now 7,490 square feet (previously proposed at 17,480 square feet);
4. The reforestation proposed at Great Hope Golf Course is now 8,500 square feet (down from 17,600 square feet).

It is also my understanding that MDE proposes to create an Open Water Creation Area in the Critical Area Buffer. This area is proposed to be 1,200 square feet (down from 2,540 square feet open water and 1,250 square feet marsh creation). As noted, the mitigation for this area taken from the Buffer is a 1:1 ratio at 1,200 square feet). These mitigation plantings will be done on-site for 900 square feet and additional plantings in the amount of 1,010 square feet will be located at Great Hope Golf Course.

A plantings plan and schedule has been included for the mitigation for the BEA, Buffer and areas affected by the marsh creation. As Ms. Gallo's letter of September, 2006 requested, please ensure that the location of the 25-foot agricultural buffer are staked and this area should be left to regenerate naturally.

Please indicate the proposed planting dates for the required mitigation.

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Mr. Taylor
7/27/2007
Page 2 of 2

This office has no further comments at this time. If you have any further questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie", followed by a long horizontal flourish.

Julie Roberts
Natural Resources Planner

cc: SO 297-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
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July 27, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case No. SFD 70240

Dear Ms. Dailey:

I have received the updated plan for the above-referenced variance request. These additional plans show the zoning violation notes and accompanying mitigation plantings plan. The zoning violation notes indicate a total mitigation requirement of 9,318 square feet for the relocation of a shed in the Buffer Exempt Area and additional disturbance.

We will retain this plan for our records. Thank you for forwarding it.

Sincerely,

A handwritten signature in black ink that reads "Julie R".

Julie Roberts
Natural Resources Planner
cc: CS 323-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 27, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case No. SFD 70240

Dear Ms. Dailey:

I have received the updated plan for the above-referenced variance request. These additional plans show the zoning violation notes and accompanying mitigation plantings plan. The zoning violation notes indicate a total mitigation requirement of 9,318 square feet for the relocation of a shed in the Buffer Exempt Area and additional disturbance.

We will retain this plan for our records. Thank you for forwarding it.

Sincerely,

A handwritten signature in black ink that reads "Julie R".

Julie Roberts
Natural Resources Planner
cc: CS 323-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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July 26, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Local Case No. XRS 70051 -- Rice Subdivision

Dear Ms. Dailey:

I have received the above-referenced subdivision request for review and comment. The applicant proposes to subdivide 15.79 acres in the Resource Conservation Area (RCA) into three lots through intrafamily transfer development rights. Based on the information provided, I have the following comments:

1. Lot 3 and Lot 4 are currently improved with dwelling units and additional structures. Lot 5 is currently unimproved. No driveways, existing, or proposed additional impervious surface area have been shown. Please have the applicant submit this information.
2. No line of tree cover has been provided on the plat. Aerial photography shows that tree cover is limited; therefore, afforestation may be necessary.
3. A note should be added indicating that intrafamily rights for this subdivision have been exhausted; (A note may be added as 5.c. under Critical Area Notes).
4. The County must receive a letter from the Department of Natural Resources Wildlife and Heritage Division to confirm whether this site supports any rare, threatened or endangered species habitat prior to final recordation.
5. A note should be added to the plat stating that each lot is limited to 15% impervious cover.

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

Sincerely,

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

Julie Roberts
Natural Resources Planner

cc: CS 426-07



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 26, 2007

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

Re: Local Case No. 169E – Palmaras Subdivision

Dear Mr. Dodd:

This office has received a subdivision proposal for the above referenced project. The applicant proposes to subdivide one lot (1.0 acres) from a 10.86 acre lot in the Limited Development Area (LDA). This 1-acre lot is entirely wooded. Please find my comments below:

1. The 1000-foot Critical Area boundary line must be shown on the plans.
2. Our records indicate that sensitive species may be located on site. Please have the applicant provide a letter from the Department of Natural Resources Wildlife and Heritage Division to determine what species may be on site.
3. Our records also indicate that there may be non-tidal wetlands (NTW) on site. Please have the applicant provide the location of any hydric soils or NTW on the site and any required buffers.
4. Notes have been provided on the plat regarding forest clearing and impervious surface limits.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Cc: CS 438-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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July 23, 2007

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

Re: DC 253-05 Riverton Phase III
Dorchester County Plan #338 D

Dear Mr. Dodd:

I have received the changes for the above-referenced subdivision application. Mary Owens commented on this site plan on May 10, 2005. Based on the new information provided, I have these comments:

1. A copy of the environmental report has been provided.
2. A letter has been provided by the Heritage Division of the Department of Natural Resources. The protection measures described by the Heritage Division must be addressed as well as any applicable federal guidelines. Clearing is proposed on Lot 31 that could impact Delmarva Fox Squirrel habitat. It appears that this clearing can be avoided by relocating the dwelling and driveway. If the dwelling and driveway are not relocated, then additional comments from the Heritage Division of DNR must be obtained relative to this lot.
3. This plan must be submitted to the U.S. Fish and Wildlife Service for comment. If it has already been submitted, please provide a copy of the agency's comments.
4. It appears that Lot 26, Lot 30, and Lot 31 have non-tidal wetland encroachment and that a 25-foot Buffer has been added. Appropriate plat notes must be provided that indicate that non-tidal wetlands are a Habitat Protection Area and any developer disturbance is prohibited.
5. Although the plat now shows the increase of Critical Area lands in Parcels A and B, it still does not show the total acreage within the Critical Area or list the designation, which is Limited Development Area (LDA). Please add this note.
6. No note has been provided addressing the impervious surface allowable for this phase of the project. Impervious surface limits for the subdivision as a whole must include all

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phases of the project and the roads. If the applicant does not have detailed calculations for each lot, then a maximum for each lot may be used, but it must take into account the area of the roads.

7. As set forth in the Critical Area Commission's letter dated May 10, 2005, new lots shall be planted to provide forest or developed woodland cover of 15% of the subdivision or of each individual lot if this level of forest or woodland cover is not present. This area must be permanently protected and should be clearly shown on the plans. If supplemental planting is required, a planting plan must be submitted.

Thank you for submitting these corrections. I look forward to seeing the appropriate changes. If you have any questions, please contact me at 410-260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

Cc: DC 235-07
253-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
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July 20, 2007

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

RE: Alice Byrd Tawes Nursing Home Redevelopment, 3rd Review

Dear Mr. Lackie:

I have received the additional information for the redevelopment of the Alice Byrd Tawes Nursing Home from the Department of Planning. I have these last comments:

1. The comments made in my March 19, 2007 letter have been addressed and new 10% calculations have been provided.
2. Regarding the pervious pavers, depth of the #57 stone should provide storage for the first inch of rainfall. Please adjust if necessary.
3. The Buffer and plantings schedules have been provided. Japanese maples, which have been shown on the planting schedule, are not native species. We recommend River Birch as a good alternative.
4. At a minimum, shrubs (low-lying, if preferred) should be planted where switchgrass is proposed.
5. The applicant proposes to use a fee-in-lieu where the pollutant removal requirement could not be met on-site. It would be beneficial to do more onsite removal, as only 4% of the drainage area is being treated as proposed. More of the removal requirement could be met onsite with the use of additional organic filters.

Thank you for the opportunity to comment. Please feel free to call me with any questions at (410) 260-3476.

Sincerely,

A handwritten signature in cursive script that reads "Julie R".

Julie Roberts
Natural Resources Planner

cc: CF 0139-07



Martin O'Malley
Governor

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Lt. Governor



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July 20, 2007

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

Re: Village Down River, Second Review

Dear Mr. Sharp:

Thank you for the revised plans submitted by the applicant. I have reviewed these plans with our Science Advisor, LeeAnne Chandler. My comments are as follows:

1. C1.1: No Buffer has been shown. Please have the applicant correct.
2. C1.3: No Buffer has been shown. Please have the applicant correct. Also, the Limit of Disturbance (LOD) must be moved out of the Buffer.
3. C1.4: The tidal wetland line and Buffer line have been drawn incorrectly. Please have the applicant correct. The forest clearing near the drip irrigation area is not shown on the larger scale Forest and Reforestation plan.
4. C1.5: Please have the applicant provide MDE permits for the impact to the non-tidal wetland (NTW) buffer in the vicinity of Lots 17-20.
5. C1.6: LOD should be out of the Buffer. If this disturbance has already occurred as part of the work performed in the last week, we advise that this be considered a violation and enforced as such.
6. C1.7: There appear to be NTW buffer impacts. MDE permits are required. The applicant must show the 30-foot setback from the landward edge of tidal waters in the Buffer Exempt Area (BEA) and remove the LOD from these areas.
7. C1.8: There are NTW symbols (grass) outside of NTW. Please have the applicant review and correct the non-tidal delineation. Also, the grading shown on the site plan is confusing. It shows NTW marsh at 9 and 10 feet. Please have the applicant clarify.
8. C1.9: The building envelope between Lot 26 and 27 is not labeled, although it is labeled 27 on other sheets. Please have the applicant clarify how many envelopes there are; different sets of plans indicate 48, 49, and 50 lots.

9. C1.10: What is the area shown between units 1 and 2? It appears to be a future driveway or path. The applicant should clarify.
10. C2.2: Please have the applicant show a section detail for the level spreader. Also, several of these spreaders are in the NTW buffers and thus require authorization by MDE. The bottom of overflow device for the bio-retention areas must be above the 6 inch ponding elevation.
11. C2.3: This sheet shows four different designs. Which one is being used? Please have the applicant clarify.
12. C2.4: Please have the applicant provide accurate section details of each bio-retention area that shows elevations of overflow devices and demonstrates that 6 inches of ponding will not flood the street.
13. Stream Enhancement sheet (4):
 - a. Please have the applicant provide details concerning the contents of the "mix from Ernst Seed Company."
 - b. Many more shrubs should be planted in this area.
 - c. Please have the applicant provide the total acreages that the proposed plantings are intended to cover.
 - d. We remain concerned about the viability and design of the stream enhancement area. For example, it appears likely that the base flow will be adversely affected. Commission staff are consulting with the stream restoration staff at DNR to ensure the design is viable. Please have the applicant indicate the specific soil type and groundwater elevation for this discussion.
14. Buffer Management Plan sheet (5): The Buffer shown at southeast quadrant is not drawn properly. The Buffer measures out at 85-90'. Please have the applicant correct.
15. Streetscaping plans: Please have the applicant clarify what native grasses are to be provided. Also, the London Plan tree is not a native species. Another selection should be made.
16. Bioretention area plans:
 - a. The shape and dimensions for 1, 2, and 3 do not match Sediment and Erosion plan.
 - b. Please have applicant provide square footage of each area and exact number of trees and shrubs.
 - c. Red Bud is not an appropriate species for bioretention areas as the tree does not naturally grow in moist soils.
17. Buffer 2:
 - a. Twenty-eight trees are shown. Twenty are listed. Please have the applicant correct these types of issues throughout.
 - b. Also, a legend should be shown indicating what species are to be used.
 - c. The applicant should provide the MDE specifications referenced in the plans.
 - d. The Buffer to be established is adjacent to forestation areas. Details should be shown on those as well.
18. Buffer 4:
 - a. The individual paths must be removed. The paths are only leading to a steel bulkhead. Members of the community may use the piers for water views.
 - b. Also, a plantings schedule including quantity, species, and acreage to cover should be included.
19. 10% Calculations:

- a. It appears that the 10% calculations we have are from December, 2006 and are outdated. Please have the applicant provide new calculations for the area in the IDA.
 - b. The applicant must justify their usage of stormwater credits. For example, the MDE manual indicates that credit cannot be claimed for grass channels and rooftop disconnect simultaneously (pg. 5.14). Also, this office does not recognize sheet flow to buffer for credit.
 - c. Please have the applicant provide an example lot's stormwater treatment.
20. General Comments:
- a. The plans show expansive areas of the non-tidal buffer as reforestation areas, as further described as enhancement #2. Given that most of these areas are already forested, "overplanting" with loblolly seedlings (which require full sun) does not make sense. Only currently unforested areas that will be planted count towards reforestation. Also, please have the applicant correct the sheets that show deforestation and reforestation overlap (sheet C1.5, Growth Allocation 1 and 2).
 - b. The SEC plans show lot lines around the condo units, some of which extend into Buffers and expanded Buffers. Such lines, even if not officially lots, cannot extend into any sensitive areas including NTW or Buffers. Please provide documentation of the covenants and restrictions governing activities on each lot and in common areas. Any such lines should also be shown on plans as well.
 - c. The Conditions of the Growth Allocation require the County to collect bond for all habitat enhancements. Please provide a copy of documents demonstrating that this has been done.
 - d. Also, a long term maintenance and monitoring plan must be provided that includes biannual reporting to Commission staff.
 - e. Finally, trails have been discussed in various venues but do not appear on the plans. If the applicant is still planning on putting these trails in, they should be shown on the next set of plans.

Many of these comments revolve around lack of consistency within the site plans. We look forward to the engineer anticipating these sorts of comments and making corrections. Thank you for the opportunity to comment. Please feel free to call with any questions concerning the above comments at (410) 260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

cc: WI 593-06



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Anthony G. Brown
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Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 20, 2007

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

RE: Alice Byrd Tawes Nursing Home Redevelopment, 3rd Review

Dear Mr. Lackie:

I have received the additional information for the redevelopment of the Alice Byrd Tawes Nursing Home from the Department of Planning. I have these last comments:

1. The comments made in my March 19, 2007 letter have been addressed and new 10% calculations have been provided.
2. Regarding the pervious pavers, depth of the #57 stone should provide storage for the first inch of rainfall. Please adjust if necessary.
3. The Buffer and plantings schedules have been provided. Japanese maples, which have been shown on the planting schedule, are not native species. We recommend River Birch as a good alternative.
4. At a minimum, shrubs (low-lying, if preferred) should be planted where switchgrass is proposed.
5. The applicant proposes to use a fee-in-lieu where the pollutant removal requirement could not be met on-site. It would be beneficial to do more onsite removal, as only 4% of the drainage area is being treated as proposed. More of the removal requirement could be met onsite with the use of additional organic filters.

Thank you for the opportunity to comment. Please feel free to call me with any questions at (410) 260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

cc: CF 0139-07



Martin O'Malley
Governor



Margaret G. McHale
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Executive Director

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July 20, 2007

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

RE: Critical Area Program Amendment, Baltimore County

Dear Ms. Farr:

At its meeting on May 2, 2007, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays reviewed County Bill 9-07 as a proposed amendment to Baltimore County's local Critical Area Program. The Commission unanimously approved Bill 9-07 as submitted.

In accordance with Natural Resources Article §8-1809(p)(4), the County must incorporate the amendment (i.e., add Liquefied Natural Gas to the list of prohibited uses) within 120 days of receipt of this notice. Please forward a copy of the section of the County's Critical Area program revised by Bill 9-07 to our office when it is available.

Thank you for your patience and assistance in processing this request. If you have any questions, please feel free to contact me at (410) 260-3476.

Sincerely,

A handwritten signature in black ink that reads "Julie".

Julie Roberts
Natural Resources Planner



Martin O'Malley
Governor



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July 18, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Cobb Island Volunteer Fire Department

Dear Ms. Dailey:

I have received the information you sent regarding an application for the grading permit for the Volunteer Fire Department on Cobb Island. A growth allocation was awarded on May 4, 2005 to change a 1.43 acre parcel from Limited Development Area (LDA) to Intensely Development Area (IDA) for these purposes. A condition of this approval was that a detailed stormwater management plan be provided to Commission staff prior to the issuance of local building and grading permits. Based on the information provided, I have the following comments:

1. The plans do not have a table providing the existing and proposed impervious surface for the redevelopment of this project. Please have the applicant provide this table so the accuracy of the Pollutant Removal Requirement may be verified.
2. Calculation of L_{post} should be recalculated on the following factors:
 - a. Detention Area 4 is not properly disconnected.
 - b. The 10% pollutant removal calculations should be based on drainage areas 1 and 4.
 - c. Grass Channels may not be considered for stormwater credit and a best management practice. Based on their current design, the disconnect credit is more appropriate.
3. Page 56 of the Stormwater Management Computations provided by the applicant indicates that "due to inadequate ground water separation and the seasonal high ground water table estimated at an approximate depth of three feet (3') to four feet (4'), stormwater management using the infiltration method is not advisable." Design of the proposed bioretention area specifications assumedly took this into account and show a 9 inch soil depth for the area. This depth does not meet the MDE specifications, which are 2.5 feet for a bioretention area. Our 10% guidance assumes compliance with the MDE specifications for estimating removal efficiencies. Therefore, additional documentation should be provided to illustrate that the BMPs will work properly, such that full credit is warranted.
4. The bioretention area must be well vegetated in accordance with the MDE Stormwater Manual. The surface area should be covered in a variety of species adapted to fluctuating water levels. The proposed plan shows only a handful of herbaceous material. Please have the applicant provide more vegetation in this area.

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Ms. Aimee Daily
7/18/2007
Page 2 of 2

Thank you for forwarding this information to me. If you have any questions, please contact me at (410) 260-3746.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie R.", written in dark ink.

Julie Roberts
Natural Resources Planner

cc: CS 724-05

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July 16, 2007

Mr. Thomas Lawton
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: SE 07-2354: Evans Bed and Breakfast.

Dear Mr. Lawton:

Thank you for providing information on the above referenced special exception. The applicant is requesting to use an existing dwelling unit as a commercial Bed and Breakfast. This lot is .48 acres [there was a typo on the application], or 20,909 square feet, and located in the Intensely Developed Area (IDA). It is zoned as Maritime-Residential-Commercial (MRA). The applicant does not propose any new impervious surface or tree removal. The public notice announcement attached indicates that under Section 5, subsection 5.9 and section 5.8b permit a Bed and Breakfast after approval by the Board of Zoning Appeals.

Based on the information provided, this office does not oppose the granting of a special exception for this lot. If the applicant chooses to expand the impervious surface of the lot (through providing additional parking, etc.) they must submit to this office the 10% pollutant removal requirements for this lot in the IDA.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resource Planner

cc: SO 405-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Executive Director

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July 13, 2007

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

Re: Willis, Vick – VAR 2323

Dear Mr. Dodd:

I have received the revised variance request to replace a single family dwelling unit. The applicants have made significant changes to their site plan. After a meeting with Dorchester County Planning and Zoning, the applicants and the engineer on June 18, 2007, it appears that the applicants have minimized the disturbance to the Buffer:

- The previous variance proposal showed a removal of 189 square feet of impervious surface. The revised proposal shows a reduction of impervious surface to be 2,040 square feet, decreasing the impervious surface on the lot from 19.3% to 15.0%.
- The revised proposal shows the house to be further set back from Mean High Water. The original proposal showed the most waterward portion of the house to be 65 feet; the revised proposal shows the house to be located 81 feet from the water.

This office does not oppose this revised variance request. Also, we support the efforts of the applicants in their removal of impervious surface, and recommend the deck be constructed so that is pervious. Mitigation should be performed at a 3:1 ratio for all disturbance to the Buffer.

Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie", followed by a long horizontal flourish.

Julie Roberts
Natural Resources Planner

Cc: DC 340-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Executive Director

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July 13, 2007

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

Re: Variance -- Alaskewicz

Dear Mr. Dodd:

I have received the above-referenced variance request to build a single family dwelling unit, garage, and driveway. The lot is 5.09 acres in the Limited Development Area (LDA). Based on the information provided, I have the following comments:

1. The applicant has not provided details regarding the amount of proposed impervious surface. Given the size of the lot and the site plan drawing, it is assumed that the impervious surface is well under 15%.
2. Portions of the sewage reserve area are within the non-tidal wetland and the 25-Buffer. According to the Health Department, this is the only area on the property that is an acceptable location.
3. There is no apparent indication that the non-tidal wetlands are of special concern.
4. The applicant reports that the lot is not forested. The property should be afforested to 15%, or 0.76 acres of forest. Plantings should be done on the lot and may be the applicant's choice of native species. A management plan should be forwarded to your office showing the plantings schedule.

Provided this lot is properly grandfathered, this office does not oppose this variance request. We support efforts on behalf of the applicants to create habitat for species through the afforestation plantings; however, we recommend the applicant consider reducing the footprint of the dwelling, garage and parking areas in the 25-foot Buffer.

Mr. Dodd
7/13/2007
Page 2 of 2

Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. If you have any questions, please contact me at 410-260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

Cc: DC 403-07

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July 12, 2007

Mr. Thomas Lawton
Department of Technical and Community Services
11916 Somerset Avenue
Princess Anne, MD 21853

Re: CA VAR 07-887 -- Perdue

Dear Mr. Lawton:

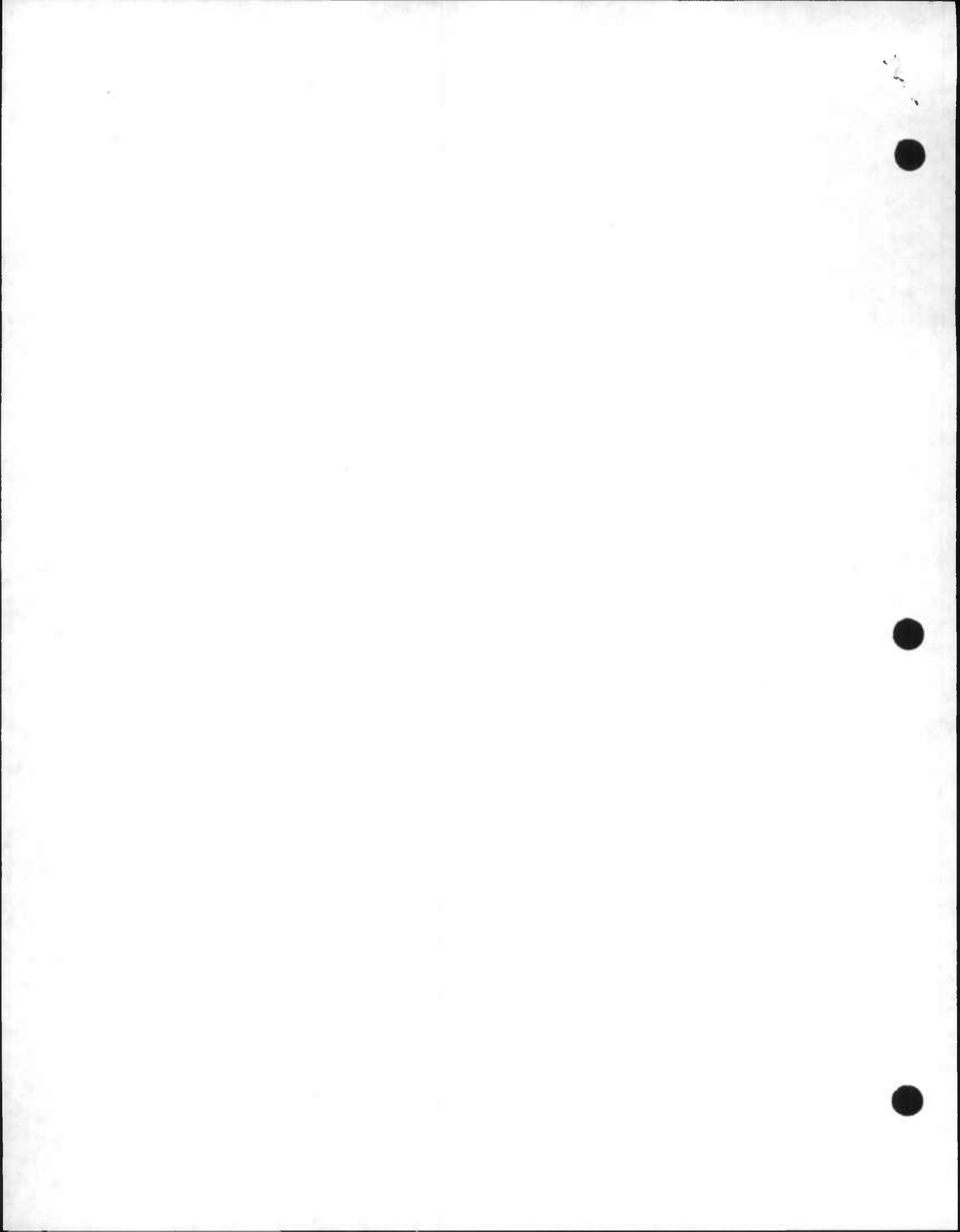
Thank you for providing information on the above referenced variance. The applicant is requesting a variance for an after-the-fact concrete patio built partially within the 100-foot Buffer. According to the request, the applicant seeks a 17-foot Buffer variance for his 280 square foot patio. This lot is located in the Limited Development Area (LDA) and is 17,460 square feet.

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. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County (or 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 is requesting to add additional impervious surface within the 100-foot Buffer. Based on the information provided, it appears that there are other locations outside of the Buffer where the patio could be constructed. The applicants also enjoy an accessory sun porch as an improvement to the lot.

The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. The



Mr. Lawton

7/12/2007

Page 2 of 2

applicant's variance request lies in direct contrast to the goals of the General Assembly and the goals of the Buffer; therefore this office cannot support the requested variance.

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

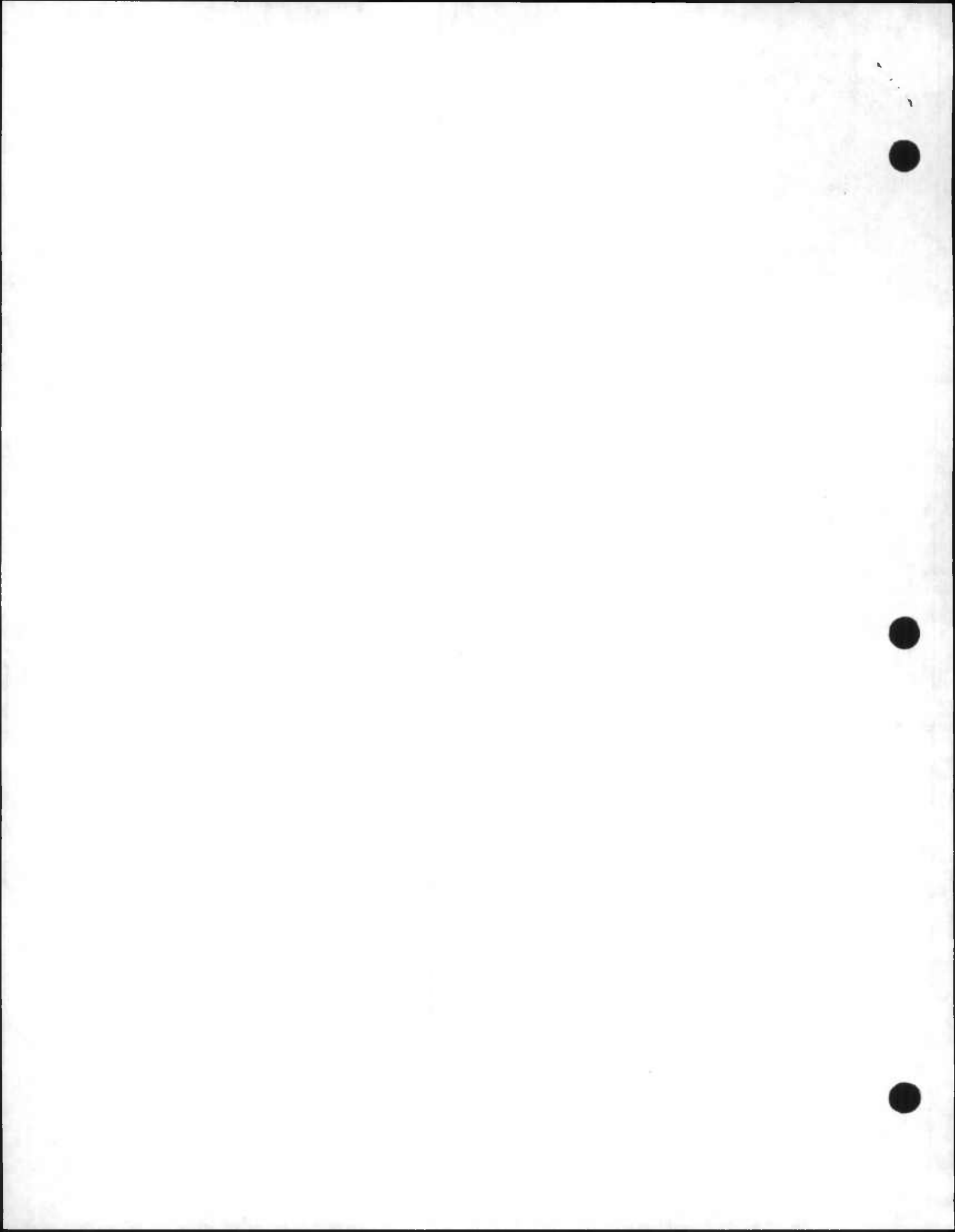
Sincerely,

A handwritten signature in cursive script, appearing to read "Julie R", followed by a long horizontal flourish.

Julie Roberts

Natural Resource Planner

cc: SO 404-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

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July 10, 2007

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

Re: Variance -- Danielak

Dear Mr. Dennis:


Thank you for forwarding the above referenced project. The applicant seeks a variance to construct a dwelling with a driveway and associated pier. The lot is almost entirely within the 100-foot Buffer and is approximately 1/3 of an acre, or 13,155 feet. The lot is designated Limited Development Area (LDA). The applicant proposes to construct a single family dwelling and driveway totaling 2,270 square feet of impervious surface. Based on this information, I have the following comments:

1. The impervious surface for the property is within allowable limits for a lot of this size at 17.25%.
2. The applicant is responsible for and proposes mitigation at a 3:1 ratio for disturbance in the Buffer for a total of 25,425 square feet.
 - a. The applicant has determined that the existing wooded area does not qualify as "forest" and proposes to afforest the area with a mix of native species along the shoreline in the amount of 2,170 square feet. A planting schedule has been provided. Native species are proposed to be used to afforest the Buffer.
 - b. The remaining buffer mitigation will be satisfied through a fee in lieu to the County in the amount of \$9,302.00 for the remaining 23, 255 square feet.
3. It appears that a grassed path with mitigation plantings on either side will be created to access the pier.

Provided the lot is properly grandfathered, and the County is satisfied the applicant has demonstrated minimization, this office does not oppose this variance request to build a dwelling unit and driveway. We have no comment on the construction of the pier.

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 410-260-3476.

Sincerely,


Julie Roberts
Natural Resources Planner

cc: BC 396-07



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 6, 2007

Mr. Glenn Shaffer
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Eastern Manor Subdivision

Dear Mr. Shaffer:

Thank you for forwarding the above referenced project. The applicant seeks a variance to clear over 30% of forest onsite to develop 25 of 46 lots and a public right of way. Specifically, the applicant proposes to clear 34.8% of forest on 5 lots with reduced setbacks to a stream Buffer. A variance was previously approved by the County in 1998 for less setbacks to a stream Buffer for the five dwelling units.

Provided this subdivision is properly grandfathered, this office does not oppose this request for clearing greater than 30% for the lots and public right of way. The information provided indicates that mitigation will be provided at a 3:1 ratio at a previously agreed on site and that the applicant has already executed a planting agreement. The plan has been approved by DEPRM for 4.2 acres of planting. The remaining 2.84 acres of reforestation will be through fee-in-lieu at \$0.40/acre (equaling \$49,484.16).

Thank you for the opportunity to provide comments and I look forward to seeing the revisions on this project. If you have any questions, please telephone me at (410) 260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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July 6, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Preliminary Subdivision Plan: XPN 07-0001
Key Pointe Woods – 2nd Review

Dear Ms. Dailey:

Thank you for forwarding the revised plans for the above-referenced project. Based on the information submitted by the applicant, I have the following remaining comments:

1. Comment #10 of Mr. Burroughs' letter indicates that a note will be provided that only 5 of the 6 allowable dwelling units are proposed in the Critical Area. This note does not appear on this plan. Please have the applicant add it to the plat and final plan.
2. The applicant shows the septic fields for Lots 1, 10, 11, 13, and 17 to cross from the LDA to the RCA. As previously indicated in my letter of March 12, 2007, the RCA should not be used to accommodate zoning or subdivision requirements for development outside of the Critical Area. In addition, as Section 297-128 of the Charles County Zoning ordinance indicates, the definition of a dwelling unit is "a single unit, being an enclosed structure, containing *complete*, independent living facilities designed for and held ready for at least one person, *including permanent provisions for sanitation*, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes accessory apartment or guest house (emphasis added)." Therefore, it appears this definition of dwelling unit contemplated the inclusion of septic areas.
3. The plans indicate that FIDs habitat will be retained as a proposed forest conservation bank. This area is already proposed to be placed in easement. The applicant may not use this area as a bank for future off-site projects.
4. Our Science Advisor is currently looking over the FIDs analysis. We will provide additional comments regarding FIDs shortly.

Ms. Aimee Dailey

7/6/2007

Page 2 of 2

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3746.

Sincerely,

A handwritten signature in dark ink, appearing to read "Julie R.", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: CS 98-07

Martin O'Malley
Governor



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Executive Director

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July 6, 2007

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

Re: Redden Ferry: Creekview Drive Line of Sight Tree Removal

Dear Mr. Sharp:

I have been contacted by the Redden Ferry Homeowners Association and asked to comment on a request to remove trees from their forest conservation area. The Director of Public Works for Wicomico County, Rai Sharma, sent a letter to Mr. Bob Twilley, the President of the Homeowners Association, indicating unsafe conditions due to line of sight around Creekview Drive. Public Works has indicated in their letter that the removal of approximately 8'x 350' of trees will improve the line of site.

The Critical Area Commission defers to the Department of Public Works for safety issues; however, mitigation is required at a 1:1 ratio for the removal of these trees to support a no net less of forest cover in the Critical Area. I recognize that the trees in question were not the original plantings for the forest conservation easement. If the Association chooses, the mitigation plantings may be planted in the Buffer area that I visited on June 27, 2007. Planting a combination of trees and shrubs in that area may help alleviate some of the issues between residents while also satisfying the mitigation requirements.

Please contact me if you have any questions at 410-260-3476.

Sincerely,

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

Julie Roberts
Natural Resources Planner

Cc: Bob Twilley, Redden Ferry Homeowners Association



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July 6, 2007

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

Re: 2007-0059-V

Dear Ms. Schappert:

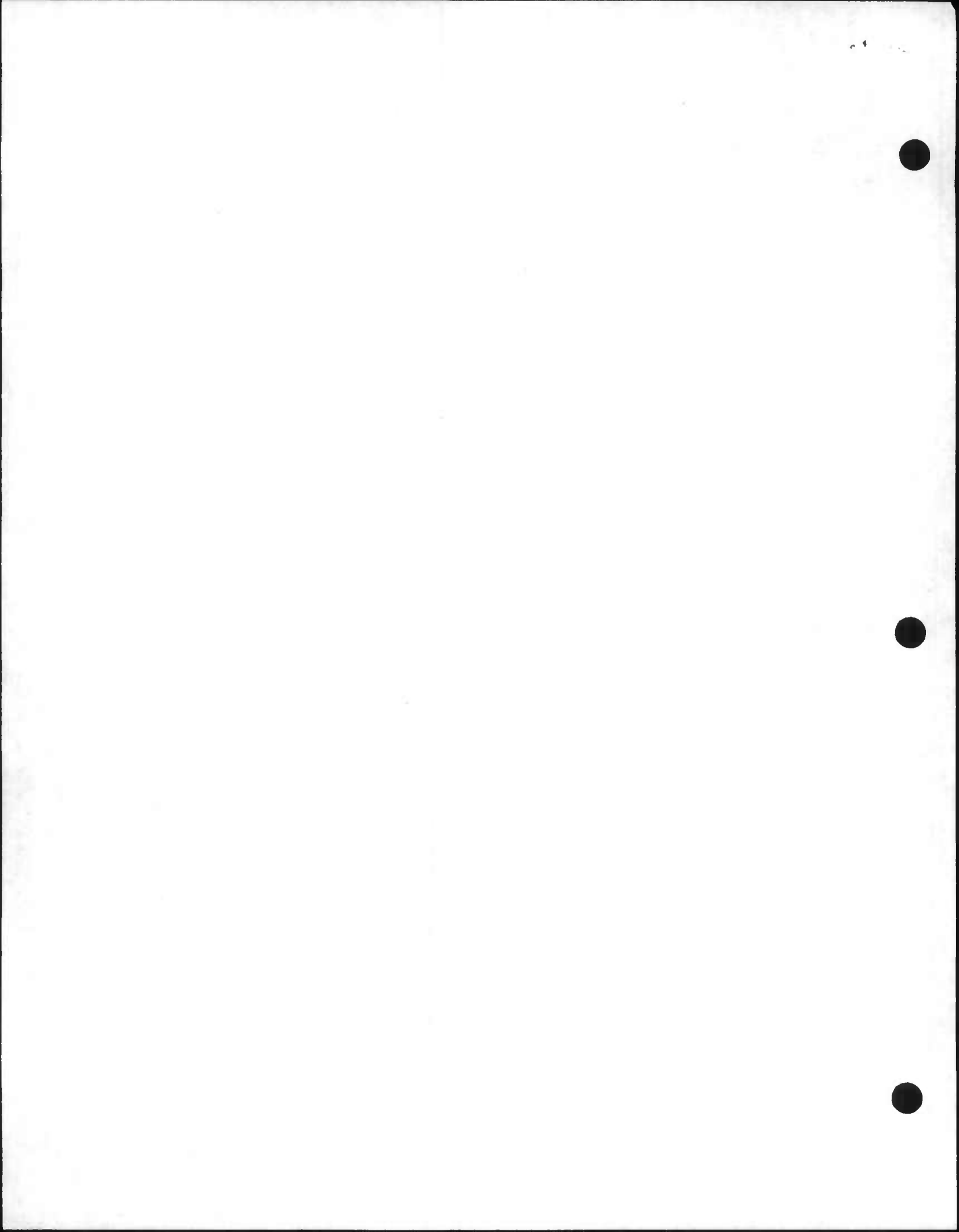
I have received revised information for the above-referenced variance request to allow a dwelling with less setbacks and Buffer than required and with disturbance to slopes of 15% or greater. According to your office, this lot was deeded by residue parcel in 1927 and is properly grandfathered. This lot is located in expanded Buffer and is designated as a Resource Development Area (RCA). Based on the information provided, I have the following comments:

- The applicant has attempted to minimize the disturbance by reducing the square footage of the deck, the square footage of the driveway, by flipping the footprint of the house and moving it away, as far as possible, from the steep slopes and edge of tidal wetlands. Should the hearing officer deem that the footprint of the house be decreased, this would show further minimization on this lot.
- The applicant's engineer indicated during a phone conversation that pervious pavers will be used for the driveway. Although this office supports the use of pervious pavers, it is our understanding that the County no longer gives pervious credit to meet the impervious surface limitations.

This office does not oppose this variance request, but recognizes that this a very sensitive lot with steep slopes and tidal wetlands. We recommend that the applicant provide 3:1 mitigation for the disturbance in the Buffer in the form of native species. These plantings should be done in the area between the house and the tidal wetlands to help alleviate runoff issues, particularly as the applicant indicated that there are no

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Ms. Schappert

7/6/2007

Page 2 of 2

stormwater management facilities or devices on this lot; however, stormwater will be managed by plantings.

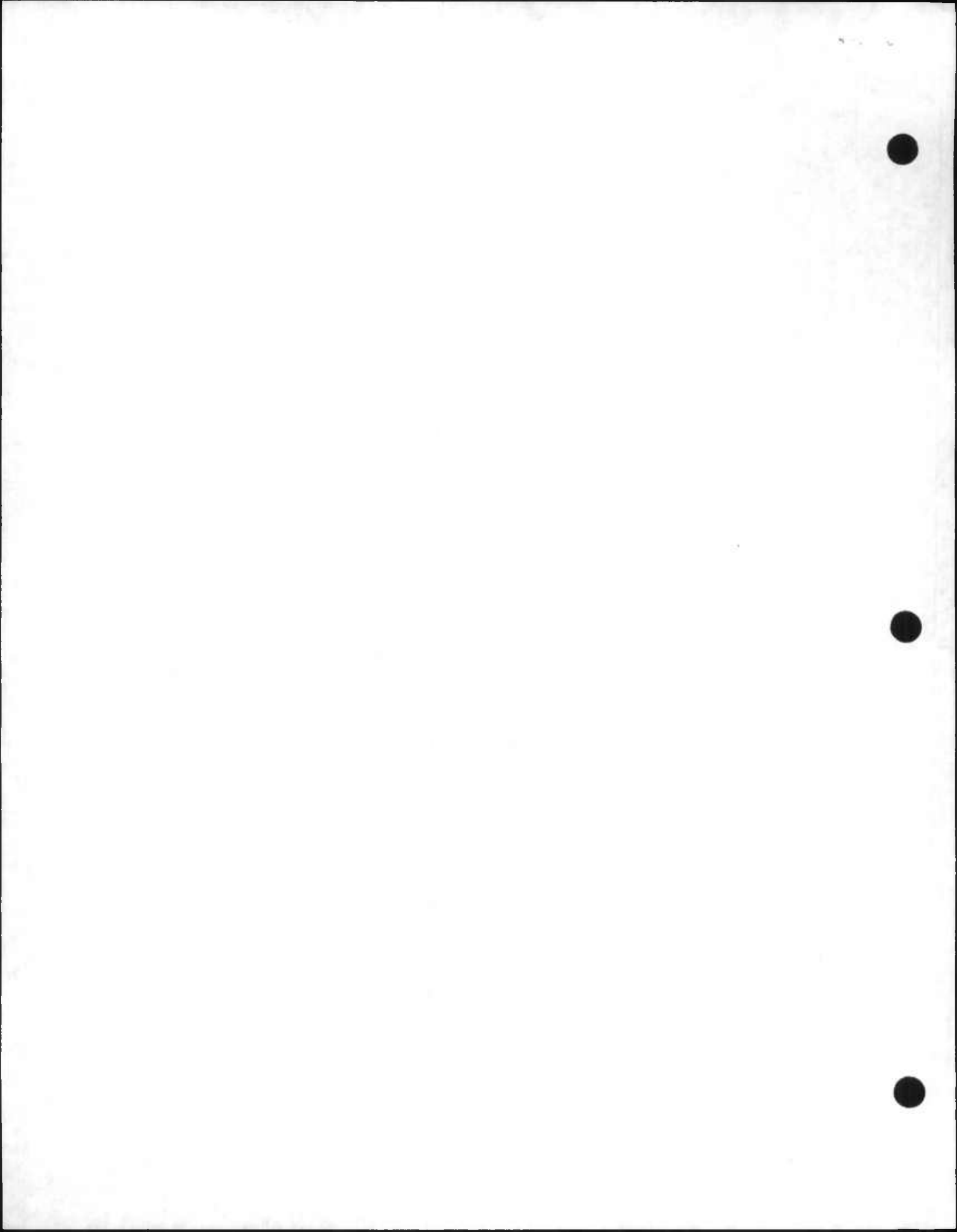
Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie", with a long horizontal flourish extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 259-07



Martin O'Malley
Governor

Anthony G. Brown
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Executive Director

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July 5, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Buffer Regeneration – Local Case XRS 70026

Dear Ms. Dailey:

This letter is in regards to the Buffer regeneration on the Anderson property. A condition for future resubdivision of Lot 16 at Gunston Point indicated that a portion of Mr. Anderson's Buffer be checked for the progress of the regeneration. On June 26, 2007, you and I conducted an evaluation of the Buffer regeneration on this lot. Mr. Anderson indicated that the present regeneration is natural and that he has not planted or managed the area. The area appeared healthy with a mix of native tree species, including loblolly pine and elm. There did not appear to be any emergent invasive species growth that would hinder the growth process of the trees. This condition has been satisfied.

Mr. Anderson had also performed some management of the Buffer more directly behind his house. As we discussed at the site, the creation of a Buffer Management Plan may be the best option for Mr. Anderson if he would like to continue actively managing the Buffer. The Buffer at that time had been cleared of its understory with only the large trees remaining. While he indicated that he had managed for species such as poison ivy and green briar, oftentimes seedlings get cleared in this process. Clearing seedlings of trees prevents the Buffer from functioning optimally and should be avoided.

Please contact me at (410) 260-3476 if you need assistance or have questions regarding the creation of a Buffer Management Plan for this property.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner
Cc: CS 275-07



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Governor

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Executive Director

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July 5, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Clifton on the Potomac
SFD #60865

Dear Ms. Dailey:

I have received the corrections for above-referenced building permit. Corrections have been made in accordance with Kate Schmidt's letter of November 8, 2006:

1. The site plan shows a note indicating that the site is within a ¼ mile of a habitat protection zone for a bald eagle nest. All state and federal regulations shall be followed during the construction of this dwelling unit.
2. Our response to the variance request has been routed with this letter.
3. A revised planting plan has been provided. The applicant proposes to plant 8,712 square feet of the required mitigation on site and the remaining 17,442 off site. The applicant has indicated under separate cover that the off-site plantings will be located on Tax Map 79, Parcel 102 and placed in easement. Please have the applicant provide a plantings schedule for these off-site plantings.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3746.

Sincerely,

A handwritten signature in cursive script that reads "Julie R".

Julie Roberts
Natural Resources Planner

cc: CS 724-06



Martin O'Malley
Governor



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July 5, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Clifton on the Potomac
SFD #60865 Variance request

Dear Ms. Dailey:

I have received the variance request for the above-referenced project. A letter regarding the building permit corrections should also be included. A variance is being requested for the single family dwelling unit since the lot is encumbered with steep slopes greater than 15%. The lot (5, Block L) is 14,100 square feet; it is entirely located in the Buffer Exempt Area (BEA) and designated as Limited Development Area (LDA). The applicant indicates that the "buildable" area of the lot is 1,628 square feet and is irregularly shaped. The septic area of the lot is unbuildable as it is in easement and encompasses 2,309 square feet. The remaining area of the lot with steep slopes is 2,176 square feet.

1. The proposed impervious surface for this single family dwelling unit is 2,587 square feet, or 18% of the lot. This is within the allowance for impervious surfaces in the LDA if the lot is under one half acre. As indicated in the variance request, the only available access to the road is over the steep slopes. The house, at approximately 1,430 square feet, is of a reasonable size.
2. Plans have been provided for the stabilization of the steep slopes.
3. A plantings schedule has been provided for disturbance to the steep slopes under separate cover. Mitigation is being provided at a 3:1 ratio, with approximately 1/3 of the plantings to occur on-site.
4. The off-site plantings, equaling approximately .40 acres are to be placed in easement. A copy of the easement has been provided. The location of the easement, Tax Map 79, Parcel 102, is within the Critical Area. The applicant should provide a plantings selection and schedule.
5. To demonstrate minimization to the steep slopes the applicant should move the location of the porches to the "buildable area" if feasible.

Ms. Aimee Dailey

7/5/2007

Page 2 of 2

Given that this lot is encumbered by slopes greater than 15% and that if a variance request was not issued, the lot would be unusable, this office does not oppose this variance request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. If you have any questions, please contact me at (410) 260-3746.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie", followed by a long horizontal flourish.

Julie Roberts
Natural Resources Planner

cc: CS 724-06

Martin O'Malley
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July 5, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Jean Tierney Shore Erosion Control

Dear Ms. Dailey:

Thank you for forwarding the above referenced project. The applicant proposes to emplace 165 feet of stone revetment within a maximum of 8 feet channelward of Mean High Water (MHW) and to fill, grade, and plant marsh vegetation along 140 feet of eroding shoreline with 85 cubic yards of sand within a maximum of 20 feet channelward of MHW. Based on the information provided, I have the following comments:

- The applicant has received a permit from the Maryland Department of Environment for the proposed work.
- The applicant will mitigate for 1,500 square feet of disturbance at a ratio of 1:1. The applicant may choose the configuration for mitigation. It should be noted that the applicant indicated that 1,500 square feet equals four trees for mitigation purposes. Clusters of four 2" caliper trees plus an additional two small trees or three shrubs per each 400 square feet may be planted to address the 1,500 square feet of disturbance.
- The applicant should minimize disturbance to the extent possible during the construction period of this revetment.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts".

Julie Roberts
Natural Resources Planner
cc: CS 205-05



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 4, 2007

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

Re: Local case number 1125 – Linkous - Dorworth

Dear Mr. Dodd:

I have received the revised information on the above-referenced project. The applicant proposes to build two single family dwelling units on 10.13 acres and 9.09 acres respectively. This property is in the Resource Conservation Area (RCA) and the applicant proposes to put 20.78 acres in "Reserved Lands" to meet the density requirements. A note to this effect has been added to the plat. Jennifer Lester provided a comment letter dated May 26, 2006. The applicant made corrections in response to her recommendations:

1. The applicant has provided the proposed development sites for Lots 1 and 2 outside of the expanded Buffer and near to Bar Neck Road. It appears that the majority of the property is hydric and the plat shows Elkton as the predominant soil type. The majority of the property is expanded Buffer due to these hydric soils. Additionally, a 25-foot buffer has been provided and the proposed development site is in the remaining upland on these two lots.
2. It does not appear that additional structures are being proposed in the Buffer or expanded Buffer. The County must ensure there is sufficient buildable area outside of the expanded Buffer to accommodate all necessary development.
3. The Department of Natural Resources Wildlife and Heritage Service has determined that the Delmarva Fox Squirrel is known to occur on or in the vicinity of the property. Any proposed clearing on the property must follow their guidelines, as well as Federal guidelines. A note to this effect has been put on the plat. In addition, we recommend coordination with these agencies.
4. Ms. Lester's letter requested clarification on the ditch shown on the plat and questioned whether it was in fact a ditch or a stream. This clarification does not appear to be provided. Please have the applicant clarify.

I have these additional comments:

5. The 20.28 acres that are proposed to be put into "Reserved Lands" should be shown on the plat. Please have the applicant provide a revised plat indicating the area to be reserved.

Mr. Steve Dodd

7/4/2007

Page 2 of 2

6. No impervious surface limits have been noted on the plat. Please have the applicant provide these limits on the plan and plat.
7. The applicant proposes to remove 1.25 acres of existing forest and afforest 1.25 acres on Lot 2, as indicated on the plat. The applicant should plant in the form of native species to the County's specifications.

Thank you for the opportunity to provide additional comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie R.", written in dark ink.

Julie Roberts
Natural Resources Planner

Cc: DC 72-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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July 4, 2007

Ms. Regina Esslinger
Baltimore County DEPRM
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Re: Shaw's Discovery/Bauer Farm Subdivision and Variance Request

Dear Ms. Esslinger:

Thank you for forwarding the above referenced project. The project proposes the redevelopment of an old waterfront community and farm to 145 condominiums, private piers, a public boat ramp, and a marina office. The total area of the site is 194 acres of which 36.63 is Limited Development Area (LDA) and 149.05 is Resource Conservation Area (RCA). This area is also considered a Buffer Exempt Area (BEA) due to the old shore homes that are to be removed.

It is our understanding that this site is undergoing voluntary contamination cleanup and that the proposal to disturb the Buffer has been amended. I have these comments:

General

1. Revised plans show the delineation between LDA and RCA, however there is some confusion in the east and west quadrants of the plat as to where the lines go. It appears that the line takes a 90 degree turn in the eastern quadrant and in the western quadrant, the line takes another sharp 90 degree turn. Please have the applicant clearly show the Critical Area designation line.
2. The revised plans (which do not have sheet numbers) should show the Critical Area boundary line. Please have the applicant add this line to the plat.
3. The revised plans do not show the mitigation areas. Please have the applicant provide a plan that has all of this information on one sheet (including information from comments #1 and #2).
4. It is very difficult to determine where the current tree line is, what is being removed, etc. on the plat. It would be helpful if the applicant removed the grey shading indicating county zoning and used it for the purposes of indicating tree cover.
5. From the numbering system of the sheets, it seems as if there are three. This office has only received 1 and 2 of 3. Please have the applicant send the third sheet if one exists.
6. A letter must be supplied by the Department of Natural Resources Wildlife and Heritage Service indicating whether there are known to be any State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated.

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Mitigation Areas

7. There are 5 areas proposed to mitigate for the disturbance and clearing associated with the building of the roads, marina, and condos. This mitigation proposed for various impacts totals 28.01 acres. Please have the applicant clearly show these areas as suggested in Comment #3 in order to better determine what is inside the Critical Area.
8. Please have the applicant submit a Buffer Management Plan and Mitigation Plan with complete (preliminary) plantings schedules and schematics (species, spacing, etc.) for each of the mitigation areas.
9. A note should be placed on the final plat indicating that all retained and planted forest on the site will be placed in a Chesapeake Bay Critical Area Easement.

Impervious Surfaces

10. The impervious surface calculations provided appear to include the total acreage for the site. Please have the applicant clarify what portion of the impervious, existing and proposed, is in the Critical Area. The impervious surface permitted in the LDA should be based on the site area in the LDA and likewise for the RCA.

Impacts to Buffer

11. The Alternative Analysis provided indicates that there will be impacts to the Buffer totaling 30,980 square feet for which a variance has been requested. Also included in this variance request is 29,610 feet of non-Buffer disturbance for the 35' setback to the Buffer. These impacts include stormwater management facility installation, grading, pedestrian trails, marine access, and reduction of the expanded 300 foot wide Buffer to 100 feet. The applicant has included 6.2 acres at a 3:1 ratio for mitigation for these impacts (Mitigation Area 1). This office does not oppose the requests since they appear to be associated with restoring the 100-foot Buffer.

Development in the RCA

12. A parking lot (15T) and a BMP are proposed to be located fully and partially (respectively) within the RCA. Unless these projects are local government projects for the use of the general public, they must be relocated out of the RCA.

Marina

13. Please have the applicant provide the linear length of the shoreline to determine the number of slips allowed for the marina.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

Cc: Shaws Discovery

Martin O'Malley
Governor



Margaret G. McHale
Chair

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Lt. Governor

Ren Serey
Executive Director

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July 4, 2007

Ms. Regina Esslinger
Baltimore County DEPRM
401 Bosley Avenue, Room 416
Towson, Maryland 21204

Re: Dean Klemm Property

Dear Ms. Esslinger:

Thank you for sending the above-referenced variance request for review and comment. The applicant seeks a variance to build a 120 foot shed on a lot that currently exceeds the impervious surface limit. The lot is located in the Limited Development Area (LDA) and is 7,405 square feet. The impervious surface which includes the house and the driveway totals 1,683 square feet, or 22%, of the lot. The additional impervious surface of the shed brings the total to 1,803 square feet, or 24%. Based on the information provided, I have the following comments:

- It is my understanding that this lot was platted in 1987, before Baltimore County had adopted their Critical Area Program and the plat set impervious surface limits for this lot that do not correspond with current limits which would allow up to 31.5% of this lot to be impervious.
- The developer did not leave any additional space for future improvements to the lot, and no additional impervious area has been added on this lot since it was built.
- The applicant proposes to mitigate which will limit the impact of the additional impervious surface the shed will create.

Based on the information provided, and the minimal nature of the request, this office does not oppose the variance to exceed impervious surface limits. Mitigation is required in the form of native plantings at a ratio of 1:1. The applicant may plant one tree and one shrub.

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 410-260-3476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Roberts".

Julie Roberts
Natural Resource Planner

Cc: BC 820-06

TTY for the Deaf
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Executive Director

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July 2, 2007

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

Re: Local case number 2319 – Willey, Guy

Dear Mr. Dodd:


I have received the revised information on the above-referenced project. The applicant requested a variance to allow a dwelling unit, driveway, and septic area with less expanded Buffer than required. In Amber Widmayer's letter of February 20, 2007, she recommended the applicant attempt to minimize disturbance by moving the dwelling unit closer to the existing road. The new site plan provided by the applicant moves the proposed dwelling unit laterally, but does not move it closer to the road. It appears the entire lot is encumbered by nontidal wetlands and hydric soils; therefore it is unclear why this new location is being proposed, since the new location does not represent the minimum necessary to provide relief on this property. By moving the house closer to the road, impacts to this sensitive area would be reduced. In addition, it not clear why the applicant has not explored other locations closer to the road to site the septic area. We recommend other locations be explored to show minimization.

As also indicated in Ms. Widmayer's letter, we recommend mitigation at a 3:1 ratio in the form of native Buffer plantings for the total area of impacts from grading, forest clearing, and building footprint.

As proposed, we cannot support the current variance request. The County must ensure the applicant has met all the required variance standards. While we generally do not oppose variances for dwellings on grandfathered lots, we do not believe the new site plan demonstrates minimization.

Thank you for the opportunity to provide additional comments. If you have any questions, please contact me at 410-260-3476.

Sincerely,


Julie Roberts
Natural Resources Planner

Cc: DC 72-07



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 31, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application #07-2539
Anderson

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance request. The applicant is seeking a variance to the 100-foot Buffer and to the expanded Buffer for hydric soils in order to replace an existing dwelling. The property is 17,860 square feet in size and located within the Limited Development Area. The existing house has a footprint of 950 square feet and will be completely removed as will a portion of the existing driveway. The applicant proposes a new house with a 1,760 square foot footprint located 31-feet further back from Mean High Water (MHW), but still partially within the 100-foot Buffer and entirely within the expanded Buffer for hydric soils.

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. 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 Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. The fact that the Critical Area law was passed is not the basis upon which a variance may be granted.

In this instance, the applicant wishes to replace an existing dwelling. The proposal meets the impervious surface limit of the property. While the entire property is located within the expanded Buffer for hydric soils, only a portion of the property is encumbered by the 100-foot Buffer from tidal waters. Based on my evaluation of the site plan there is room on site to locate the entire new structure behind the 100-foot Buffer to Mean High Water (MHW). COMAR 27.01.02.09 requires local programs to bring properties into conformance insofar as possible. Locating the house outside the 100-foot Buffer is preferable to the one proposed as it would bring the property into greater conformance.

Should the Hearing Officer find that the applicant meets all of the variance standards, I recommend mitigation of 3:1 totaling 11,634 square feet for the final impervious surface area of 3,878 square feet. The mitigation should consist of a mix of native shrubs and trees and be accommodated on site primarily within the 100-foot Buffer to MHW.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 686-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 31, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance File #07-1251
Windsor

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to exceed the impervious surface limit and to allow development within the 100-foot Buffer. The parcel is 88,427 square feet in size and located within the Limited Development Area (LDA). This request is for after-the-fact construction.

This office is opposed to granting both variance requests as proposed because the applicant has not met all the variance standards, including the standard of unwarranted hardship. Further, the applicant may locate the gazebo outside of the 100-foot Buffer and remove the unpermitted surfaces in order to meet the impervious surface limit. In this situation, the applicant constructed a house, garage and driveway in 2004 with approval by St. Mary's County and within the 15% impervious surface limit. Since that time, the applicant constructed significantly beyond this limit for a total of 17,570 square feet or 19.8% impervious surface in order to provide an additional driveway, expansion of the first driveway, walkways throughout the property, and a walkway in the 100-foot Buffer and a gazebo in the 100-foot Buffer. None of these activities were reviewed or permitted by the County. The following is an analysis of the requested variance for this project in the context of St. Mary's 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, 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. Furthermore, the State law establishes a presumption that a

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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 applicants' request for a variance to allow construction that exceeds the impervious surface limit is in conflict with the St. Mary's County Comprehensive Zoning Ordinance (CZO) Section 41.5.3.i which states the impervious surface limit for lots greater than ½ acre is 15%. This lot is 2.03 acres in size. Further, the applicant's had a previously approved site plan for the original construction and should have been fully aware of the 15% impervious surface limit. The applicant is also requesting a variance to allow impervious surface in the form of a gazebo and walkway within the 100-foot Buffer in conflict with Section 71.8.3.b of the CZO which prohibits new impervious surfaces. Only structures that are water dependent facilities may be located in the Buffer. Shoreline property owners are allowed shoreline access; however the County applies strict standards to such pathways including use of materials such as mulch and the provision of a Buffer Management Plan. Finally, it is the position of this office that the applicant cannot meet each one of St. Mary's County's variance standards, and in particular, the applicant does not meet the standards included and discussed below.

Relevant Variance Standards

24.4.1.a – That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in an unwarranted hardship

There are no conditions that are peculiar to this property that would require the applicant seek an impervious surface variance since the applicant has already achieved reasonable use of the property for residential purposes. Additionally, there is more than sufficient opportunity to provide a gazebo or other similar structure outside of the 100-foot Buffer. And finally, the applicant could install a pathway with approval by St. Mary's County using mulch or similar materials. The applicant suffers no hardship from not being able to expand the amenities on their property beyond the impervious surface limit because the applicant is not prevented from using the property for residential purposes. Further, if the driveway to the garage is necessary due to its heavy use, the applicant could eliminate the driveway to their house. 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 excess impervious surface or the gazebo or pathway in the Buffer as the applicant is able to use the property for residential purposes.

24.4.1.b – That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County

A literal interpretation of St. Mary's County's regulation of impervious surfaces and the Buffer will not deprive the applicant of a right commonly enjoyed by other properties in similar areas.

This office does not support variances for development in which the applicant has the opportunity to comply with the regulations. The applicant has not shown that construction of excess impervious surface for accessory structures is a right commonly enjoyed by any property in the Critical Area, or a right enjoyed by other properties in similar areas within the St. Mary's County Critical Area. Additionally, the construction of amenities in the 100-foot Buffer which are not water-dependent and for which there is sufficient room outside of the Buffer is not a right commonly enjoyed by any property in the Critical Area.

24.4.1.c – The granting of a variance will not confer upon the applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the 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 exceed impervious surface or to disturb the Buffer where evidence has not been provided to show that it is necessary in order to establish reasonable use. 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. We do not believe the applicant has overcome this burden.

24.4.1.d – The variance request is not based upon conditions or circumstances that are the result of actions by the applicant

The variance request is based upon the actions of the applicant. The applicant has created the additional impervious surface throughout their property beyond the scope of their approved permit from 2004. Consequently the applicant has created the need for the variance. The applicant has not shown any reason that impervious surface could not be reduced to meet the 15% limit or that the gazebo could not be located outside of the 100-foot Buffer. The shore access should also conform to the St. Mary's County requirements.

24.4.1.e – The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will not be in harmony with the general spirit and intent of the Critical Area program

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 applicant states the additional driveway was to prevent sand or sediment from entering the creek. Increased impervious surface is shown to increase the amount and velocity of stormwater runoff. Given the applicants' need to access the garage, he has the option to remove the original driveway. Additional development in the Buffer prevents establishment of a vegetated Buffer in that area and such vegetation would provide benefits to fish, wildlife, and plant habitat. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. This proposal not only further reduces the functions provided by the Buffer on this site, but would contribute to the individual and cumulative impacts of development on the Bay.

Ms. Yvonne Chaillet
07-1251 Windsor
December 31, 2004
Page 4 of 4

24.4.1.f – *The variance is the minimum necessary to achieve a reasonable use of land or structures*

The applicant already has full use of his property for residential purposes with a single family home, garage, and driveway. The current proposal is to provide additional amenities related to the trucking requirements of the applicants' construction business. Increasing impervious surface to accommodate these needs is unnecessary to maintain the residential use of the property. Therefore, the requested variance is not the minimum adjustment necessary to afford relief from the regulations because the regulations do not prevent the applicant from achieving reasonable use of their property.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the variance standards are 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 the applicant has failed to meet all of the County and State variance standards, this office recommends that the Board deny the applicant's request for this variance and require the applicant to remove the additional impervious surfaces, including those in 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 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

SM722-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 28, 2007

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

Re: Chesapeake Cove Concept Plat
Lots 1-11

Dear Mr. DiGiacomo:

This office has received a copy of the Wetland Delineation Plan from Geo-Technology Associates dated January 2007 for the above referenced project. The wetland delineation plan indicates the extent of all perennial, intermittent, and ephemeral stream systems on the Chesapeake Cove property. It would appear that the determinations of the extent of the perennial and intermittent systems are correct based on our site visit of November 2, 2007.

As you are aware, the Cecil County Zoning Ordinance requires adherence to the provisions of COMAR 27.01.09 and requires a 110-foot Buffer landward of the mean high water line of tidal waters, tributary streams, and tidal wetlands. Tributary streams in the Critical Area are defined as "Perennial and intermittent streams in the Critical area that are so noted on the most recent USGS 7.5 Minute Quadrangle Maps or on more detailed maps or studies at the discretion of the County". The wetland delineation conducted by Geo-Technology Associates was based on study by qualified professionals in the field using generally accepted professional environmental practice. Therefore, a 110-foot Buffer is required around all perennial and intermittent streams indicated on the January 2007 wetland delineation plan.

I hope this information is of assistance to you. Please contact this office if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

Cc: James Keefer, Morris Ritchie & Associates



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 18, 2007

Ms. Jeanne Minner
Town of Elkton
PO Box 157
100 Railroad Avenue
Elkton, MD 21922-0157

Re: Proposed Growth Allocation Submittal Requirements

Dear Ms. Minner:

This letter is in response to your inquiry regarding the process of submitting a request for growth allocation to the Critical Area Commission. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. When a request is made to this office for such a map amendment, staff evaluates the proposal to determine if the submittal is complete. Once the Town's submittal is accepted as complete, the Chair of the Critical Area Commission has 30 days to make the determination of whether the submittal is an amendment or a refinement. If the proposal is determined to be an amendment, the Critical Area Commission has up to 90 days to process the proposal and make a decision. If the proposal is determined to be a refinement, the matter will be considered at the meeting following the refinement determination.

The Critical Area Law was amended in 2006 and requires that local jurisdictions use specific locational guidelines when locating new IDAs or LDAs and that the Commission ensure that these guidelines have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and Criteria. Documentation of the Town's application of these guidelines must be provided as a part of the growth allocation request. These guidelines are provided below:

When locating new Intensely Developed or Limited Development Areas the Town shall use these guidelines:

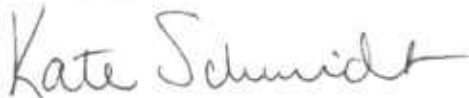
- (1) Locate a new Intensely Developed Area in a Limited Development Area or adjacent to an existing Intensely Developed Area;

- (2) Locate a new Limited Development Area adjacent to an existing Limited Development Area or an Intensely Developed Area:
- (3) Locate a new Limited Development Area or Intensely Developed Area in a manner that minimizes impacts to Habitat Protection Area as defined in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;
- (4) New Intensely Developed Areas should be located where they minimize their impacts to the defined land uses of the Resource Conservation Area;
- (5) 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
- (6) New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of the County for such areas, shall be designated on the comprehensive Zoning Map and shall constitute an amendment to this program subject to review and approval by the County Planning Commission, the County Commissioners and the Critical Area Commission.

Application made to the Critical Area Commission for approval of growth allocation should include a conceptual development plan and an environmental features map and report to determine whether the development standards of the proposed designation (LDA or IDA) can be achieved, including 10% pollutant reductions requirements and all habitat protection area standards. Finally, the submittal should include a revised Critical Area Map showing the area proposed to be changed that matches the requested number of acres proposed to be changed.

I hope this information is useful to you. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,



Kate Schmidt
Natural Resource Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 14, 2007

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

Re: 2007-0340-V; 1406 Ridgeway East
David M. Hammel

Dear Ms. Cotter:

On December 11, 2007 I visited the site of the above referenced variance. I had previously provided comments to your office on October 23, 2007. Please replace my previous correspondence with this letter.

The applicant is requesting a variance to the expanded Buffer for steep slopes to replace an existing retaining wall underneath a deck and to replace and expand a retaining wall alongside the dwelling. The site is 18,955 square feet in size and designated as Limited Development Area (LDA). The property is currently developed with a single family dwelling that was previously expanded. The request for the replacement and expansion of the retaining wall alongside the dwelling is after-the fact.

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

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affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicant has a constrained site given the presence of the expanded 100-foot Buffer for steep slopes and presence of steep slopes throughout the property. Provided this lot is properly grandfathered, this office does not oppose the variance request to replace existing deteriorating retaining walls that are necessary to maintain the integrity of the site. However, impacts to the expanded Buffer must be minimized and the variance request must be the minimum necessary. The applicant must demonstrate that the redevelopment plan for the retaining walls meets this minimization requirement.

It appears based on my site visit of December 11th that the applicant had stockpiled fill above an existing 3-foot tall retaining wall alongside the dwelling. Given the amount of fill placed in that area, the applicant then had to replace the existing wall and significantly expand the height of this wall to contain and stabilize the fill. Disturbance of steep slopes, especially within the expanded Buffer, should only be permitted as necessary to maintain stability of existing grandfathered structures or if there is significant erosion documented over time. This office recommends the area of the new retaining wall be restored to the maximum extent possible and reestablished in dense vegetation. Mitigation of 3:1 should also be required for the entire area of disturbance, including the area of fill behind the retaining walls. The mitigation should consist of a mix of native shrubs and trees and should be accommodated on site 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,



Kate Schmidt
Natural Resource Planner
cc: AA585-07

cc: Mr. William Ethridge

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 14, 2007

Mr. Joseph Johnson
Office of Planning and Zoning
129 E. Main St., Room 300
Elkton, MD 21921

Re: Variance File #3304; Barry Bleacher

Dear Mr. Johnson:

Thank you for providing information regarding the above referenced variance. This case had been remanded by the Circuit Court to the Cecil County Board of Appeals to be vacated, pursuant to information from the Board's attorney that the applicant had withdrawn its application and therefore the variance was no longer needed. The applicant has resubmitted this request on the basis that the site plan in fact did not change and the request is needed. The applicant is requesting a variance to allow an accessory structure (inground pool) partially within the 110-foot Buffer.

This office is opposed to granting this variance request because the applicant may locate the pool completely outside the 110-foot Buffer and the applicant has not met all the variance standards. The property is 5.0 acres in size and designated as Resource Conservation Area (RCA). It is currently developed with a single-family dwelling located just outside of the 110-foot Buffer that was constructed in 1987. The current proposed location for the pool is on the back side of the home with a portion of the pool apron located in the Buffer. The applicant may remove the pool apron from the design or relocate the pool to the front side of the home where there is more than sufficient room. Therefore, the applicant has the option to construct the pool without a variance. Additionally, in order to receive a variance, the applicant must meet all of the standards specified for a variance in the Critical Area.

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 the 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

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Area law. The Board 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 partially within the 110-foot Buffer. The property is developed with a single family home and driveway. Thus, the applicant has reasonable use of the entire property or lot. The variance to the 110-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 County's variance standards below as it pertains to this site:

Section 306.2.e(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 in question is 5.0 acres in size and currently developed with a single family dwelling and driveway. The configuration of the lot is long and narrow, with the house located approximately 200 feet from the edge of tidal waters. Based on review of aerial imagery from 2004, it appears that forest surrounds the dwelling on all sides, although there are existing cleared areas immediately around the dwelling. 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 as the applicant is able to use the property for residential purposes and the applicant has space available on the property to install the pool and not impact the 110-foot Buffer.

Section 306.2.e(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 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 applicant a right commonly enjoyed.

Section 306.2.e(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 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 his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

Mr. Joseph Johnson
Variance Case - Bleacher
December 14, 2007
Page 2 of 3

Section 306.2.e(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 lot is not constrained by significant environmental features or circumstances that would prohibit the placement of the pool in a location outside of the Buffer. Additionally, the applicant currently enjoys a property developed with a single-family dwelling. The County code is designed to prevent degradation to the Buffer by prohibiting new development activities to be placed nearer to the shoreline. This office does not believe the applicant can meet this standard.

Section 306.2.e(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 development in the Buffer and consequential disturbance to the land results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities. Given it appears that the applicant can locate the pool outside of the 110-foot 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 variance standards are 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 the applicant has failed to meet all of the County and State variance standards, this office recommends that the Board deny the applicant's request for this variance and require the applicant to locate the pool outside the 110-foot Buffer.

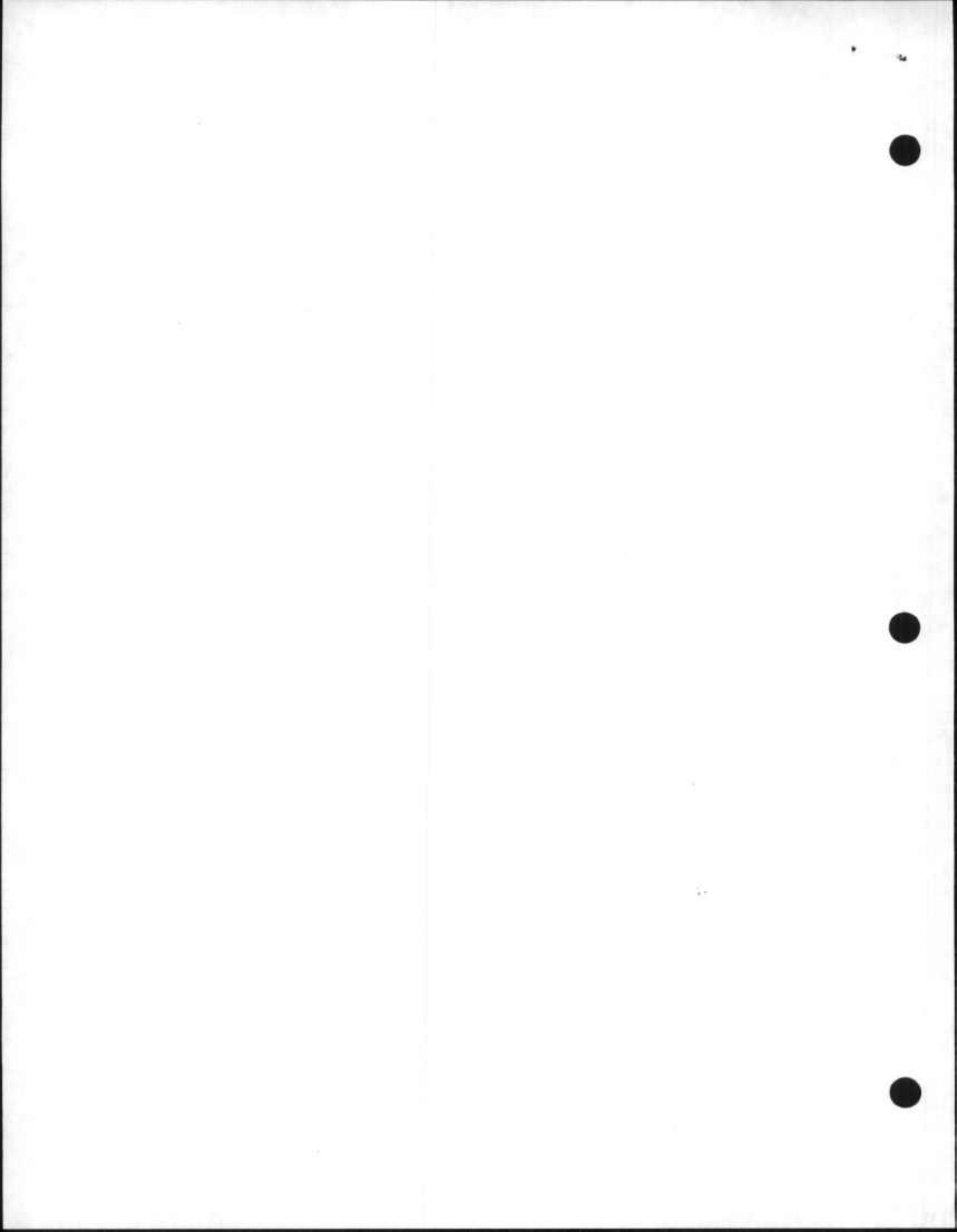
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,



Kate Schmidt
Natural Resource Planner

CE111-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 14, 2007

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

Re: Variance File #3314 – Alistair M. Grant

Dear Mr. Johnson:

Thank you for providing information on the above referenced variance. This case has been remanded by the Circuit Court to the Cecil County Board of Appeals for a full evidentiary hearing. The applicant is requesting a variance to build a 228 square foot deck in a designated Buffer Exemption Area (BEA). It is the understanding of this office that the applicant has constructed the deck under a building permit issued by Cecil County.

This office is opposed to granting this variance request because the applicant may further minimize the shoreward extent of the proposed structure and the applicant has not met all the variance standards. In this situation, the lot is 0.68 acres in size and developed with a single family home, driveway and pool partially within the 110-foot Buffer. Section 195.3(c) of the Cecil County Zoning Ordinance states new development must minimize the shoreward extent of impervious surfaces in so far as possible and in no case should new structures be located shoreward of the defined BEA setback line. In this case, the applicant may set the deck further away from shore and in line with the existing setback. Additionally, in order to receive a variance, the applicant must meet all of the standards specified for a variance in the Critical Area.

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 the 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

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Area law. The Board must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicant is proposing to construct a deck adjacent to their dock. The applicant currently has a single family home with a driveway and a pool. Thus, the applicant has reasonable use of the entire property or lot. The variance to the 110-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 County’s variance standards below as it pertains to this site:

Section 306.2.e(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, a pool, and patio area within the 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**. 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 deck as the applicant is able to use the property for residential purposes and current conditions of the property allow for outdoor enjoyment.

Section 306.2.e(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. Therefore, denial of a variance for the accessory deck would not deny the applicants a right commonly enjoyed.

Section 306.2.e(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. 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.

Section 306.2.e(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 order to meet this standard, the applicant must present evidence as to why the deck could not be located within the defined BEA setback. The application forwarded to this office did not include any information regarding how this standard is met.

• Mr. Joseph Johnson
Variance Case – Grant
December 14, 2007
Page 3 of 3

Section 206.8.e(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. Critical Area law is meant to temper the cumulative effects of development in the Buffer. As this property is already improved with multiple additions in the Buffer, it would not be in the general spirit and intent of Critical Area law to grant this variance.

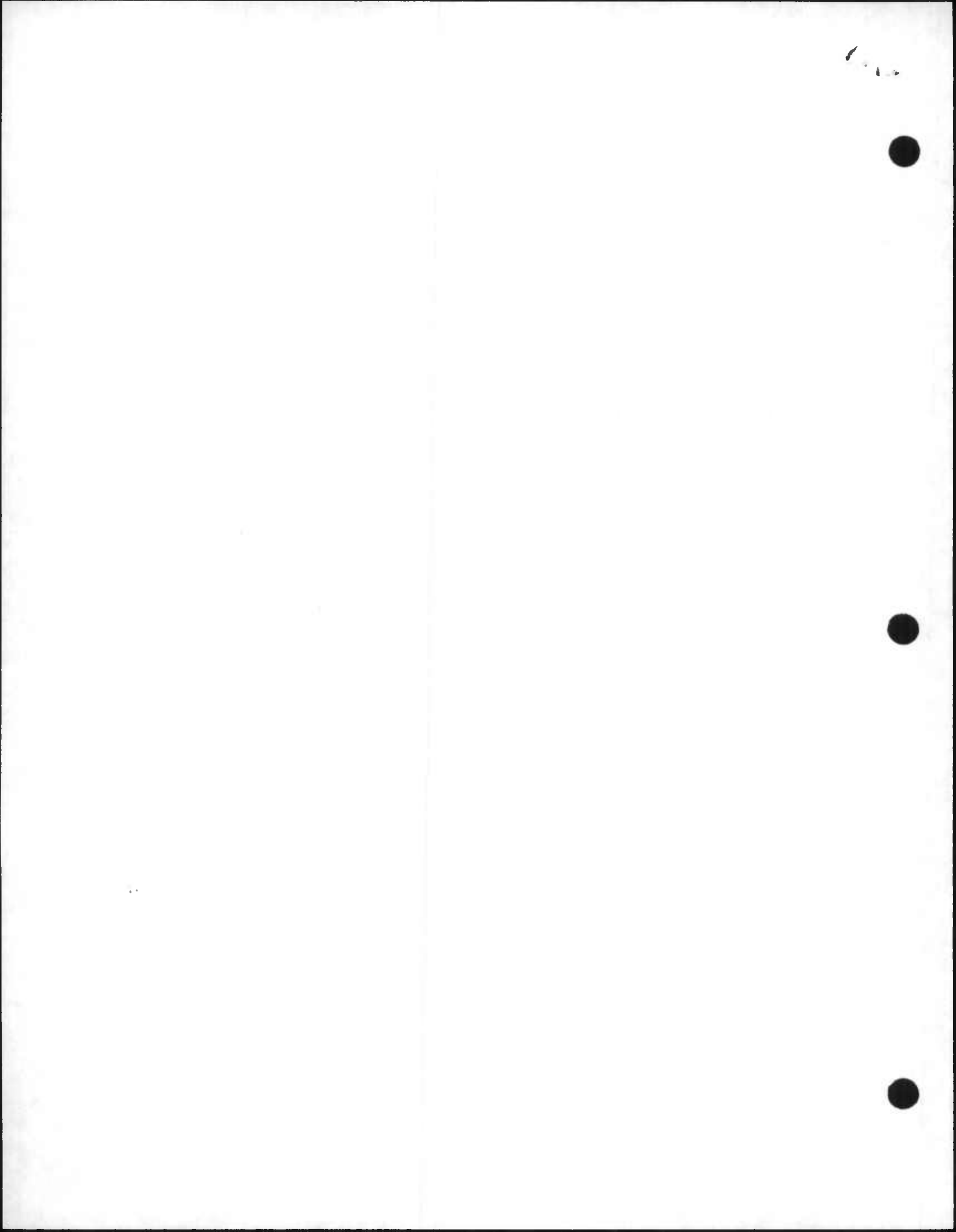
This letter has addressed five of the relevant variance standards. Based on the information provided, none of the five variance standards are met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. This office recommends that the Board deny the applicant's request for this variance and require the applicant to move the deck to meet the BEA setback.

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

Sincerely,

Kate Schmidt
Natural Resources Planner

Cc: CE 177-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 14, 2007

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

Re: Variance File #3313 – Variance Mark Kaufman

Dear Mr. Johnson:

Thank you for providing information on the above referenced variance. This case has been remanded by the Circuit Court to the Cecil County Board of Appeals for a full evidentiary hearing. The applicant is requesting a variance to build a 192 square foot gazebo in a designated Buffer Exemption Area (BEA) with an associated landscaping plan. It is the understanding of this office that the applicant has constructed the gazebo under a building permit issued by Cecil County.

This office is opposed to granting this variance request because the applicant may construct the gazebo outside the 110-foot Buffer and the applicant has not met all the variance standards. In this situation, the lot is 0.63 acres in size and developed with a single family home, shed and driveway outside the 110-foot Buffer. The submitted site plan does not indicate the location of the 110-foot Buffer; however based on evaluation of aerial images it appears there is sufficient room on the property to accommodate this structure outside the 110-foot Buffer. While the property may be located within a designated BEA, this designation only modifies the standards for allowing development. Section 195.3(c) of the Cecil County Zoning Ordinance states new development must minimize the shoreward extent of impervious surfaces in so far as possible. In this case, minimization may be achieved by locating the structure outside the Buffer. Additionally, in order to receive a variance, the applicant must meet all of the standards specified for a variance in the Critical Area.

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 the 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

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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.

In this instance, the applicant is proposing to construct a gazebo. The applicant currently has a single family home with a screened porch, shed, and driveway. Thus, the applicant has reasonable use of the entire property or lot. The variance to the 110-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 County's variance standards below as it pertains to this site:

Section 306.2.e(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 with a screened in porch. 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 gazebo as the applicant is able to use the property for residential purposes.

Section 306.2.e(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 one has the right to construct a new gazebo in the Buffer. Therefore, denial of a variance for the accessory gazebo would not deny the applicants a right commonly enjoyed.

Section 306.2.e(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. 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.

Section 306.2.e(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 order to meet this standard, the applicant must present evidence as to why the gazebo could not be located outside the 110-foot Buffer on his property. The application forwarded to this office did not include any information regarding how this standard is met.

Mr. Joseph Johnson
Variance Case - Kaufman
December 14, 2007
Page 3 of 3

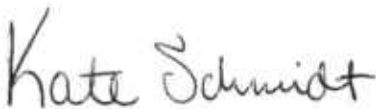
Section 206.8.e(5) *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and 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. I understand that the applicant has provided a landscaping plan meant to minimize the effects of the impervious surface runoff from the proposed gazebo, but given that the applicant can adequately redevelop this property and enjoy outdoor activities without the addition of a gazebo 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.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the variance standards are 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 the applicant has not met each one of Cecil 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 gazebo outside of the 110-foot Buffer.

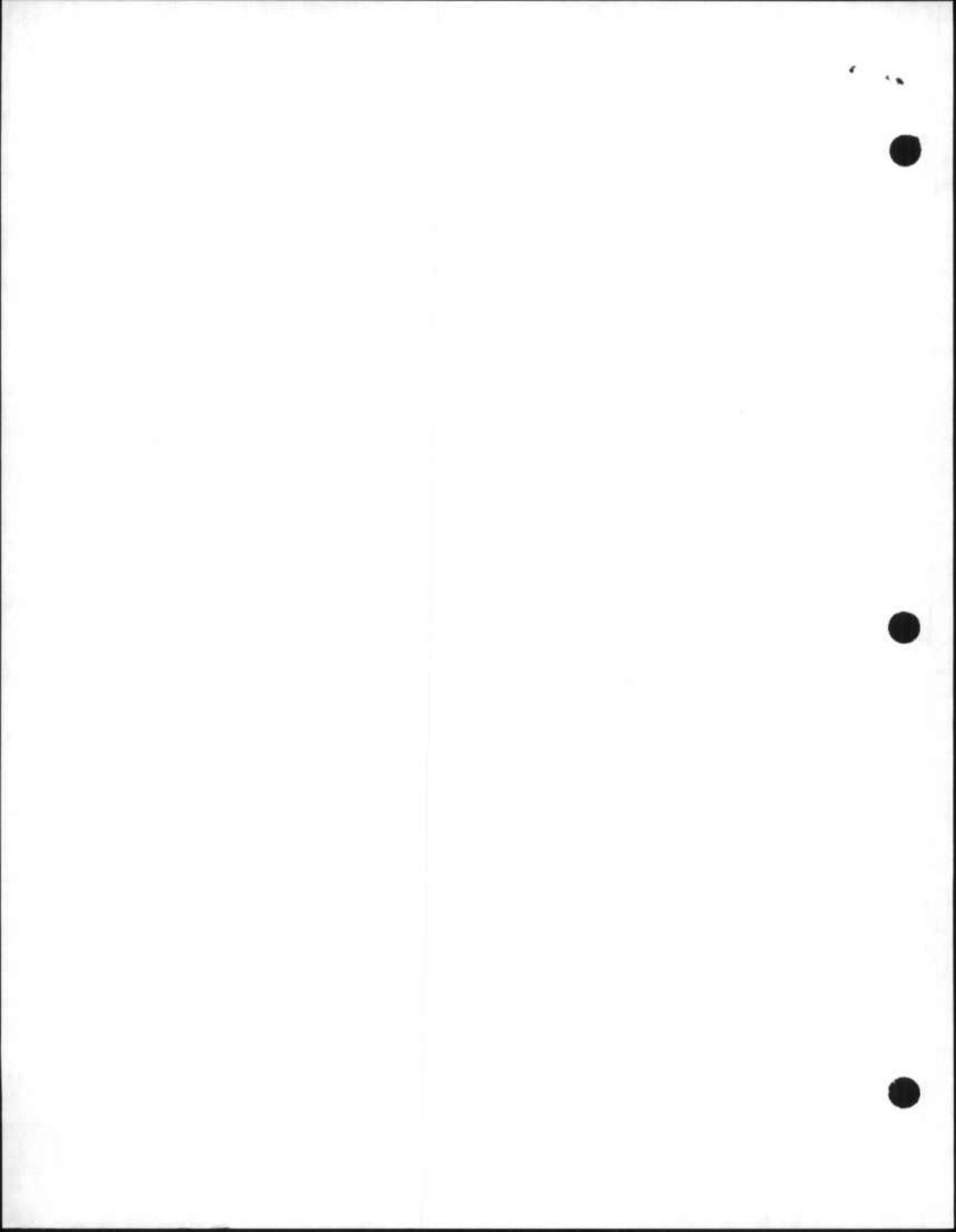
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,



Kate Schmidt
Natural Resources Planner

Cc: CE 176-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 12, 2007

Brittany Carter
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Snow Hill Minor Subdivision
Local Case #07-110-136

Dear Ms. Carter:

Thank you for submitting the above referenced subdivision for review and comment. The applicant is seeking to create one lot from a 48.412 acre parcel that is located partially in the Resource Conservation Area. The proposed lot will be 7.165 acres in size and located within the RCA. The remaining Farmstead Lot will contain 17.2 acres of RCA. Based on the information provided I have the following comments:

1. Given the total RCA acreage of 24.365 the applicant is entitled to a total of three lots or dwelling units via intrafamily transfer within the Critical Area. Note #3 under intrafamily transfer provisions indicates one additional density unit is available under these provisions.
2. The notes on the plat must include the names and relationship of the immediate family member to whom the three lots will be transferred. Immediate family members include a person who is either the applicant's father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

Thank you for the opportunity to provide comments. If revisions to the plat are made, please forward a copy to our office. If you have any questions, please contact me at 410-260-3475.

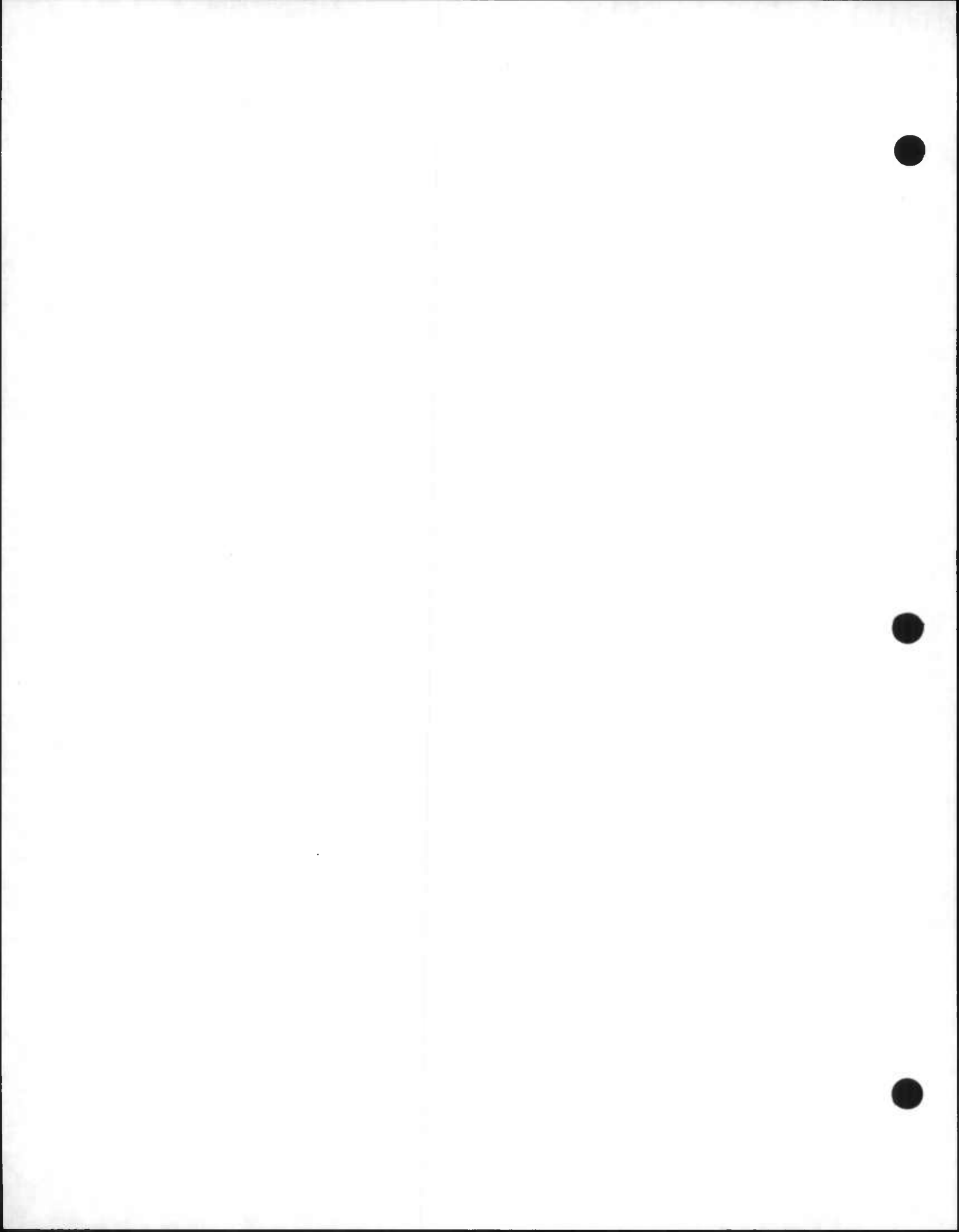
Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 693-07





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December 12, 2007

Britteny Carter
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: John J. McAllister
Local Case #07-110-137

Dear Ms. Carter:

Thank you for submitting the above referenced subdivision for review and comment. The applicant is seeking to subdivide a 168.13 acre parcel into two lots and one outparcel. The majority of the parcel is located in the Resource Conservation Area, however the two proposed lots are located outside the Critical Area. Based on the information provided I have the following comments:

- The site plan should indicate the amount of Critical Area contained in Outparcel A in order to track any future proposed subdivisions.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 694-07



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December 12, 2007

Brittney Carter
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Mill Point Shores International Church
Local Case #07-131-043

Dear Ms. Carter:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing an addition to an existing church on 0.543 acre parcel located in the Limited Development Area (LDA). Based on the information provided I have the following comments:

1. The proposed 480 square foot addition will bring the total impervious surface on the site to 8.7%. Please include a note on the site plan indicating the amount of allowable impervious surface is 15% or 3,548 square feet.
2. No woodland or developed forest will be cleared by this proposal. Currently, there is 5,250 square feet of forested area which meets the minimum 15% afforestation threshold.
3. Any comments received from DNR Wildlife and Heritage must be incorporated onto the final site plan prior to final approval.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 696-07





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December 12, 2007

Mr. Chris Lindsay
M-NCPPC Development Review Division
Prince George's County Planning
14741 Governor Owen Bowie Drive
Upper Marlboro, Maryland 20772

Re: Waterside Subdivision, Lot 10 – Shoreline Access
Detailed Site Plan

Dear Mr. Lindsay:

Thank you for submitting the above referenced site plan for review and comment. This office previously provided comments on the associated Conservation Plan on October 10, 2007. It appears the site plan remains largely the same. I have the following remaining comments:

1. The Critical Area Commission typically recommends 2:1 mitigation for the length and width of the access within the 100-foot Buffer. Therefore, this office recommends 2,320 square feet of mitigation be provided.
2. Based on my review of the mitigation provided, the applicant is providing 1,150 square feet of mitigation. Additional trees and shrubs will need to be included in the planting plan.
3. Additionally, the lot must meet the 15% afforestation requirement for the Limited Development Overlay (LDO). Based on the lot size of 22,636 square feet the 15% threshold is 3,395 square feet.
4. The Commission Forest Mitigation Policy recommends mitigation consist of a mix of trees and shrubs using the following credit system: one tree for every 100 square feet or one tree plus two understory trees or three shrubs for every 400 square feet of mitigation required.

5. Mitigation for impacts to the Buffer must be accommodated to the maximum extent possible in the 100-foot Buffer. It would appear all of the mitigation could be accommodated within the 100-foot Buffer. The applicant may want to consider the addition of shrubs in some areas if they also want to maintain some views.
6. This office recommends that any changes made to the Conservation Plan regarding mitigation impacts also be reflected on the Detailed Site Plan.

Thank you for the opportunity to comment. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,



Kate Schmidt
Natural Resources Planner

PG 515-07

Cc: Mr. Jim Stasz, M-NCPPC

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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December 10, 2007

Melissa B. Cook-MacKenzie
North East Town Administrator
106 S. Main Street
North East, MD 21901-0528

Re: Comprehensive Review of the Town of North East Critical Area Program

Dear Ms. Cook-MacKenzie:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the referenced Critical Area Program amendment. On December 5, 2007, the Critical Area Commission voted to approve with conditions the new ordinance sections resulting from the comprehensive review of the Town of North East Critical Area Program. The conditions of the approval are as follows:

1. Page 5 Enforcement Section 5-12.7
Add the following standard:
Unauthorized Development Activities Within the Critical Area. Any person or persons, who undertakes a development activity without a valid zoning certification, grading permit, or required authorization from the Town, shall be required to obtain any necessary approvals, permits, and authorizations and shall be assessed a fine in the amount of \$1.00 per square foot of the development activity. Any subsequent violation on any property by the same person shall be assessed a fine of \$5.00 per square foot for the second violation and a fine of \$10.00 per square foot for any further violations.
2. Page 23 Limited Development Areas Section 5-12.12.c(4)
Add the following sentence:
Roads, bridges, and utilities serving development that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. ***Roads, bridges, or utilities may not be located in any Habitat Protection Area unless no feasible alternative exists.***
When no alternative exists.....

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Melissa B. Cook-MacKenzie

December 10, 2007

Page 2 of 2

3. Page 25 Limited Development Areas Section 5-12.12.c(8)(c)
Revise the following text:
No more than 20 percent of any forest or developed woodland may be removed from forest use, except as provided in paragraph ~~(10)~~ (9) below.

4. Page 62 Growth Allocation Section 5-12.27.c
Add the following standard:
Application of Guidelines. *When the Town submits a request for the Commission to review and approve the use of growth allocation, the request shall state how the Town has applied the preceding guidelines. The Commission shall ensure that guidelines set forth in this section have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all Criteria of the Commission.*

The new ordinance sections with the revisions set forth above shall be officially incorporated into the Town's Critical Area Program within 120 days of the date of this letter. In accordance with the conditions set forth above, please provide the revised ordinance sections when they are available. If you have any questions, please feel free to contact me at (410) 260-3475.

On behalf of the Commission, I want to thank you, the Mayor, and the Town Council for all of your hard work and assistance during the comprehensive review process. As you know, the commitment of local government staff and officials is essential to the success of the Critical Area Program.

Sincerely,



Kate Schmidt
Natural Resources Planner

cc: Mary Ann Skilling, MDP

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 10, 2007

Sue Veith
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Bushwood Wharf Public Landing Overflow Parking Area
Critical Area Commission Conditional Approval

Dear Ms. Veith:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On December 5, 2007, the Critical Area Commission unanimously approved the County's proposal and site plan to relocate an overflow parking area at the Bushwood Wharf Public Landing per the submitted site plan. This approval included the following condition:

Within 60 days from the date of Commission approval, the St. Mary's County Department of Recreation, Parks and Community Services shall submit a planting plan to Commission staff demonstrating compliance with the 29,604 square feet of mitigation required for the proposed Buffer disturbance with the goal of performing all mitigation within the 100-foot buffer either on or off site.

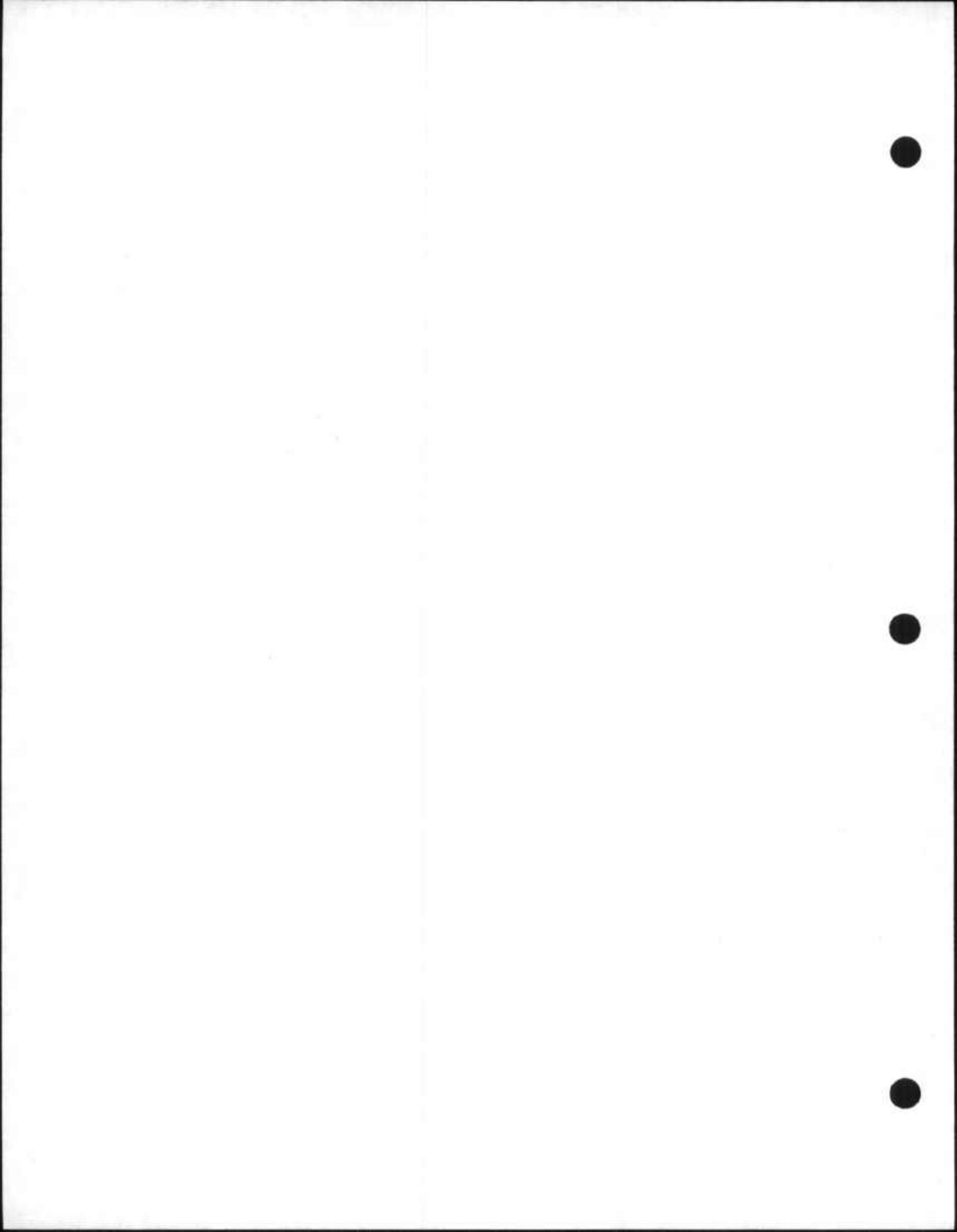
In fulfillment of the above conditions, please also notify the Commission once the mitigation plantings have been implemented. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

Cc: Mr. David Guyther, Department of Recreation, Parks and Community Services



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 10, 2007

Mr. Ed Slicer, Manager
Cecil County Department of Parks and Recreation
17 Wilson Road
Rising Sun, Maryland 21911

Re: Elk River Park Redevelopment Project
Critical Area Commission Conditional Approval

Dear Mr. Slicer:

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On December 5, 2007, the Critical Area Commission unanimously approved the County's proposal and site plan to redevelop Elk River Park. This approval included the following condition:

Cecil County Department of Parks and Recreation shall revise the proposed planting plan to achieve a minimum 1:1 ratio for buffer disturbance, with the remaining mitigation to be achieved onsite and contiguous to existing forested areas, for review and approval by the Project Subcommittee.

In fulfillment of the above conditions, please also notify the Commission once the mitigation plantings have been implemented. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

Cc: Deborah Herr



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

Mr. Anthony DiGiacomo
Cecil County Office of Planning & Zoning
129 East Main Street, Room 300
Elkton, Maryland 21921

Re: Preliminary-Final Subdivision
The Estates at Woodcrest Shores

Dear Mr. DiGiacomo:

I have received revised plans and information for the above-referenced subdivision request. The applicant addressed some of the comments of my last letter dated November 5, 2007. I have outlined my remaining comments below.

1. The impervious surface information for Lot 2 and 3 was provided and meets the 15% limit.
2. It is my understanding the applicant received a letter from DNR Wildlife and Heritage and there are no habitat protection area issues. Please have the applicant forward a copy of this letter to our office for our files.
3. As stated previously, the Preliminary-Final plat must include the acreage of existing forested area and the acreage of proposed clearing within the Critical Area to ensure the forest clearing limits are not exceeded. I estimated the amount of potential clearing based on the limits around the house and the two septic drainfield areas shown. Should all of these areas be cleared, the 30% forest clearing limit will be exceeded. This office would not support a variance request for exceeding clearing limits for lots within a new subdivision; therefore clearing may need to be minimized if it exceeds 30%.

Thank you for the opportunity to comment. Please contact me at (410) 260-3475 if you have any further questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
cc: CE 175-06

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December 3, 2007

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

Re: Heron Cove Preliminary Plat (11/05/2007)

Dear Ms. Vennell:

Thank you for submitting the above referenced preliminary plat. The property received growth allocation to change 41.09 acres to Intensely Developed Area (IDA). The current plan indicates 162 units are proposed. Impervious surface increased from 15.6% to 17.1%. This office previously submitted comments on the Concept Plat on September 18th, 2007. My comments are outlined below:

1. The boundary of the IDA and LDA portions of the site should also be indicated on the site plan.
2. Even though the site plan is in a preliminary design phase, the applicant must still address the 10% pollutant removal requirement. At a minimum, the applicant must include a note on the plat stating the proposed development must meet the 10% Pollutant Reduction Rule. Additionally, we recommend the applicant submit preliminary calculations indicating the four stormwater areas shown would be sufficient to treat the removal requirement.
3. Again, prior to final plat approval the applicant needs to provide a Buffer Management Plan to demonstrate more specifically a planting plan to establish the Buffer and address any potential impacts to the Buffer. Previously, stormwater outfalls had been proposed to be located in the 110-foot Buffer. While outfalls are a water-dependent facility and do not require a variance, the Buffer Management Plan must address those impacts and provide any necessary mitigation.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

NE755-05

Cc: Mary Ann Skilling, Maryland Department of Planning

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/

December 3, 2007

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Villas at Tome Towers

Thank you for submitting the revised site plan for the above referenced project for review and comment. The applicant is seeking to redevelop a 1.22 acre site located in the Intensely Developed Area (IDA). Currently, the site is developed with a pool and associated buildings. The project will redevelop the site with townhomes. Previously I provided comments on April 27, 2007. Based on the information provided, I have the following remaining comments at this time:

1. This office has evaluated the use of the pervious pavers as proposed to determine whether the project will meet the 10% pollutant reduction rule. As previously requested, in order to provide any type of 'pervious credit' to a proposed paver system, this office requires extensive information for review including regarding the subsoil drainage characteristics and underdrain design. In this instance, the applicant is proposing a 12-inch underlayer of sand to provide drainage given the presence of bedrock throughout the site. Therefore, rather than assigning a 'pervious credit' to this system, this office determined to incorporate the paver/sand filter design as a BMP Treatment Option. Attached please find a copy of the 10% calculations. The pollutant removal requirement for this site is 0.026 lbs/year and the modified paver system will treat 0.087 lbs/ year. Therefore, the 10% pollutant removal requirement has been met for this site.
2. Given the modified paver design that will treat a portion of the runoff of this site, this office recommends the Town require a long-term maintenance agreement with the developer for the paver/sand filter system. A major flood event in Town will damage the sand filter system and may prevent future draining of the site during minor storm events.
3. A letter from DNR Wildlife and Heritage addressing any potential habitat protection issues is required prior to approval of the site plan.

TTY for the Deaf

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4. Finally, this office noted a number of inconsistencies or questions on the site plan as follows:
 - a. There is no indication of whether grading or cutting will occur to redirect runoff from the cliff behind the site. Additionally, the pre and post drainage sheets differ at the top of the cliff as to where the drainage starts.
 - b. How will this drainage ultimately reach the "reflecting pool"?
 - c. The drainage plan show labels for both perforated and non-perforated 8" stormdrains.
 - d. It is not clear what portions of the pervious paver parking lot will have an underdrain system incorporated into it (Details A vs G)? Will the entire system be drained or will only a portion of the system be drained?
 - e. How do the underdrains for the pervious pavers tie into the stormdrains?
 - f. Why does the Limit of Disturbance include the rockface?

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

PD143-07

cc: Ms. Sharon Weygand, Town Administrator

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

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

Re: Variance – Fair Hill Builders; Washington Street Infill Project
Parcels 63 & 122

Dear Ms. Vennell:

Thank you for submitting the above referenced requests for variances. The same applicant is seeking to develop two lots in the Town of North East with one single family home on each lot. Both properties are located in the Limited Development Area (LDA). Due to the small size of the lots, the applicant requires variances to the current impervious surface limits. Parcel 62 is 3,424 square feet in size and the proposed impervious surface for the dwelling, driveway and deck is 982 square feet or 28.7%. Parcel 122 is 4,109 square feet in size and the proposed impervious surface for the dwelling, driveway, and deck is 1,019 is 24.7%.

Given the upcoming revision to the North East Critical Area Ordinance, this office does not oppose these variance requests. Once the ordinance is approved and adopted the impervious surface limit of small grandfathered parcels will match the Critical Area law. The limit of Parcel 62 will increase to 1,356 square feet and Parcel 122 will increase to 1,527 square feet. Per Natural Resources Article 8-1808.3(f)(4) & (5) water quality impacts should be minimized by either design or the use of best management practices and the property owner must perform on site mitigation or provide fee-in-lieu.

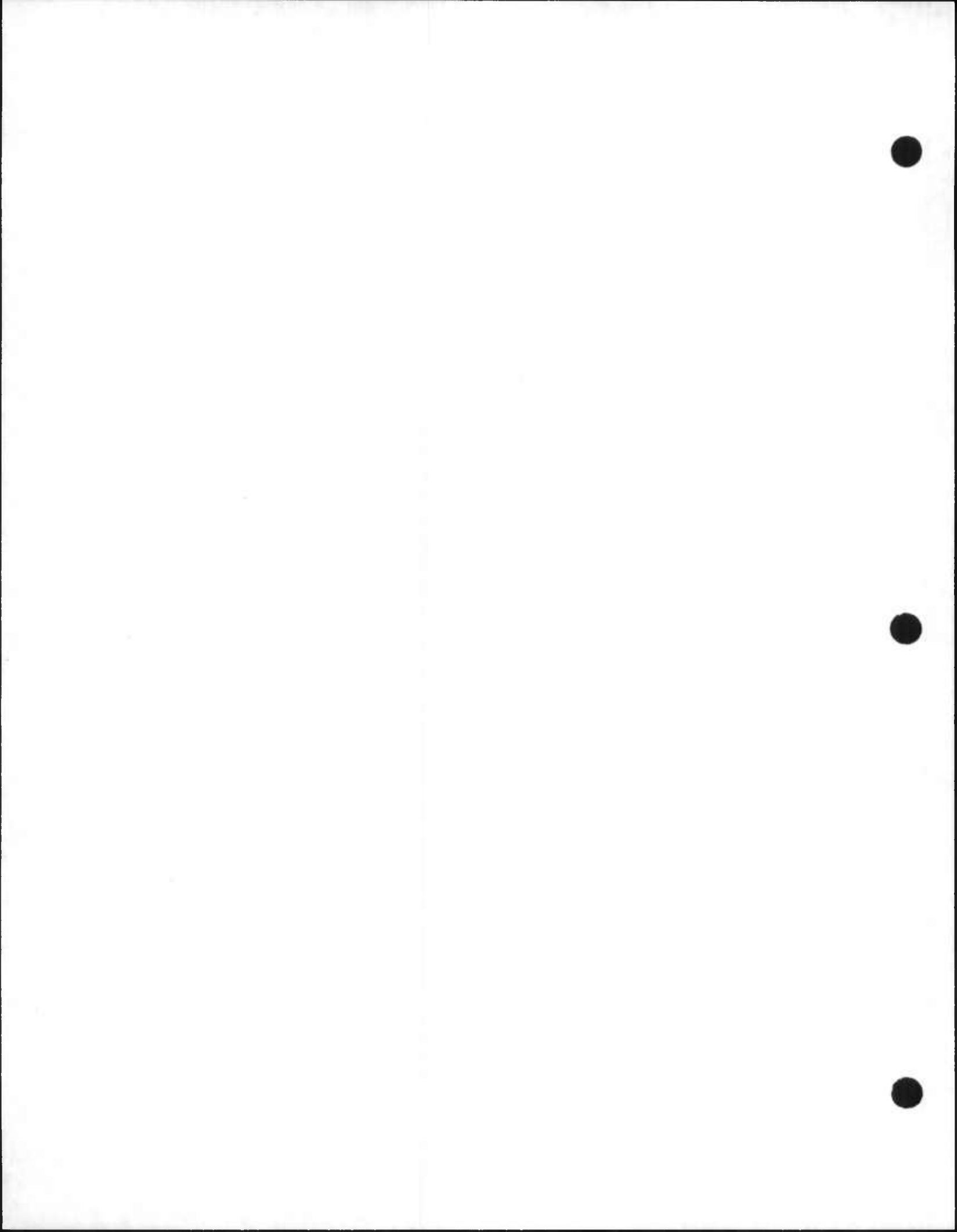
Thank you for the opportunity to provide comment. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in these cases.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
NE714-07 & NE715-07

cc: Mary Ann Skilling, Maryland Department of Planning



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 30, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-1885; Crossroads
44731 Smiths Nursery Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the expanded Buffer to allow construction of a new garage and driveway addition. The parcel is 1.08 acres in size and located within the Limited Development Area (LDA). The existing house is located partially within the 100-foot Buffer. The submittal did not indicate the extent of the highly erodible soils or address how the applicant meets any of the variances standards, including the standard of unwarranted hardship.

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 hearing officer or local 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. 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 proposed garage would be located outside the 100-foot Buffer but within the expanded Buffer for highly erodible soils. The applicant currently enjoys residential use of the

Ms. Yvonne Chaillet
November 30, 2007
Page 2 of 2

property with a single family dwelling. A garage is not a critical component to achieve reasonable use of the property, which in this case is the dwelling. This office does not believe the current proposal can meet the required standards, including unwarranted hardship. The submittal did not include information from the applicant that addresses each of the variance standards. The submittal also did not address concerns regarding highly erodible soils by either demonstrating that the garage will not impact the resource or by proposing measures to offset any impacts. Therefore, this office is opposed to granting a variance to the Buffer for the construction of the garage.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

SM588-07

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 29, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-2334
22150 Miller Court

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance request. The applicant is seeking a variance to the expanded 100-foot Buffer for steep slopes. The property is 0.88 acres in size and located within the Limited Development Area (LDA). The east side of the property fronts Breton Bay and the south side of the property is bounded by a tributary stream. The south and east sides also contain steep slopes which expand the 100-foot Buffer. The site is currently developed with a single-family dwelling. The applicant wishes to replace the dwelling and moderately expand the footprint as well as construct a new driveway and garage.

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. 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 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 wishes to replace the dwelling and expand the footprint as well as construct a new driveway and garage. In regards to the new dwelling, the expansion of the house

will be in the direction of both the tributary stream and tidal waters. There is room available on the northeast side of the property to push the new dwelling and locate it further from both sensitive resources. This office would not be opposed to a modified site plan that achieved this goal. Since opportunity exists to avoid further encroachment into the Buffer and towards the water, this office cannot support the expansion of the dwelling as proposed. In addition, the applicant could maintain the existing use of the current driveway rather than construct a new driveway and increase impervious surface in the Buffer.

In regards to the proposed garage, this office does not believe the current proposal can meet the required standards, including unwarranted hardship. A garage is not a critical component to achieve reasonable use of the property, which in this case is the dwelling. In addition to its location within the Buffer, the garage is also located on steep slopes and will remove forested vegetation. Therefore, this office is opposed to granting a variance to the Buffer for the construction of the garage.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resources Planner

SM624-07

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 20, 2007

Paul Wettlaufer, Acting Chief
Maryland Section – Southern
US Army Corps of Engineers -Baltimore District
PO Box 1715
Baltimore, Maryland 21203-1715

Re: CENAB-OP-RMS
NAB-2007-07044 (2007-63585)
Best Industries

To Whom It May Concern:

This office has received notice of the above-referenced application. The applicant is requesting a permit for impacts to tidal and nontidal wetlands, tributary streams, and the Chesapeake Bay. The project site is partially located within the Critical Area and designated as Resource Conservation Area (RCA). Based on the information provided, this office has the following comments:

1. Currently, the site in question is one large parcel and has not been subdivided. Based on the application, it appears to be the intent of the applicant to ultimately subdivide the property. Given St. Mary's County has not had the opportunity to review any subdivision design and minimize impacts we recommend the stream crossings and tidal crossing portions of the permit not be granted at this time until the County and this office have reviewed any proposed subdivision plans.
2. The permit references a primary road system and a secondary emergency access road system, both of which require crossing of tributary streams at five sites. Tributary streams within the Critical Area, including perennial and intermittent streams, require a 100-foot Buffer. No new development activities are permitted within the Buffer, which is considered a Habitat Protection Area. The St. Mary's County Comprehensive Zoning Ordinance Section 41.5.3.d only permits roads, bridges, or utilities in Habitat Protection Areas unless no feasible alternative exists. Prior to approval by St. Mary's County, the applicant must meet this standard, which may not be possible given five stream crossings are proposed.

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3. The primary road system includes a bridge crossing in tidal areas. It is unclear from the application where the tidal area crossing is located. Again, no roads, bridges, or other utilities are allowed within the Buffer unless the applicant can demonstrate no feasible alternative exists.
4. Any shoreline erosion control work to occur above Mean High Water (MHW) must also conform to the St. Mary's County Comprehensive Zoning Ordinance. Any impacts proposed to the Buffer may require a variance and must be evaluated by County staff.
5. The site area is largely forested. It is likely to be classified as Forest Interior Dwelling Species (FIDS) habitat by DNR Wildlife and Heritage. Any forest clearing associated with the proposed development activities must meet the FIDS criteria and be mitigated at the appropriate ratio; therefore the overall site layout that is currently contemplated by the applicant may be revised due to FIDS.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

cc: Sue Veith, Environmental Planner, St. Mary's County

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 19, 2007

Ms. Amanda Gordon
Cecil County Office of Planning and Zoning
129 E. Main Street, Room 300
Elkton, MD 21921

Re: Furnace Bay Mining Facility – Reclamation Site Plan
Local Project #052130

Dear Ms. Gordon:

Thank you for submitting the above referenced site plan for review and comment. Constellation Power Source Generation is proposing to reclaim an existing mining pit using non-hazardous coal ash as a structural fill material. The property is shown as Tax Map 35 Parcel 121 and consists of 138 acres of which a portion is located within the Resource Conservation Area (RCA).

Surface mining operations are allowed within the Critical Area provided they meet the requirements of COMAR 27.01.07 and the Cecil County Critical Area Program. Further, COMAR 27.07.07.02B encourages reclamation of existing mining operations as soon as possible and to the extent possible. The Critical Area report included in this submittal states the purpose of the activity is to reclaim the quarry with coal ash and to create a natural area that would support re-establishment of a natural community. The fill facility will be lined and installed with a leachate collection system that will pump any leachate into a treatment area. The leachate treatment area will be partially located within the 110-foot Buffer to tidal waters. Additionally, an area of fill will occur within the 110-foot Buffer; however the report states that fill material in this area will be limited to clean fill.

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

1. The leachate treatment lagoon must be located completely outside the 110-foot Buffer. While the Criteria and the Cecil County Critical Area Program recognize existing quarry operations may impact the Buffer and encourage reclamation, the proposed lagoon is to be located in an area that is not currently mined. Further, the lagoon is a new

development activity. New development activities, including mining and related facilities are prohibited within the Critical Area Buffer.

2. Cecil County Zoning Code Section 196.3 states existing sand and gravel operations should establish a Buffer to the maximum extent possible. Prior to issuance of any permits, the applicant should prepare a Buffer Management Plan that will demonstrate the planting and establishment of the entire Buffer to occur as part of any reclamation activities.

Prior to final site plan approval, the applicant should forward to this office a response to the following comments and questions:

1. How much fill is proposed to be placed within the 110-foot Buffer? The report indicates this fill will be for open mining areas, however these areas not indicated on the site plan. The areas of fill within the Buffer appear to be currently developed with roads, stockpile areas and other uses to support the mining operation. Further detail should be provided as to why these areas must be filled.
2. The site plan indicates two discharge point facilities located in the 110-foot Buffer but no other information is provided. Please have the applicant describe the use of these facilities in more detail. The response should include information regarding how these facilities will not affect the tidal habitats which contain the state-listed endangered species water horsetail and vetchling.
3. It is unclear what reclamation activities, if any, are proposed for the areas on the site plan marked settling pond #2 and #3. Portions of the dirt road surrounding these facilities are within the 110-foot Buffer. Will these areas be established in vegetation or otherwise reclaimed?
4. How is the leachate proposed to be treated? Are there any necessary facilities associated with the treatment lagoon? Please have the applicant provide further details regarding the requirements for treatment and the process for treatment.

Thank you for the opportunity to provide comments. We look forward to reviewing the above information once it is submitted. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

CE653-07

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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November 16, 2007

Mr. Jim Stasz
M-NCPPC – Planning Department
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: CP-07011
River Bend Estates Subdivision

Dear Mr. Stasz:

Thank you for submitting the above referenced Conservation Plan for review and comment. The applicant is proposing to subdivide 12.81 acres, of which 4.78 acres are located within the Resource Conservation Overlay (RCO). The Conservation Plan indicates the entire area of RCO will be designated as Outlot A. No development is indicated within Outlot A at this time.

Based on the information provided I have the following comments:

1. The Conservation Plan should include a note stating no development activity is proposed to occur in the Critical Area under this Conservation Plan. Additionally, the note should also state a new Conservation Plan must be developed and approved for any development that may be proposed in the Critical Area portion of the site in the future.
2. Please include a note stating no disturbance may occur in the Secondary Buffer within the RCO.
3. The boundaries of Outlot A are difficult to distinguish on this site plan. Does Outlot A coincide with the limits of the RCO boundary or does Outlot A extend into the non-Critical Area portions of the site? If the parcel boundaries extend beyond, the use of the RCO portion must be further clarified. Given the RCO designation, only passive recreation uses may be allowed, provided there is no disturbance to Habitat Protection Areas.



Thank you for the opportunity to comment. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resources Planner

PG677-07

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 15, 2007

Ms. Susan McCauley
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Lumpkins Seafood Site Plan
Local Case #07-131-041

Dear Ms. McCauley:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing to construct a second-story over an existing commercial building. The property is located within the Intensely Developed Area (IDA) and the existing building is located within the 100-foot Buffer. The project will include the construction of a new staircase and the removal of an existing shed and a portion of gravel driveway within the Buffer.

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

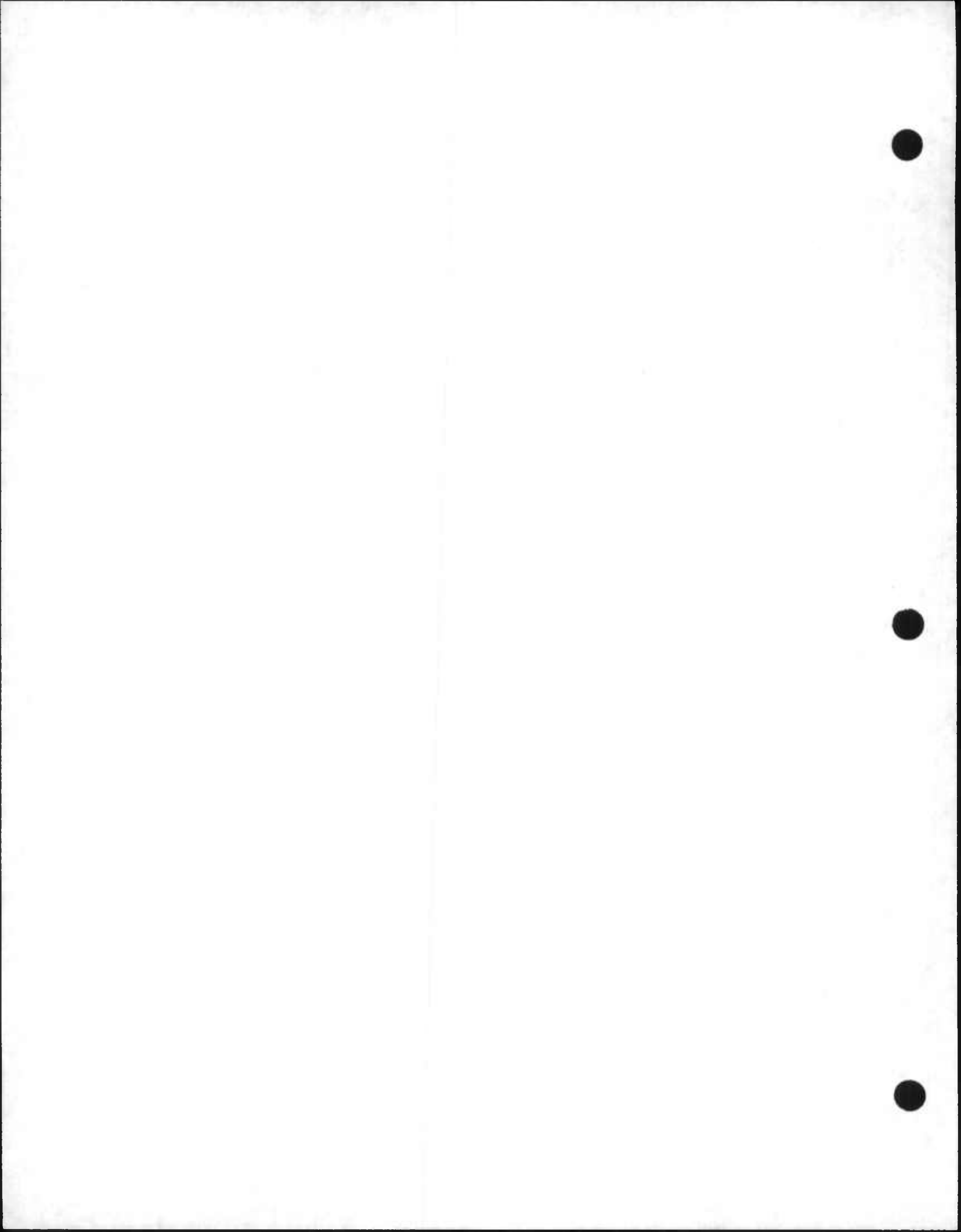
1. The proposal adds 64 square feet of new impervious surface in the 100-foot Buffer for the construction of the staircase and removes more than 320 square feet of existing impervious surface in the Buffer. This impervious surface trading is allowed in the Buffer per the provisions of Section 41.5.3.i(3) of the St. Mary's County Comprehensive Zoning Ordinance.
2. However, per Section 41.3, the applicant must address the requirement to provide a 10% reduction in pollution per the Critical Area Commission 10% Rule Guidance Manual.
3. This office recommends that areas of the site where impervious surface is being removed and any other available areas in the 100-foot Buffer be vegetated to the maximum extent possible.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM625-07



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 7, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-2236; Miedzinski
27352 Queen Tree Road

Dear Ms. Chaillet:

This letter is in response to additional information received by the office regarding the above referenced variance request. Please replace my correspondence dated November 6, 2007 with this letter. The applicant is requesting a variance to steep slopes and expanded Buffer in order to construct a single-family dwelling. The parcel is 45.14 acres in size of which 10.33 acres are within the Resource Conservation Area. Nearly the entire property is encumbered by steep slopes and due to the standards for Buffer expansion in the St. Mary's County Comprehensive Zoning Ordinance, the entire property is also within the expanded Buffer. County staff evaluated the deed and parcel information and established that this parcel is a properly grandfathered lot. Finally, the applicant in conjunction with County staff evaluated the steep slopes on the entire property and determined the selected location is the only buildable portion of the site with slopes less than seven percent.

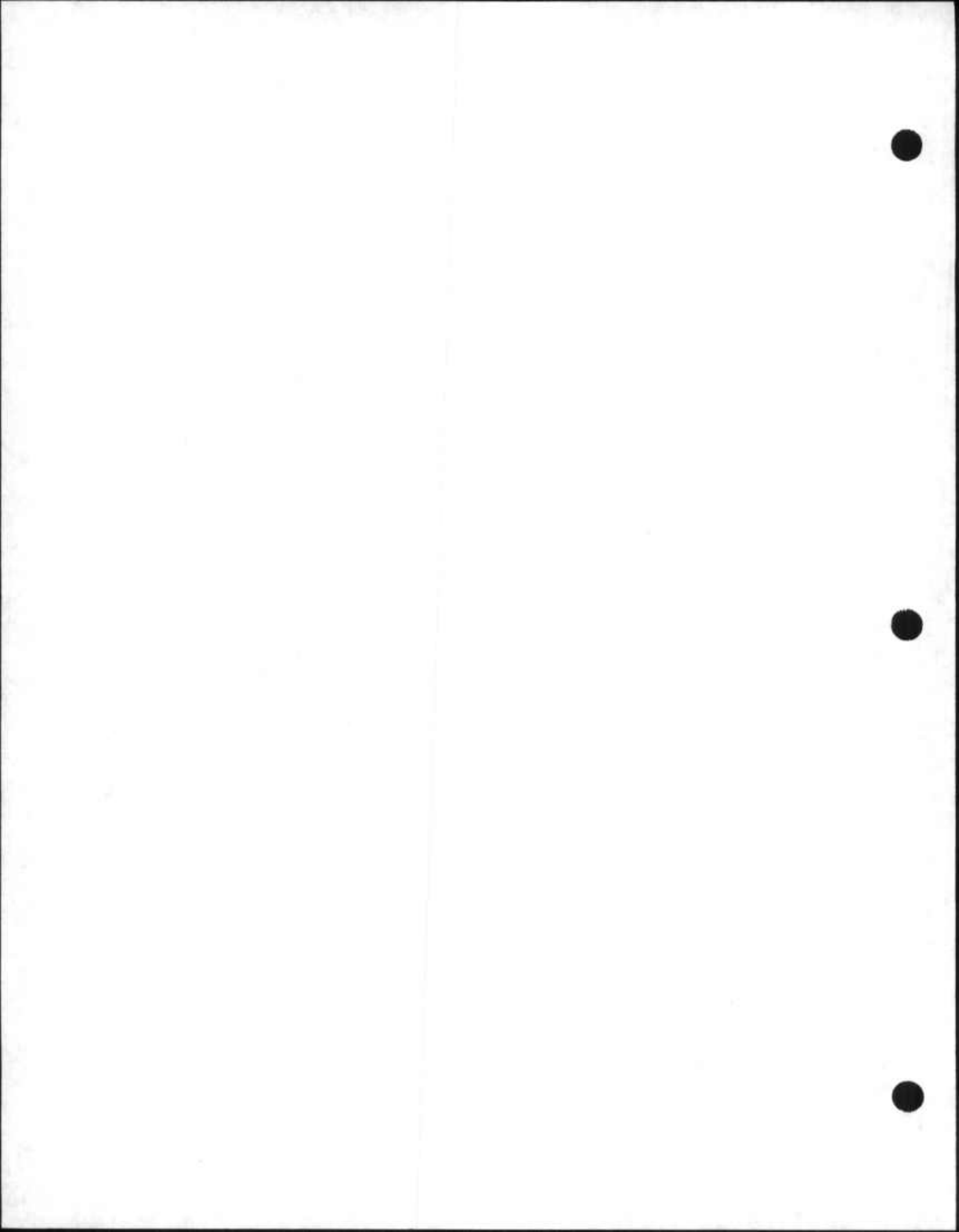
Based on this information, this office would not oppose this variance request.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM623-07



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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November 6, 2007

Ms. Susan McCauley
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Minor Subdivision - Oakland Hall Lot 1 and Farmstead 1
Tax Map 46 Parcel 09

Dear Ms. McCauley:

Thank you for submitting the above referenced minor subdivision for review and comment. The applicant is proposing a 5.0 acre lot and remainder Farmstead Lot of 64.06 acres. Approximately 33.67 acres of the Farmstead Lot is located within the Resource Conservation Area (RCA) and currently developed with a single-family dwelling. The proposed 5.0 acre lot is outside the Critical Area. Based on the information provided, I have no comments at this time.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 626-07



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. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-2236; Miedzinski
27352 Queen Tree Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to steep slopes and expanded Buffer in order to construct a single-family dwelling. The parcel is 45.14 acres in size of which 10.33 acres are within the Resource Conservation Area.

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. 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 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 is locating the house within the Critical Area portion of the property, while 34.81 acres of the property are located outside the Critical Area. The applicant could avoid the need for the variance by locating the house outside the Critical Area. Additionally, it is not clear from the information provided whether the parcel qualifies as a properly grandfathered lot or whether the applicant has a development right within the Critical

Area portion of the property. This information should be ascertained prior to the Board's consideration of a variance. Lots established after 1985 are not grandfathered under the Critical Area law and should conform therefore insofar as possible to the provisions of the County Critical Area Program. The granting of a variance for non-grandfathered lots would not be appropriate. Finally, it appears likely that the site contains Forest Interior Dwelling Species (FIDS) habitat. Development in FIDS habitat should conform to the site design guidelines contained in the Critical Area Commission FIDS Guidance document. Site design which does not conform must be mitigated. In this instance, mitigation would equal twice the amount of interior habitat lost plus the amount of forest cut.

Should the County establish that the parcel is a properly grandfathered lot and contains a development right in the Critical Area, the applicant still has the option to locate the dwelling outside the Critical Area. Thus, I do not believe the applicant can meet the standard of unwarranted hardship. Therefore, we oppose this variance request. I have discussed each one of the County's variance standards below as it pertains to this site:

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

As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information provided, we do not believe that the County has evidence on which to base a favorable finding on this factor. Currently, the applicant has 34.81 acres of property located outside the Critical Area which would not require a variance to any Critical Area provisions available for development. It is the burden of the applicant to provide information that no other location on this site is available for development. We do not believe the applicant has provided this documentation.

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 outside the Critical Area for residential purposes, and therefore, would not be denied a right commonly enjoyed by neighboring 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 that would be denied to others in this area, as well as in similar situations in the County's Critical Area. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

Ms. Yvonne Chaillet

November 6, 2007

Page 3 of 3

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 office recognizes much of the property is encumbered with steep slopes and highly erodible soils. However, as stated above, the applicant has the burden to prove that no other location may be developed on the site.

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. The applicant has the opportunity available to minimize impacts by locating the development activity outside the Critical Area portion of the property. Critical Area law is meant to temper the cumulative effects of development, especially within the Buffer. The County expands the 100-foot Buffer based on special site conditions such as steep slopes or highly erodible soils on which if development occurs can further threaten water quality. Development located outside the Critical Area would further protect the nearby stream and wetland resources.

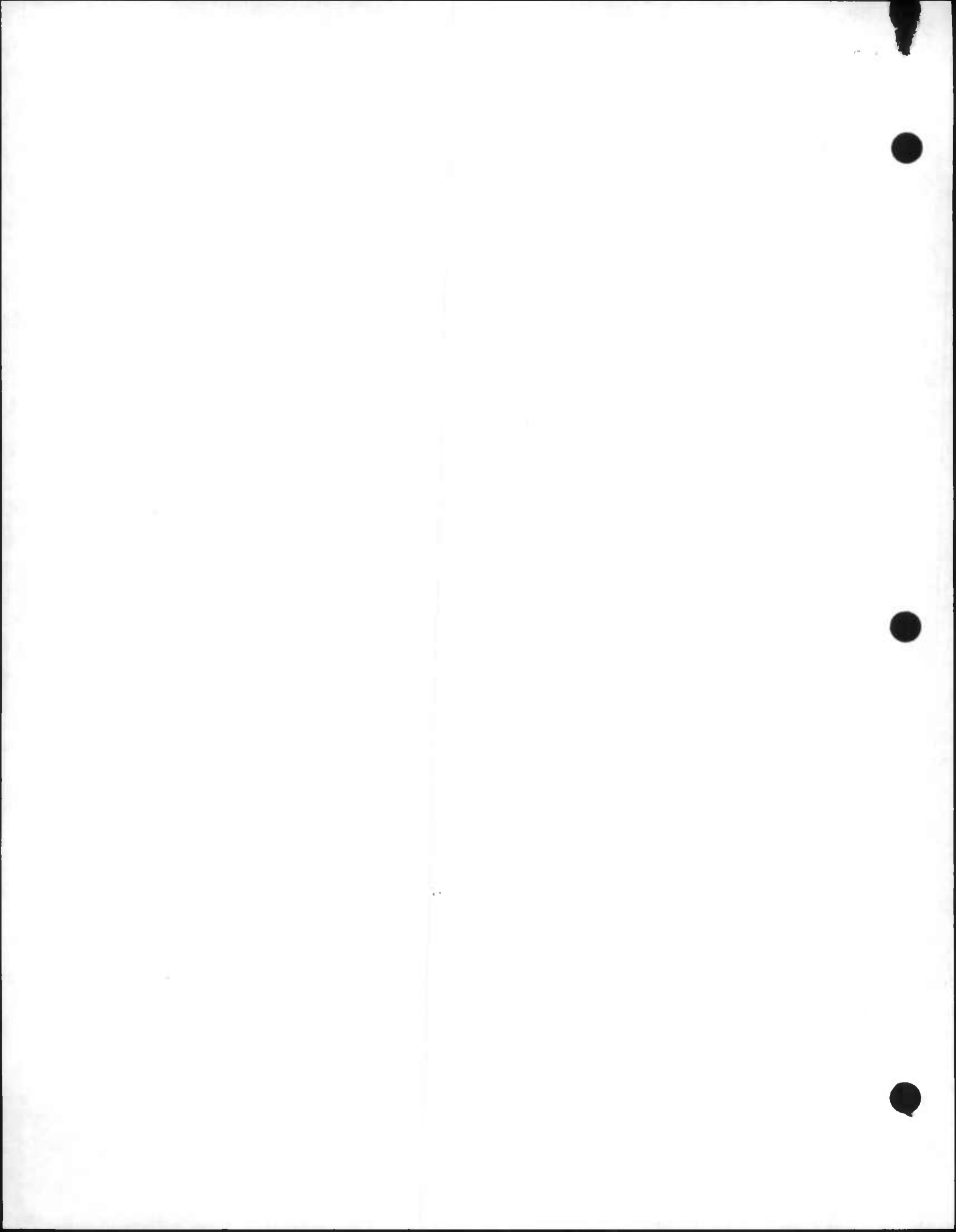
In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board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



Kate Schmidt
Natural Resource Planner
SM623-07



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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November 6, 2007

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

Re: Chesapeake Cove Concept Plat
Lots 2-11

Dear Mr. DiGiacomo:

Thank you for providing the revised Concept Plat for Chesapeake Cove subdivision for review and comment. The applicant is seeking to create an 11 lot subdivision, of which 6 lots will be located in the Critical Area. Lot 1 is being considered separately under a single-lot subdivision request. The parcel is 158 acres in size, of which 121.25 acres is located in the Resource Conservation Area (RCA). Based on the information provided I have the following comments regarding this Concept Plan:

1. As a reminder the County may not finalize this subdivision request or the request for Lot 1 due to the action taken by the Critical Area Commission at its meeting on October 3, 2007 whereby the CAC found a deficiency in Section 200 of the Cecil County Zoning Code concerning the protection and conservation of Habitat Protection Areas. Consequently, the County may not approve subdivisions with HPA issues until this deficiency is corrected.
2. This office is awaiting a copy of the wetlands delineation plan in order to provide guidance on the determination of those areas which qualify as intermittent streams versus nontidal wetlands.
3. Upon consultation with staff from DNR Wildlife and Heritage (see attached) it was found that this site meets the criteria of a riparian forest area that could support FIDS habitat. Based on this determination this office recommends the applicant review the June 2000 Critical Area Commission Guidance document for FIDS and complete Appendix D 'FIDS Conservation Worksheet'. The applicant also has the option to conduct a bird survey per the guidelines contained in the manual. Please note, that riparian forests are

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defined as those forests of at least 300 feet in width which occur adjacent to streams, wetlands, or the Bay shoreline. Forest impacts which occur within this 300-foot riparian area are considered to be impacts to forest interior.

4. The preliminary plan should include the following information:
 - a. A note that indicates proposed forest clearing per lot and the required mitigation.
 - b. A planting plan for the required mitigation.
 - c. The limit of disturbance for all proposed development activity to ensure Buffer areas will not be disturbed.

5. This office will comment on the remaining Habitat Protection Area issues, including the provision of measures for the Bald Eagle's nest once the County has resolved the sanction on the HPA provisions of the Cecil County Program.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE397-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 5, 2007

Ms. Amanda Gordon
Cecil County Office of Planning and Zoning
129 E. Main Street, Room 300
Elkton, MD 21921

Re: Anchor Marina Site Plan

Dear Ms. Gordon:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing to expand an existing marina facility. The site of the proposed project is 5.69 acres and within the Critical Area designation of Limited Development Area (LDA). The property fronts the Northeast River. It currently is not designated as a Buffer Exemption Area (BEA). Approximately 5.0 acres or 87% of the site is impervious. The proposed project is to construct a 2,019 square foot addition over existing impervious surface within the 110-foot Buffer. Based on the information provided I have the following comments:

1. The Cecil County Zoning Code Section 196 only allows new development or expansion of existing development in the Buffer if it is associated with water-dependent facilities, as provided in Section 198. The proposed addition is to provide additional office space, storage and toilet facilities. This addition does not qualify as a water-dependent facility as recognized in the Zoning Code or within the Critical Area law and Criteria.
2. Section 196 of the Zoning Code does not have provisions for the redevelopment of existing features in the 110-foot Buffer. Additionally, COMAR 27.01.02.07 states 'if any existing use does not conform with the provisions of a local Program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in COMAR 27.01.11.' While the extent of impervious surface may be located over existing impervious surface, the applicant is proposing a significantly larger structure within the 110-foot Buffer. Therefore, it is not appropriate to utilize Cecil County Zoning Code Section 330 to apply in this situation and not require a variance.
3. The variance may not be granted unless the applicant meets all of the Critical Area variance standards, including proof that without the variance for the new structure, he would be denied reasonable use of the entire parcel or lot. Commission policy

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recommends 3:1 mitigation for the area of disturbance within the 110-foot Buffer to the Northeast River.

4. The site plan should indicate the location of the 110-foot Buffer to tidal waters.
5. Section 200.6.a states that when less than 15% of a site is in forest cover in the LDA, than 15% afforestation shall be required. The site plan does not contain any information regarding either the amount of existing forest cover or proposed planting.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner

CE634-01

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 5, 2007

Mr. Anthony DiGiacomo
Cecil County Office of Planning & Zoning
129 East Main Street, Room 300
Elkton, Maryland 21921

Re: Preliminary-Final Subdivision
The Estates at Woodcrest Shores

Dear Mr. DiGiacomo:

Thank you for forwarding the above referenced subdivision proposal for review and comment. The applicant proposes to subdivide an existing 3.78 acre parcel into three lots. Approximately 2.15 acres of the parcel is within the Critical Area and designated as Limited Development Area (LDA). This office previously provided review and comment on March 16, 2006. Our remaining comments are outlined below:

1. My review of available data indicates the project area is located within a State-listed Sensitive Species Project Review Area. Prior to final plat approval the applicant must request an Environmental Review from the Department of Natural Resources Wildlife and Heritage Division in order to determine any necessary restrictions or design guidelines. Please provide this office a copy of the letter when it becomes available. As a reminder the County may not finalize this subdivision request due to the action taken by the Critical Area Commission at its meeting on October 3, 2007 whereby the CAC found a deficiency in Section 200 of the Cecil County Zoning Code concerning the protection and conservation of Habitat Protection Areas. Consequently, the County may not approve subdivisions with HPA issues until this deficiency is corrected.
2. The Preliminary-Final plat must include the proposed impervious surface information for Lot 3 and the portion of Lot 2 within the Critical Area to ensure the 15% impervious surface limit may be met.
3. The Preliminary-Final plat must include the acreage of existing forested area and the acreage of proposed clearing within the Critical Area to ensure the forest clearing limits are not exceeded.

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4. It appears that the septic drainfields are proposed in Forest Retention Areas. The drainfield areas must be included in the proposed clearing calculations in order to ensure the eventual property owners will not require a variance to exceed forest clearing limits when developing these lots.
5. This office recommends revising Note #8 to include a statement that Forest Retention Areas are maintained in perpetuity and no disturbance, including clearing or dumping of any kind, is permitted.

Thank you for the opportunity to comment. Please contact me at (410) 260-3475 if you have any further questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resources Planner

cc: CE 175-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 5, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-0716; Smith
23600 Gross Drive

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to disturb the 100-foot Buffer in order to install a replacement septic system. The parcel is 4.25 acres in size and located within the Limited Development Area (LDA).

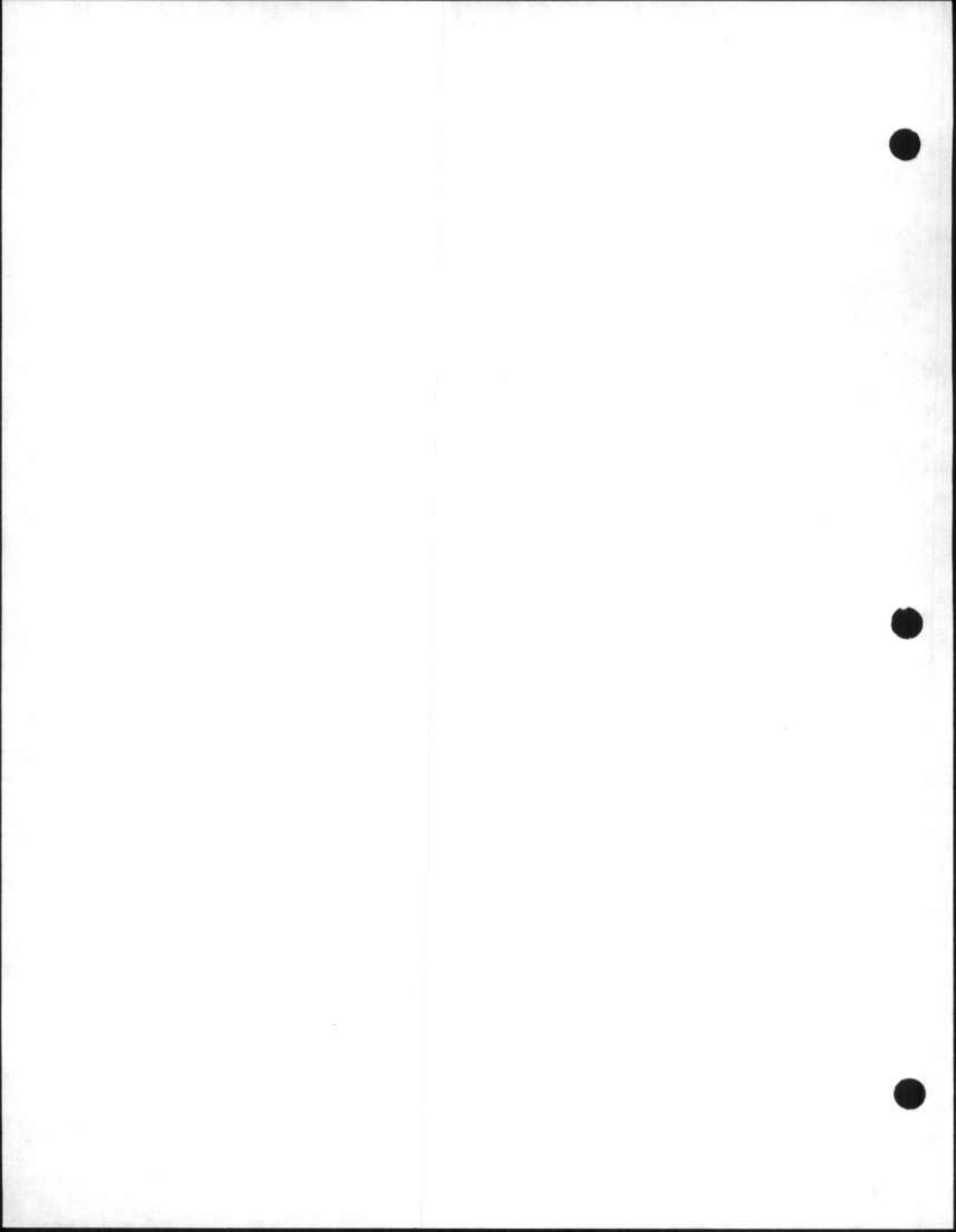
Based on the information provided, this office does not oppose this request. Due to the presence of two tributary streams and adjacent steep slopes and highly erodible soils, nearly the entire property is located within the Buffer or expanded Buffer. Given other constraints on the site including the location of the well, the selected area is the only place available to install the replacement septic system. Finally, the submittal includes mitigation at a ratio of 3:1 for the area of disturbance within the Buffer. As a condition of approval, I recommend the Board of Appeals require the applicant apply to Maryland Department of the Environment's Bay Restoration Fund for financial assistance to upgrade the proposed system using denitrification technology. They may contact Shan Abeywickrama at 410-537-3921 for further information.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM609-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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November 5, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-2226; Petty
44141 Sotterly Wharf Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow construction of a 475 square foot patio in the 100-foot Buffer. The parcel is 155.6 acres in size of which 51.6 acres is within the Resource Conservation Area (RCA). The request for the variance is after-the-fact.

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. 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 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 is requesting to place a patio at the corner of the house that is closest to the water and entirely within the Buffer. The applicant could have placed the patio on the other corner of the house and designed it to be entirely outside the 100-foot Buffer and not required a variance. Additionally, the applicant already has significant outdoor living space including what appear to be a deck on the rear of the house and a separate patio on the front of

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the house. I do not believe the applicant can meet the standard of unwarranted hardship given that they already enjoy reasonable and significant outdoor use of their property. Therefore, we oppose this variance request. I have discussed each one of the County's variance standards below as it pertains to this site:

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

As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on the information provided, we do not believe that the County has evidence on which to base a favorable finding on this factor for the patio. Currently, the applicant is able to use the property for residential purposes as well as enjoy reasonable and significant use of the property's outdoor areas.

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. Denial of a variance for the patio would not deny the applicants a right commonly enjoyed. Additionally, the applicant could establish a patio on the rear of the house outside the 100-foot Buffer in another location.

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. 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.

The patio in question has already been constructed on a site selected by the applicant. The Board of Appeals has the right to evaluate the site conditions and consider the proposed location as well as other locations on the property. It appears from the information presented that the applicants could construct an outdoor patio adjacent to the deck that is outside the 100-foot 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

Ms. Yvonne Chaillet
November 5, 2007
Page 3 of 3

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. Critical Area law is meant to temper the cumulative effects of development in the Buffer. There is significant opportunity on this property to maintain a functioning Buffer. A Buffer planted with a mix of native trees and shrubs provides significant water quality benefits whereas a Buffer that contains development becomes compromised in its ability to provide water quality benefits.

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.

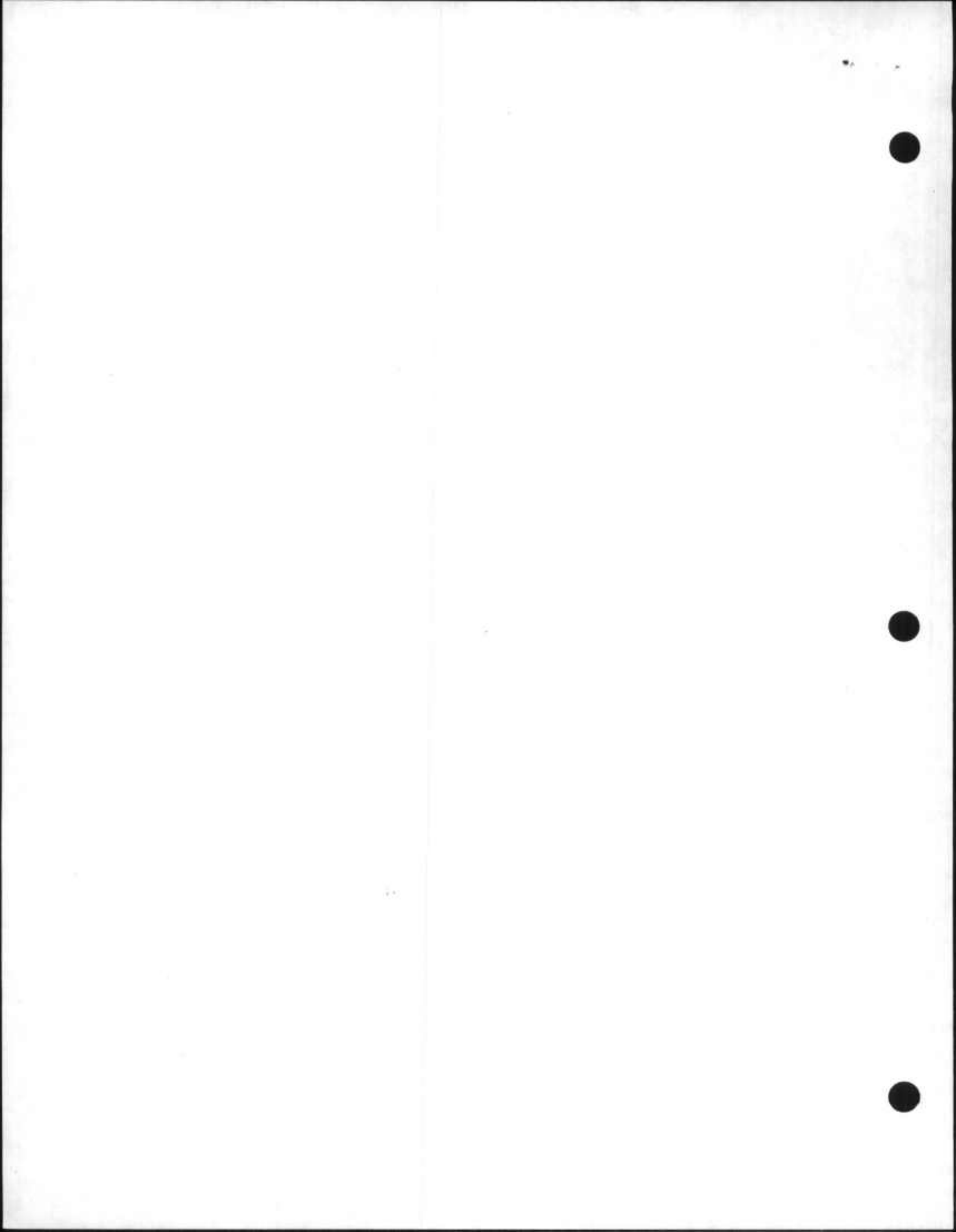
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,



Kate Schmidt
Natural Resources Planner

SM631-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 23, 2007

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

Re: 2007-0340-V; 1406 Ridgeway East
David M. Hammel

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the expanded Buffer for steep slopes to replace an existing retaining wall underneath a deck and to construct a new retaining wall in their front yard. The site is 18,955 square feet in size and designated as Limited Development Area (LDA). The property is currently developed with a single family dwelling that the applicant proposes to redevelop. It is my understanding as well that the request to construct the new retaining wall is after-the-fact. Finally, the submitted request states the applicant is only obtaining a variance to disturb steep slopes. However, based on my analysis of the submitted site plan, it appears the 100-foot Buffer has not been properly expanded and would include the areas of proposed disturbance.

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 instance, the applicant has a constrained site given the presence of the expanded 100-foot Buffer for steep slopes and presence of steep slopes throughout the property. Provided this lot is properly grandfathered, this office does not oppose the variance request to replace existing deteriorating retaining walls that are necessary to maintain the integrity of existing structures on the site. However, impacts to the expanded Buffer must be minimized and the variance request must be the minimum necessary. The applicant must demonstrate that the redevelopment plan for the house meets this minimization requirement and the house will not impact the expanded Buffer as appears possible on the site plan.

In regards to the need for the variance to construct the after-the-fact retaining wall in order to provide a flat stockpile area, this office questions whether the applicant can meet the standards of "unwarranted hardship" and minimum necessary. Stabilization of steep slopes, especially within the expanded Buffer, should only be permitted as necessary to maintain stability of existing grandfathered structures or if there is significant erosion documented over time. I am unable to discern whether the expanded area of retaining wall is necessary for these purposes, or the result of the applicant's desire to have a flatter yard area. It also appears there are other areas on site available to temporarily place excavated materials. For these reasons, we are currently opposed to the variance request.

This office recommends the area of the new retaining wall be restored to the maximum extent possible and reestablished in dense vegetation. Mitigation of 3:1 should also be required for the entire area of disturbance, including the area of fill behind the retaining walls. The mitigation should consist of a mix of native shrubs and trees and should be accommodated on site 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,



Kate Schmidt
Natural Resource Planner
cc: AA585-07

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 22, 2007

David Willis, Chairman
Cecil County Board of Appeals
Department of Planning & Zoning
129 East Main Street, Rm. 300
Elkton, MD 21921

Re: Variance Application Local Case #3359
FRON-DJW, L.P.; Robert C. Welch

Dear Mr. Willis:

Thank you for providing information on the above referenced variance. The applicant is requesting four variances for a proposed subdivision, Chestnut Point Marina. The property in question totals 39.24 acres, with approximately 29.442 acres in the Limited Development Area (LDA). The four variances requested are as follows:

- Cecil County Zoning Ordinance Section 193.5(b) and (c) - To locate new community facilities (pool and clubhouse) and development associated with four new lots in the 110-foot Buffer to tidal waters, currently designated as Buffer Exemption Area (BEA).
- Cecil County Zoning Ordinance Section 196.1(a) - To reduce the 110-foot Buffer required for a tributary stream to 25-feet.
- Cecil County Zoning Ordinance Section 198.2(a) - To increase the number of slips allowed in a community marina to eighty-six (86) from thirty (30).
- Cecil County Zoning Ordinance Section 241.2(d) - To build within the 100-year floodplain.

The applicant is currently in the process of seeking Concept Plan Approval from the Planning Commission for the proposed subdivision. The current proposal requiring the above listed variances will locate 59 lots in the LDA. The above requested variances are the result of subdivision design which could, but based on the actions of the applicant, does not meet the Cecil County Zoning Ordinance. In addition to these variances, this office does not believe the current proposed site design meets the 15% impervious surface limit required by the LDA. Thus, the applicant must either redesign the proposed subdivision to reduce impervious surface or seek growth allocation from Cecil County to change the designation from LDA to Intensely Developed Area (IDA). Therefore, it appears to this office to be inappropriate to grant variances for a proposed subdivision that could be designed to meet the Cecil County Zoning Ordinance

and that the Planning Commission may direct to change in configuration given the early design stage.

In regard to the request for the variance to the 100-year floodplain, this office has no comment. In regard to the request for the variance to the 110-foot Buffer designated as a Buffer Exemption Action, I am submitting no comments based on the recent action taken by the Critical Area Commission as discussed in Chair McHale's letter to the Board of Appeals dated October 11, 2007 (see attached). I have outlined my comments regarding the remaining two variances below.

Section 196.1(a) 110-foot Buffer to the Tributary Stream

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this case, the applicant is proposing a design for a new subdivision that does meet the Cecil County Zoning Ordinance in regard to the provision of a 110-foot Buffer for tributary streams. Based on a site evaluation conducted by this office, the Cecil County Planning Office, and the Army Corps of Engineers, the status of the stream as a "tributary stream" was confirmed. The 110-foot Buffer for the tributary stream does not encumber the entire property within the Critical Area. The applicant has ample room to design a subdivision that would avoid all impacts to the 110-foot Buffer. The variance to this Buffer cannot be granted unless the applicant proves, and the Board finds, that without the variance, the applicant would suffer an unwarranted hardship, that is "denial of reasonable and significant use of the entire parcel or lot." We do not believe that the standard above is met in this case, and accordingly the variance should be denied. I have discussed each one of the County's variance standards below as it pertains to this site:

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

This office is not opposing the applicants' right to develop the property with a new subdivision. However, the subdivision design must meet all requirements in the Cecil County zoning code, including no new development in the 110-foot Buffer to the tributary stream. The applicant has approximately 29 acres within the Critical Area and has not provided any information indicating the Buffer would prevent any development on the entire

parcel. Based on my evaluation of the site plan, the applicant would need to reduce the number of lots in the Critical Area from the proposed 59 to approximately 50. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of the entire parcel or lot. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor.

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

The applicant has a reasonable use of this property for development purposes. This office would not support similar variance requests to design a new subdivision in the 110-foot Buffer to a tributary stream, where evidence demonstrates there is sufficient opportunity on this property to provide new development. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. In essence, the applicant is requesting that the Board of Appeals allow a proposed subdivision that does not meet the County's Critical Area requirements. Section 191 of the County Zoning Ordinance states that the purpose of the Critical Area is to implement zoning regulations and measures designed to protect and enhance water quality and habitat resources. Further it finds that no person shall develop, alter, or use any land in the Critical Area except in compliance with the provisions of the ordinance. Newly designed subdivisions that can fully comply with the provisions of the ordinance must meet these purposes. 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 the 110-foot Buffer for tributary streams is directly the result of the applicant's actions in designing the proposed subdivision. The applicant has been frequently advised by County Planning staff, this office, and the Planning Commission that a 110-foot Buffer is required. The proposed Concept Plan could be redesigned to meet this provision as requested by staff and the Planning Commission.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the*

variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The County law recognizes that a naturally vegetated fully functioning 110-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. 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.

Section 198.2(a) Community Piers

The Cecil County Zoning Ordinance requires that when community piers are provided for a new subdivision community the number of slips allowed is based on either the feet of shoreline in the subdivision or the number of platted lots or dwelling in the Critical Area, whichever is the lesser of the two. In this case, the applicant is stating that he wants to increase the number of slips allowed to eighty-six (86) to allow for one slip per lot in the entire subdivision, including lots outside the Critical Area. The provision of slips for lots located outside the Critical Area is inconsistent with the County development regulations and State law, which limit the determination of the number of lots in a community marina to those platted lots or dwellings that have development rights in the Critical Area.

Again, 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 Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

The variance to this section 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. The applicant has not consulted with the Maryland Department of the Environment (MDE) concerning the possibility of locating commercial slips at the site. Commercial facilities are regulated by MDE under different provisions for stormwater management and sanitary facilities. The applicant should be directed to consult MDE regarding the requirements of commercial facilities. I have discussed each one of the County's variance standards below as it pertains to this site:

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

This office is not opposing the applicants' right to develop the property with a new subdivision and provide a community marina. However, the subdivision design must meet all requirements in the Cecil County zoning code. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of the entire parcel or lot. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor.

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

The 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.

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.*

In contrast, the need for the eighty-six slips is based on a concept plan subdivision design that has not received approval from the Planning Commission. Thus, the applicant is requesting that the Board of Appeals allow a proposed subdivision that does not meet the County's Critical Area requirements. Section 191 of the County Zoning Law states that the purpose of the Critical Area is to implement zoning regulations and measures designed to protect and enhance water quality and habitat resources. Further it finds that no person shall develop, alter, or use any land in the Critical Area except in compliance with the provisions of the ordinance. Newly designed subdivisions that can fully comply with the provisions of the ordinance must meet these purposes. 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 the number of slips in a community marina is directly the result of the applicant's actions in designing the proposed subdivision. The applicant has been frequently advised by County Planning staff, this office, and the Planning Commission that the number of slips must be reduced. The proposed Concept Plan could be redesigned to meet this provision as requested by staff and the Planning Commission.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The intent of the Cecil County Critical Area District 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.

The option to pursue the commercial facility has not been exhausted by the applicant. It is inconsistent to allow a variance to a zoning requirement when other options remain available to the applicant. 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 variances to the Buffer and to the increase of slips.

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

Sincerely,



Kate Schmidt
Natural Resource Planner
CE325-07

cc: Mr. Eric Sennstrom, Director of Planning & Zoning
Mr. Keith Banes, Counsel
M. Tony DiGiacomo, Planning & 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 18, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-2460; Haskell
45954 Shanty Point Lane

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow a replacement dwelling. The site is 38,332 square feet in size and located within the Limited Development Area. The existing dwelling will be removed and a new dwelling of 3,595 square feet in size will be constructed. The proposed location of the new dwelling is approximately 10-feet further waterward than the existing dwelling and located within the expanded 100-foot Buffer.

Provided the lot is properly grandfathered, this office does not oppose the variance request. Based on the information provided I have the following comments:

1. The location of the new house is 10-feet further waterward in the northeast corner than the existing dwelling. I recommend the location be moved back to meet the setback of the existing dwelling.
2. Mitigation at a ratio of 3:1 for the area of disturbance within the expanded Buffer should be provided.
3. It appears there are nontidal wetlands present on the property which may be impacted by the proposed construction. The applicant must obtain review and approval from the Maryland Department of the Environment for those impacts.



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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner
SM579-07

Cc: Cindy Nethen, MDE

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 16, 2007

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, Maryland 21623

Re: Retrofit Sidewalk Project for Port Deposit
Consistency Report

Dear Ms. Skilling:

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 and the accompanying information this office agrees that the project is generally consistent with the Town of North East Critical Area Program for the reasons outlined below.

1. The area of disturbance totals 0.11 acres and is located within the Intensely Developed Area (IDA).
2. The 10% pollutant reduction requirement for the project is 0.022 lbs of phosphorous per year. The Town will satisfy this removal requirement by planting 435 square feet of vegetation within the Town.
3. The information provided indicates that all other resource agencies have reviewed the project, and that there are no rare, threatened or endangered species at the project site. This letter does not satisfy any other State or local approvals.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

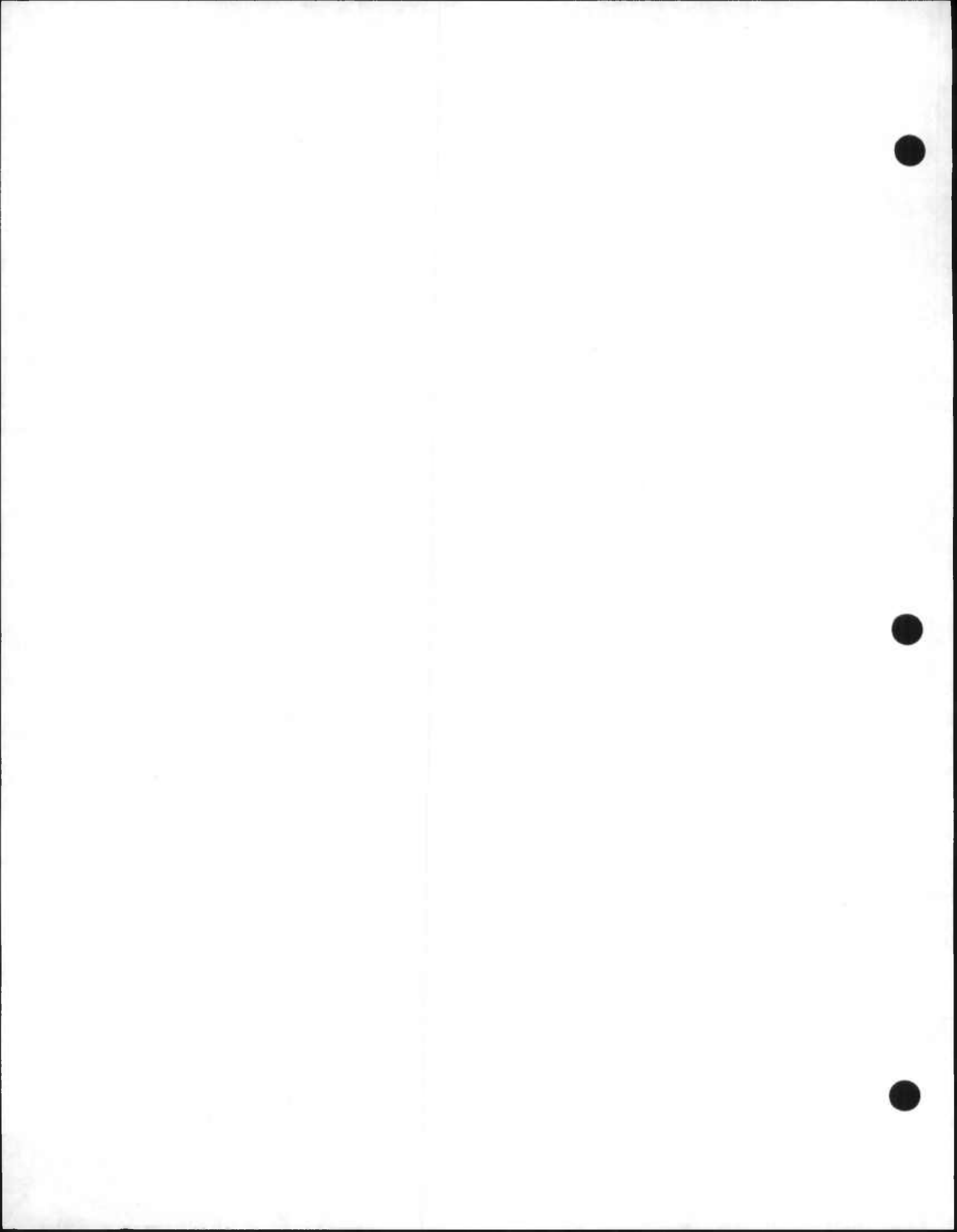
A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PD476-07

Cc: Ms. Sharon Weygand, Town Administrator
Brian Bolender, Stantec Engineering

TTY for the Deaf

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



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October 10, 2007

Ms. Tammy Dean
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Local Case # 07-11000119
Nun's Oak Lot 2 & Farmstead 500-A

Dear Ms. Dean:

Thank you for submitting the above referenced minor subdivision for review and comment. The applicant is seeking to subdivide a 139-acre Farmstead Lot. The original parent parcel was approximately 145 acres with approximately 60 acres located in the Resource Conservation Area (RCA). The parcel was subdivided in 2006 to create Lot 1 at 6.0 acres entirely within the Critical Area and Farmstead Lot A at 139 acres. The current proposal is to create Lot 2 at 6.0 acres, also within the Critical Area and Farmstead Lot 500-A at 133 acres. This office provided comments in December 2005 regarding the first subdivision request. Based on that review and this new subdivision plan, I have the following comments.

- The applicant must determine the exact number of acres located within the Critical Area, **excluding State tidal wetlands**. Section 41.6.4a of the St. Mary's County CZO and Natural Resources Article, 8-1808.2 specifically state that a bonafide intrafamily transfer may only be allowed on a grandfathered parcel that is 'at least 12 acres and less than 60 acres'. Based on the information on this plat and the previously approved plat, it does not appear that this information was ever verified.
- If the parcel is less than 60 acres, than the applicant may use the intrafamily transfer provisions to create a third lot or dwelling unit provided the Farmstead Lot only has one dwelling unit. The name of the recipient of the lot must be included on the plat and it must reference the provisions of Section 41.6.4a and Natural Resources Article, 8-1808.2.
- If there are 60 or more acres of property within the Critical Area, subdivision may be allowed under the standard density provisions of one dwelling unit per twenty acres. Again, this may only proceed provided there is only one dwelling unit on the Farmstead Lot.

- Regardless of which subdivision method occurs, a note must be added to the plat stating no further subdivision in the Critical Area is allowed.
- Lot 2 indicates a ditch that leads to and exits the nontidal wetland. The applicant must clarify whether the ditch would be classified as an ephemeral or intermittent stream. This office has reviewed other sites where drainage swales are classified as intermittent streams. An intermittent stream requires a minimum 100-foot Buffer under Section 71.8.3 of the CZO.
- The site must be reviewed by the Department of Natural Resources Heritage Division verifying that there are no impacts to any rare, threatened, or endangered species, before final approvals are granted.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 782-05

Cc: Ms. Sue Veith, Environmental Planner

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 10, 2007

Ms. Mary Rea
Department of Public Works & Transportation
Office of Engineering
9400 Peppercorn Place, Suite 420
Largo, Maryland 20774

Re: Taliaferro; 616 Bay Front Drive
Staff Level Review

Dear Ms. Rea:

Thank you for submitting a copy of the staff level review application and supporting documentation for the above referenced property. The applicant is seeking to construct a 12-foot x 30-foot patio and extend an existing 16-foot wide deck by 8 feet. The total area of disturbance is 488 square feet. The project meets all staff level review parameters, thus your office approved the application. No mitigation was required. This office concurs with your action.

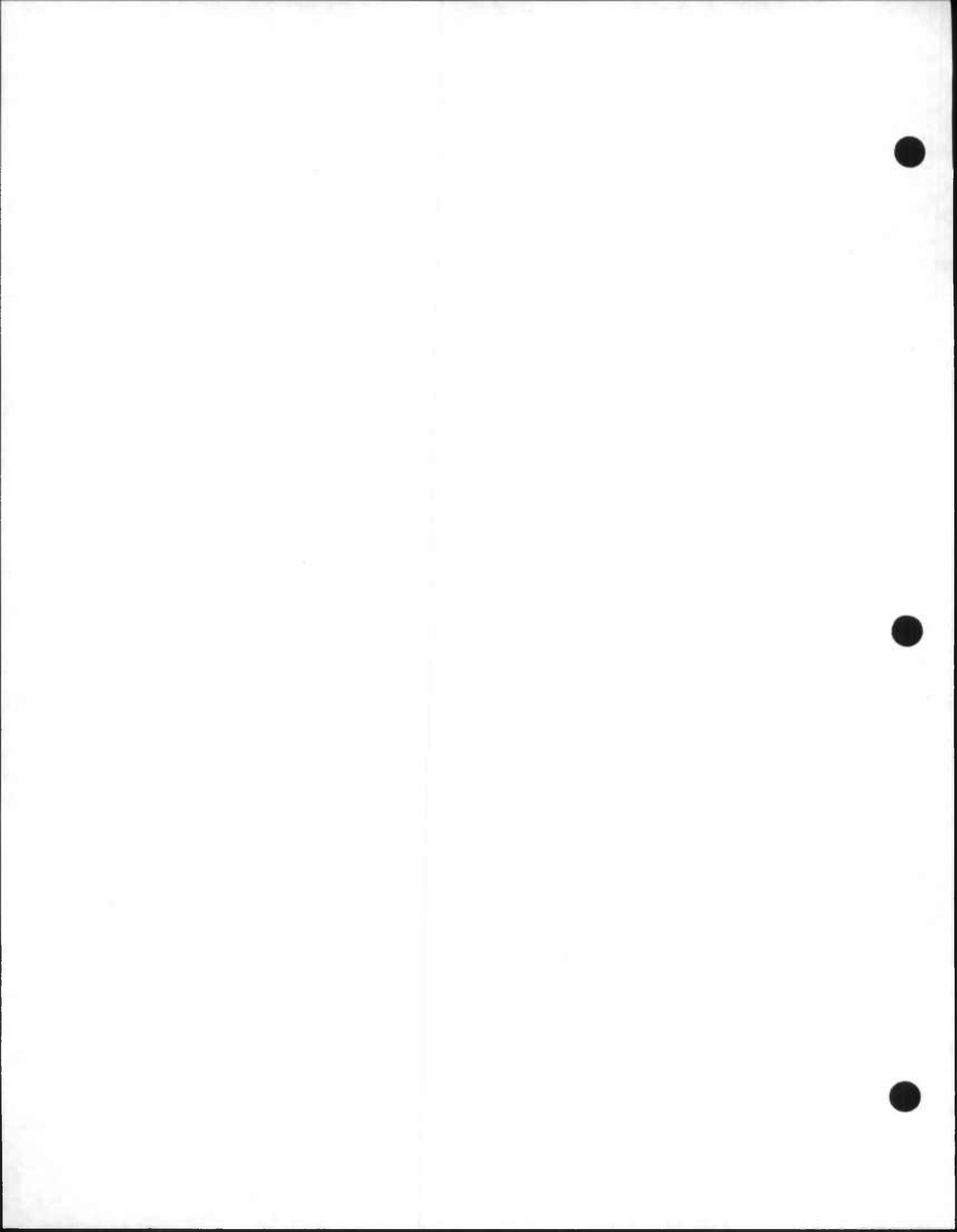
Thank you for the opportunity to review the application.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
PG596-07

Cc: CJ Lammers, Department of Planning, MNCPPC



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 10, 2007

Ms. Mary Rea
Department of Public Works & Transportation
Office of Engineering
9400 Peppercorn Place, Suite 420
Largo, Maryland 20774

Re: Novak; 12345 Hatton Point Road
Staff Level Review

Dear Ms. Rea:

Thank you for submitting a copy of the staff level review application and supporting documentation for the above referenced property. Your office determined that the request did not meet the parameters of a staff level review and thus requires a Conservation Plan approval. This office concurs with your action.

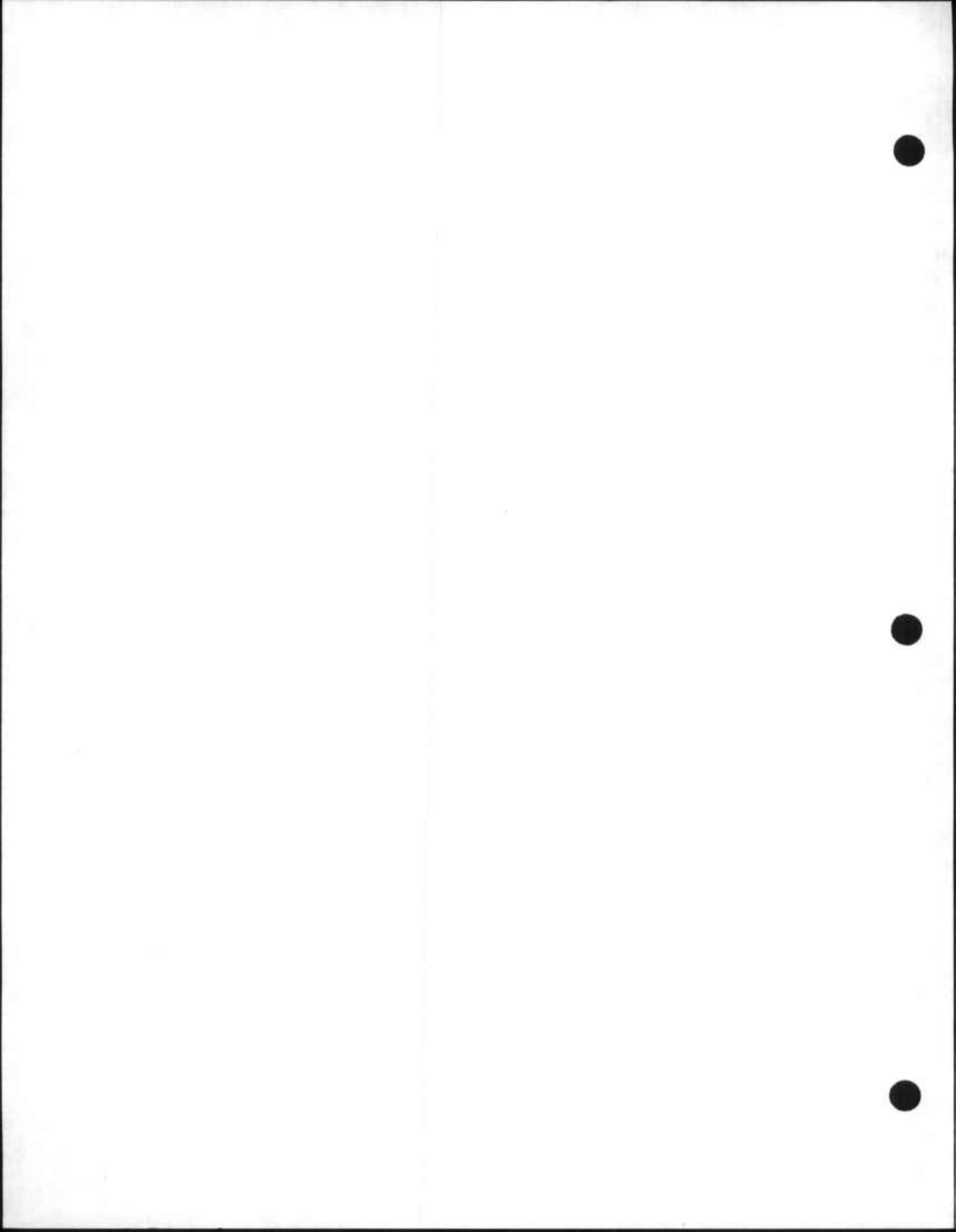
Thank you for the opportunity to review the application.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
PG597-07

Cc: CJ Lammers, Department of Planning, MNCPPC



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October 5, 2007

M-NCPPC Development Review Division
Prince George's County Planning
14741 Governor Owen Bowie Drive
Upper Marlboro, Maryland 20772

Re: S-07003; Chew Road Property

To Whom It May Concern:

Thank you for submitting the above referenced site plan for review and comment. The property is not located in the Prince George's County Critical Area Overlay. Therefore, review by this office is not required.

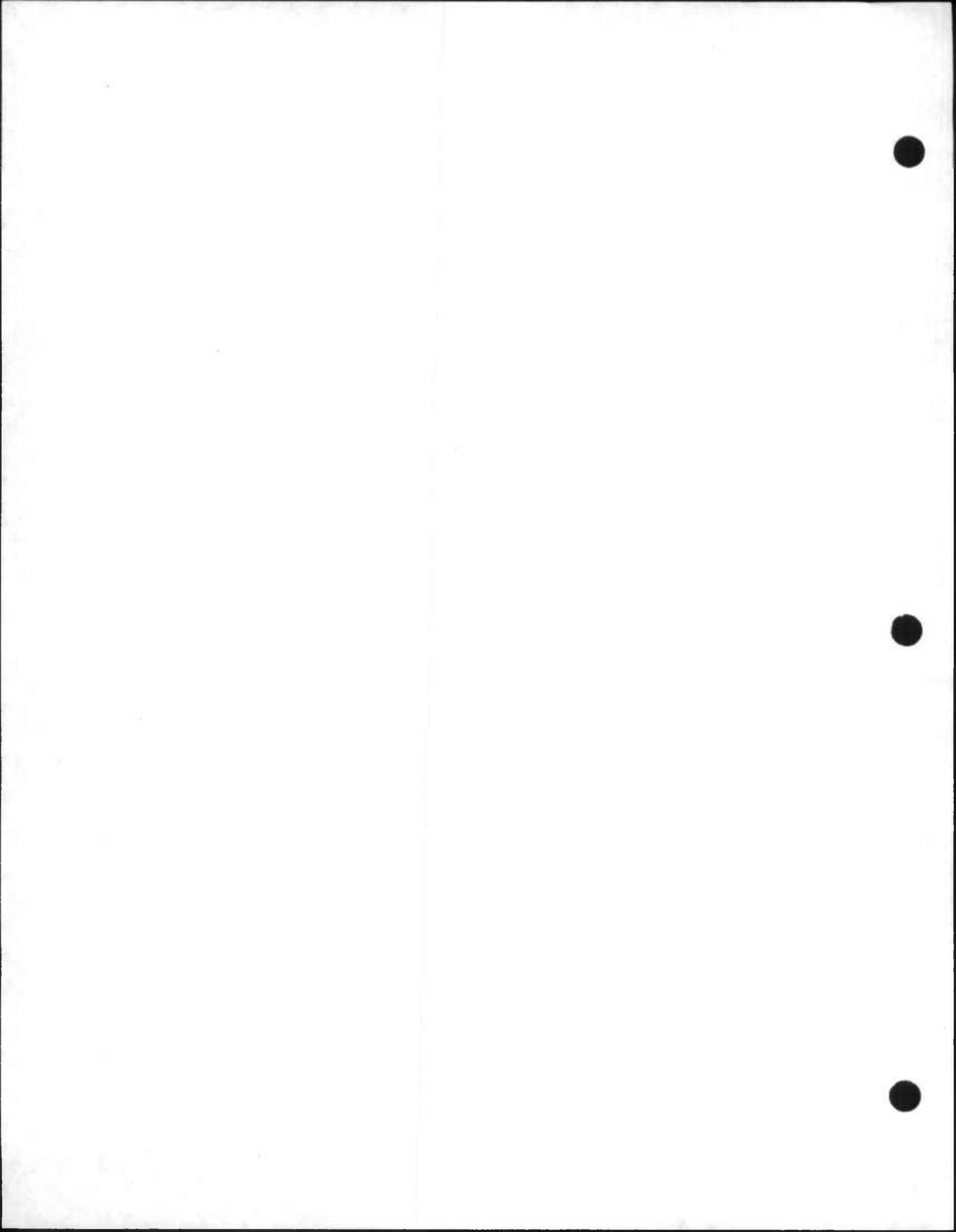
Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

PG 570-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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October 1, 2007

Mr. Jim Stasz
M-NCPPC Development Review Division
Prince George's County Planning
14741 Governor Owen Bowie Drive
Upper Marlboro, Maryland 20772

Re: Waterside Subdivision, Lot 10 – Shoreline Access
CP-07010

Dear Mr. Stasz:

Thank you for submitting the above referenced site plan for review and comment. The applicant is seeking shoreline access in order to construct a pier. The property is 22,636 square feet in size and located in the Limited Development Overlay (LDO). The proposed pier and construction of access steps would disturb 1,160 square feet within the 100-foot Buffer. Based on the information provided, I have the following comments:

1. The Critical Area Commission typically recommends 2:1 mitigation for the length and width of the access within the 100-foot Buffer. Therefore, this office recommends 2,320 square feet of mitigation be provided.
2. Based on my review of the mitigation provided, the applicant is providing 1,150 square feet of mitigation. Additional trees and shrubs will need to be included in the planting plan.
3. Additionally, the lot must meet the 15% afforestation requirement for the Limited Development Overlay (LDO). Based on the lot size of 22,636 square feet the 15% threshold is 3,395 square feet.
4. The Commission Forest Mitigation Policy recommends mitigation consist of a mix of trees and shrubs using the following credit system: one tree for every 100 square feet or one tree plus two understory trees or three shrubs for every 400 square feet of mitigation required.

5. Mitigation for impacts to the Buffer must be accommodated to the maximum extent possible in the 100-foot Buffer. It would appear all of the mitigation could be accommodated within the 100-foot Buffer. The applicant may want to consider the addition of shrubs in some areas if they also want to maintain some views.

Thank you for the opportunity to comment. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned above the typed name.

Kate Schmidt
Natural Resources Planner

PG 515-07

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. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-2207
Haynie - 38810 Collinwood Drive

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow an after-the-fact accessory structure (attached deck) in the 100-foot Buffer. The site is 3.69 acres in size and located within the Limited Development Area (LDA). The site is currently developed with a dwelling, garage, and driveway.

Provided the property is properly grandfathered, we cannot support this variance as proposed. However, impacts must be minimized and the variance the minimum necessary. Based on the information provided, I have the following comments:

1. This office cannot support a deck of this size in the Buffer as the minimum necessary. Disturbance within the Critical Area should be minimized to the extent possible to gain relief, which is not obtained by a deck that is 925 square feet or what appears to be nearly one-third of the size of the redeveloped house.
2. This office could support a smaller deck provided it is constructed to be and remain pervious, with a gravel substrate and vegetative stabilization at the perimeter.
3. Mitigation, at a ratio of 3:1 for the area of disturbance within the Buffer, should be required. It appears that mitigation plantings could be accommodated on the property. We recommend that plantings consist of a mix of native species of trees, shrubs and ground cover.

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

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

cc: SM 544-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 1, 2007

Ms. Tammy Dean
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Jarvis Family 1-Lot Subdivision
Tax Map 46 Parcel 268 Lot 23

Dear Ms. Dean:

Thank you for submitting the above referenced minor subdivision for review and comment. The applicant is proposing to create a 0.12 acre lot from a 2.05 acre parcel. The parcel is entirely located within the Resource Conservation Area (RCA) and currently developed with a single-family dwelling. Based on the information provided I have the following comments:

1. Per Section 41.6.4 of the St. Mary's County Comprehensive Zoning Ordinance (CZO), density in the RCA may not exceed one dwelling unit per twenty acres. Given the original parcel is 2.05 acres in size no subdivision of the property is allowed.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 552-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

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September 28, 2007

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

Re: Tidal Wetlands Application 07-GL-1686; Amtrak
Cecil County

Dear Mr. Ghigiarelli:

This office has reviewed the above referenced permit application for an emergency repair to an eroding bank above which is located the Amtrak rail line. The project is located along the North East River in Cecil County, within the 110-foot Critical Area Buffer. Per the Maryland Coastal Zone Management Program I have reviewed the materials and determined that this project on Federal lands is consistent with the Maryland Critical Area Law and Criteria in the Code of Maryland Regulations based on the following reasons:

1. The action is required due to an emergency slope failure.
2. The applicant will provide 1:1 mitigation for the area of impact in the 100-foot Buffer, or 1.52 acres.

In order to ensure the above required mitigation has been provided, I am enclosing a Planting Agreement Form to be forwarded to the applicant with the consistency determination. The Planting Agreement Form may be submitted directly back to this office. The selected mitigation site should be located within the Critical Area and preferably within the 100-foot Buffer. If the applicant has any questions, they may contact me directly at (410) 260-3475.

Sincerely,

Kate Schmidt
Natural Resources Planner

Cc: Jane Rowan, Schnabel Engineering

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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September 28, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-0319; Cannon
16340 Piney Point Road

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow the replacement of an existing dwelling within the 100-foot Buffer and to construct a new boathouse within tidal wetlands. The site is 54,449 square feet in size most of which is encumbered by tidal wetlands and located within the Resource Conservation Area (RCA). Additionally, it would appear the entire site is within the 100-foot Buffer or expanded 100-foot Buffer.

This office does not oppose the establishment of a new dwelling in the same location as, and no further shoreward than, the existing dwelling. However, impacts should be minimized to the extent possible and the variance the minimum necessary. In this instance, the dwelling is located in approximately the same footprint as the existing house. However, the proposed boathouse is a new structure, not connected to the principal dwelling, and it is located within tidal wetlands and closer to the shore.

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 Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

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In this instance, the applicant is requesting to construct an accessory structure not connected to the principal dwelling. The St. Mary's County Comprehensive Zoning Ordinance Section 41.8 specifically excludes storage structures and areas from the 100-foot Buffer as they do not meet the definition as a water-dependent facility. Further, the Critical Area Overlay zone for this site is Resource Conservation Area (RCA) which limits density to one dwelling unit per twenty acres. The proposed structure may not contain kitchen facilities or other amenities that would allow it to function as a dwelling unit. It has been the experience of this office that enforcement of this issue at times becomes problematic.

The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. The applicant's proposal for the boathouse lies in direct contrast to the goals of the General Assembly and the goals of the Buffer. In order to obtain a variance, the applicant must meet all of the applicable standards for the Critical Area including the standard of unwarranted hardship. The applicant can not meet this standard as they already have a dwelling which provides reasonable and significant use of the property. Additionally, granting of the variance would confer on the applicant a special privilege in allowing a new structure in the Buffer that would be denied to others in a similar situation.

Lastly, based on the information provided I have the following additional comments:

1. An engineered site plan must be submitted indicating the existing area of impervious surface, the acreage of upland, and a determination of whether the wetlands on site are State or private. These figures are necessary to determine whether the applicant meets the impervious surface limit. State tidal wetlands cannot be included within the boundaries of any privately owned lot or parcel and cannot be used for density calculations or to meet the performance standards for development within the Critical Area.
2. The boundary of the 100-foot Buffer should be corrected. In this scenario, the 100-foot Buffer is drawn from the edge of tidal wetlands. It would appear based on the tidal wetland constraints that the entire property is within the Buffer.
3. In the event that the wetlands on site are determined to be State wetlands, the proposed action would require a tidal wetlands license from Maryland Department of the Environment (MDE).

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

Sincerely,



Kate Schmidt
Natural Resource Planner

SM532-07

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 26, 2007

Ms. Melissa B. Cook-MacKenzie
Zoning Administrator
Town of North East
P.O. Box 528
North East, Maryland 21901-0528

Re: Town of North East Critical Area Ordinance Review and Update

Dear Ms. Cook-MacKenzie:

This office has received a copy of the recently revised Town of North East Critical Area Ordinance. In accordance with the provisions of the Critical Area Act Section 8-1809(g), it is my understanding that this submittal complies with the following:

- (1) The submittal is a result of the completion of the required 6-year comprehensive review;
- (2) The submittal includes all changes to the Town's Critical Area Program and all matters the local jurisdiction wishes the Commission to consider as a result of the comprehensive review;
- (3) The Town has coordinated with the Heritage Division regarding an updated resource inventory as it pertains to Habitat Protection Areas; and
- (4) The submittal includes information about the acreage within each land classification, the growth allocation used, and the growth allocation remaining.

The Critical Area Commission is accepting the revised ordinance for processing. 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 his determination and the procedures for review by the Critical Area Commission.

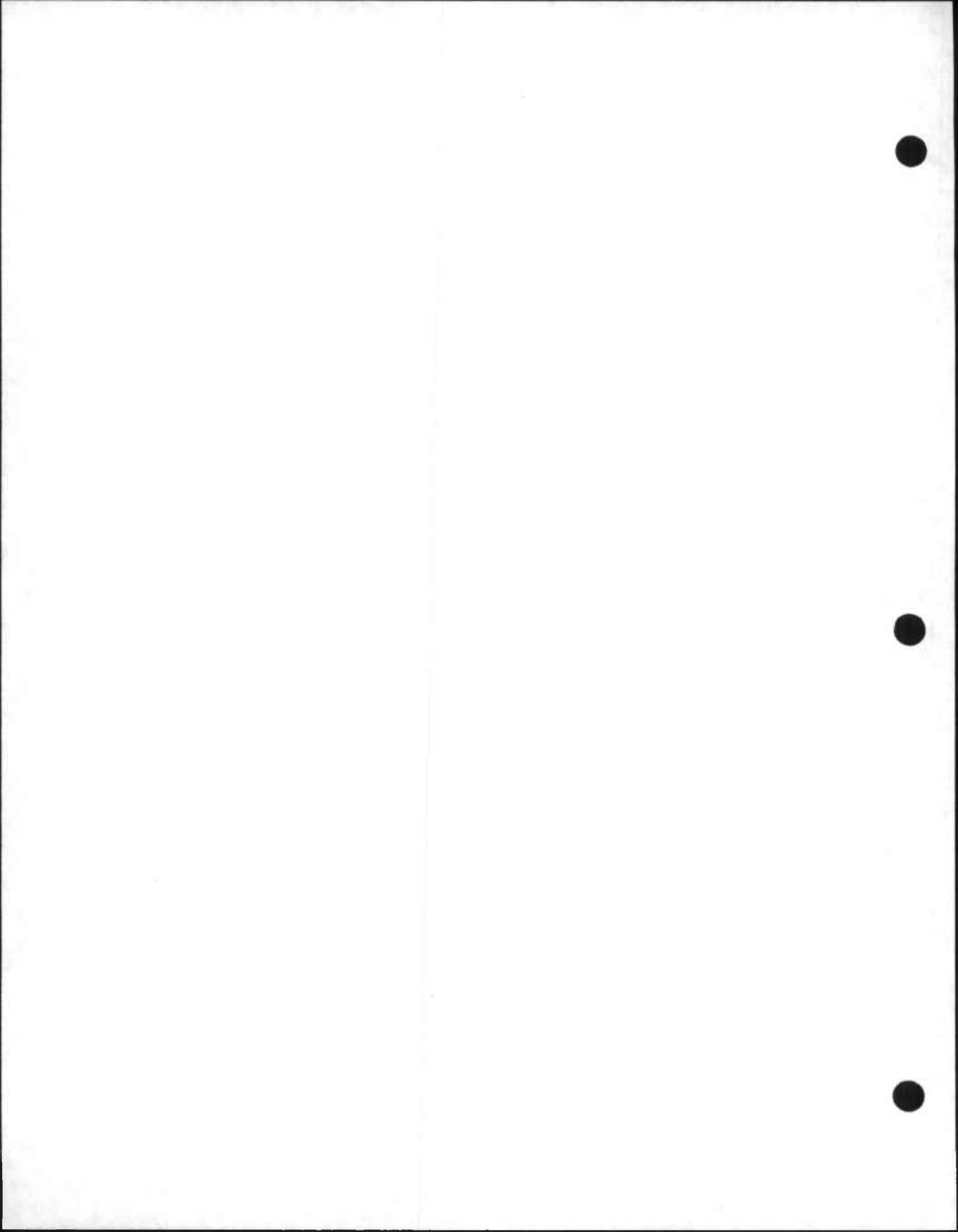
Thank you for your cooperation. If you have any questions, please telephone me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

cc: Mary Ann Skilling, MDP



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 26, 2007

Mr. John Fellows
McCrone, Inc.
106 East Main Street, Suite 101
Elkton, Maryland 21921

Re: Anchor Marina, North East River, Cecil County

Dear Mr. Fellows:

Thank you for your letter of September 14, 2007 regarding redevelopment in the 110-foot Buffer at the above referenced property. You specifically had a question regarding the provisions of the Cecil County Zoning Ordinance for redevelopment in the 110-foot Buffer. The property in question is an existing marina and located in the Limited Development Area (LDA). It is not designated as a Buffer Exemption Area (BEA). Currently, development is located in the 110-foot Buffer over which new development is proposed.

Code of Maryland Regulations Section 27.01.02.07 states 'if any existing use does not conform with the provisions of a local Program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in COMAR 27.01.11.' In this situation, the County must use the provisions of Section 196 'Buffer Requirements' and Section '198' Water-Dependent Facility Requirements, to determine how to review and process an application for redevelopment of this facility. Therefore, any increase in intensity of use or expansion of use of activities in the Critical Area 110-foot Buffer would require a variance.

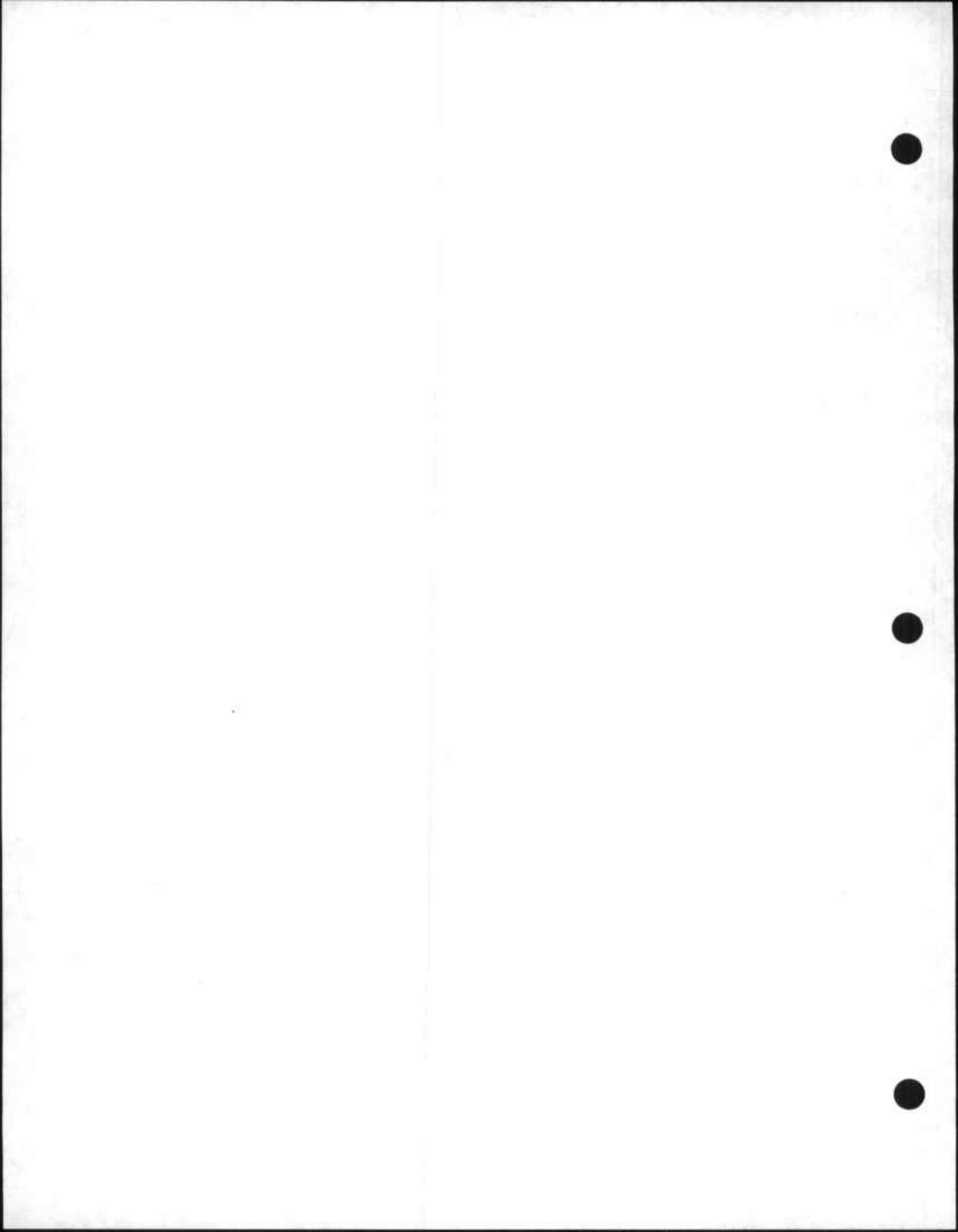
Thank you for contacting this office. If you have any questions regarding this position, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

Cc: Mr. Joseph Johnson, Cecil County



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
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Executive Director

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September 26, 2007

Ms. Melissa B. Cook-MacKenzie
Town Administrator
Town of North East
PO Box 528, 106 South Main Street
North East, Maryland 21901-0528

Re: Nauti Goose Saloon Variance Request

Dear Ms. Cook-MacKenzie:

I am writing in regards to above referenced variance request scheduled to be heard by the Board of Appeals on September 27, 2007. It is the understanding of this office that the applicant will be called by the Board, but at the consent of both the Town and the applicant, the hearing will be delayed until outstanding legal issues are resolved. Given the nature of those outstanding legal issues, this office concurs with this course of action.

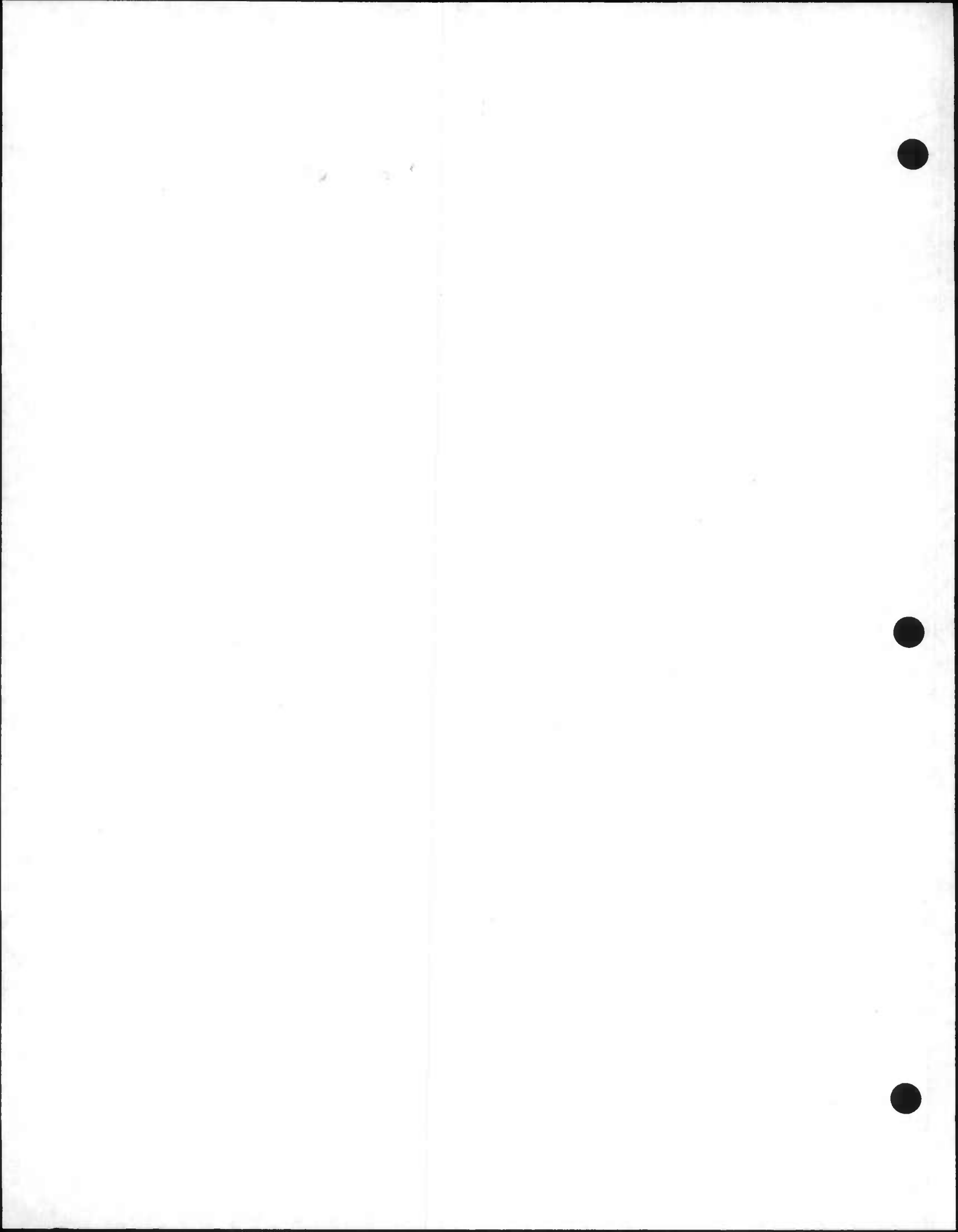
Thank you for your attention to this matter and conveying this information to the Board of Appeals.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

Cc: Marianne Dise, Commission Counsel
Mary Ann Skilling, MDP



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 18, 2007

Ms. Susan McCauley
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Mill Cove Subdivision
06-110-097

Dear Ms. McCauley:

I have received the above-referenced revised preliminary subdivision plan. The applicant is seeking to subdivide a 10.40 acre parcel into seventeen lots and five parcels. The site is entirely located within the Limited Development Area (LDA). Based on the information provided I have the following comments:

1. The site plan indicates Forest Interior Dwelling Species (FIDS) habitat may be present. Section 71.8.2 of the St. Mary's Comprehensive Zoning Ordinance states that FIDS habitat shall be conserved and protected in accordance with the provisions of COMAR 27.01.09.04. To assist jurisdictions in meeting the standards of COMAR, the Critical Area Commission published site design guidelines and mitigation standards in a June of 2000 guidance document A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area. This office recommends the applicant complete the Site Design Guideline Worksheet found in the guidance document and that they calculate the required mitigation. If the design guidelines are not followed the mitigation requirement can be very extensive. In order to ensure future lot owners do not have a large mitigation requirement when they develop their lot, the Commission typically recommends jurisdictions require FIDS mitigation be provided prior to final plat approval.
2. Critical Area Note #15 should be revised to state that while each individual lot may be developed up to 25% impervious surface, the entire subdivision, including all supporting

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development (roads, sidewalks, etc.) is limited to 15% impervious surface coverage, or 64,883 square feet.

3. I am unable to reconcile the differences between the table outlining the summary of development impacts regarding impervious surface and forest coverage and the limits on these development activities under the Critical Area Notes. Please have the applicant clarify these items.
4. The provision of a community pier with individual slips for lot owners is regulated by Section 41.8.4(c) which limits the number of slips to the lesser of either (1) one slip for each 50 feet of shoreline in the LDA or (2) 15 slips for the platted 17 lots.

Thank you for the opportunity to provide comments. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,



Kate Schmidt
Natural Resources Planner

cc: SM697-03

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 18, 2007

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

Re: Heron Cove Concept Plat – Amendment

Dear Ms. Vennell:

Thank you for submitting the above referenced concept plan for review and comment. The applicant is seeking a revision to a previously approved concept subdivision plat. The property received growth allocation to change 41.09 acres to Intensely Developed Area (IDA) while the remaining 18.27 acres stayed as Limited Development Area (LDA). The revised concept plan has maintained the same number of proposed units (162). However, the proposed amount of impervious surface has decreased from 17.76% to 15.6%. Based on the information provided I have the following comments:

1. The plat should indicate the boundary between the IDA and LDA portions of the site to ensure it is consistent with the growth allocation.
2. Given the change in impervious surface and site design, the applicant needs to provide new calculations to show it can meet the 10% pollutant reduction rule for the IDA portion of the site.
3. Prior to final plat approval the applicant needs to provide a Buffer Management Plan to demonstrate more specifically a planting plan to establish the Buffer and address any potential impacts to the Buffer. Previously, stormwater outfalls had been proposed to be located in the 110-foot Buffer. While outfalls are a water-dependent facility and do not require a variance, the Buffer Management Plan must address those impacts and provide any necessary mitigation.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
NE755-05

Cc: Mary Ann Skilling, MDP

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 18, 2007

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

Re: Heron Cove Concept Plat – Height Variance

Dear Ms. Vennell:

Thank you for submitting the above referenced variance application for review and comment. The applicant is seeking a height variance for six proposed condominium buildings in order to comply with floodplain regulations. Given the variance request is not related to Critical Area regulations, this office has no comment.

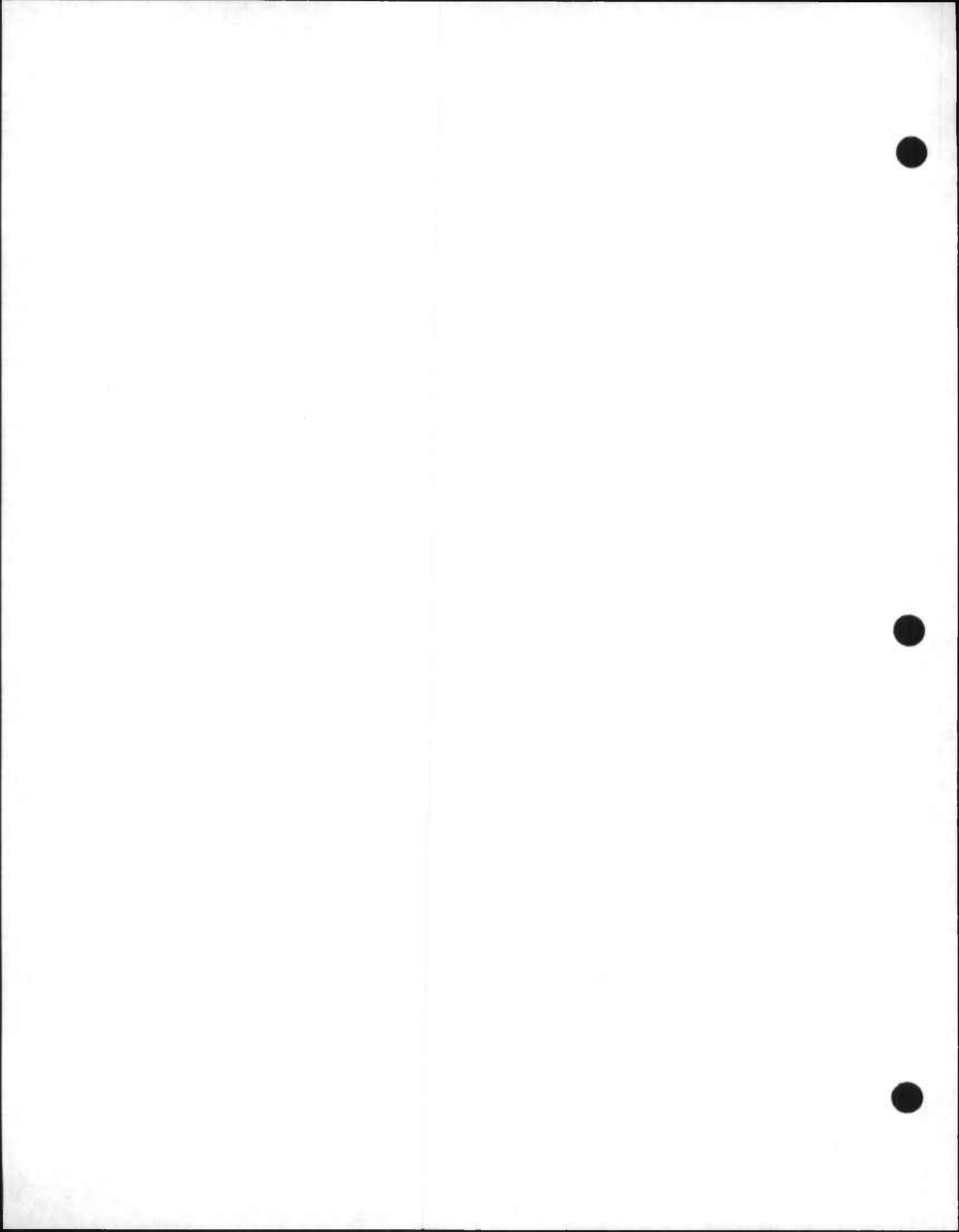
Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
NE755-05

Cc: Ms. Mary Ann Skilling, MDP



Martin O'Malley
Governor

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September 14, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: So. MD Homes Variance, 25882 Whiskey Creek Road
Local Case Number 07-1771

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow an addition, new garage, and new parking area to an existing single family home within the expanded 100-foot Buffer due to hydric soils. The site is 50,617 square feet in size and located within the Limited Development Area.

Provided this lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided I have the following additional comments:

1. According to Section 24.4.2.b(1) of the St. Mary's Comprehensive Zoning Ordinance, mitigation of 3:1 for the area of disturbance within the expanded Buffer is required. The information provided indicates only 1,155 square feet of mitigation will be required. However, the area of disturbance is 3,359 square feet thus the mitigation required should be 10,077 square feet.

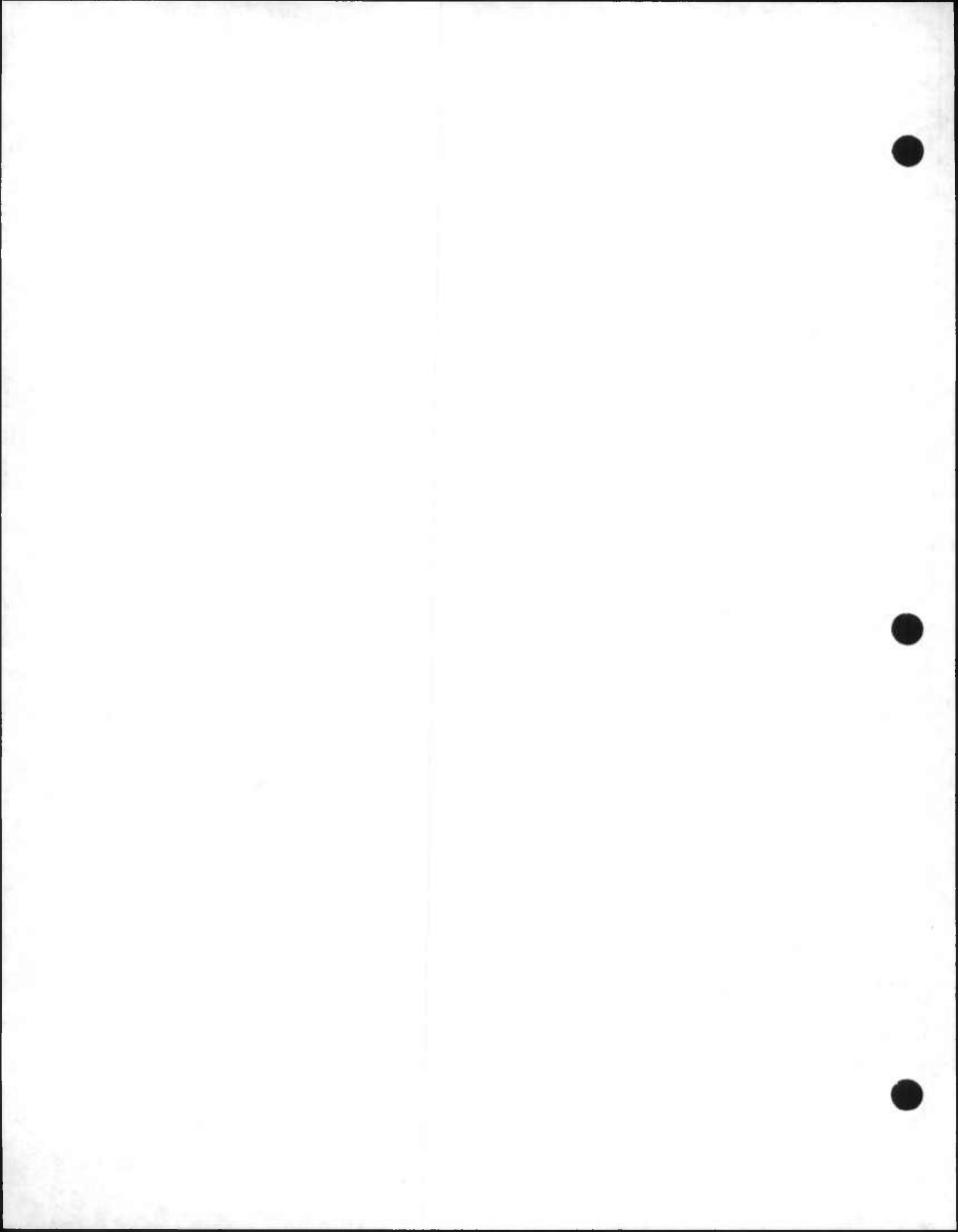
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM522-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
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September 14, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Variance Application 07-1810 Petty
18388 Eighteen Wheel Drive

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow the replacement dwelling. The site is 106,722 square feet in size and located within the Limited Development Area. All existing impervious surface will be removed and a new dwelling and driveway totaling 2,450 square feet of impervious surface will be constructed. The proposed location of the new dwelling is further waterward than the existing and at least partially within the 100-foot Buffer.

Based on the information provided I have the following additional comments:

1. The site plan does not indicate the location of the 100-foot Buffer or whether it must be expanded.
2. It appears the applicant may be able to reduce the impacts to the Buffer by reducing the front-yard setback and moving the house and deck further away from the water line and top of steep slopes. The setback will also further protect the existing steep slopes on the property.
3. Should the County grant this variance, Section 24.4.2.b(1) of the St. Mary's Comprehensive Zoning Ordinance requires 3:1 mitigation for the area of disturbance.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM549-07

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September 14, 2007

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

Re: Chesapeake Cove Concept Plat
Lots 2-11

Dear Mr. DiGiacomo:

Thank you for providing the revised Concept Plat for Chesapeake Cove subdivision for review and comment. The applicant is seeking to create an 11 lot subdivision, of which 6 lots will be located in the Critical Area. The parcel is 158 acres in size, of which 121.25 acres is located in the Resource Conservation Area (RCA). Based on the information provided I have the following comments regarding this Concept Plan:

1. Based on the RCA density limit of 20 acres per dwelling unit a total of 6 dwelling units or 6 lots may be created from this parcel. Including the preliminary subdivision of Lot 1, the applicant is proposing a total of 6 lots and common open space. Provided no active recreation is allowed in the area of common open space, the applicant is meeting the density limit provisions of Section 193.3 of the Cecil County Zoning Code.
2. The DNR wetland overlay maps indicate nontidal and tidal wetlands exist in the area shown adjacent to Lot 1. However, the remaining indicated nontidal wetlands areas are not shown on DNR maps. Further analysis of the site plan which shows steep slopes indicates that these areas are most likely tributary streams. Tributary streams require a 110-foot Buffer per Section 196.1 of the Cecil County Zoning Code. Therefore, the 25-foot buffer shown must be expanded. Staff from this office is available for a site visit to further analyze the hydrologic characteristics of these areas if needed.
3. The soil table indicates there are extensive areas of soils which are defined as hydric and highly erodible soils. GMB also indicates that based on their analysis of the k-factor the majority of the site is not highly erodible. In order to verify this statement, the plan must provide the k-factor for the soil types as a component of the table. Per Article II, Part 1,

Section 12 "highly erodible soils and erodible soils" are defined as 'soils with a slope greater than 15 percent or soils with a "K" value greater than 0.35 and slopes greater than 5 percent.' Additionally, it would greatly assist staff review if the site plan visually indicates those areas where the soil k-factor is greater than 0.35 and slopes are greater than 5 percent. If any of these areas are adjacent to the 110-foot Buffer then the Buffer should be expanded to include them per Section 196.2.c.

4. All proposed development activity should be located so as to not disturb the 110-foot Buffer or expanded Buffer. If the Buffer is disturbed a variance would be required prior to final plan and plat approval. However, the Critical Area Commission would oppose any request for a variance for a new subdivision which can comply with all of the existing Critical Area regulations in the Cecil County code.
5. This office has not received a copy of the review by DNR Wildlife and Heritage. However, our analysis of recent aerial imagery of the site however indicates a potential for Forest Interior Dwelling Species (FIDS) habitat. The June 2000 Critical Area Commission Guidance document for FIDS describes FIDS habitat as forests at least 50 acres in size with 10 or more acres of "interior" habitat or as riparian forests at least 50 acres in size with an average total width of at least 300 feet. It is possible the existing forest areas on site function as riparian FIDS habitat. I recommend the applicant review the design guidelines for new subdivisions in the Commission manual. If the design guidelines are not followed the mitigation requirement can be very extensive. In order to ensure future lot owners do not have a large mitigation requirement when they develop their lot, the Commission typically recommends jurisdictions require FIDS mitigation be provided prior to final plat approval.
6. The preliminary plan should include the following information:
 - a. A note that indicates proposed forest clearing per lot and the required mitigation.
 - b. A planting plan for the required mitigation.
 - c. The limit of disturbance for all proposed development activity to ensure Buffer areas will not be disturbed.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
CE397-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 11, 2007

Ms. April Stehr
Maryland Department of the Environment
Water Management Administration
1800 Washington Boulevard, MS 430
Baltimore, Washington 21230-1718

Re: RAMS#200763429
Tennyson, Francis & Lisa
St. Mary's County

Dear Ms. Stehr:

Thank you for forwarding the above referenced application for review and comment. The applicant is seeking to install a pier, revetment, shed, and steps. You have determined that the revetment, shed, and steps are all to be located above Mean High Water (MHW) and thus the applicant is only required to obtain a State Tidal Wetlands License for the pier. Based on the information provided I have the following comments:

1. All proposed work above MHW must be reviewed and permitted by St. Mary's County Department of Land Use and Growth Management.
2. St. Mary's County allows revetments to be constructed above MHW provided the placement and construction complies with County policy. For further information, the applicant may contact the Environmental Planner at 301-475-4200 x1500
3. St. Mary's County policy allows replacement of existing structures, such as the shed in the 100-foot Buffer up to one year after the use has been discontinued. After that timeframe, the applicant must obtain a variance from the St. Mary's County Board of Appeals.
4. Access, such as stairs, may be granted through the Buffer without a variance provided the steps are no more than 3-feet in width and are located to minimize disturbance to existing vegetation.

Thank you for the opportunity to provide comments. If you have any questions you may contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner



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. Felicia Alexander
Maryland State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Re: Invitation as Participating Agency
Project No. SM351A11
MD 4 – Thomas Johnson Bridge

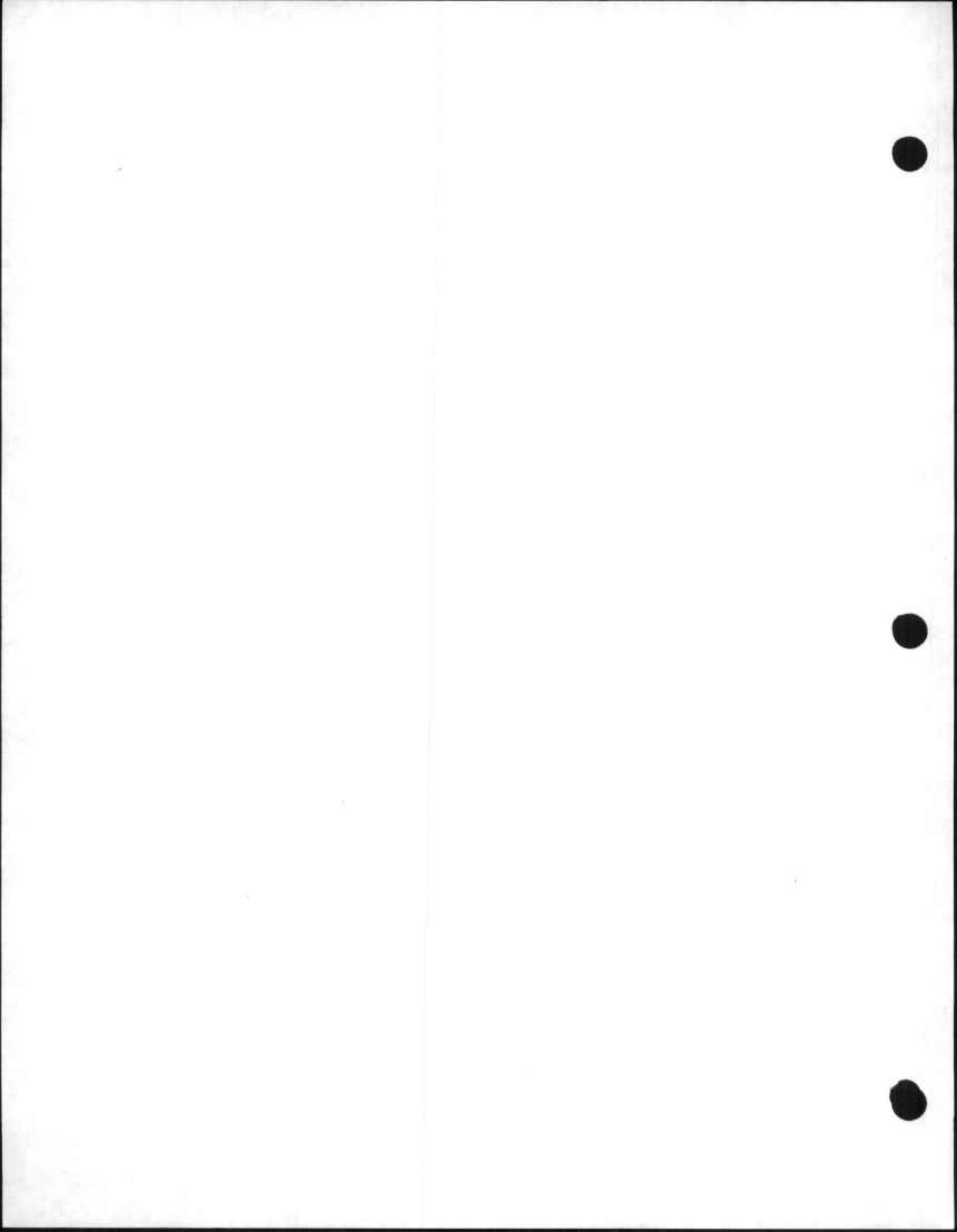
Dear Ms. Alexander:

Thank you for inviting the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays to become a participating agency on the MD 4 planning study to extend from the MD 2/MD 4 split in Calvert County to MD 235 in St. Mary's County. This office accepts the invitation to become a participating agency. Please continue to list Ms. Lisa Hoerger, Chief Project Evaluation Division as your primary contact. She may be reached by email at lhoerger@dnr.state.md.us and by phone at (410) 260-3471.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
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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August 27, 2007

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

Re: Special Exception Request #3341
Carver Property – Commercial Paint Ball Operation

Dear Mr. Johnson:

Thank you for submitting the above referenced special exception application for review and comment. The applicant desires a special exception to allow a commercial paint ball operation to be located on two parcels totaling approximately 94 acres and located in the Resource Conservation Area (RCA).

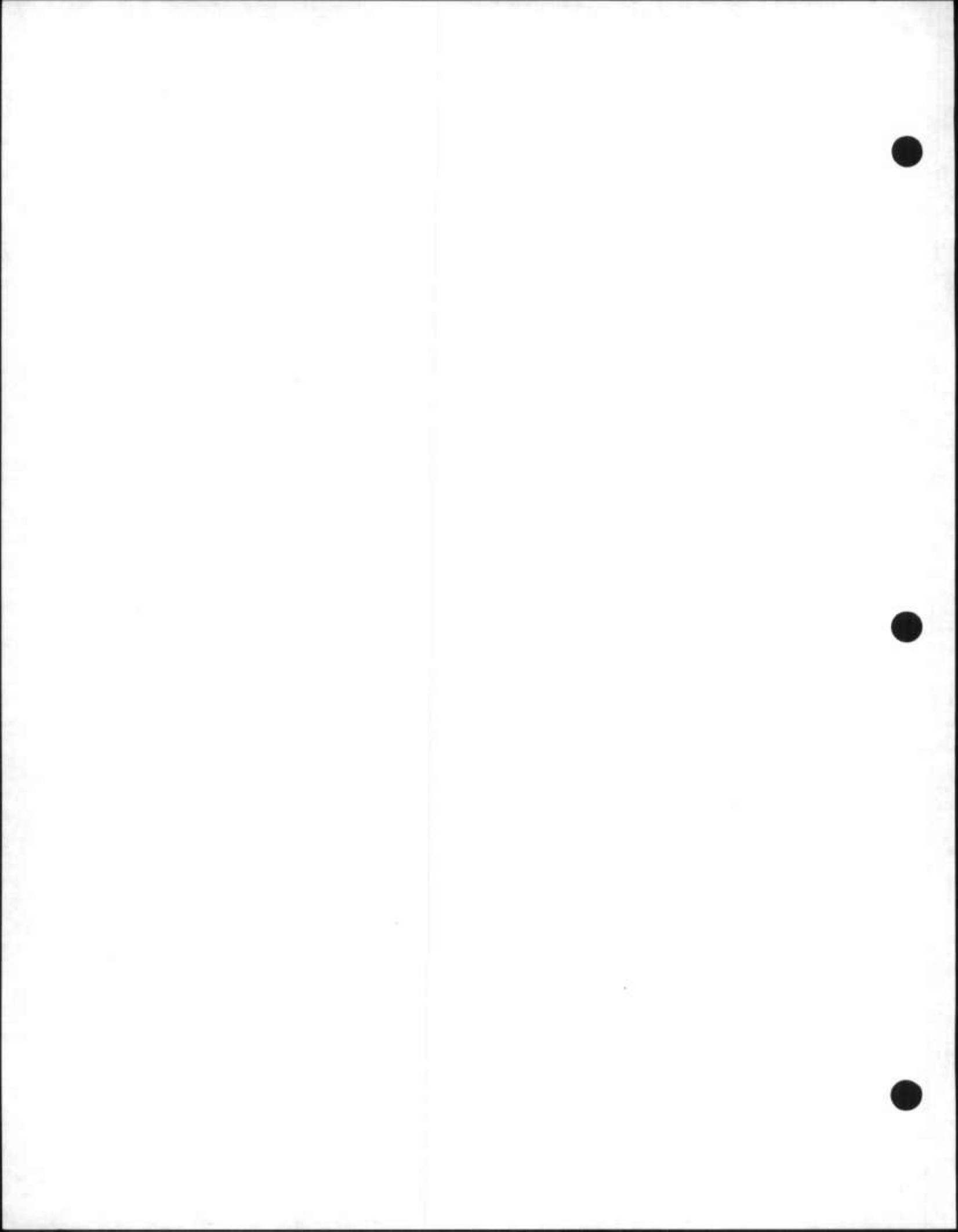
Based on the Cecil County Zoning Ordinance, while the proposed operation does require a special exception, it does not require the use of growth allocation if it is located in the RCA. Typically, the Critical Area Commission does not support commercial operations, other than forestry or agriculture which are resource-utilization activities, to be located in the RCA. If the special exception is granted, development of these parcels must comply with all RCA provisions.

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

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
CE 478-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 27, 2007

Mr. Jim Stasz
M-NCPPC Development Review Division
Prince George's County Planning
14741 Governor Owen Bowie Drive
Upper Marlboro, Maryland 20772

Re: Forest Heights Single Family Dwelling Site Plan
CP-07008

Dear Mr. Stasz:

Thank you for submitting the above referenced site plan for review and comment. The applicant is seeking to construct a single family dwelling on an 8,525 square foot lot located in an Intensely Developed Overlay (IDO). The limit of disturbance is approximately 4,500 square feet. Per the notification requirements of COMAR 27.03.01, projects in the IDO that disturb less than 15,000 square feet are not required to be sent to the Critical Area Commission. However, based on the information provided, I have the following comments:

1. The applicant is sufficiently meeting the requirements of the 10% pollutant reduction requirement for residential development in the IDO per the "Critical Area 10% Rule Guidance Manual".
2. The applicant is sufficiently meeting the required forest mitigation for clearing of forested areas in the IDO.

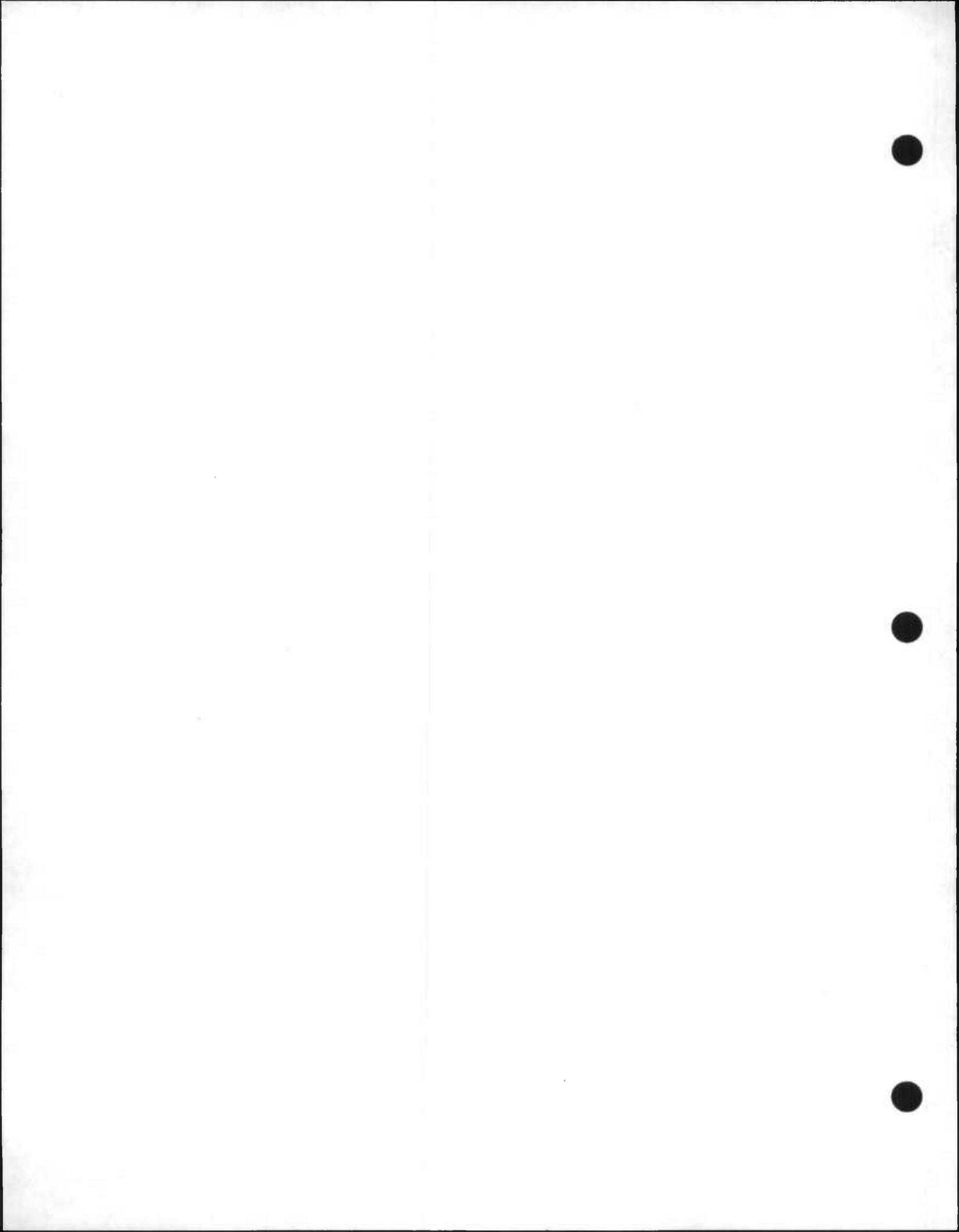
Thank you for the opportunity to comment. Please telephone me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PG 486-07

cc: CJ Lammers, MNCPPC



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 24, 2007

Ms. Kim Finch
M-NCPPC Development Review Division
Prince George's County Planning
14741 Governor Owen Bowie Drive
Upper Marlboro, Maryland 20772

Re: Savoy Single Family Dwelling Site Plan
CP-07009

Dear Ms. Finch:

Thank you for submitting the above referenced site plan for review and comment. The applicant is seeking to construct a single family dwelling on a 45,154 square foot parcel in the Resource Conservation Overlay (RCO). The area of disturbance is 12,200 square feet. Due to the site disturbance exceeding 5,000 square feet in the RCO, this project meets the notification requirements per COMAR 27.03.01 and requires review and comment by Critical Area Commission staff prior to final approval.

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

1. Please add a note detailing the amount of existing and proposed impervious surface.
2. Please add a note stating the 15% impervious surface limit per the requirements of the RCO is 6,770 square feet. Additional impervious surface beyond this limit will require a variance.
3. Please add a note stating that as per the Conservation Manual Section 4.2.c.1, any clearing of forests and developed woodland must be replanted at a 1:1 ratio. Therefore, the applicant must submit a planting plan to replant the four trees that will apparently be cleared by this project.
4. Please correct the site plan which states the overlay zone is Limited Development Overlay (LDO) to Resource Conservation Overlay (RCO).
5. The plan does not indicate whether any additional habitat protection areas such as Forest Interior Dwelling Species (FIDS) are present and must be addressed.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resources Planner
PG 487-07

cc: CJ Lammers, MNCPPC

Martin O'Malley
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August 24, 2007

Mr. Wayne McBride, Deputy Director
Office of Homeland Security
Prince George's County
7911 Anchor Street
Landover, Maryland 20785

Re: Proposed FIDS Mitigation Planting Plan
Eagle Harbor Public Safety Communication Tower Project

Dear Mr. McBride:

Thank you for submitting the Planting Agreement and revised planting plan to address mitigation requirements for the above referenced project. Please notify this office once the 26,440 square feet of planting has been accomplished. The Critical Area Commission will inspect the plantings for survivability for two years after planting is completed. Please contact me at (410) 260-3475 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

Cc: Ms. Laura Connelly, M-NCPPC
Mr. Richard Rothrock, KCI Technologies



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August 23, 2007

Ms. Deborah Herr Cornwell
Herr Landscape Architecture &
Environmental Design
601 Locust Street, Suite 402
Cambridge, MD 21613

Re: Elk River Park Boat Ramp, Cecil County, Maryland
Critical Area Mitigation Requirements

Dear Ms. Cornwell:

Thank you for submitting the additional required information for the above referenced project. The Cecil County Department of Parks and Recreation is proposing to develop a waterfront park at Elk River Park. Approximately 38.41 acres of the park are located within the Resource Conservation Area (RCA). The work proposed consists of the following; (1) extension of River Bend Parkway, (2) construction of stormwater sediment ponds (3) construction of new parking areas, (4) construction of a new dual lane public boat ramp with floating pier, (5) construction of a fixed courtesy pier along the creek, and (6) installation of new bulkhead with stone dust walkway and stone revetment. Additionally, the County is proposing to construct a wetland mitigation area in the 100-foot Buffer for impacts to tidal and nontidal wetlands.

Therefore, due to the increase intensity of use in the Resource Conservation Area and grading in the 100-foot Buffer for the construction of the wetland mitigation area, Conditional Approval by the Critical Area Commission under COMAR 27.02.06 is required.

The following mitigation should be provided for impacts to the 110-foot Buffer and to woodland vegetation:

1. 2:1 Mitigation in the 100-foot Buffer for the Area of Disturbance to install the Boat Ramp (for Shoreline Access)
2. 1:1 Mitigation in the 100-foot Buffer for the Area of Disturbance to construct the wetland mitigation
3. 1:1 Mitigation in the Critical Area for removal of 7 trees and 6,500 square feet of woodland scrub/shrub vegetation

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Additionally, the County Department of Public Works is proposing 2,700 square feet of mitigation in the 100-foot Buffer at Elk River Park for impacts to the 100-foot Buffer associated with sewer line improvements in the Carpenters Point Road neighborhood.

The Critical Area Commission meets the first Wednesday of every month. In order to be scheduled for the agenda, please provide a summary of mitigation requirements and planting plan if available, copies of all applicable state and local permits including any tidal and nontidal wetland permits, stormwater permits, and sediment and erosion control permits, and responses to the following six items listed below:

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

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

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

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

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

C.(1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State of local agency program or project;

C.(2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

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

If there are any questions, I would be happy to meet with the appropriate persons regarding the above items and scheduling with the Commission. I may be contacted at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner
CE270-07

Cc: Mr. Ed Slicer, Parks and Recreation
Kelly Wright, Andrews Miller & Associates

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 23, 2007

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, Maryland 21623

Re: Spot and Rock Park Streambank Stabilization & Bridge Safety Measure
Consistency Report

Dear Ms. Skilling:

Thank you for forwarding the above-referenced project to this office for review and comment. The Town of Port Deposit is proposing to stabilize a stream bank just upstream of a footbridge that provides access to Spot and Rock Town Park. The proposal involves installing 30 linear feet of gabion baskets extending upstream from the western abutments of the bridge. The site location is designated as Intensely Developed Area (IDA). The work will disturb approximately 675 square feet of Buffer to the tributary stream. Based on the information provided, it appears the proposal is generally consistent with the Town of Port Deposit Critical Area Program provided the MDE Waterway Construction permit is approved. Additionally, the submittal will need to provide mitigation at a ratio of 1:1 for the area of disturbance to install the measure.

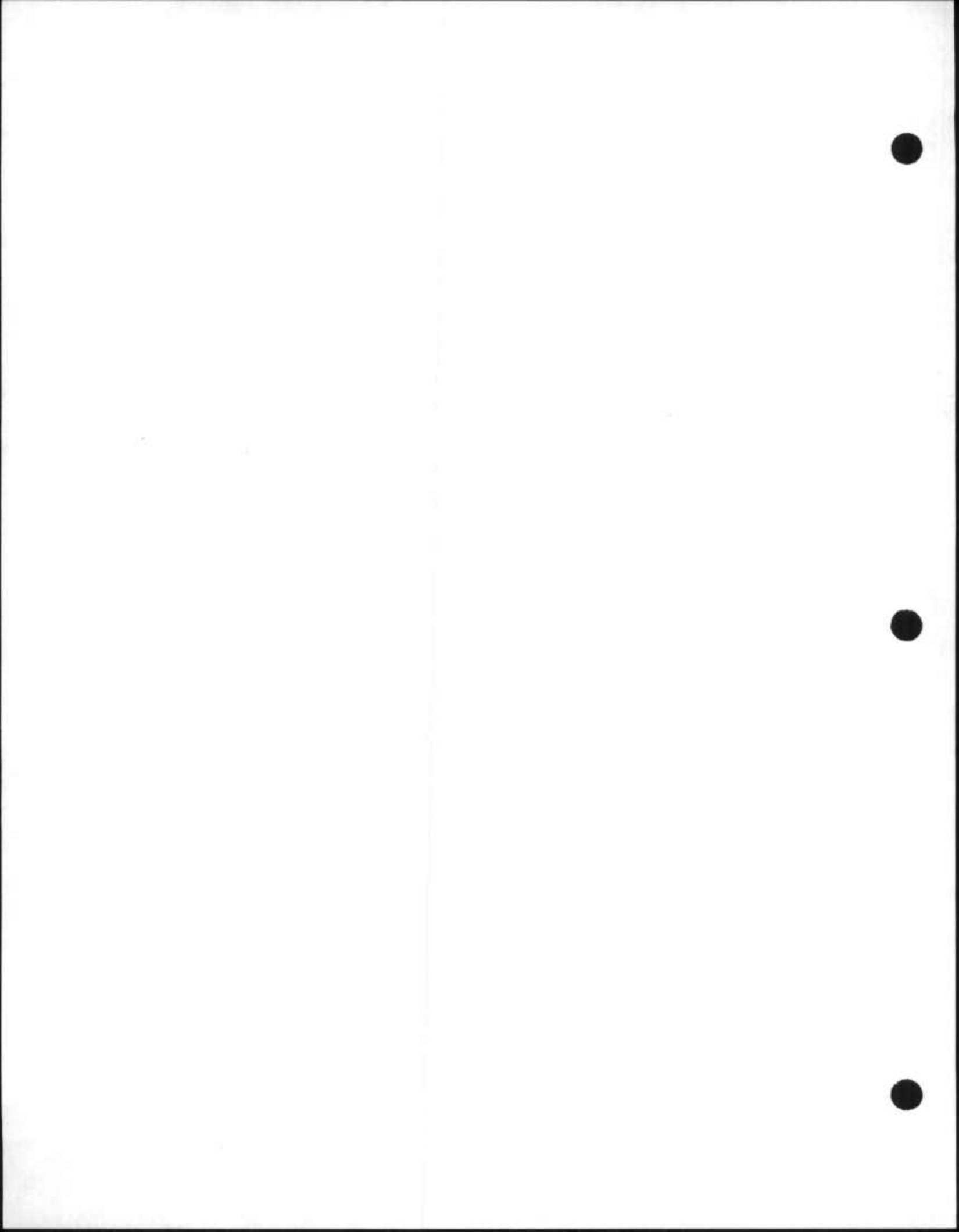
Please submit a planting plan and agreement for the 675 square feet of mitigation. Once this information is received, I will review the material and provide a letter of consistency. Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PD467-07

Cc: Ms. Sharon Weygand, Town Administrator
Brian Bolender, Stantec Engineering



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August 23, 2007

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, Maryland 21623

Re: Retrofit Sidewalk Project for Port Deposit
Consistency Report

Dear Ms. Skilling:

This letter is in response to the Consistency Report submitted for the above referenced project. The Town of Port Deposit proposes to construct and improve approximately 630 linear feet of sidewalk within the right of maintenance for Route 222/Main Street. Proposed activities include the construction of new curb and gutter sections, replacement of drainage structures, and signage and striping improvements. The area of disturbance totals 0.11 acres and is located within the Intensely Developed Area (IDA). Based on the information provided, it appears the proposal is generally consistent with the Town of Port Deposit Critical Area Program. However, the submittal must address the 10% pollutant reduction rule in IDA areas and provide a copy of the 10% Calculation Worksheet. The site area used in the calculation may be limited to the limit of disturbance, or 0.11 acres. It appears the pollutant removal requirement will be minimal if required and may potentially be satisfied by planting trees or shrubs. Once this required information is submitted, I will review the material and respond with a letter of consistency.

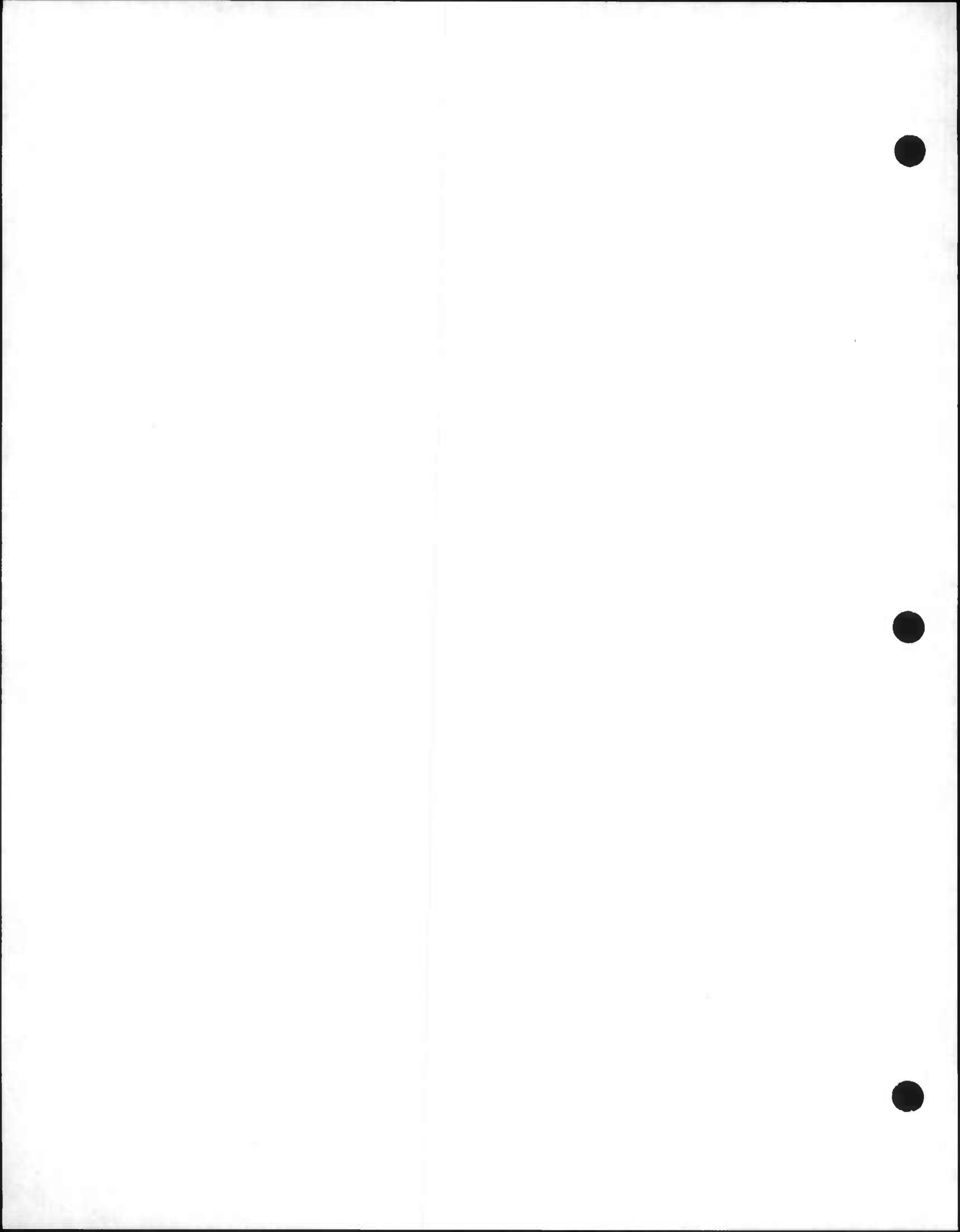
Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PD476-07

Cc: Ms. Sharon Weygand, Town Administrator
Brian Bolender, Stantec Engineering



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August 21, 2007

Ms. Tammy Dean
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Cobrum Minor Subdivision – IntraFamily Transfer
Local Case #07-110-115

Dear Ms. Dean:

Thank you for submitting the above referenced subdivision for review and comment. The applicant is seeking to subdivide a 33.557 acre parcel in the Resource Conservation Area (RCA) into three lots under intrafamily transfer provisions. Based on the information provided, I have the following comments:

1. Bonafide intrafamily transfers in the RCA may only be made from parcels of land that were of record on March 1, 1986. Provided no boundary line adjustments or other subdivision occurred on this parcel since that time, the applicant may utilize these provisions to create three lots.
2. The notes on the plat must include the names and relationship of the immediate family member to whom the three lots will be transferred. Immediate family members include a person who is either the applicant's father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.
3. It appears the applicant is required to plant additional woodland to meet the minimum 15% afforestation threshold. I recommend plantings consist of a mix of shrubs and trees and be directed to the areas of the 100-foot Buffer that are not currently forested.
4. Any comments received from DNR Wildlife and Heritage must be incorporated onto the plat prior to final approval.

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Ms. Tammy Dean
Cobrum 1-Lot Subdivision
Page 2 of 2

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The ink is dark and the signature is written in a fluid, connected style.

Kate Schmidt
Natural Resource Planner

SM 471-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Chair

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Executive Director

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August 21, 2007

Ms. Tammy Dean
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Eugene & Shelby Guazzo – 1 Lot Minor Subdivision
Local Case #07-110-118

Dear Ms. Dean:

Thank you for submitting the above referenced minor subdivision for review and comment. The applicant is seeking to create a 1.84 acre lot and remainder 93.32 Farmstead Lot located nearly entirely within the Resource Conservation Area (RCA). Based on the information provided, I have the following comments:

1. Section 41.6.4(a)1 restricts the use of the intrafamily transfer subdivision in the RCA to parcels that are less than 60 acres in size. Therefore, the applicant may only subdivide under the provisions of Section 41.6.4 which allows one dwelling unit per twenty acres in the RCA or a total of 4 dwelling units for this parcel.
2. The density calculations shown on the plat should be adjusted to state the number of allowable dwelling units or lots is four (4).
3. It is not clear whether any dwelling unit currently exists on the remainder Farmstead Lot. Any existing dwelling unit will need to be clarified, in order to determine the number of dwelling units or lots remaining for future development.
4. Per Section 71.8.3.c(4) the 100-foot Buffer located on the proposed 1.84 acre lot should be established and management measures undertaken to provide forest vegetation.
5. Any comments received from DNR Wildlife and Heritage must be incorporated onto the plat prior to final approval.

TTY for the Deaf

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Ms. Tammy Dean
Guazzo 1-Lot Subdivision
Page 2 of 2

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kate Schmidt
Natural Resource Planner

SM 472-07

Martin O'Malley
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Anthony G. Brown
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Executive Director

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August 21, 2007

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

Re: Local Case #2007-06; Rezoning Application
Connor Property; Tax Map 31 Parcels 1216, 1296, 1297 & 1298

Dear Mr. Johnson:

Thank you for submitting the above referenced rezoning application for review and comment. The applicant is requesting to change the zoning of the four vacant parcels from Residential to Commercial. The parcels total 5.83 acres and lie partially within the Limited Development Area (LDA). The sites are not currently developed and the proposed use is for retail/mini storage.

Based on the information provided, this office has the following comments:

1. It appears there is a tributary stream located on Parcel 1216. Any proposed future development must be located outside of the 110-foot Buffer, properly expanded for any steep slopes, hydric soils and/or highly erodible soils.
2. Since the site is LIDA, impervious surfaces will be limited to 15%.
3. All ancillary uses associated with the construction of the proposed retail/mini storage, including stormwater management, shall be located outside the 110-foot Buffer.

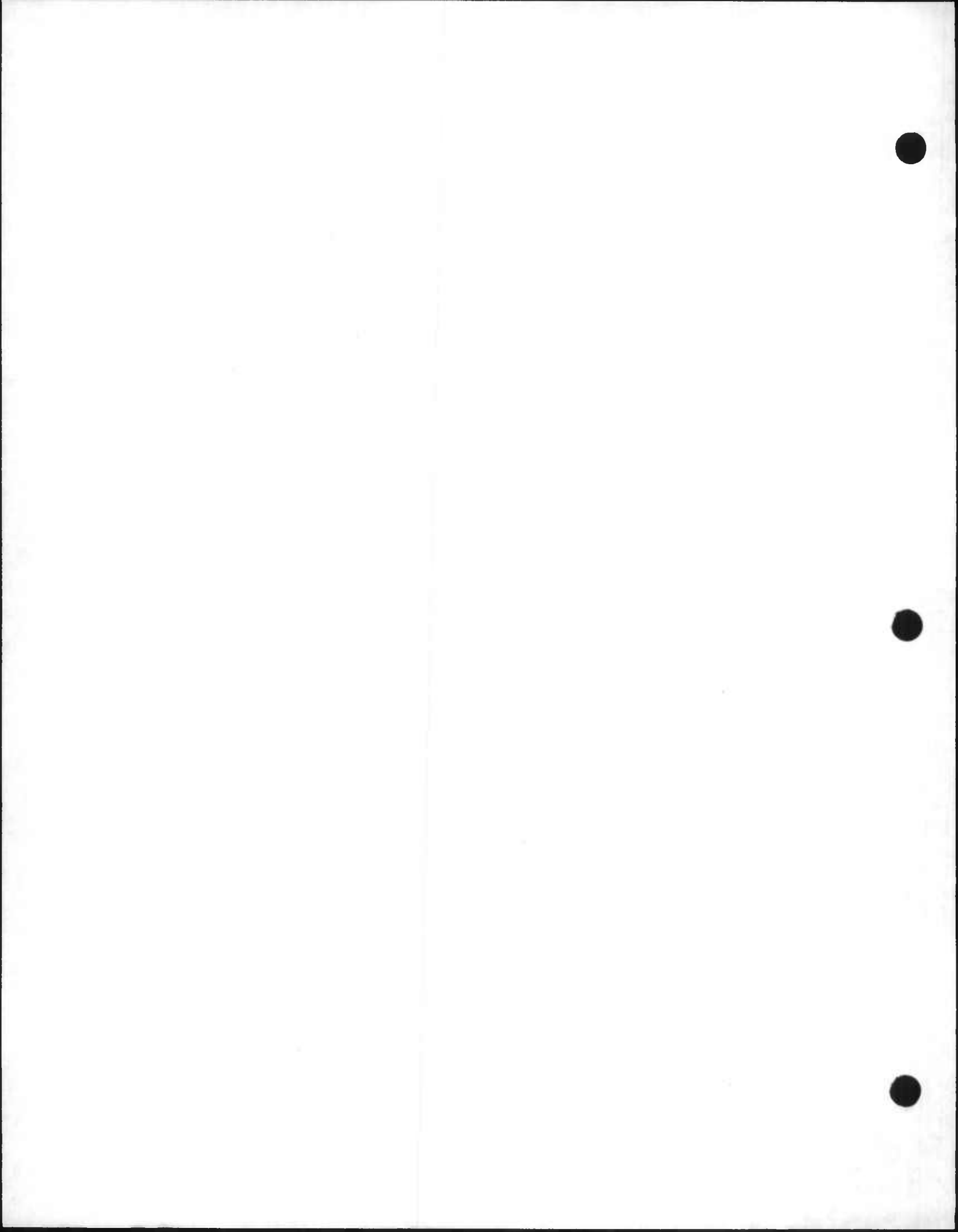
Thank you for the opportunity to provide comments. As always, if there are any questions please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

cc: CE474-07



Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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Executive Director

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August 21, 2007

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

Re: Clagget/Corrin 3-Lot Subdivision
Glebe Road, Earleville

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above referenced subdivision. The applicant is seeking to subdivide a 209.3 acre parcel, of which 78.2 acres is within the Resource Conservation Area (RCA). Based on the information provided I have the following comments:

1. Please add a plat note stating that Section 193.3 of the Cecil County Zoning Ordinance permits one (1) dwelling unit per twenty (20) acres for a total of 3 development rights in the Resource Conservation Area and no further subdivision may occur in the Critical Area.
2. Please add a plat note stating that any proposed development activity must comply with the Habitat Protection Provisions of the Cecil County Zoning Code, including FIDS forest mitigation for any proposed future forest clearing.
3. Please add a plat note stating that disturbance to slopes greater than 15%, the 110-Buffer and expanded Buffer, the 25-foot nontidal wetland buffer, and nontidal wetlands is prohibited.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

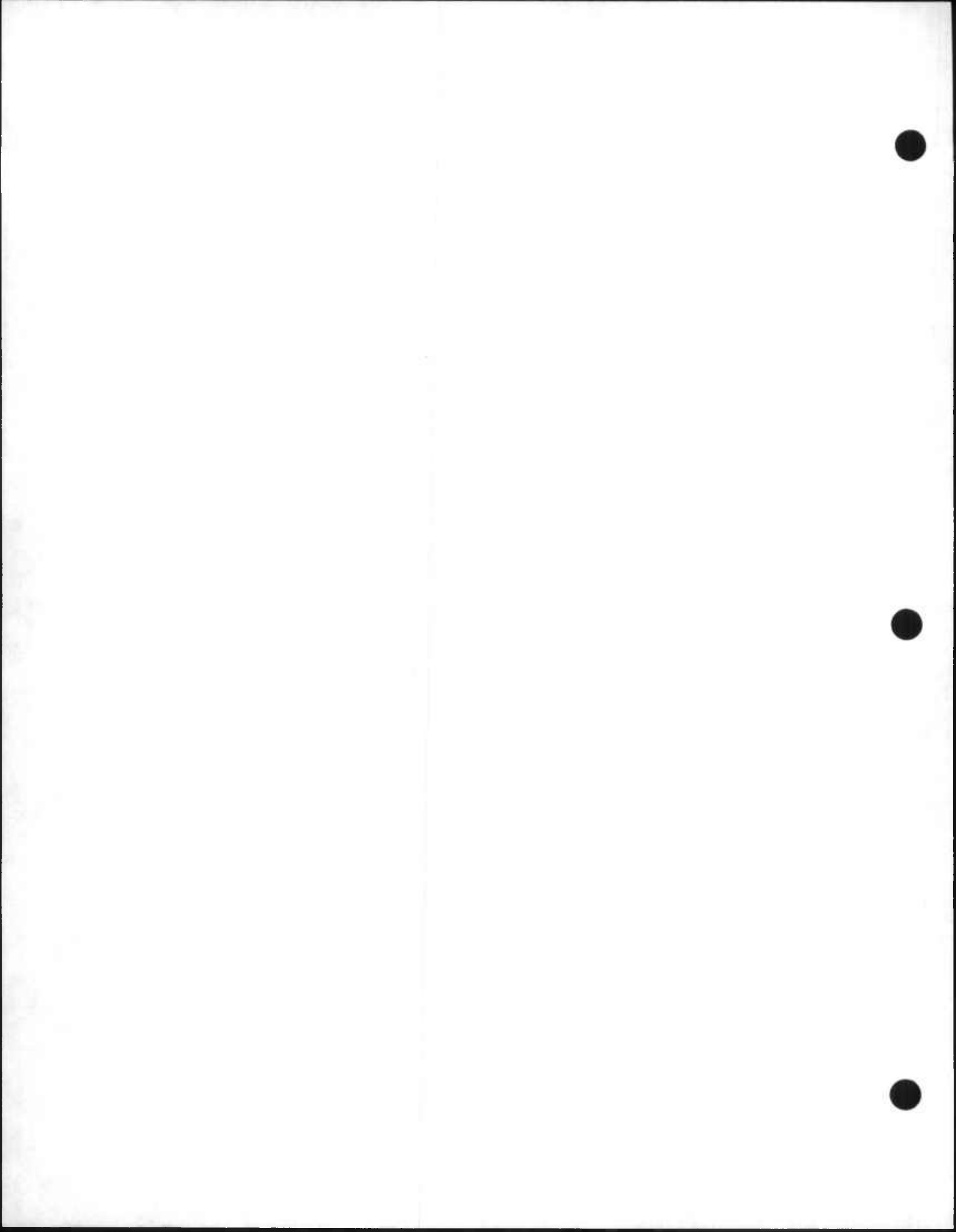
A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

CE163-07

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August 17, 2007

Ms. Tammy Dean
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Travis Minor Subdivision – IntraFamily Transfer
Local Case #07-110-103

Dear Ms. Dean:

Thank you for submitting the above referenced subdivision for review and comment. The applicant is seeking to combine Parcel 347 (0.96 acres) and Parcel 183 (2.55 acres) and resubdivide to create Lot 1 at 1.21 acres and Outparcel A at 2.21 acres. The total 3.436 acres is located within the Resource Conservation Area (RCA). Lot 1 (Parcel 347) is currently developed with a single-family home and Outparcel A (Parcel 183) would remain undeveloped.

Based on the information provided I have the following comments:

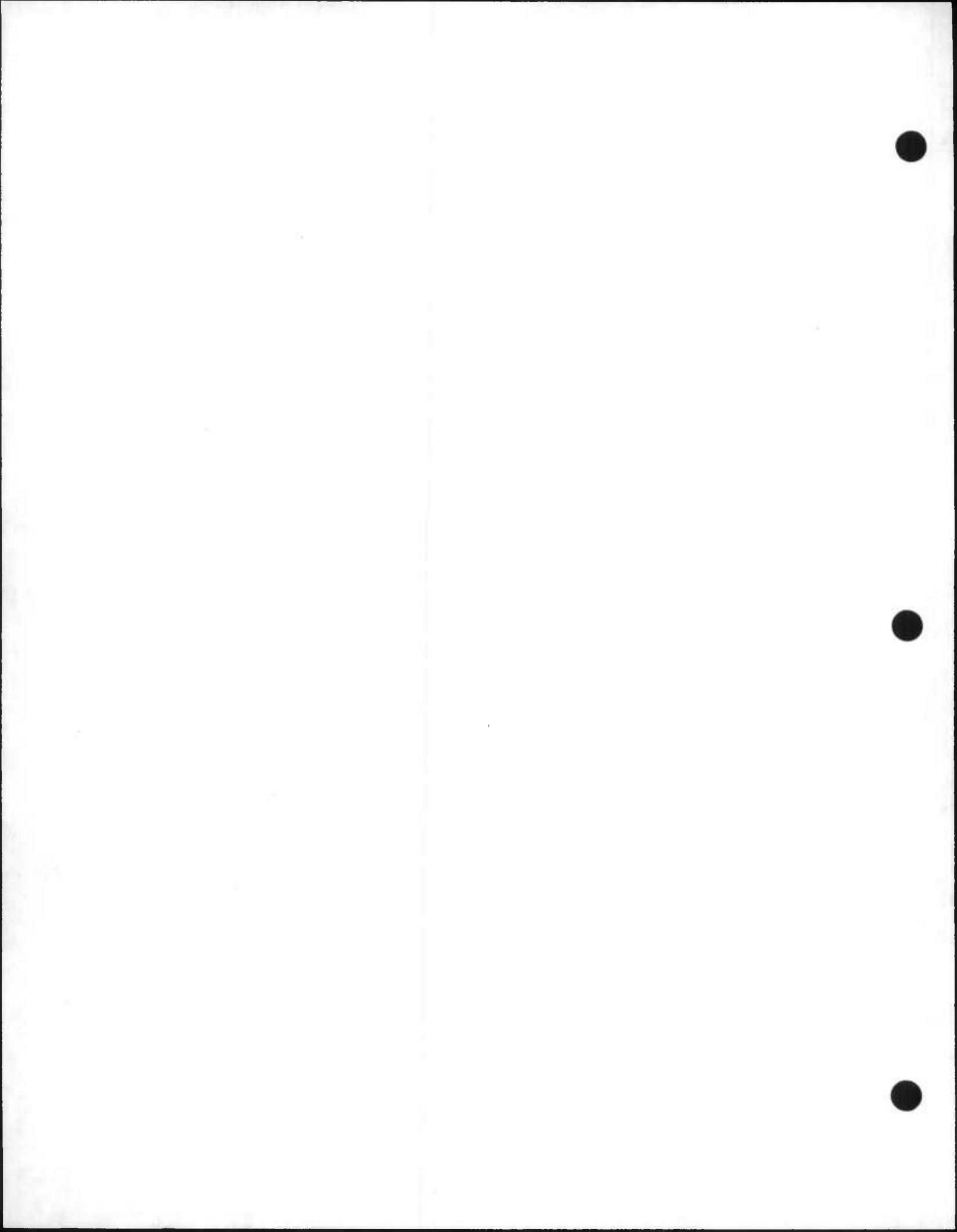
1. The applicant should be advised that Outparcel A would lose its grandfathered status under Section 41.2.2 which allows lots of record on March 27, 1990 to be improved with a single family dwelling even if they do not meet the density provisions of the Critical Area overlay.
2. Please add a note to the plat stating Outparcel A may not be developed.
3. Any comments received from DNR Wildlife and Heritage must be incorporated onto the plat prior to final approval. Aerial photography suggests Wildlife & Heritage may determine the site to be Forest Interior Dwelling Species (FIDS) habitat.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 470-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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August 15, 2007

Mr. Reggie Graves
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Application #200460038/04-PR-0524
Town of Perryville Timber Walkway and Pier

Dear Mr. Graves:

I have reviewed the Joint Public Notice for the above referenced project. Based on the information provided I would like to offer the following set of comments.

This application requests to construct a 566-foot long by 10-foot wide wooden walkway extending into the waters of the Susquehanna River located in Cecil County. The walkway would lead to a 20-foot long by 17-foot wide observation deck. An 80-foot long by 6-foot wide gangway would extend from the deck to a 120-foot long by 8-foot wide floating pier. The floating pier would include twelve 30-foot long by 3-foot wide finger piers, and a 68-foot long by 8-foot wide "T" at the end.

Because this request is made by a local jurisdiction, Critical Area Commission staff must review it for consistency with the local Critical Area Program prior to start of construction.

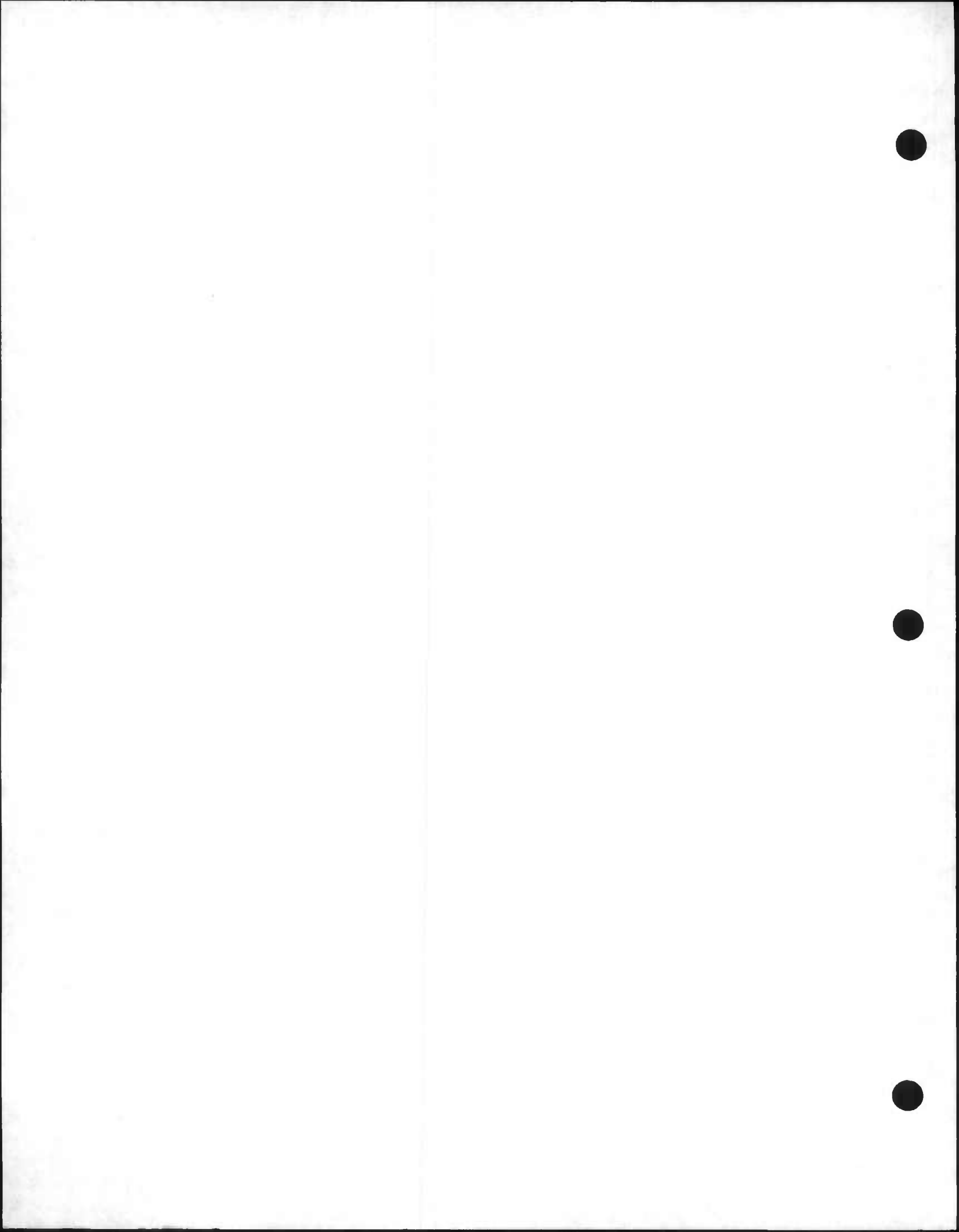
Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3475.

Sincerely,

A handwritten signature in black ink that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

Cc: Mary Ann Skilling, MDP
Denise Breder, Town of Perryville



Martin O'Malley
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Anthony G. Brown
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Executive Director

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August 15, 2007

Ms. Sally Nash
Department of Planning & Zoning
City of Annapolis
160 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: North Green Condo Club House – Washington Square Property
Critical Area Review

Dear Ms Nash:

Since my previous comments submitted on July 18, 2007 to Mr. Dirk Geratz I have received additional information from Sigma Engineering regarding the above referenced project. The information received was a set of 10% pollutant reduction calculations and further explanations of the stormwater management to be provided on site. Based on this information I would like to offer the following comments:

1. This office concurs that the pollutant removal requirement for the developed IDA portion is being met through the removal of impervious surface and disconnection of rooftop runoff. Further, this calculation assumed the pervious pavers to be used for private walkways to be 100% impervious. Therefore my previous first three comments have been addressed.
2. My fourth comment related to the mitigation of the invasive species area. Sigma pointed out that the landscaping provided on the site plan more than meets the required mitigation for all proposed clearing and City requirements.
3. And finally, given the small IDA portion to the north of the site currently is and will remain in vegetation, it is not necessary to add additional notes to the plat regarding compliance with the 10% rule.

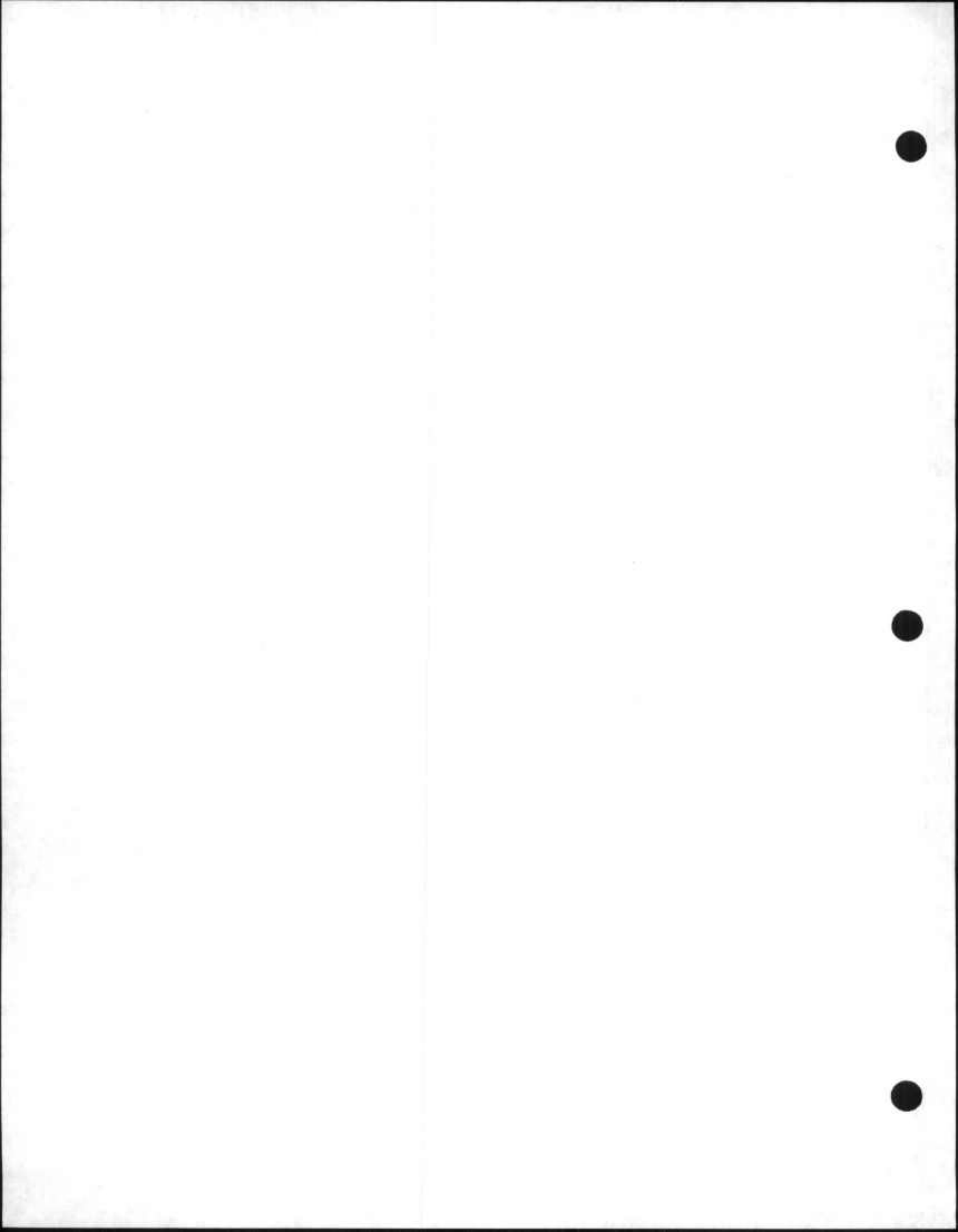
Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
AN400-07

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CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

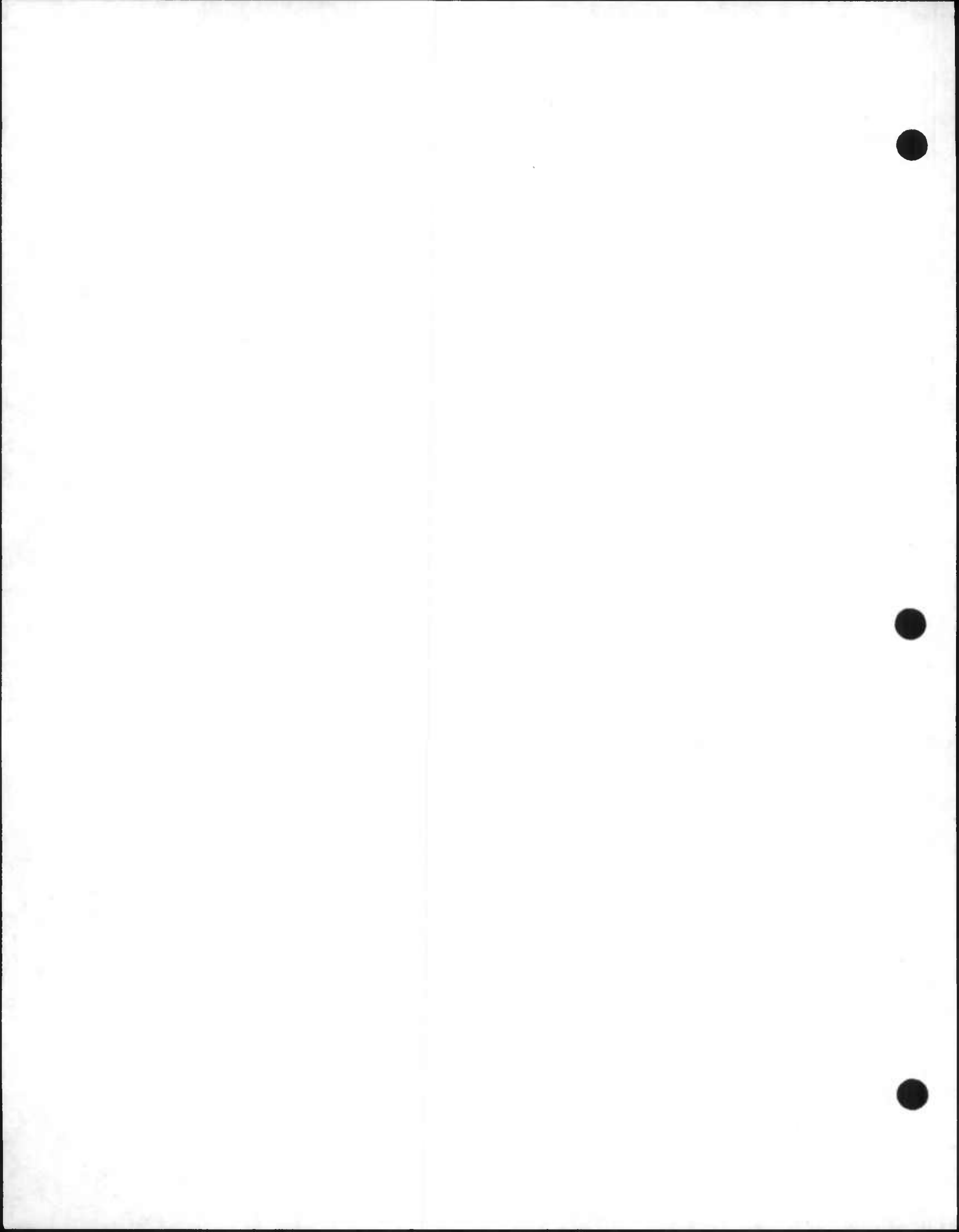
MEMORANDUM

To: James Price, Program Open Space
Date: August 13, 2007
From: Kate Schmidt *KS*
Subject: POS #5218-7-211
Susquehanna River Acq, LSHGT (Meck), Cecil County

Thank you for forwarding the above referenced project proposal for review and comment. Program Open Space intends to purchase and add this 5.45 acres parcel located on the Susquehanna River in the Town of Perryville and connect it to the Lower Susquehanna Heritage Greenway (LSHG). Additionally, the property is intended to provide public access to the river, viewsheds and other opportunities for passive and active recreation.

Please be advised that a portion of the property lies within the Critical Area of the Town of Perryville. Therefore any activities proposed to occur on this property within the Critical Area in the future will require review by the Critical Area Commission, prior to initiation of development activities.

Additionally, please note that the property located at 911 Frenchtown Road, Perryville, and owned by a Mr. John Meck, is currently under a tidal wetlands violation for working within tidal wetlands without required authorization. Additionally, Mr. Meck cleared existing vegetation within the 100-foot Buffer without necessary approvals and the Town of Perryville has been advised to issue a violation and require 3:1 mitigation for the area of disturbance within the 100-foot Buffer. If you have any questions regarding this violation issue please contact Ms. Mary Ann Skilling, Maryland Department of Planning Circuit Rider for the Town of Perryville at (410) 556-6262.



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 13, 2007

Ms. Angela Willis
Office of Planning and Preliminary Engineering
State Highway Administration
Maryland Department of Transportation
707 North Calvert Street
Baltimore, Maryland 21202

Re: Structure No. 18016 – MD 234
Routine Maintenance & Bridge Repairs

Dear Ms. Willis:

Thank you for providing information regarding the above referenced project. Structure No. 18016 is located on MD 234 over St. Clements Creek in St. Mary's County. The project will consist of replacing the existing bridge deck, installing new bridge parapets and approach roadway traffic barriers. The width of the new bridge deck will remain essentially the same and the work will not add new impervious surface. Provided these conditions remain the same, the project may be found consistent with the "Memorandum of Understanding" between the Maryland Department of Transportation and the Critical Area Commission. Should the scope of the project change it should be resubmitted to this office for review.

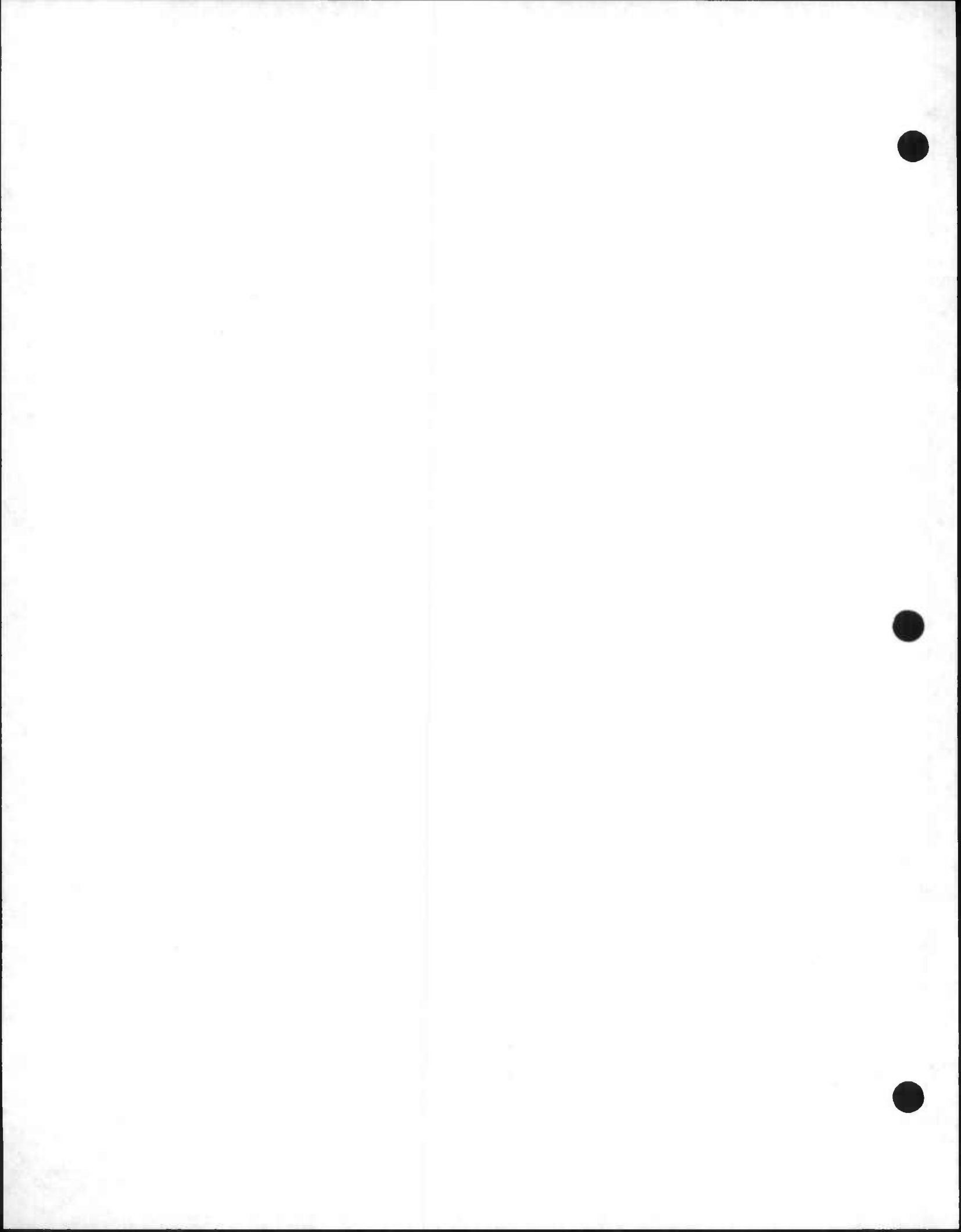
Thank you for allowing me the opportunity to concur with your determination. Should you have any questions please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner

37-07 DOT



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 13, 2007

Ms. Yvonne Chaillet
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Shirley & Jack Mills, 17205 Jutland Road
Local Case Number 07-1192

Dear Ms. Chaillet:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to disturb the expanded 100-foot Buffer in order allow the addition a covered porch, sunroom, and to an existing single-family dwelling. The property is 44,867 square feet in size and located within the Resource Conservation Area (RCA). It is currently developed with a single family dwelling, driveway, and shed. The proposed work will increase impervious surface in the 100-foot Buffer by 347 square feet. The 15% impervious surface limit for the property is 6,730 square feet.

Provided this lot is properly grandfathered, this office does not oppose this variance request. Based on the information provided I have the following additional comments:

1. A Buffer Management Plan shall be provided demonstrating 3:1 mitigation per Section 71.8.3.d of the St. Mary's Comprehensive Zoning Ordinance and Article 2.

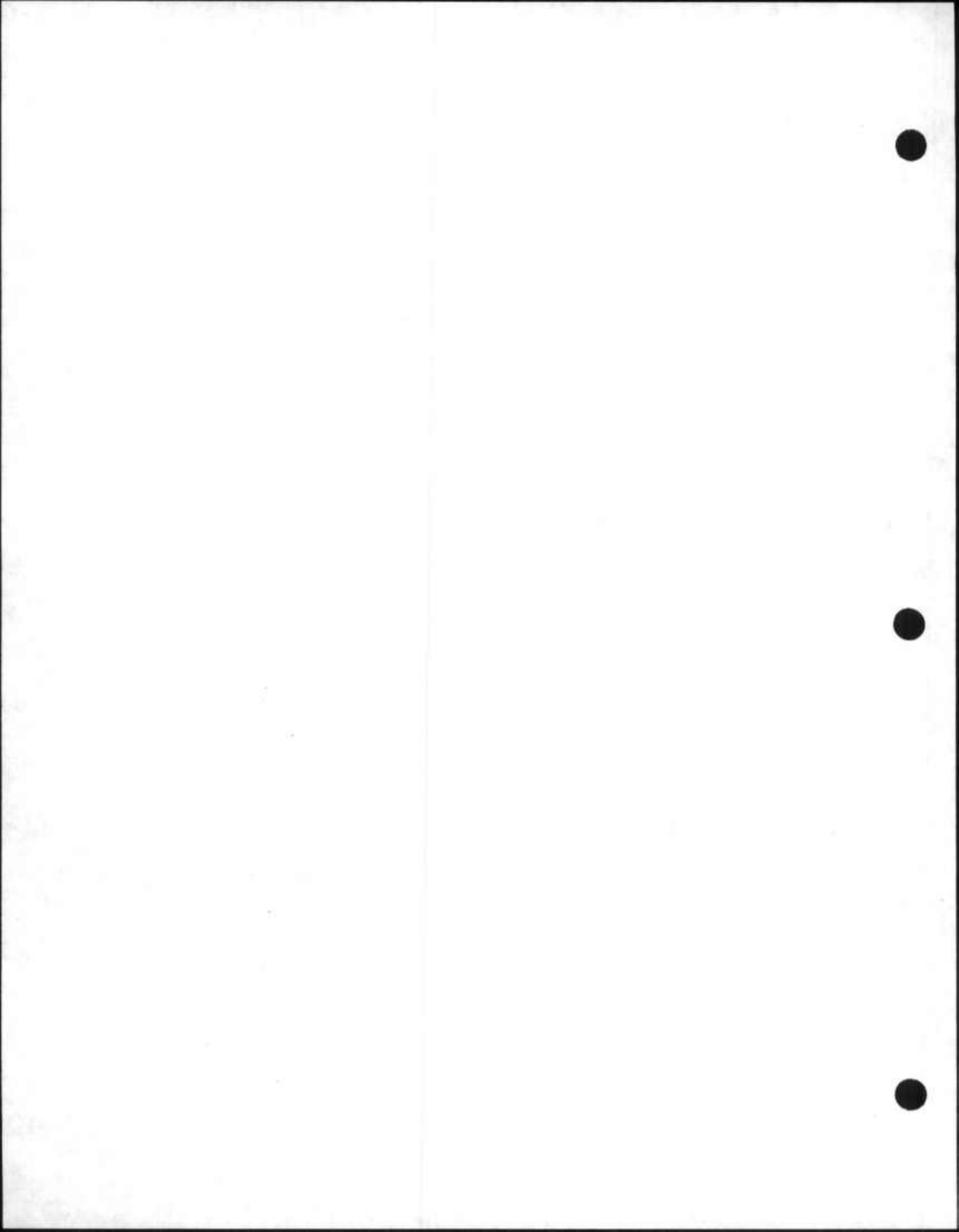
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM460-07



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. Awilda Hernandez
Town of Indian Head
4195 Indian Head Highway
Indian Head, Maryland 20640

Re: BZA#010107 & 010207
Southern Maryland Investment Group, 100 Mattingly Avenue
TM 11, Parcel 630, Lots 40 & 41

Dear Ms. Hernandez:

Thank you for providing information regarding the above referenced variance request. The applicant previously requested variances for disturbance to the Buffer, disturbance to steep slopes, and exceeding the limits of clearing associated with constructing two single family dwellings, one each on Lot 40 and Lot 41. These requests were heard and denied by the Board of Appeals. The applicant has revised the site plan to combine both lots and construct only one (1) single family dwelling.

The redesign has eliminated the need to the variance for woodland clearing. However, the variance requests for disturbance to the 100-foot Buffer and to steep slopes remain. Given that the previous two lots were grandfathered and that the current design proposal is minimizing the extent of impacts by combining the lots and only constructing one house this office would not oppose this variance request.

I have the following comment to offer:

1. Mitigation for disturbance to the 100-foot Buffer should be provided at a ratio of 3:1 or a total of 12,720 square feet.
2. Additionally, the applicant is required to provide mitigation at a ratio of 1:1 for clearing of developed woodland, or 3,883 square feet.

Ms. Awilda Hernandez

August 10, 2007

Page 2 of 2

3. This office recommends that to the extent possible, mitigation be provided on site in the form of plantings of a mix of native shrubs and trees. The remainder may be collected through fee-in-lieu.

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

Sincerely,

Kate Schmidt

Kate Schmidt

Natural Resource Planner

IH 674-06

IH 675-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 8, 2007

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

Re: Site Plan Review #CO7-0070
Northrup Grumman Undersea Systems

Dear Mr. Burke:

I have received the above referenced site plan for review and comment. The applicant proposes to construct a 7,200 square foot addition to an existing manufacturing and office facility. The site is 32.97 acres in size of which 29.4 acres is within the Intensely Developed Area (IDA) and 3.466 acres is within the Resource Conservation Area (RCA). The proposed work will occur on the IDA portion of the site. Based on the information provided I have the following comments:

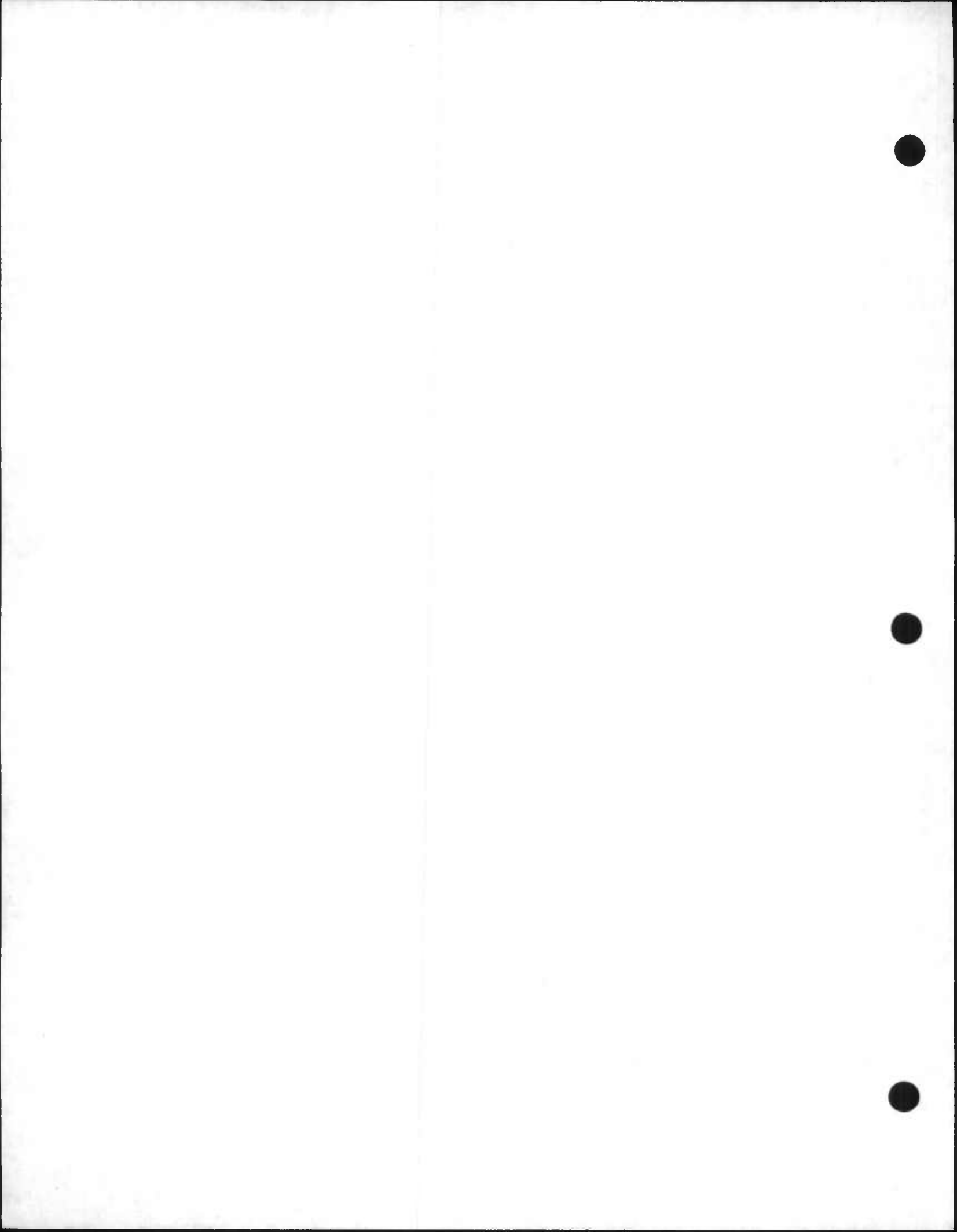
1. It is unclear from the site plan whether the applicant will be increasing impervious surface area of the site. Regardless, the applicant must submit a copy of the appropriate 10% pollutant reduction calculations to demonstrate compliance with the IDA regulations. A copy of the appropriate calculation worksheet may be obtained from the Commission's Critical Area 10% Rule Guidance Manual. This manual and accompanying worksheets can be downloaded from our website at www.dnr.state.md.us/criticalarea
2. The applicant must follow the time of year restrictions in order to meet the habitat protection guidelines provided by DNR for Greater Blue Heron Colony.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3745.

Sincerely,

Kate Schmidt
Natural Resources Planner
cc: AA448-07

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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August 8, 2007

Ms. Susan McCauley
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Robert Pogue Boundary Line Adjustment Plat
Tax Map 38 Parcels 11, 71 & 259

Dear Ms. Veith:

This letter is in response to the above referenced boundary line adjustment plat located in the Critical Area. The plat involves four distinct parcels totaling 11.54 acres and located within the Resource Conservation Area (RCA). The current and proposed configuration of parcels consists of the following:

- Parcel 11 to be reduced from 1.01 acres to 0.95 acres. Impervious surface limit reduced from 0.152 acres to 0.143 acres. Existing impervious surface = 0.11 acres.
- Parcel 71 to be increased from 0.5 acres to 1.18 acres. Impervious surface limit increased from 0.075 acres to 0.177 acres. Existing impervious surface = 0.27 acres.
- Parcel 259, Tract 1 to be reduced from 6.09 acres to 1.44 acres. Impervious surface limit decreased from 0.9135 acres to 0.216 acres. Existing impervious surface = 0.13 acres.
- Parcel 259, Tract 2 to be increased from 3.95 acres to 7.97 acres. Impervious surface limit increased from 0.593 acres to 1.12 acres. Existing impervious surface = 0.13 acres.

Based on the information provided I have the following comments:

1. It appears that there will not be an increase of nonconformity based on impervious surface limits.
2. It appears the areas shown as nontidal wetlands may actually be tidal. Additionally, there appear to be hydric soils present across the site. Therefore, there may actually be a significant area of expanded Buffer that should be shown on the site plan.
3. Until the location of the expanded Buffer is determined, it is unclear whether the applicant would increase nonconformity as it relates to Buffer impacts with the new lot configuration. This issue should be evaluated more closely.
4. A note should be added to the plat stating further subdivision of all the parcels is restricted, including the use of intra-family transfer.

This office would like to request that copies of preliminary plans for boundary line adjustment plats in the Critical Area be forwarded to this office for review and comment. Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner
SM 355-07

Cc: Sue Veith

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 6, 2007

Ms. Jeanine Harrington
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtwn, Maryland 20650

Re: Part of Cobrum Minor Subdivision
MD Route 240 & Cobrum Wharf Road

Dear Ms. Harrington:

This letter is in response to the packet of materials supplied by your office regarding the subdivision history of the Cobrum Subdivision. In particular, there were questions raised as to whether the applicant could use the family conveyance provisions for a parcel in the RCA.

Natural Resources Article §8-1808.2 states bonafide intrafamily transfers may be made from parcels of land that were of record on March 1, 1986. While the applicant's claim that he may have created three lots under the intra-family transfer provision based from the original 55-acre parent parcel is true, the applicant changed the date of the parcel of record to 1994 by subdividing the estate. In addition to the estate subdivision, it appears multiple boundary line adjustments between existing lots and the parcels created through the estate subdivision occurred in the intervening years.

In order to take advantage of the intra-family transfer provisions of the Natural Resources Article and the St. Mary's County Zoning Code, the applicant would need to reestablish the original 55-acre parent parcel. This would involve undoing the boundary line adjustments and the estate subdivision. Once the original parcel is created, the 55-acre parent parcel may be subdivided under intra-family transfer into the three desired lots.

Thank you again for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 354-07

Cc: Mr. David Berry
Ms. Sue Veith

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 6, 2007

Ms. Mary Ann Skilling
Maryland Department of Planning
210 Inverness Drive
Church Hill, Maryland 21623

Re: Port Deposit Water & Sewer Authority Inflow and Infiltration Remediation
Consistency Report

Dear Ms. Skilling:

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, and the accompanying Critical Area report, this office agrees that the project is generally consistent with the Town of Port Deposit's Critical Area Program for the reasons outlined below.

1. The proposed project is almost entirely located outside of the 100-foot Buffer with the possible exception of Manhole 23. However, the work will not require any excavation or disturbance. Repairs will be made utilizing the existing manhole system.
2. Compliance with the 10% pollutant reduction rule is not required given that no disturbance is proposed. Additionally, the work is linear and within the existing road system of the Town.
3. In the event that disturbance or excavation is required in order to repair the sewer system, the Town of Port Deposit will assess any impacts both inside and outside the Buffer and require the appropriate mitigation.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
PD410-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
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August 6, 2007

Ms. Jeanine Harrington
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Sally Family Subdivision
Tax Map 34 Parcel 311

Dear Ms. Harrington:

Thank you for submitting the above referenced minor subdivision for review and comment. The applicant is proposing to subdivide a 2.43 acre parcel into a 1.53 acre lot that will contain all the existing structures and a new 1.0 acre lot. Approximately 0.19 acres of the 1.53 acre lot is within the Critical Area and designated as Resource Conservation Area (RCA). Based on the information provided I have the following comments:

1. It appears there may be a State-listed Sensitive Species in the vicinity of the project area. The applicant will need to address any recommendations made by the Department of Natural Resources Wildlife and Heritage Division once it is reviewed.
2. The Critical Area portion of the site is not forested. Per Section 72.3.1.c of the St. Mary's Comprehensive Zoning Ordinance, 15% or 1,251 square feet of forest mitigation will need to be provided on site.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 355-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 2, 2007

Mr. Keith Lackie
MDP, LES Regional Office
201 Baptist Street, Suite 24
Salisbury, MD 21801

Re: Reese Condominium Project
Crisfield Buffer Exemption Area Ordinance Language

Dear Mr. ^{Keith}Lackie:

The purpose of this letter is to officially inform you of the Program Subcommittee's decisions regarding the City of Crisfield's Critical Area Program Comprehensive Review and the Reese Condominium Project. On August 1, 2007 the Project Subcommittee met to discuss the design of the Reese Condominium project and in particular the BEA setback. The review of this project by Commission staff has been problematic in part due to the need to update the City of Crisfield's Critical Area Ordinance. Additionally, the City of Crisfield has a desire to provide increased public access by requiring public walkways in redevelopment projects. Currently, walkways are not included in the Commission's policy document *BEA Policy for Commercial, Industrial, Institutional, Recreational and Multi-Family Residential Development* nor is the issue addressed in the City's Ordinance.

The Program Subcommittee made two decisions regarding this issue:

1. **Reese Condominium Project:** The proposed walkway in the 25-foot setback is acceptable to the Program Subcommittee. The proposed stormwater treatment system must be moved out of the setback and the walkway should be of no greater width than the Jersey Island Condo project. The remainder of the setback area should be fully vegetated.
2. **Comprehensive Review:** The City of Crisfield should report to the Program Subcommittee on the status of the comprehensive review of its Critical Area Program November 7, 2007 meeting.

Commission staff understands the desire of the City of Crisfield to revitalize its waterfront properties and provide economic development opportunities. Given the efforts the City is making towards these activities staff would like to request continued involvement with the City to help develop appropriate regulations that both achieve the goals of the Critical Area law and assist the City with its waterfront activities.

Finally, there are two remaining issues identified in my letter to you on March 6, 2007 regarding the Reese project that may still be addressed. These issues relate to the 10% pollutant reduction calculations and the pervious pavers. If these items are still pertinent, please forward any additional information regarding them once they have been received by your office.

We look forward to working with you and the City of Crisfield in the coming months. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Kate Schmidt
Natural Resource Planner

CF335-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 2, 2007

Glenn A. Carowan, Jr.
Department of Natural Resource
Public Lands Policy and Planning, E4
580 Taylor Avenue
Annapolis, Maryland 21401

Re: Stoney Point Playground Replacement - Elk Neck State Park

The purpose of this letter is to officially notify you of the Critical Area Commission's action on the above referenced project. On August 1, 2007, the Critical Area Commission unanimously approved the Department of Natural Resources proposal and site plan to construct a replacement playground at Elk Neck State Park located on Stoney Point Road.

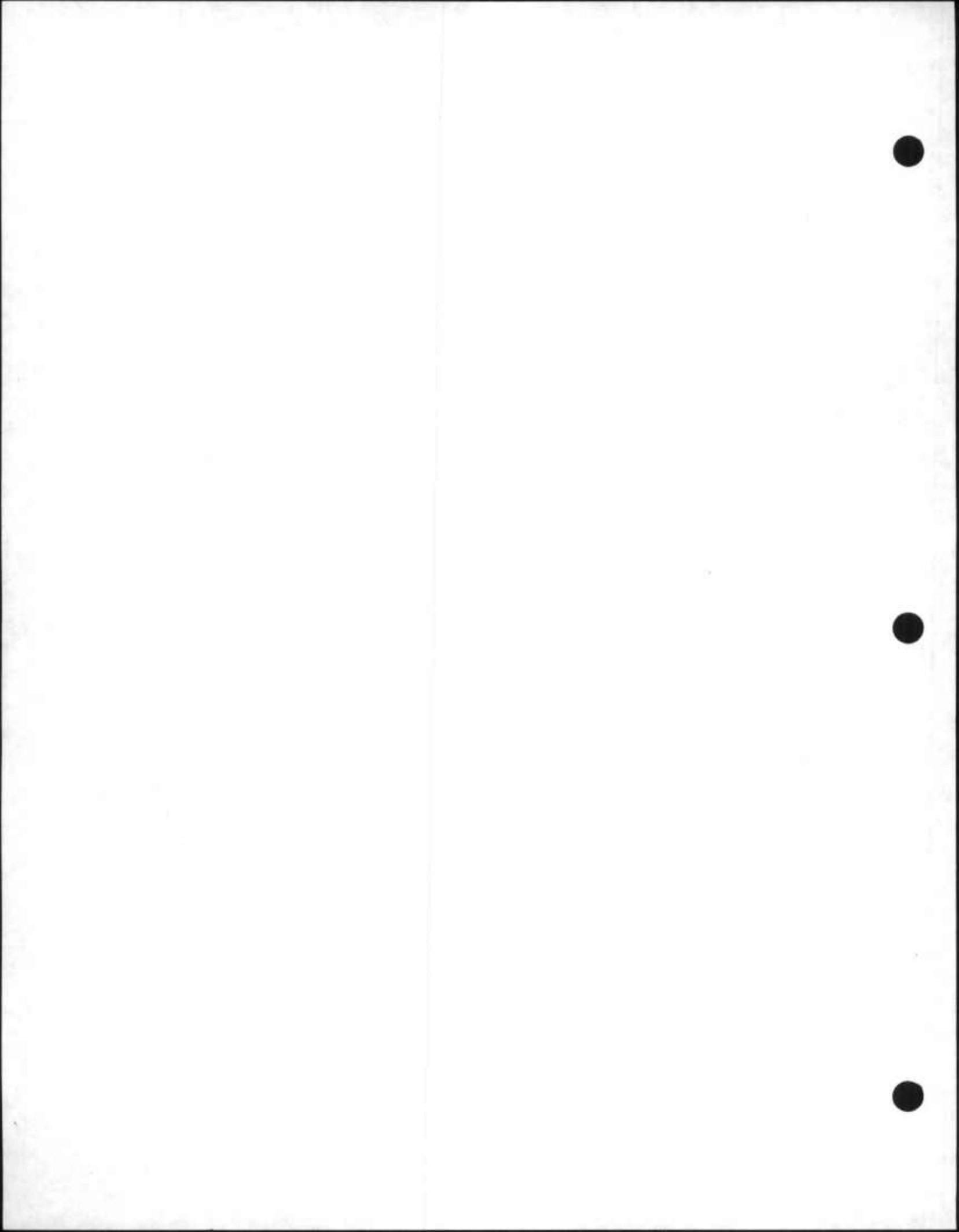
Please note that should any changes to the site plan be proposed in the future, additional review and approval by the full Commission will be required. Should you have any questions, please feel free to contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner
43-07

cc: Michelle Hurt, DNR



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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July 30, 2007

Mr. Reggie Graves
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-GL-1424
Cecil County

Dear Mr. Graves:

Thank you for meeting me at the Daniels property last week to review the permit application for a stone revetment, groin, and boat ramp. Previously, I had thought the applicant may also have the use of a pier, however we determined that was not the case. The site is currently a small open beach at the base of a 20-foot tall slope. The proposed work would require an area of the 100-foot Buffer to be graded to provide access to the boat ramp. All other work is below MHW.

Based on the site visit I have the following recommendations:

1. The applicant should obtain approval from the Cecil County Division of Planning and Zoning for impacts to the 100-foot Buffer.
2. In order to remain consistent with the Critical Area law and Criteria, the grading required to access the boatramp should be the minimum necessary as determined by MDE and the limits of grading should be specified in any authorization issued by the Department.
3. The applicant will need to provide 2:1 mitigation for the entire area of disturbance to the 100-foot Buffer.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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July 25, 2007

Ms. Grace Fielder
G.E. Fielder & Associates
6345 Woodside Court, Suite 200
Columbia, Maryland 21046

Re: Anacostia River Trail – Mitigation Planting Plan

Dear Ms. Fielder:

Thank you for submitting a planting plan for the Anacostia River Trail project required mitigation. The complete mitigation package consists of two areas:

- Mitigation Area 1 is for Buffer impacts within the IDO portion of the project site and provides 2:1 mitigation for the 13,068 square feet of impact within the BEA. Mitigation Area 1 is located adjacent to Quincy Run within the IDO area.
- Mitigation Area 2 is for Buffer impacts and forest clearing impacts within the RCO portion of the project site. The total mitigation requirements include 3:1 mitigation for the 0.5 acres of impact to the 100-foot Buffer and 1:1 mitigation for the 1.24 acres of forest clearing. Mitigation Area 2 is located at Colmar Manor. Approximately 0.5 acres of mitigation will be planted within the 100-foot Buffer at Colmar Manor. The remaining 2.24 acres will be planted within the Critical Area Boundary.

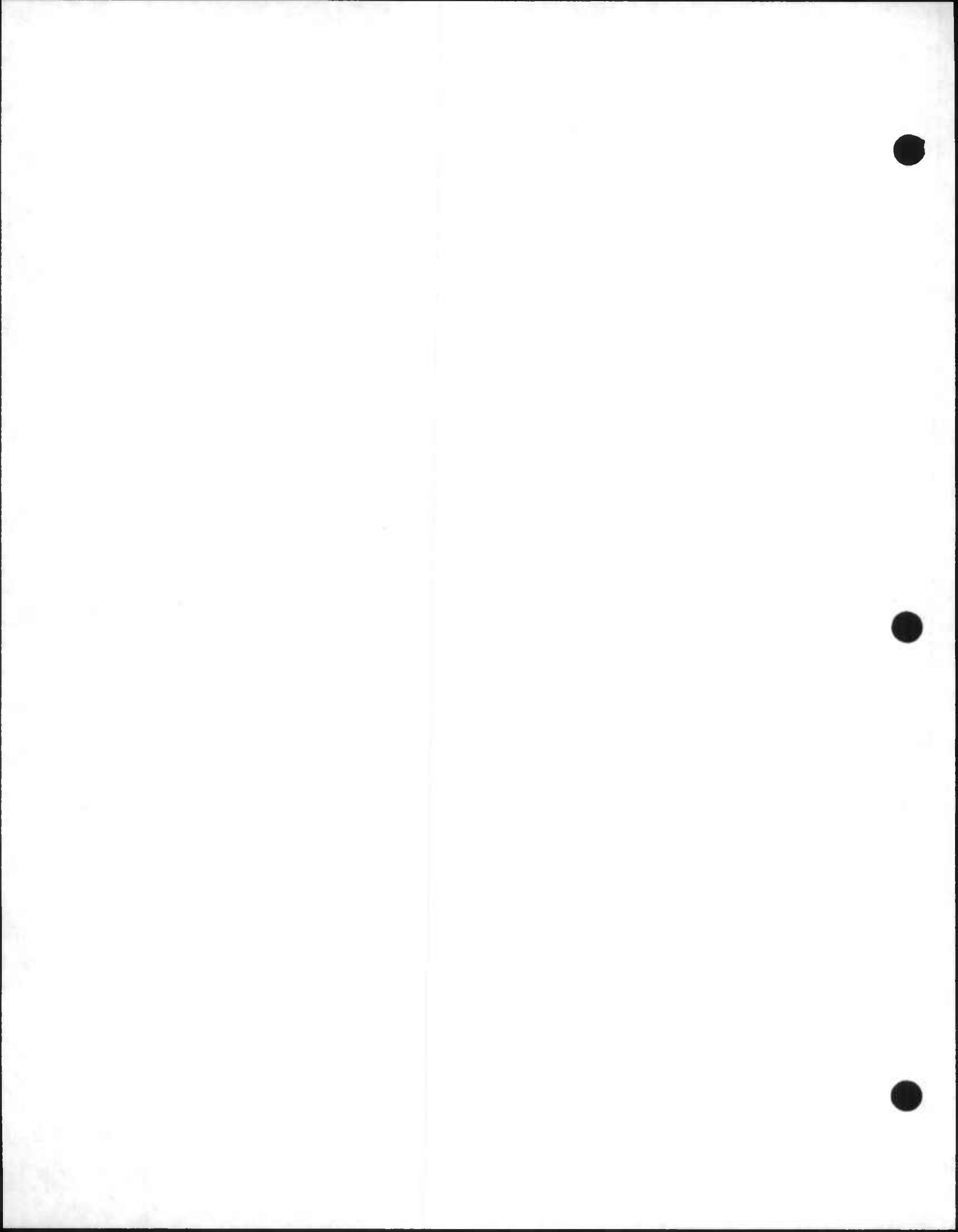
The plantings will consist of a mix of large trees, small trees, and shrubs. Both planting plans are acceptable to Commission staff. Please have appropriate staff from M-NCPPC complete and sign the attached form and return it to this office. Staff will conduct a site visit of the plantings one year after they have been completed. Thank you for your assistance in completing this project.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

Cc: Andrew Siedlarczyk, M-NCPPC
Eileen Nivera, M-NCPPC
Laura Connelly, M-NCPPC



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July 25, 2007

Ms. Kim Finch
M-NCPPC – Planning Department
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: Chalk Point Generating Station
Installation of FGD Structures

Dear Ms. Finch:

Thank you for submitting the above referenced site plan for review and comment. The applicant is seeking to install equipment at Chalk Point Station as part of the air quality control system upgrades. Chalk Point Generating Station lies partly within the Critical Area, of which 345 acres are designated as Resource Conservation Overlay (RCO) and 130 acres are designated as Intensely Developed Overlay (IDO). The proposed activity will occur within the boundaries of the IDO portion only. Based on the information provided I have the following comments:

1. It appears that the limit of disturbance will approach the 100-foot Buffer in some areas but it will not disturb the 100-foot Buffer. I recommend the applicant flag the 100-foot Buffer in those areas to ensure the limit of disturbance does not impact the Buffer.

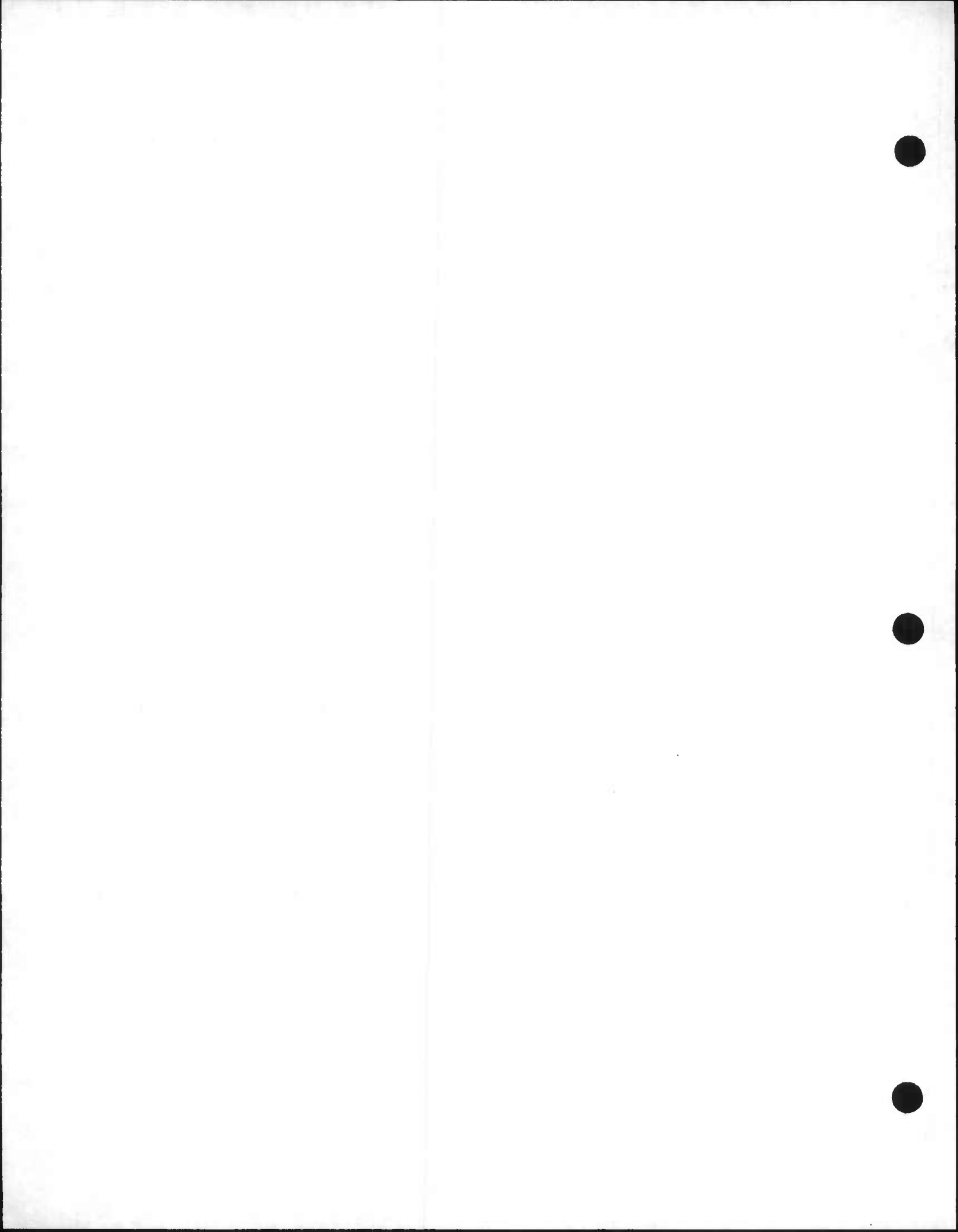
Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

PG326-07



Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 23, 2007

Mr. Ray Dintaman, Director
Environmental Review Unit
Maryland Department of Natural Resources
580 Taylor Avenue
Annapolis, Maryland 21401

Re: CENAB-OP-RMS (National Capital Parks – East/Piscataway Park)
NAB-2007-1452

Dear Mr. Dintaman:

This letter is in response to the public notice for the above referenced application for shoreline stabilization projects located on the south and north coasts of Piscataway Park. The projects will create tidal marsh by depositing clean fill and planting with low marsh and high marsh vegetation. The tidal marsh will be protected by stone sills and breakwater spurs. The south coast project will create 8,550 square feet of lower elevation tidal marsh and 10,350 square feet of higher elevation scrub-shrub marsh habitat. The north coast project will create 21,000 square feet of lower elevation tidal marsh and 50,450 square feet of higher elevation scrub-shrub marsh habitat.

Based on the information provided I have the following comments:

1. The NPS must establish the current location of Mean High Water (MHW) prior to the creation of the additional marsh habitat as a reference line. The 100-foot Buffer must be maintained from this reference line and any future activities in the two project locations comply with 100-foot Buffer regulations.
2. It is not clear whether any existing vegetation or trees will be disturbed in the 100-foot Buffer as a component of the project. However, the NPS must provide 1:1 mitigation for any clearing to comply with Critical Area regulations.

Thank you for the opportunity to provide comments. If you or the application should have any questions, I may be reached at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
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
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 23, 2007

Mr. Denis Canavan, Director
St. Mary's County Government
Department of Land Use & Growth Management
P.O. Box 653
Leonardtown, Maryland 20650

Re: Shore Erosion Control Projects

Dear Mr. Canavan:

This letter is to formally request a meeting with you and your staff regarding the implementation of the County's policy for shore erosion control structures above Mean High Water (MHW). Recently, the County approved a permit application for a Mr. Enright and a Mrs. Nix for the construction of three groins. The two property owners applied for and received a permit to construct the groins from the Maryland Department of the Environment (MDE). At the time of application to the County, these measures were changed to show two groins and a stone revetment constructed on the beach, above MHW. The applicants were told to revise their plans to match the MDE submittal. However, it appears the changes were never made and the applicants constructed the stone revetment.

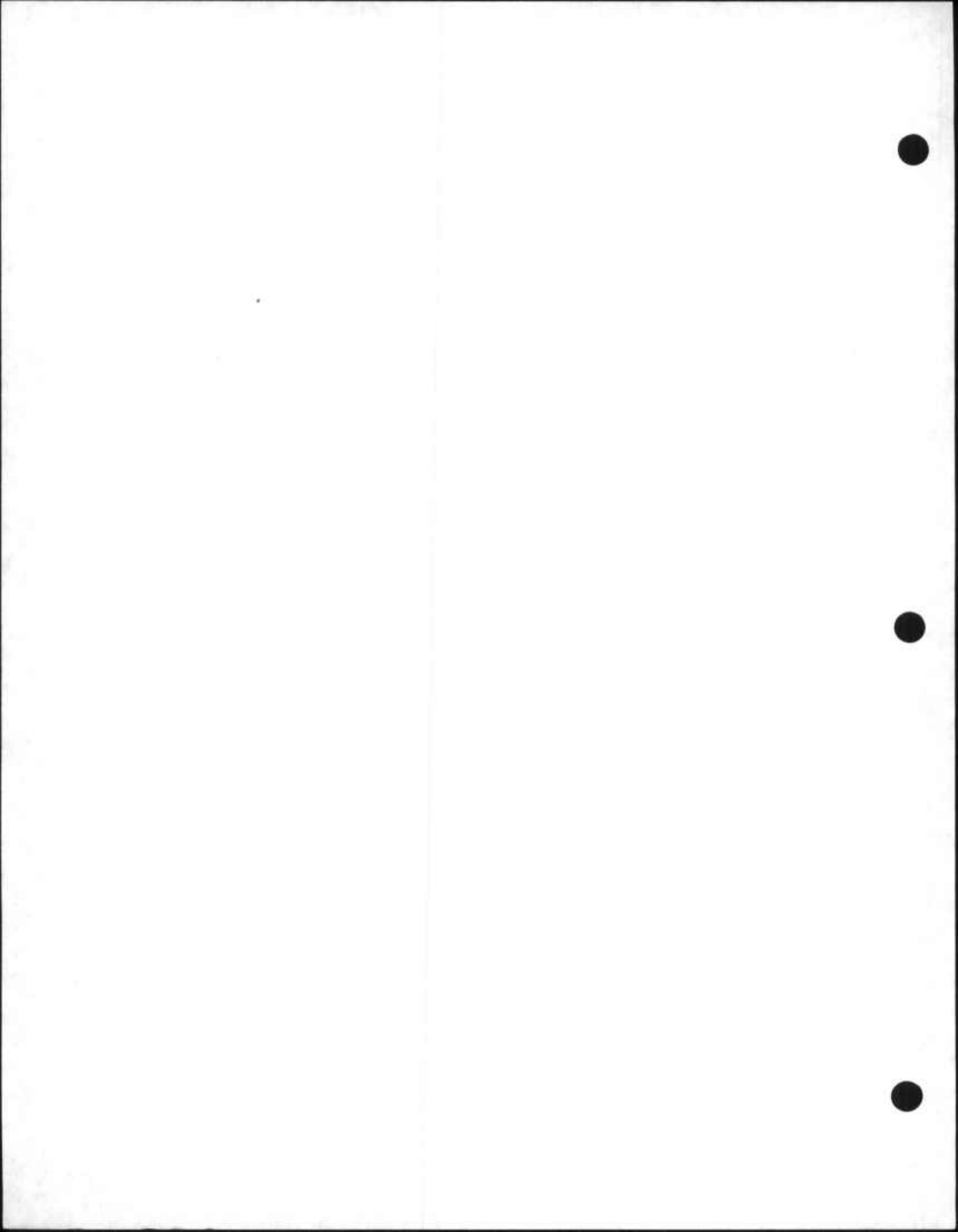
It is clear that the applicants violated both their MDE permit and the instructions from County staff. However, this office has concerns that the new policy for structures above MHW may have complicated this situation. Commission staff would like to request an on-site meeting with you and your staff and MDE to review the properties in question and clarify the use of the County policy. You may contact me at (410) 260-3475 or by email at kschmidt@dnr.state.md.us to set a date that would be acceptable to all involved parties.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

Cc: Gregg Kolarik, MDE
Sue Veith, Land Use & Growth Management
Ren Serey, Critical Area Commission



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. Bob Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-GL-1485; Corp of Roman Catholic Clergyman
Cecil County

Dear Mr. Tabisz:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project includes a 200-foot long stone breakwater and beach nourishment activities. The beach nourishment will consist of depositing 8,000 cubic yards of clean sand fill and stabilized with dune grass in a 75-foot wide by 100-foot long area landward of the existing breakwater. Based on the information provided I have the following comments:

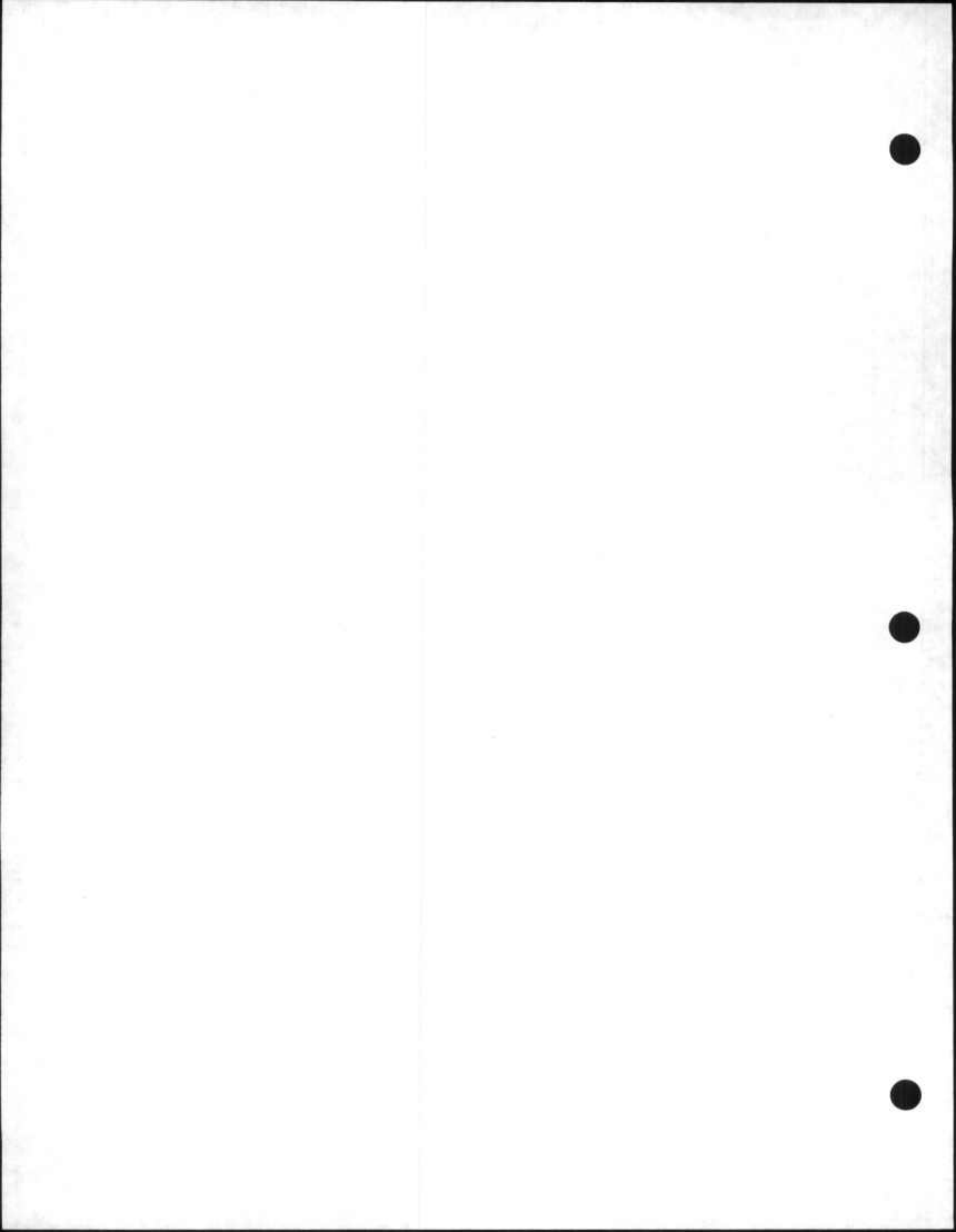
1. It appears the applicant will need to stockpile materials in two areas along the project length. The stockpiles should be kept outside of the 100-foot Buffer.
2. There is a section of extensive nontidal forested wetland close to the shoreline in the middle of the project area. Access to the beach in these areas should be made to the north or south of the forested area.
3. The applicant will need to obtain approval and permits from the St. Mary's County Division of Land Use and Growth Management.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resources Planner



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 18, 2007

Mr. Dirk Geratz
Department of Planning & Zoning
City of Annapolis
160 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: North Green Condo Club House – Washington Square Property
Critical Area Review

Dear Mr. Geratz:

Thank you for submitting the above-referenced site plan and subdivision plat for review and comment. The applicant is seeking to redevelop a 1.63 acre site known as the Washington Square Property. Two areas of the property are within the Critical Area and designated as Intense Development Area. The first IDA area, which consists of the northern most corner of the site, is 480 square feet in size and currently undeveloped. The second IDA area fronts Bay Ridge, totals 13,173 square feet and is currently developed with an apartment building. The proposal will create fifteen lots and three open space areas. Lots 1-8 and Lot 15 will lie partly within the IDA.

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

1. Given the two areas of IDA on the site, each portion will need to be evaluated for compliance with the 10% pollutant reduction rule per Zoning Code Section 21.67.07. The applicant should review the Critical Area Commission 10% Rule Guidance Manual and submit the appropriate 10% pollutant reduction rule worksheet for each IDA area. The two areas may not be combined and calculations run separately.
2. It appears the applicant may be proposing permeable pavers for parking lots and sidewalk areas. The 10% Manual describes in Section 4.0 how permeable pavers are applied to the 10% calculations. Please note that permeable pavers must be evaluated on a case-by-case basis by Commission staff to determine the percent of permeability that may be applied. In order to do the evaluation, the applicant should provide soil boring information, product specifications and design installation details. Additionally, please note that

permeable pavers that are used to meet the 10% rule are not appropriate for areas of high traffic volume such as parking lots.

3. Rain gardens are not given a removal rate for total phosphorous in the 10% rule calculations. More feasible BMPs to meet the 10% requirement for this site may be stormwater infiltration or stormwater filtering practices such as an infiltration trench or a perimeter sand filter depending on site conditions. Another possibility may be to convert some of the rain gardens to a bioretention filtering system.
4. This office would agree with the Annapolis Department of Planning and Zoning that any trees removed within the Critical Area require mitigation. Forests as defined in Section 27.67.050 include areas dominated by a variety of trees and other woody plants at various successional stages. This office recommends that the area of invasive species, even if it includes trees less than 4-inch DBH, should be included in the mitigation calculations. Based on my review of the site plan, it appears the 480 square feet of IDA that contain the invasive species areas would be mitigated.
5. The plat should break out the square footage of the two IDA areas and include a note referencing the requirement to comply with 10% pollutant reduction rule in both areas.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

AN400-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 16, 2007

Ms. Jeanine Harrington
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtwn, Maryland 20650

Re: Part of Cobrum Minor Subdivision
MD Route 240 & Cobrum Wharf Road

Dear Ms. Harrington:

This letter is an addition to a previous response provided to you July 16, 2007 regarding the above referenced subdivision. Upon further research of the subdivision history of the parcels in question I have serious concerns. The applicant is proposing to create the boundary line adjustment and conversion of Farmstead 2 into a buildable lot through the intrafamily transfer provisions of the County's Critical Area Program. In those provisions, only lots or parcels created prior to March 1, 1986 were eligible for subdivision of this type.

Based on my review of the original Critical Area maps, the parent parcel for the Cobrum Subdivision was 55 acres in size. Under the RCA density requirements, this parcel was limited to 2 dwelling units or lots. Through intrafamily transfer a parcel that is at least 12 acres but less than 60 acres may be subdivided into three lots. From the information I have gathered, it appears that the Cobrum subdivision currently has three buildable lots. A fourth lot is shown on a August 5, 2003 plat adjacent to Parcel 234 but is not designated as buildable. This lot may be what is now Parcel 233. Additionally, there were two Farmstead Lots intended for agricultural use.

The current proposal appears to convert Farmstead Lot 2 into a buildable lot and adjust the boundary lines of Parcel 233 which is also shown as buildable. These two lots would exceed the density allowed under both the RCA density limitations and the intrafamily transfer provisions. Therefore, the proposed subdivision appears to be inconsistent with the density provisions of the Critical Area Criteria and the County's Land Use Ordinance.

In order to determine exactly which lots are legally divided and whether or not growth allocation is required for the current proposal it is strongly recommended that Commission staff meet with County staff to analyze the subdivision history of the property.

Thank you again for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

SM 354-07

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. Tammy Dean
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Petit Minor Subdivision – Lot 2
Mill Cove Road & Sypher Road

Dear Ms. Dean:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing a minor subdivision to create a second lot on Parcel 36. Parcel 36 originally contained 52 acres in the Resource Conservation Area (RCA). Based on the development density restriction of 20 acres per dwelling unit in the RCA, Parcel 36 has a right to 2 dwelling units. Lot 1 which is 5.04 acres in size was created in 2004 and used one development right. The current proposal would create Lot 2, also 5.04 acres entirely within the RCA and a Farmstead Lot that is 67.27 acres in size, of which 42.67 acres is in the RCA.

Based on the information provided I have the following comments:

1. Given the applicant is limited to 2 dwelling units in the Critical Area for this parcel, Lot 2 may only be created provided there no other dwelling unit exists on the remaining Farmstead within the Critical Area.
2. If the applicant intends to create the lot under the provisions of the Intra-family transfer the Plat notes should be revised to reference Section 41.6 of the St. Mary's Comprehensive Zoning Ordinance. Under intra-family transfer guidelines, the applicant may create no more than 3 lots.
3. The Buffer must be modified in a number of places on the site plan. The 100-foot Buffer applies from the edge of tidal waters, wetlands and tributary streams per Section 71.8.3 of the CZO. The site plan shows only a 50-foot Buffer for a tributary stream.
4. Section 71.8.3 also requires the 100-foot Buffer to be expanded for sensitive resources including steep slopes, highly erodible soils and hydric soils. The expansion limit for the

presence of hydric soils is an additional 100 feet. The 200-foot expanded Buffer shown for tidal wetlands is correct.

5. The 25-foot nontidal wetland buffer is expanded an additional 100-feet in the presence of hydric soils. The site plan shows only a 100-foot Buffer for nontidal wetlands.
6. It appears there are two existing gravel roads that cross the Buffer. It is unclear whether the road proposed to access Lot 2 will need to be expanded. Section 41.5.3 which also applies to Resource Conservation Areas states that roads, bridges, and utilities will only be permitted in Habitat Protection Areas, including the Buffer, if no feasible alternative exists. It appears a feasible alternative may exist with the northerly gravel drive. Therefore, the County will need to determine whether a variance may be required.
7. The applicant will need to incorporate any recommendations from the Department of Natural Resources Wildlife and Heritage Division.
8. Finally, under Section 71.8.3 of the CZO, the applicant is required to establish the Buffer when agricultural use of land within the Critical Area Buffer ceases. I recommend the County verify this requirement was followed when Lot 1 was created in 2004 prior to the subdivision of Lot 2. This provision should also be required for Lot 2.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

SM 272-04

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. Jeanine Harrington
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Wicomico Shores Concept Development Plan
TM 16 Parcel 52 and Parcel 9

Dear Ms. Harrington:

Thank you for submitting the above referenced concept development plan for review and comment. One portion of the proposed development area falls partially within the Critical Area and is designated as Limited Development Area (LDA).

Based on the information provided I have the following comments:

1. There are a number of sensitive resources found within the LDA portion of the proposed development area including tidal and nontidal wetlands. Any future development plans will need to address these resources and the LDA provisions of the St. Mary's Comprehensive Zoning Ordinance.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 355-07



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. Jeanine Harrington
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Elizabeth Manor Minor Subdivision/BLAP
TM 68 Parcel 278

Dear Ms. Harrington:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing a boundary line adjustment to Lot 1 in order to create Lot 500-1 and to create Lot 2. Parcel 278 totals 18.3 acres in size of which 12.256 acres is within the Resource Conservation Area (RCA). In 2004, the Parcel was subdivided to create Lot 1 at 2.93 acres in size entirely outside the Critical Area. The current proposal adjusts the lot lines to create Lot 500-1 which will now include some area of RCA. Proposed Lot 2 will be 1.00 acres and entirely within the Critical Area. Finally, the Farnstead Lot is currently developed in the Critical Area with one residential dwelling unit.

Based on the information provided I have the following comments:

1. The proposed new lot in the Critical Area and boundary line adjustment into the Critical Area may not be approved by the County. The subject parcel was created in 1998 and therefore is not a grandfathered lot for Critical Area purposes. Under the intra-family transfer provisions of the Comprehensive Zoning Ordinance Section 41.6.4, bona-fide intrafamily transfers may only be made to parcels of land that were of record on March 1, 1986. Based upon my search of the record plat, it appears the original Farmstead lot was created in 1998. Therefore, the applicant may not propose any further subdivision of the property.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Kate Schmidt".

Kate Schmidt
Natural Resource Planner
SM 272-04



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. Jeanine Harrington
St. Mary's County Government
Department of Land Use and Growth Management
P O Box 653
Leonardtown, Maryland 20650

Re: Part of Cobrum Minor Subdivision
MD Route 240 & Cobrum Wharf Road

Dear Ms. Harrington:

Thank you for submitting the above referenced site plan for review and comment. The applicant is proposing a 2-lot minor subdivision and boundary line adjustment for Parcel 233 and 297 on Tax Map 39 under the intrafamily transfer provisions of the St. Mary's Comprehensive Zoning Ordinance. The subject property totals 19.197 acres in size, of which 12.666 is within the Resource Conservation Area. The subdivision would adjust Parcel 233 to be 1.956 acres in size and entirely within the RCA and create Farmstead 2 to be 17.241 acres in size, of which 10.71 acres is in the RCA.

Based on the information provided I have the following comments:

1. It appears the Buffers shown need to be adjusted in a number of areas. The 100-foot Buffer applies to the edge of tidal waters, tidal wetlands and tributary streams. The Buffer shown for the tributary stream should be increased to 100-feet.
2. The 100-foot Buffer is also expanded in the presence of steep slopes, highly erodible soils, or hydric soils.

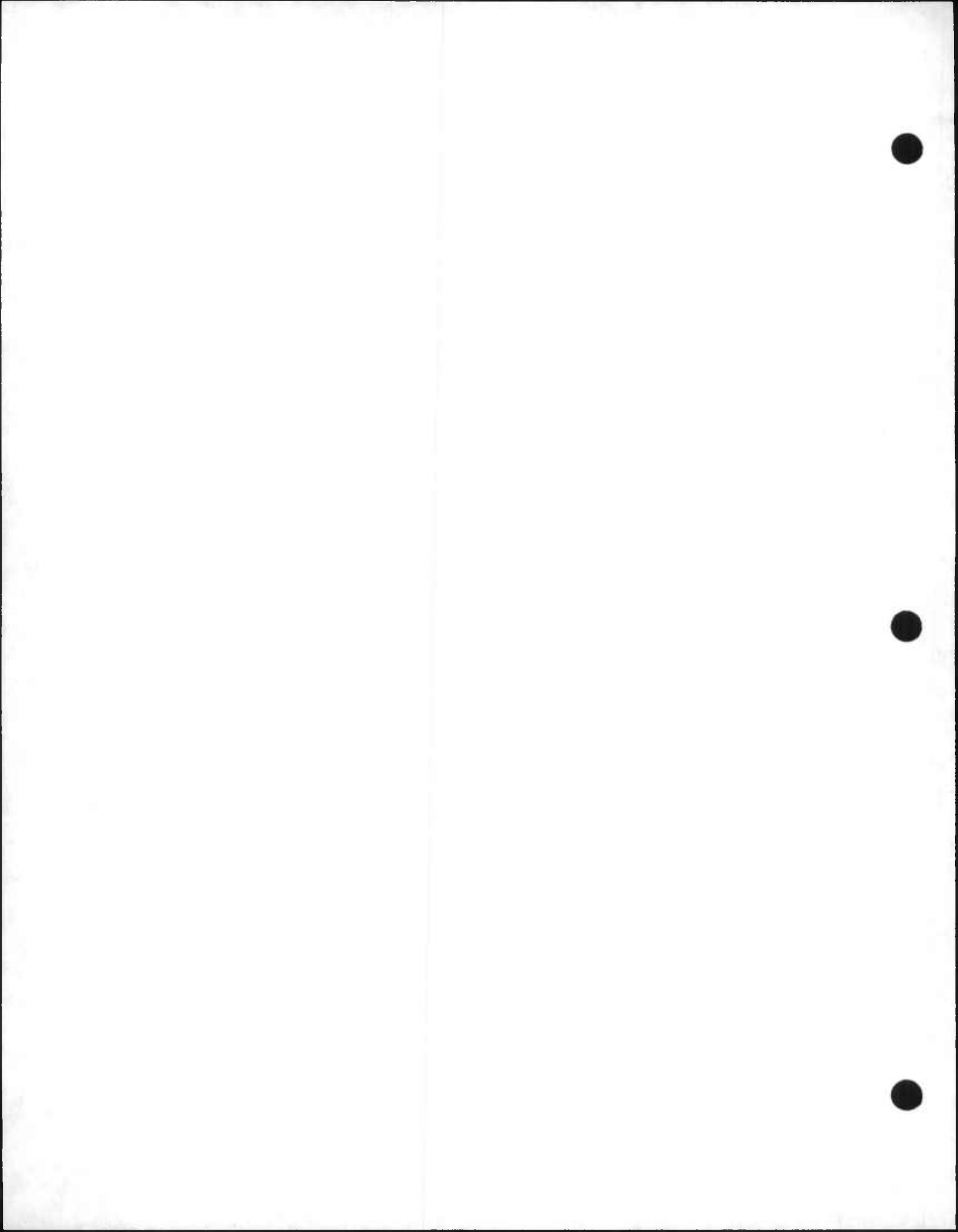
Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,

Kate Schmidt

Kate Schmidt
Natural Resource Planner

SM 272-04



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Chair

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July 16, 2007

Ms. Laschelle Miller
Town Administrator
Town of Leonardtown
PO Box 1
Leonardtown, Maryland 20650

Re: Change in Zoning, Wharf Hill
Parcels 316 and 500

Dear Ms. Miller:

Thank you for submitting the above referenced zoning change for review and comment. The proposed rezoning would change the two parcels from Residential Single Family to Commercial Business with a PIRD Overlay. The parcels are located on the corner of Lawrence Avenue and Washington Street. Parcel 316 is located partially within the Critical Area and has a designation of Limited Development District (LDD). Parcel 500 is located completely within the Critical Area and is designated as Intense Development District (IDD). Currently, it appears very little development exists on site. While a detailed site plan was not included with this package, it appears the applicant intends to extensively redevelop the property with commercial business buildings and parking areas.

The Town of Leonardtown Critical Area Program includes provisions for three Critical Area designations; Intense Development District (IDD), Limited Development District (LDD), and Resource Conservation District (RCD). Each Critical Area designation has its own set of development regulations and standards. These development standards apply regardless of the underlying zoning of the site. Therefore, any development proposed for Parcel 316 must comply with the LDD overlay and the development proposed for Parcel 500 must comply with the IDD overlay. The following issues should be considered in evaluating the proposed rezoning and the development potential of these properties:

Limited Development District

1. For new development within LDD impervious surface area is limited to 15 percent of the site. Impervious surface area includes all structures, driveways, sidewalks or other built surfaces.

2. Development activities are prohibited on slopes greater than 15 percent. This office believes there are extensive areas of slopes greater than 15 percent on the site.
3. Forest clearing is limited to 30 percent of the existing forest cover on site. All forest clearing must be mitigated through reforestation either on the project site or off-site in an area approved by the Town. For clearing in excess of 20 percent, reforestation will be required at 1.5 times the entire area of forest cleared either on the project site or off-site in an area approved by the Town. Aerial imagery of the site shows an extensive area of forest therefore any clearing must be mitigated appropriately.
4. The intent of the LDD is to accommodate low or moderate density development provided the overall intensity of development within LDD's is not increased beyond its prevailing character. The Table of Uses found in Section 27-204 of the Town's Zoning Ordinance states that commercial uses are permitted in the LDD subject to the above development and design standards.

Intensely Developed District

5. Properties designated IDD do not have specific impervious surface limits; however, the development must provide sufficient stormwater quality management so that post-development pollutant loads are reduced by 10 percent from pre-development loads. Given the site is mainly undeveloped; the required 10% pollutant removal load will most likely be significant for this property.
6. It is likely the applicant would be required to change the designation of Parcel 316 to IDD through the use of growth allocation in order to achieve the desired level of development. Because approval of the use of growth allocation would involve a change to the Town's Critical Area Program, the proposal must be approved by the Critical Area Commission.

Limited Development Districts and Intensely Developed Districts

7. In addition to meeting the above standards, any potential development on a site must also meet a number of other criteria which are aimed at protecting the environmental features of the Critical Area. This includes habitat protection for areas such as the Buffer, wetlands, rare threatened and endangered species habitat, plant and wildlife habitat, and forest interior dwelling bird species habitat among others. Any potential development will need to be reviewed by the Wildlife and Heritage Division of the Department of Natural Resources (DNR) to determine if any of these habitat protection areas are present.
8. New development projects in both LDDs and IDD's are required to establish and maintain a minimum 100-foot vegetated Buffer from tidal waters, tidal wetlands, and tributary streams. Where steep slopes are contiguous to the 100-foot Buffer, the Buffer must be expanded four feet for every one percent of slope or to the top of the slope, whichever is greater. New development activities are not permitted in the Buffer, and the Buffer must

be maintained in natural vegetation. If the Buffer is not vegetated, then it must be planted or allowed to naturally regenerate.

9. As stated above, there is a 100-foot Buffer established around any tributary stream. Tributary streams are defined as perennial or intermittent streams in the Critical Area which may be noted on USGS maps or based on field study. There is an extensive network of streams and wetlands in the vicinity of the properties proposed for rezoning. It is strongly recommended that a field evaluation be conducted to identify any tributary streams, required Buffers, and necessary expansion for steep slopes before development plans are created for the properties.

10. Existing forest and woody vegetation and habitat areas are also generally protected under Critical Area regulations. Based on aerial photos, the lots in question appear to be part of a large forested area.

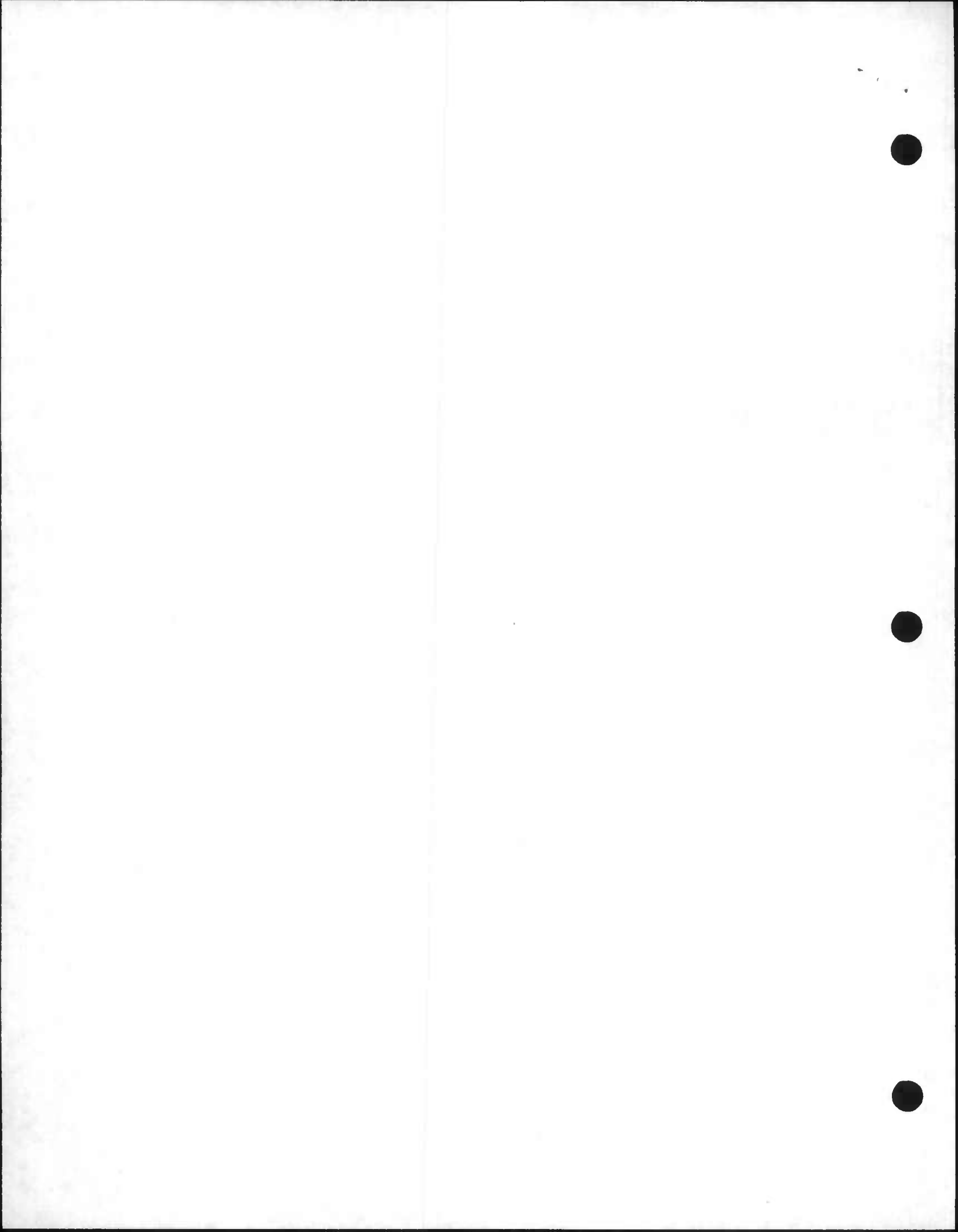
It is possible an extensive number of Critical Area items would be needed to be addressed for these two Parcels. Commission staff would be happy to meet with the Town and the applicant to discuss any development proposal. Thank you for submitting the proposed zoning change for comments. If you have any questions, please feel free to contact me at (410) 260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

LE418-07



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 9, 2007

Mr. Robin Guyther
The Tech Group
44425 Pecan Court, Suite #153
California, MD 20619

Re: Skipjack Square/F. Russell 12-lot Major Subdivision – Preliminary Plan
Local Case #04-120-049
Revisions submitted June 20, 2007

Dear Mr. Guyther:

Thank you for submitting a revised site plan for the above referenced subdivision. The site plan is to create a 12-lot residential subdivision on a 3.2 acre parcel in the Intensely Developed Area (IDA). The parcel is currently developed with an existing building and trailer. The last set of comments provided by the office on this proposal was on February 28, 2007. I have outlined our remaining and new comments below:

1. We received the copy of the 10% Rule Worksheet as required, however we have serious concerns about the stormwater management practices that are proposed. It does not appear that the proposed stormwater proposed will meet the 10% rule.
 - a. Section 4.0, Step 1 of the 10% Rule Guidance Manual describes how to include impervious cover in the worksheet. For new subdivisions the proposed impervious cover should include the future development that will occur on the new lots. The Manual recommends that the future development be estimated using the maximum building envelope for each lot. The Critical Area report should be revised to include a table showing the maximum building envelope and proposed impervious surface area for each lot and adjusting the 10% worksheet accordingly.
 - b. I do not understand how the proposed infiltration trenches are treating 100% of the site, or the entire 3.2 acres. The % DA should be based on the 3.2 acre site area.
 - c. The Critical Area Report discusses using the Grass Channel Credit for the driveways and private roads areas. As discussed on page 4-5 of the Manual the grass channel can be used to reduce the post-development site imperviousness, however this must be shown on the 10% worksheet.

- d. The Critical Area report discusses using overland flow for rooftop runoff for some lots. As discussed on page 4-5 of the Manual, application of this credit can be used to reduce the post-development site imperviousness; however this must be shown on the 10% worksheet. It appears a majority of lots cannot use this credit due to lack of space needed for overland flow.
 - e. Those lots that may not use the rooftop runoff disconnect must be included in the post-development impervious area and shown on the 10% worksheet.
 - f. If additional stormwater management is needed I recommend using the area on either side of the entryway where a proposed berm and replanting area is shown for another type of BMP.
2. Given the concerns identified above, this office recommends a meeting to discuss potential stormwater management options and how to evaluate them for the 10% pollutant reduction rule.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

SM899-04

Cc: Ms. Susan McCauley, Land Use and Growth Management
Ms. Sue Veith, Land Use and Growth Management

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 6, 2007

Ms. Jeanne Minner
Director of Planning
Town of Elkton
PO Box 157
100 Railroad Avenue
Elkton, MD 21922-0157

Re: Southfields General Development Plan

Dear Ms. Minner:

Thank you for submitting information regarding the above referenced development project. The proposal is for a 591-acre PUD located off of Frenchtown Road and Route 213. The site plan states that 55.537 acres is located within the Critical Area and designated as Resource Conservation Area (RCA). It appears the applicant may be proposing some development to occur within the RCA and they may seek growth allocation to change the designation to either Limited Development Area (LDA) or Intensely Developed Area (IDA). Based on the information provided I can offer the following comments regarding the Critical Area portion of the project at this time:

1. Per Elkton Zoning Code Section 143.3, the residential development density in the RCA is limited to one single-family dwelling unit per twenty acres. The site area used to determine the development density should be based on land area above mean high water and may not include State tidal wetlands. It appears that based on the 55.537 acre area provided, the applicant has a right to two (2) single-family dwelling units.
2. Should the applicant desire a greater development density than two dwelling units they will need to obtain growth allocation from the Town, which must be reviewed and approved by the Critical Area Commission. The type of growth allocation sought will depend on the type of development proposed for the site.
3. Regardless of the current or proposed designation, there appear to be a number of restrictions on the site that should be further clarified and addressed by the applicant. These are as follows:

- a. Per Section 146 of the Elkton Zoning Code, a 100-foot Buffer must be established from the edge of tidal water, tidal wetlands, or tributary streams. The Buffer is to be expanded to include contiguous sensitive areas including slopes of 15% or greater, hydric soils, and highly erodible soils. Given the scale of the current site plan, it is difficult to determine whether the 100-foot Buffer has been correctly shown, however any proposed development activity must be located outside of the 100-foot Buffer and expanded Buffer.
 - b. The review by the Department of Natural Resources (DNR) Wildlife and Heritage Division identified a number of habitat protection areas including; Forest Interior Dwelling Species (FIDS) habitat, a Sensitive Species Area, and a Wetland of Special State Concern. Per Section 147.8 of the Elkton Zoning Code, the proposed development must be in compliance with the Town Habitat Protection Program, which includes provisions for all of these areas.
4. In regards to the WSSC the boundary of this wetland should be shown on the site plan and must include a 100-foot Buffer.
 5. There is a record of state rare Spongy Lophotocarpus (*Sagittaria calycina*) for the intertidal zone of the project site itself. There is also a record for the state watchlist species Maryland Bur-marigold (*Bidens bidentoides* var. *mariana*) occurring within close proximity to the project site, and within the HPA. Any development proposal will need to include a Habitat Protection Plan that specifically addresses these two species and provide for any necessary protections.
 6. Any future development site design should follow the guidelines provided in the Critical Area Commission guidance document A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area. These guidelines encourage applicants to restrict impacts to FIDS habitat and require FIDS mitigation when necessary. Development scenarios which do not follow FIDS site design guidelines can have significant mitigation requirements. The Habitat Protection Plan should include a section to address the site design guidelines and the mitigation calculation worksheets.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3475.

Sincerely,



Kate Schmidt
Natural Resource Planner

EL409-07

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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November 14, 2007

Mr. Walter Dombrowski
Department of Public Works
150 Main St, Suite 206
Prince Frederick, MD 20678

Re: Chaneyville Road Bridge Buffer Mitigation Plan

Dear Mr. Dombrowski:

This office has received the above-referenced Buffer planting plans for review and comment. It appears the current set of plans is in compliance with the Chaneyville Road Bridge project mitigation requirements. Please contact this office to perform a follow-up site inspection the first growing season following the initial planting, which you have indicated will be in early spring 2008.

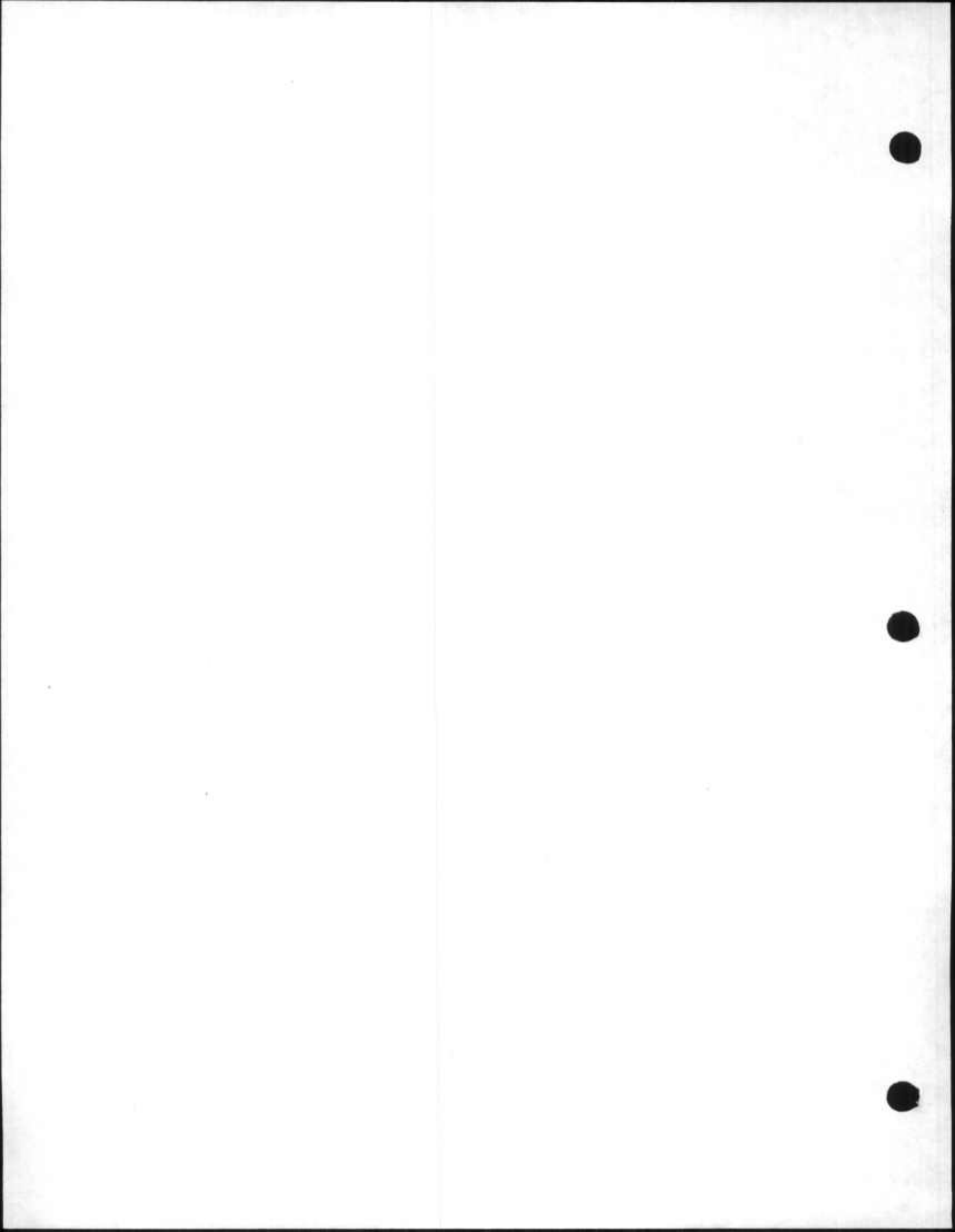
Thank you and your consultant team for their cooperation. If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

Handwritten signature of Megan J. Sines in cursive script.

Megan J. Sines
Natural Resources Planner

cc: CA 346-07



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

Re: Morrissette- VAR 332

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant is seeking an after the fact variance to allow new impervious surfaces (patio, steps, wall) with less Buffer than required. The property is located in the Limited Development Area on a 10,547 square foot, grandfathered lot. A variance was granted in 2001 to reduce the Buffer to 51 feet. The new impervious surface would reduce the Buffer to 44 feet.


Based on the information provided, this office cannot support this variance. Specifically, the request is not consistent with the provisions and goals for habitat protection areas as outlined with the State and County Critical Area Criteria. In contrast, it is our view that the continued encroachment into the Buffer with new impervious surfaces has created the potential for adverse impacts to water quality on this property. In addition, in requesting a variance, the applicant bears the burden to demonstrate that each and every one of the County's variance standards has been met, including the standard of unwarranted hardship. It is our view that in this case, the applicants currently enjoy reasonable and significant use of the entire lot or parcel as evident by the existing dwelling and garage. Therefore, denial of this variance would not constitute an unwarranted hardship to the applicant. Finally, we note that the applicants were awarded a variance to construct the primary dwelling and garage in 2001. As such, it would seem that they were aware of the limits allowable for encroachment to the Buffer. We recommend that this factor be considered when evaluating the variance request.

Because we believe that the applicant has failed to meet each and every one of the County's variance standards and that the applicant's request is not in harmony with the general spirit and intent of the law, we oppose this variance. We further recommend that full removal and restoration of the new impervious coverage area be required.

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

If you have any questions, please telephone me at (410) 260-3467 or Kerrie Gallo at (410) 260-3480.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 587-07

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 15, 2007

Mr. Walter Dombrowski
Department of Public Works
150 Main St, Suite 206
Prince Frederick, MD 20678

Re: Chaneyville Road Bridge Buffer Mitigation Plan

Dear Mr. Dombroski:

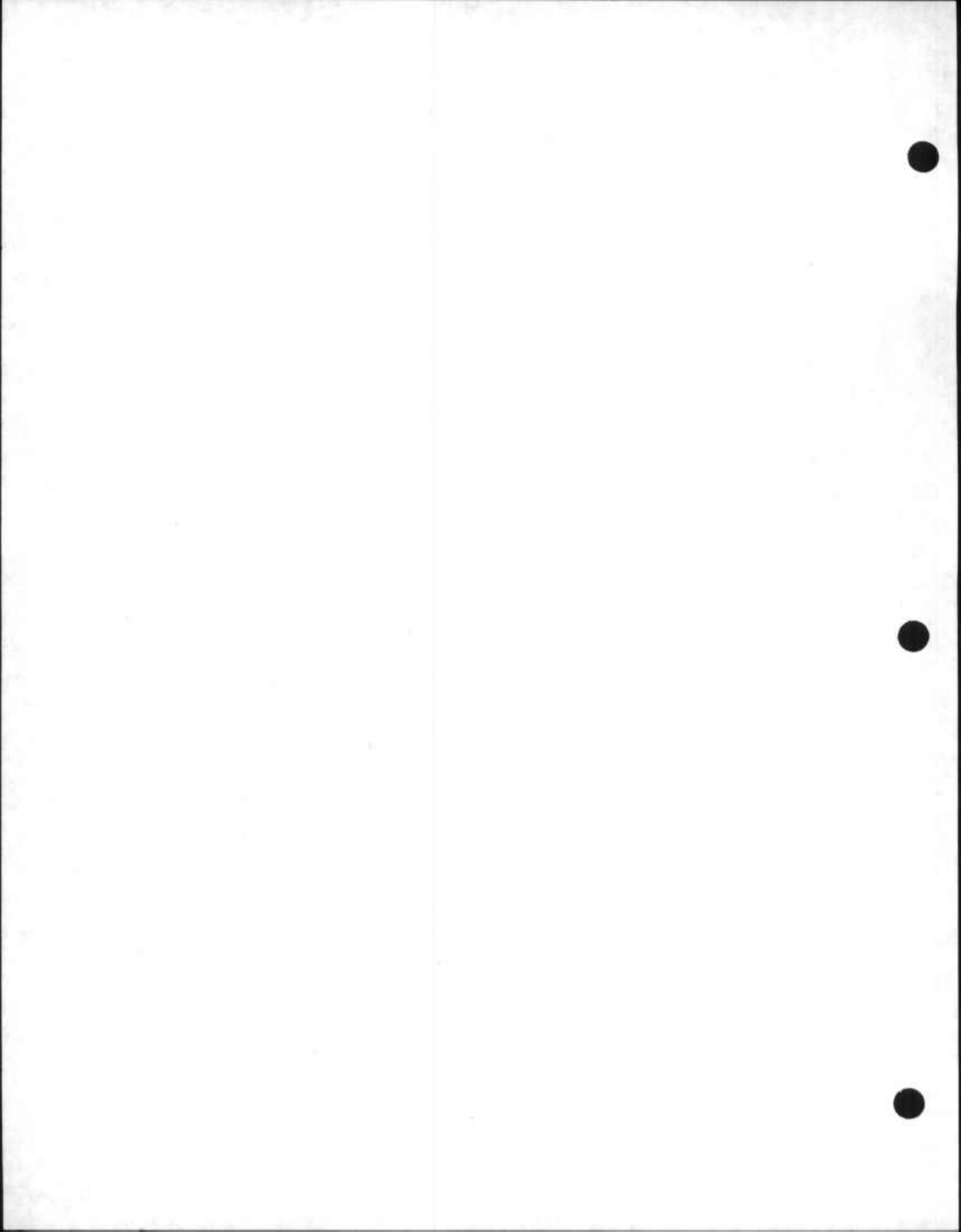
This office has received the above-referenced Buffer mitigation plan for review and comment. The proposed selection of species are all appropriate, native species. Planting areas 1, 2, and 8 appear to provide adequate mitigation for Buffer impacts since they appear to be located within or near a Buffer area on this site. We have concerns with the proposed plantings in the other sections. Given the disconnected nature of planting areas 3, 4, 5, 7, and 8, mitigation requirements would be more suitably met by clustering the given plantings into two or three of those areas. Sites that are in the Buffer are preferred. This would better serve to mitigate the Buffer impacts as intended.

Please provide Commission staff with an amended plan to address those planting areas mentioned above. Also, it would be helpful to see a more detailed vicinity map that shows the exact locations of each planting site. This will help Commission staff and County staff when inspecting the sites in the future.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3467 or Lisa Hoerger at (410) 260-3478.

Sincerely,


Megan J. Sines
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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www.dnr.state.md.us/criticalarea/

October 15, 2007

Mr. Walter Dombrowski
Department of Public Works
150 Main St, Suite 206
Prince Frederick, MD 20678

Re: Chaneyville Road Bridge Buffer Mitigation Plan

Dear Mr. Dombroski:

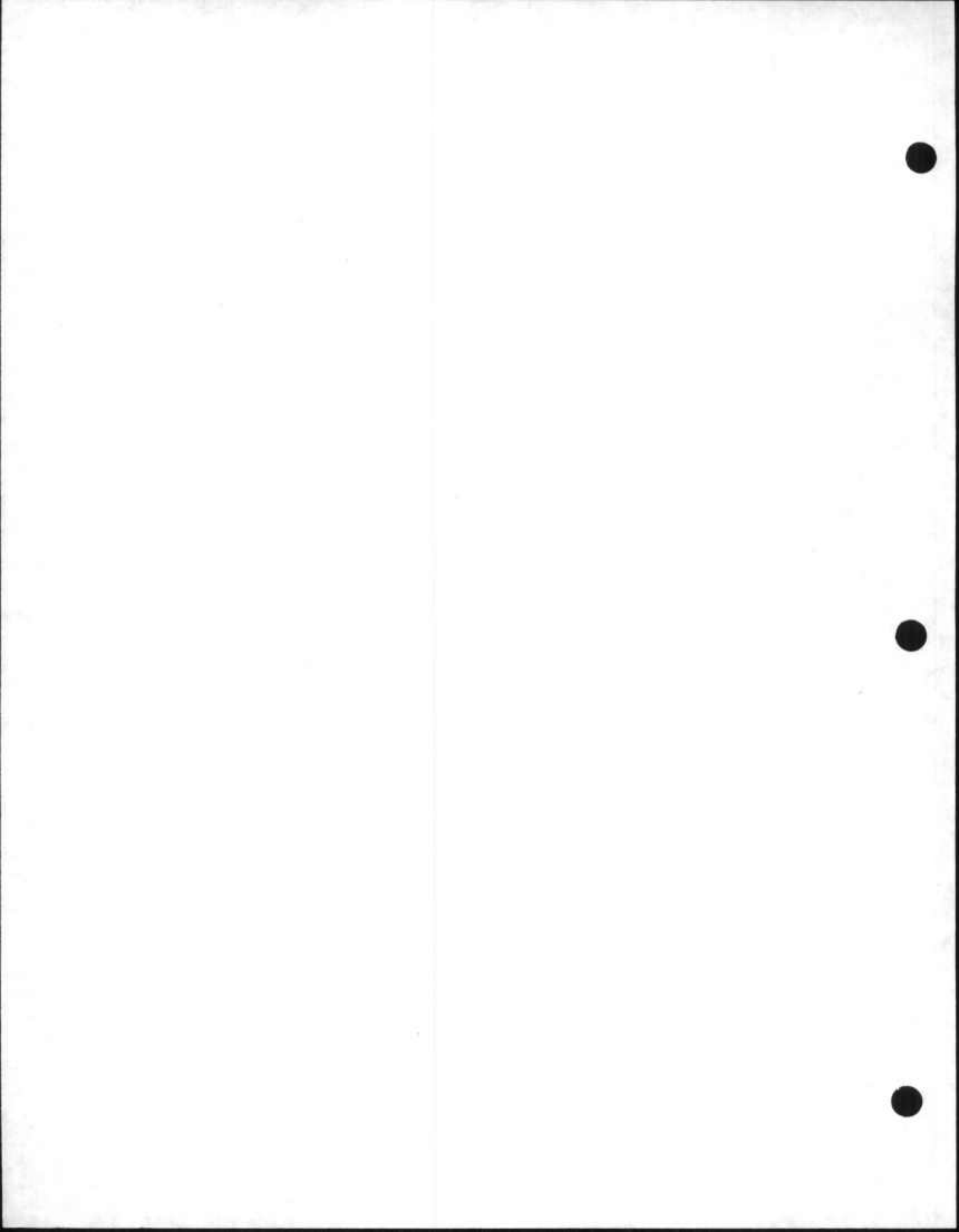
This office has received the above-referenced Buffer mitigation plan for review and comment. The proposed selection of species are all appropriate, native species. Planting areas 1, 2, and 8 appear to provide adequate mitigation for Buffer impacts since they appear to be located within or near a Buffer area on this site. We have concerns with the proposed plantings in the other sections. Given the disconnected nature of planting areas 3, 4, 5, 7, and 8, mitigation requirements would be more suitably met by clustering the given plantings into two or three of those areas. Sites that are in the Buffer are preferred. This would better serve to mitigate the Buffer impacts as intended.

Please provide Commission staff with an amended plan to address those planting areas mentioned above. Also, it would be helpful to see a more detailed vicinity map that shows the exact locations of each planting site. This will help Commission staff and County staff when inspecting the sites in the future.

Thank you for the opportunity to comment. If you have any questions, please telephone me at (410) 260-3467 or Lisa Hoerger at (410) 260-3478.

Sincerely,


Megan J. Sines
Natural Resources Planner



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

Re: Houk- VAR 333

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow a dwelling addition (screened porch) with greater impervious surface and less setbacks and Buffer than required.

The addition will covert a section of the existing deck into a screened porch adding 200 sq. feet of new impervious surface, bringing total impervious coverage to 16% of the lot. There will be mitigation performed at a 2:1 ratio as part of a SWM agreement. It appears the applicant has minimized disturbance to the Buffer.

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

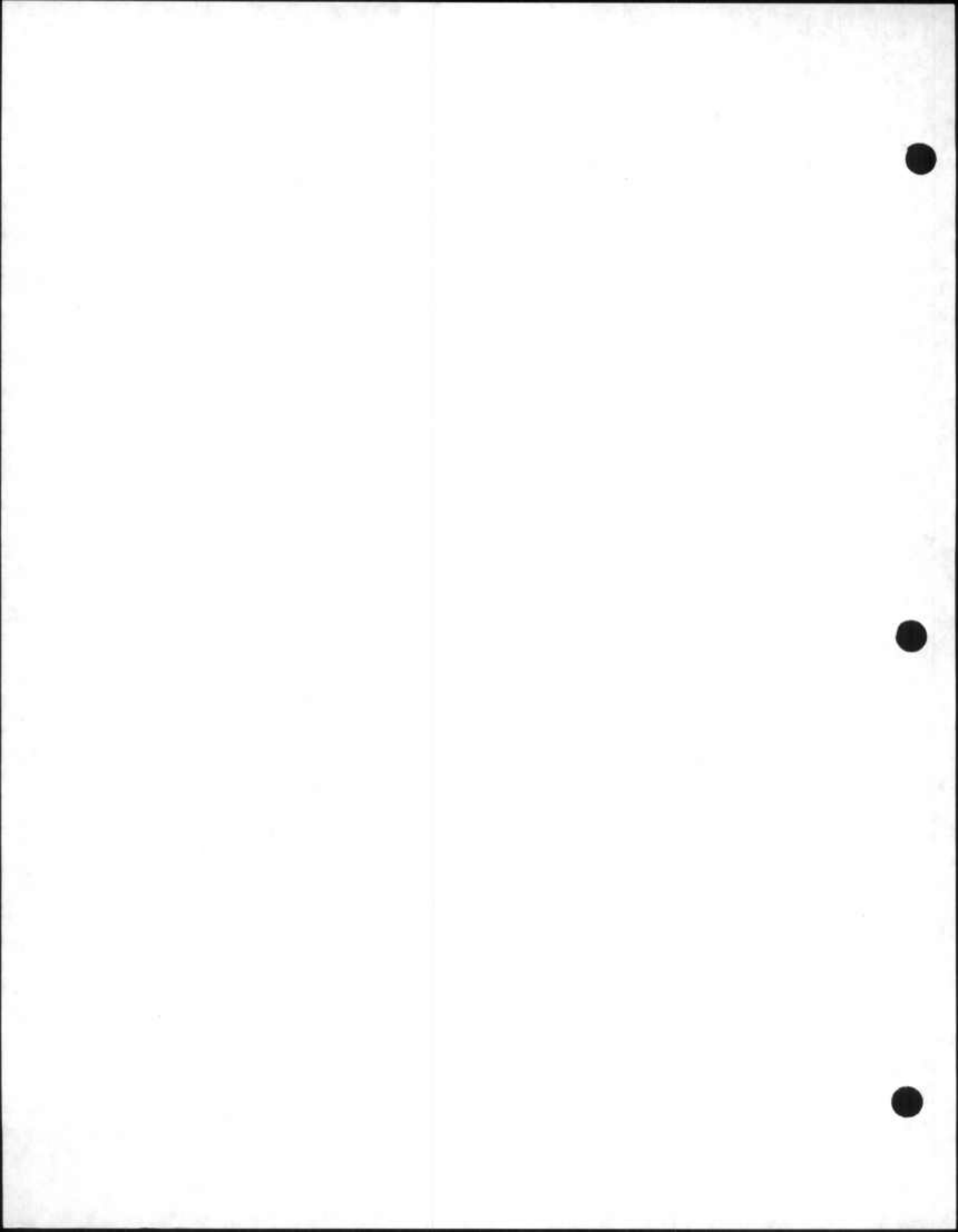
If you have any questions, please telephone me at (410) 260-3467 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 583-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 25, 2007

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

Re: Arellano- VAR 310

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to construct a deck with less setbacks than required. We do not oppose the variance request provided that the deck is constructed in a pervious manner, with spacing between the boards, six inches of gravel substrate below the deck and native plantings surrounding the foundation.

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

If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

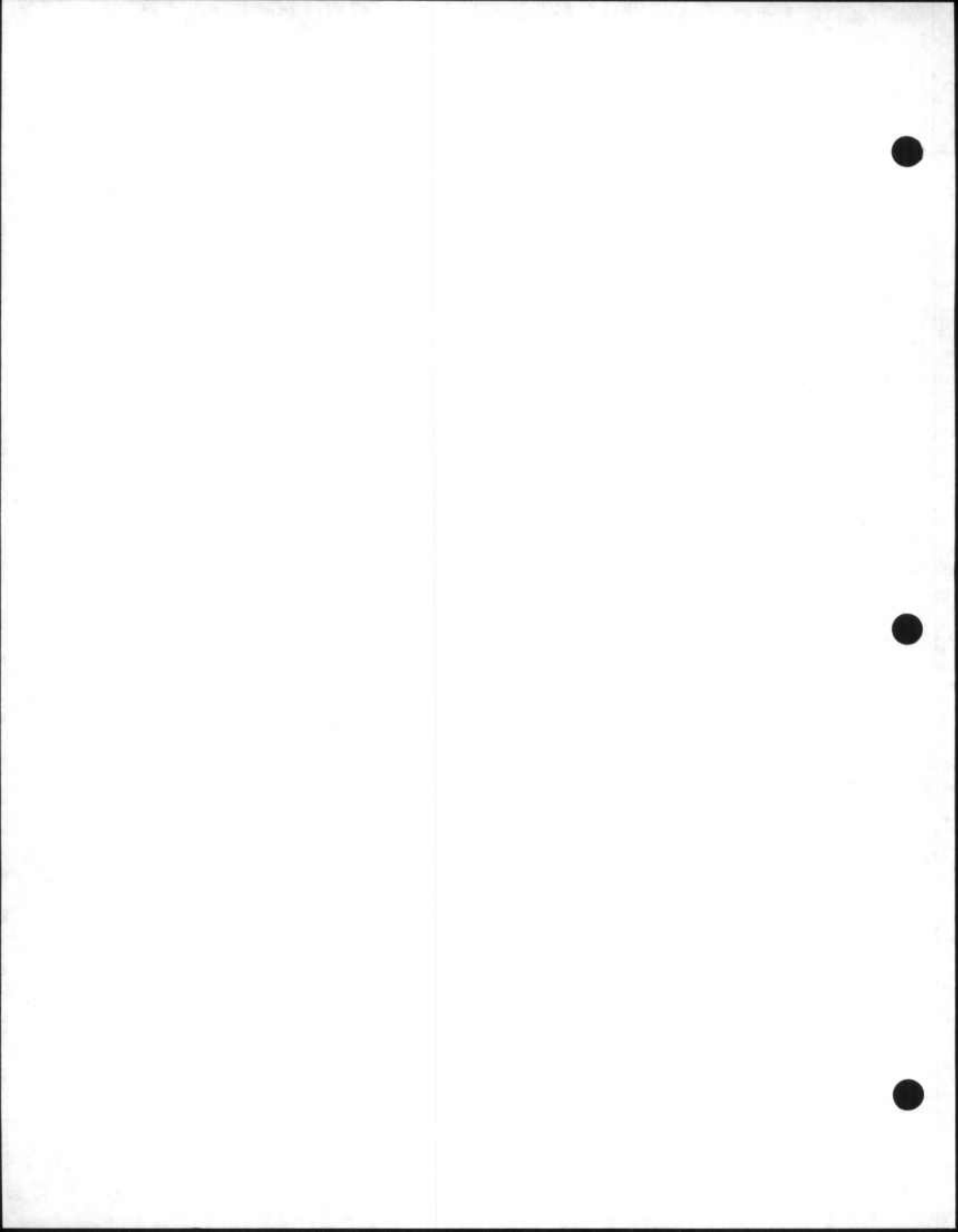
Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 556-07





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 25, 2007

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

Re: Schneider- VAR 316

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to construct a deck, screened porch and walkway with less setbacks and Buffer than required.

It appears the applicant has minimized disturbance to the Buffer; therefore we do not oppose the variance request provided that the deck is constructed in a pervious manner, with spacing between the boards, six inches of gravel substrate below the deck and native plantings surrounding the foundation. Mitigation at a 3:1 ratio should be provided for the area of new disturbance.

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

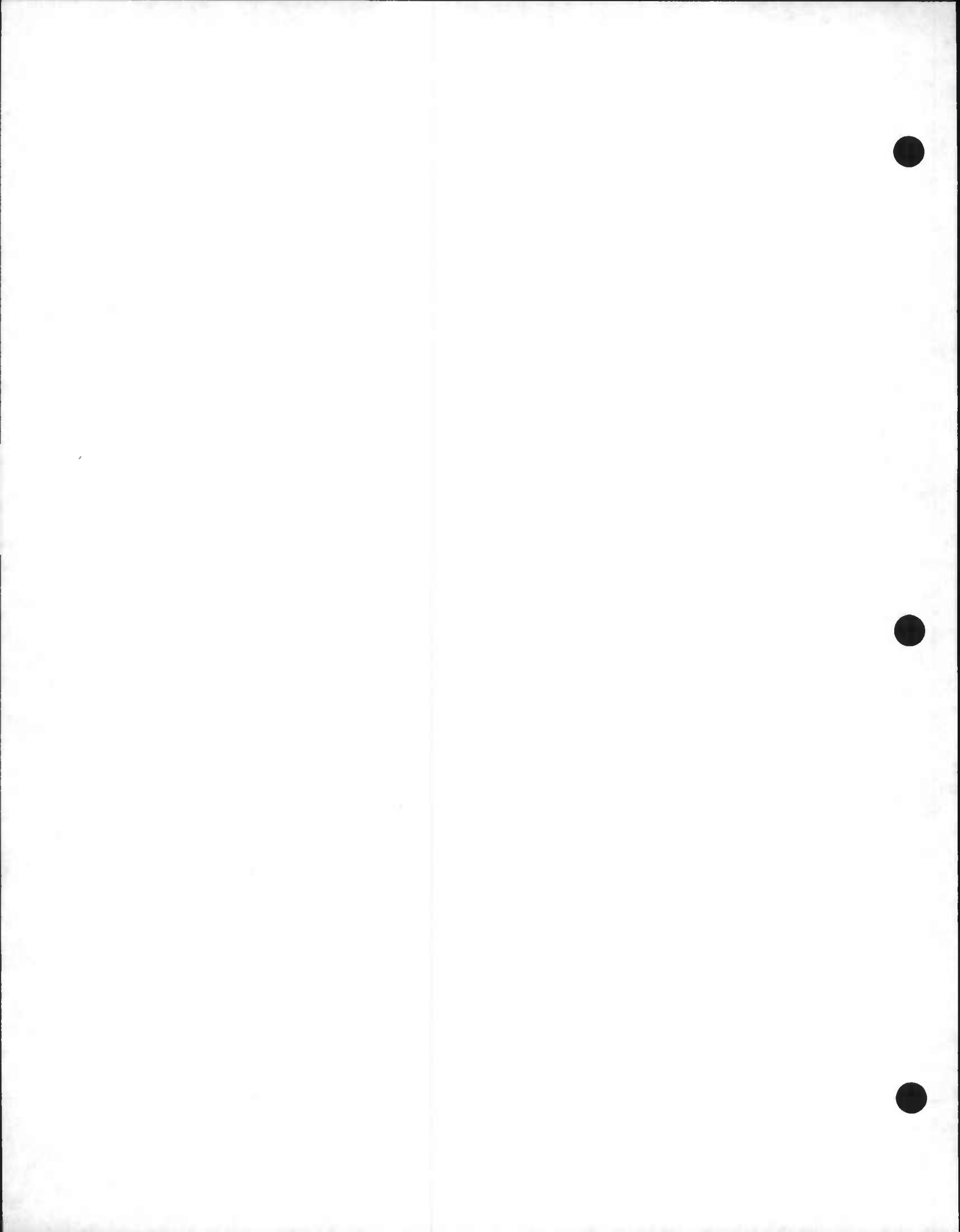
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 558-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 25, 2007

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

Re: Craven- VAR 314

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to construct a deck, screened porch and walkway with less setbacks and Buffer than required.

It appears there will be no direct impact to steep slopes and the applicant has minimized disturbance; therefore, we do not oppose the variance request provided that the deck is constructed in a pervious manner, with spacing between the boards, six inches of gravel substrate below the deck and native plantings surrounding the foundation. We recommend mitigation as prescribed by County staff.

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

If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

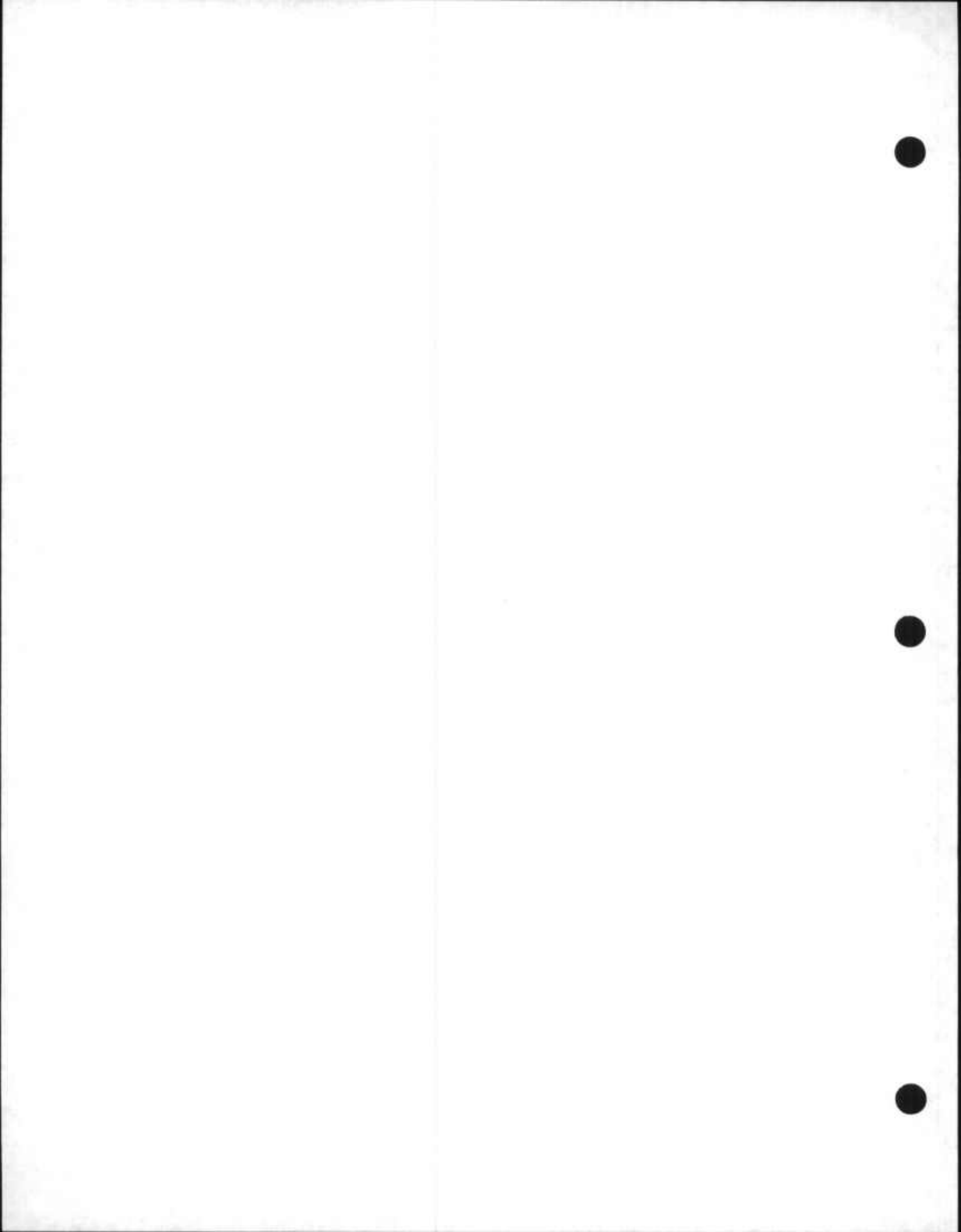
Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 557-07





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 25, 2007

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

Re: Pleasure Cove Marina
C 05-0068

Dear Ms. Krinetz:

I have received a resubmittal for the above-referenced request. We have reviewed the Buffer Plan and it appears to meet the County's Buffer Management Area mitigation requirements.

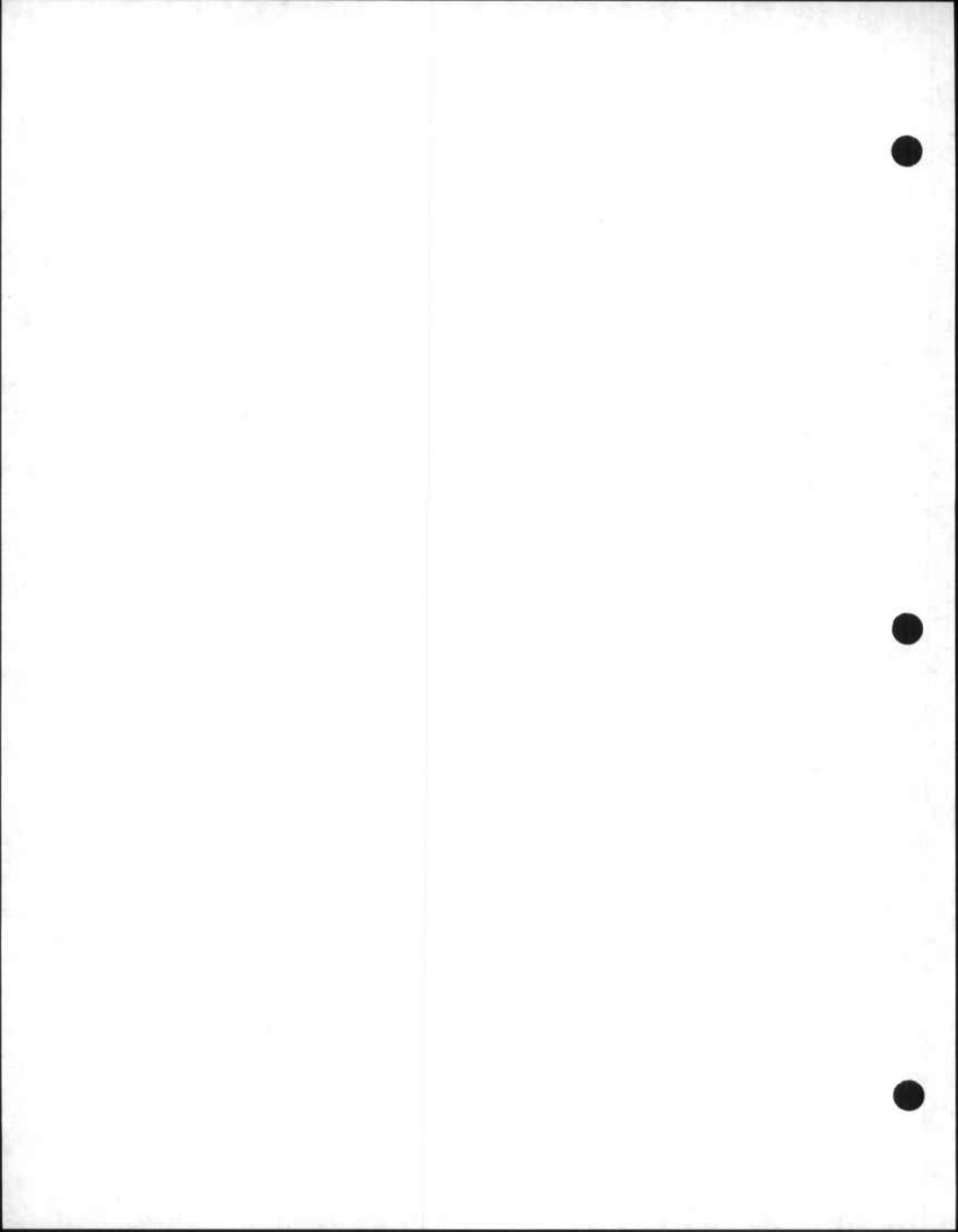
Thank you for the opportunity to comment. Please telephone me at (410) 260-3476 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 71-06



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 21, 2007

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

Re: Goudy, H. Chester Jr. Subdivision
MS 06-064

Dear Ms. Krinetz:

I have received a resubmittal for the above-referenced subdivision for review and comment. The applicant appears to have addressed all of the previous comments from this office and at this time we have no further comments.

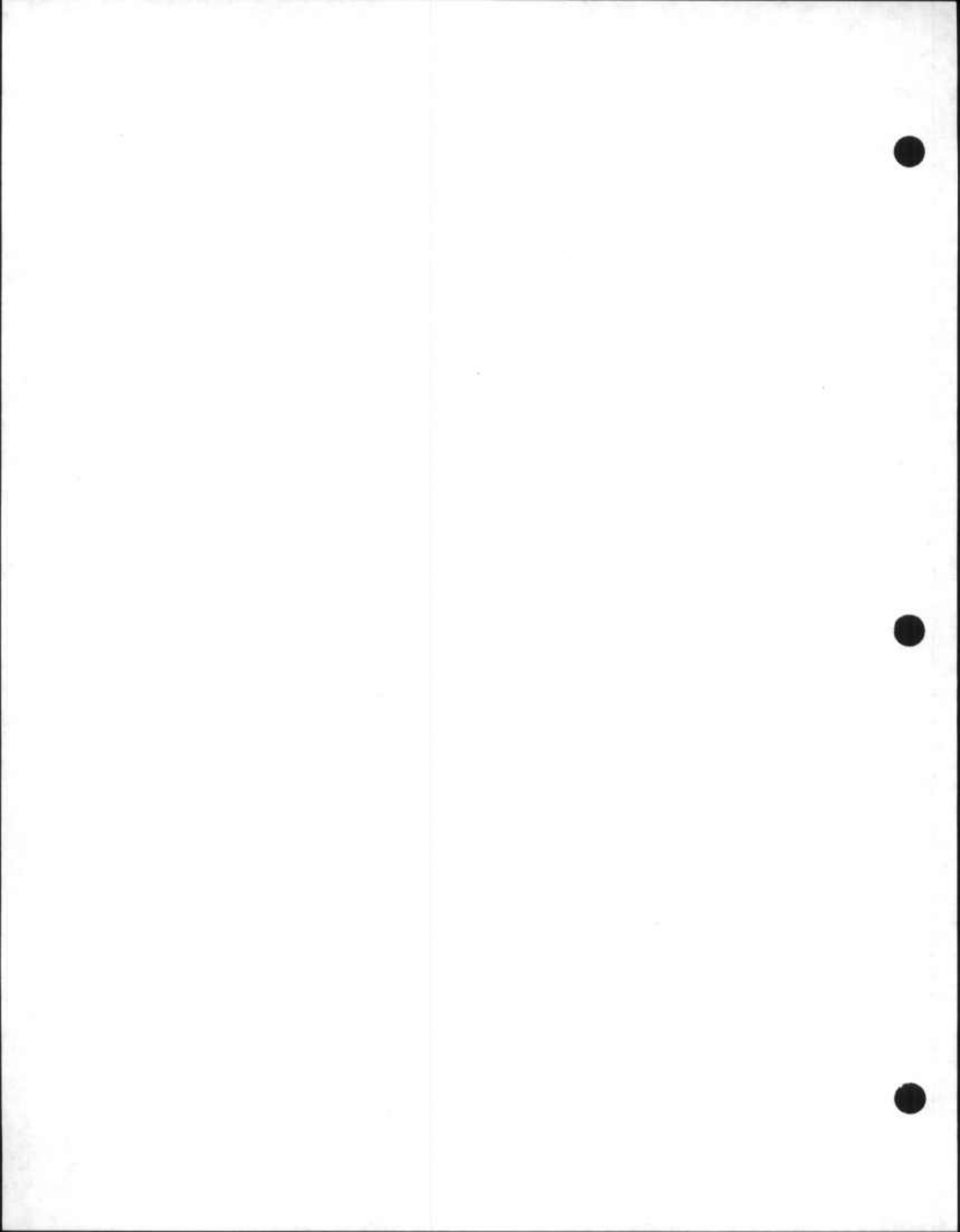
Please telephone me at (410) 260-3476 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

AA 752-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 14, 2007

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

Re: Sasser-VAR 248

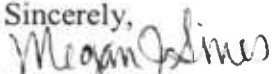
Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant is seeking variances to build a dwelling addition with less setbacks than required and with greater impervious coverage than allowed. My comments are outlined below:

1. Since there appears to be no Critical Area issues regarding the setback variance we have no comment regarding that request.
2. This lot is limited to 31.25% impervious coverage. Given the considerable size of the addition along with the existing structures and driveway, we are unable to support the project as proposed with the planned impervious coverage of 36%. It appears the project could be made to comply by either removing a portion of the driveway and/or reducing the proposed size of the addition.

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

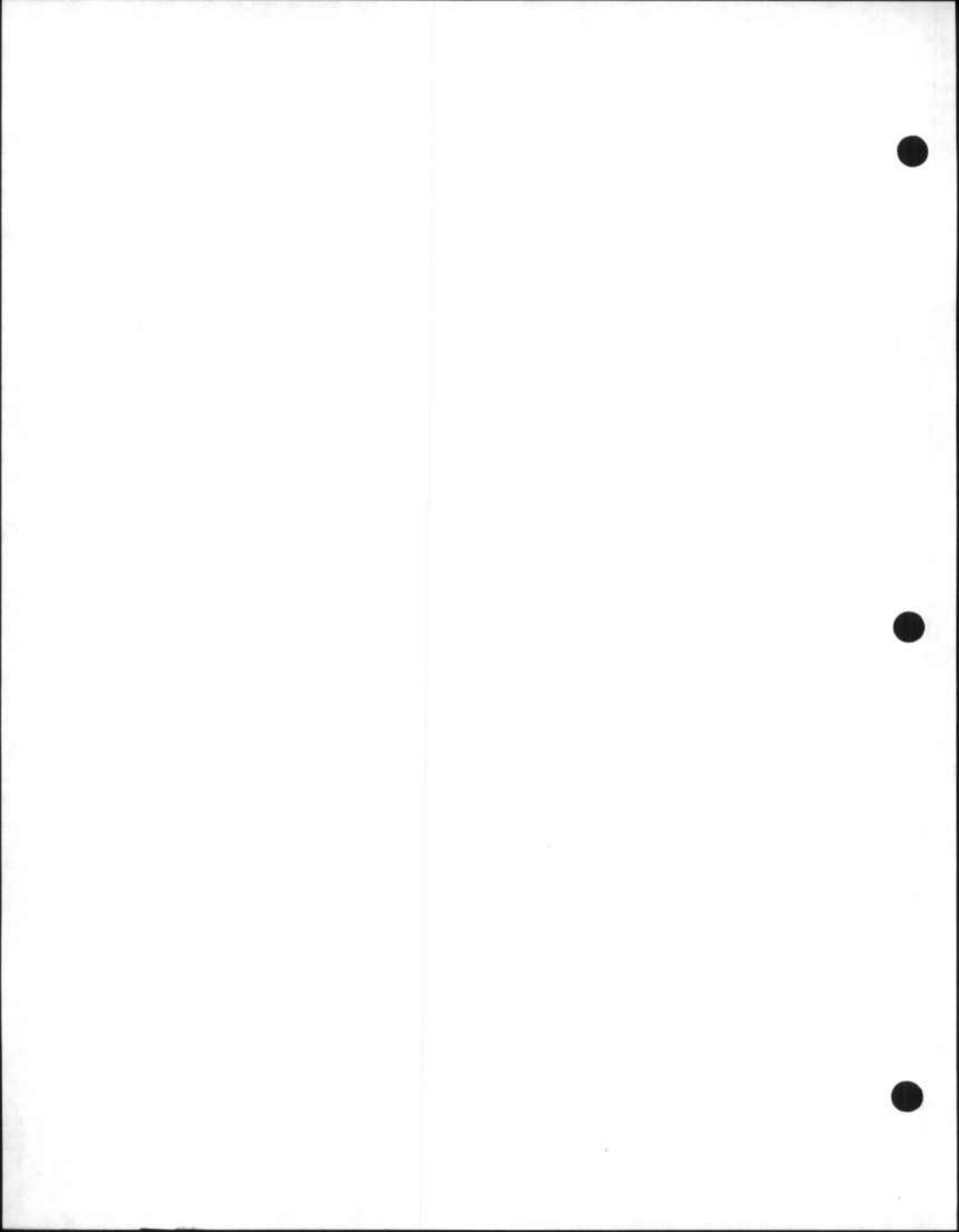
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

Megan J. Sines
Natural Resources Planner

cc: AA 507-07

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

STATE OF MARYLAND
CRITICAL AREA COMMISSION

September 12, 2007 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/

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

Re: Site Plan #C06-0075-1-Revised
Westhaven Community Pool

Dear Mr. Burke:

I have received the resubmittal of the above referenced site plan for review and comment. The applicant is proposing to construct a pool, pool house, driveway, parking area, and stormwater management facilities on a community recreation parcel currently designated as a Limited Development Area (LDA). My comments are outlined below:

1. It appears the Buffer from the tributary stream needs to be expanded for steep slopes. If the expanded Buffer extends onto the proposed parking lot a variance would be required.
2. It appears that the parking area is being proposed on steep slopes which also will require a variance. We recommend the applicant avoid the variance process by moving the parking area closer to the pool area. To avoid disturbance.
3. From the information provided it appears the applicant is unable to meet the variance standards given the area available for development outside the expanded Buffer and slopes.
4. The numbers on all plans and reports should be consistent. For example, Sheet 1 lists total site in Critical area as 223,080; whereas, Sheet 1 of 2 of the Critical Area Site Plan lists total site in Critical Area as 262,296.

Thank you for the opportunity to provide comments on this site plan submittal. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resource Planner
cc: AA 642-06

TTY for the Deaf

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





Martin O'Malley
Governor

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Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 7, 2007

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

Re: Sever-VAR 276

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant proposes to build a dwelling addition (2nd story) with less setbacks than required. Since the addition will not create additional impervious surfaces, this office does not oppose the request. Measures should be taken to minimize disturbance during construction (use of silt fence, etc.).

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

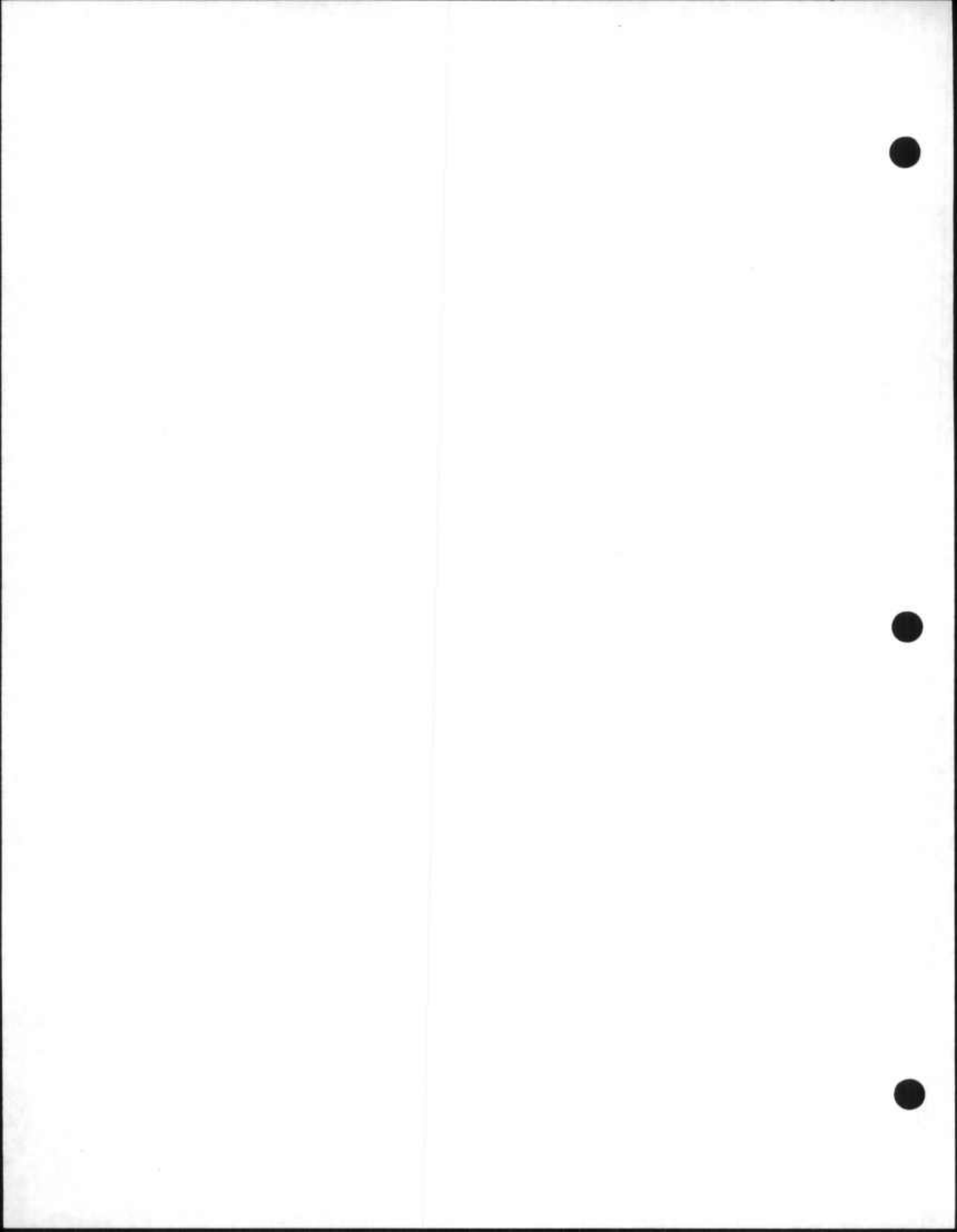
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 511-07



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 5, 2007

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

Re: Jacobs-VAR 275

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant proposes to build a dwelling addition with less setbacks than required. Since there appears to be no Critical Area issues, this office has no comment regarding this request.

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

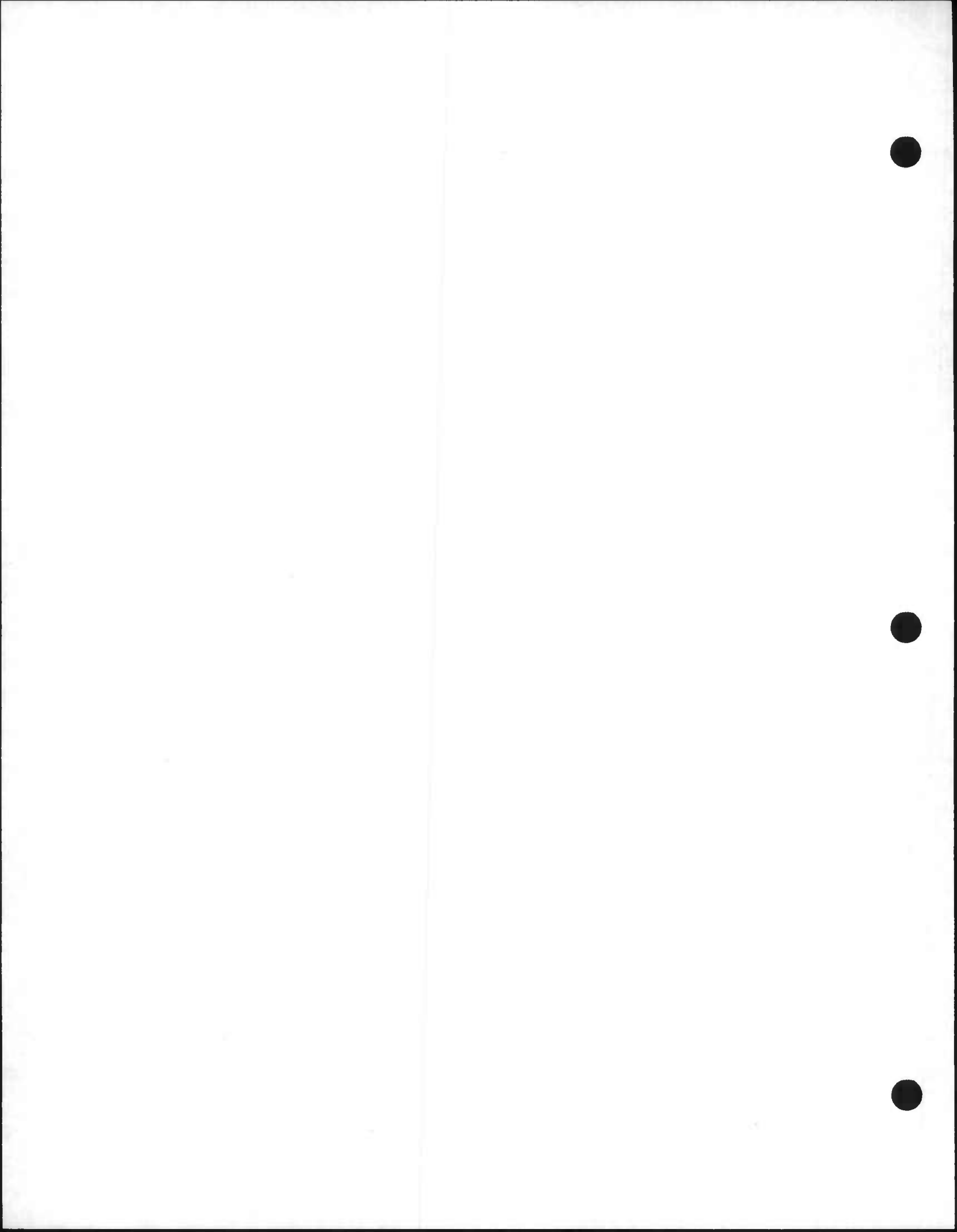
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 510-07



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 5, 2007

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

Re: Mauck -VAR 267

Dear Ms. Cotter:

This office has received the above-referenced variance request for review and comment. The applicant proposes to build an accessory structure (shed) with less setbacks than required. Since there appears to be no Critical Area issues, this office has no comment regarding this request.

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

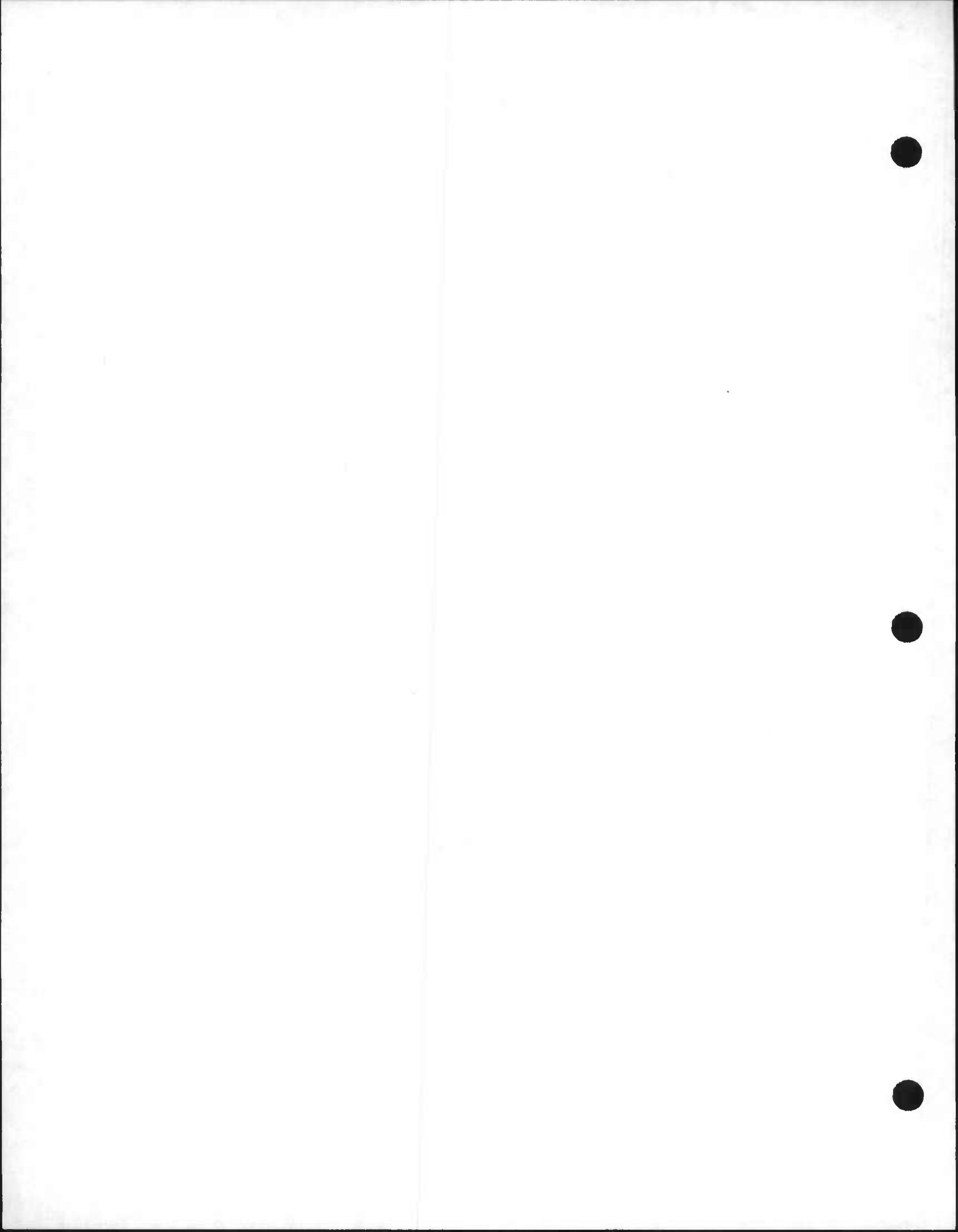
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 508-07



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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August 29, 2007

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

Re: Brockmeyer & Minion Property
S-07-019, P-07-0128

Dear Ms. Krinetz:

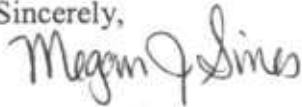
I have received the above-referenced subdivision request for review and comment. The applicants propose to construct a residential subdivision consisting of five (5) single family homes. The subject property covers 4.14 acres of land located entirely in the Limited Development Area (LDA) with 2.45 acres of the site in the Expanded Buffer. There are 3.04 acres of the property that is forested with the remaining portion comprised of mowed lawn and an existing single-family residence. The project as proposed requires clearing of 36,675 square feet (0.84 acre) or 27.7% of the existing forest. My comments are outlined below:

1. This office strongly cautions the County against approving a subdivision that will be constructed at the threshold of the 15% impervious surface limit. Under this design, future homeowners will be restricted from making any types of improvements on their properties including patios, swimming pools, walkways, sheds or additions. It will be incumbent upon the County to ensure compliance of this subdivision into the future. Anne Arundel County has approved similar projects that have consequently overwhelmed local staff with violation issues which cause a significant drain on staff resources. In addition, approving a new subdivision at the 15% limit, with the knowledge that future improvements are expected would not be consistent with the spirit of the Critical Area law when other alternatives, such as a reduction in the number of lots are available.
2. The temporary disturbance to the expanded Buffer should be mitigated on site to repair any disturbance that is created.

3. A plat note should be added to indicate that all plantings for the required afforestation and/or stormwater management be native species.
4. The limits of the Conservation Easement should be visible on each lot affected to alert future lot owners of the extent of their usable back yard areas. We recommend the applicant consider a fence or signs.
5. County Code 26-2-102-5 states that "*The policy of the County is to minimize adverse impact on water quality; conserve plant, fish, and wildlife habitat and foster appropriate development activity for shoreline areas.*" County Code 26-6-404 further reinforces the intent to minimize disturbance saying "*the layout and design of a development shall preserve natural features to the extent feasible...*" Therefore, we recommend that the lot lines do not extend down to the water since this would increase the number, movement, and activities of persons in the Buffer which can adversely impact water quality and habitat. Alternatively, we recommend one community access through the Buffer to access Cattail Creek.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3476 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,



Megan J. Sines
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 6, 2007

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

Re: Rabena, John VAR 2007-0223-V

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow a dwelling with less setbacks than required and with disturbance to slopes greater than 15%. The property is in the Limited Development Area (LDA). This office does not generally oppose a dwelling on a grandfathered lot; however, my comments are outlined below:

1. It appears from the site plan that the project will also require a variance for expanded Buffer to steep slopes; therefore, we recommend moving the dwelling further to the south as well as reducing the overall size of the dwelling and garage in order to reduce those impacts.
2. Measures should be taken to minimize disturbance to the Buffer during construction (use of silt fence, etc.).
3. The applicant should indicate any plans for decks on the waterward side of the dwelling.
4. A line marking the Limits of Disturbance should be shown on the final plans.

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

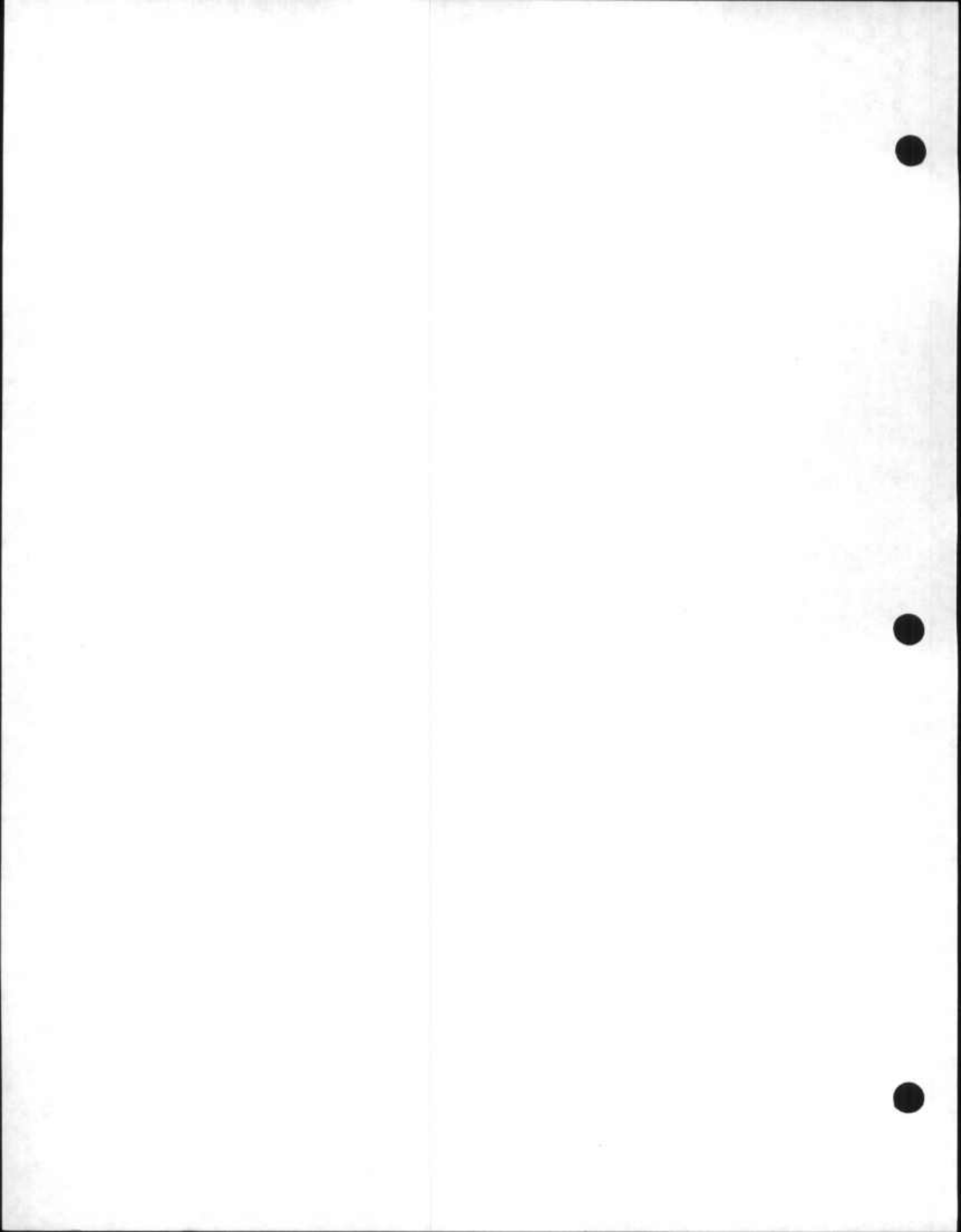
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 441-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 1, 2007

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

Re: Johnson, Anna
S 07-006, P 07-0013-1

Dear Mr. Burke:

I have received the resubmittal for the above-referenced subdivision request. The applicant proposes to create three lots, two of which will be in the Limited Development Area (LDA). The applicant has not addressed the comments in the last letter from this office dated January 29, 2007; therefore, I have reiterated these comments below:

1. The proposed clearing appears to be under 20%; therefore 1:1 mitigation is required. Since no mitigation area is shown, I assume mitigation will be handled through a fee. If not, please have the applicant indicate the area of mitigation on the plan and plat.
2. Impervious surface includes all non-pervious coverage on site including sidewalk, driveways, etc. It is unclear if these surfaces are counted towards the proposed impervious surface given. Please ensure that the reported total impervious coverage is all inclusive.
3. We recommend a table be added to the final plat indicating the total proposed and allowable impervious area and clearing per lot.

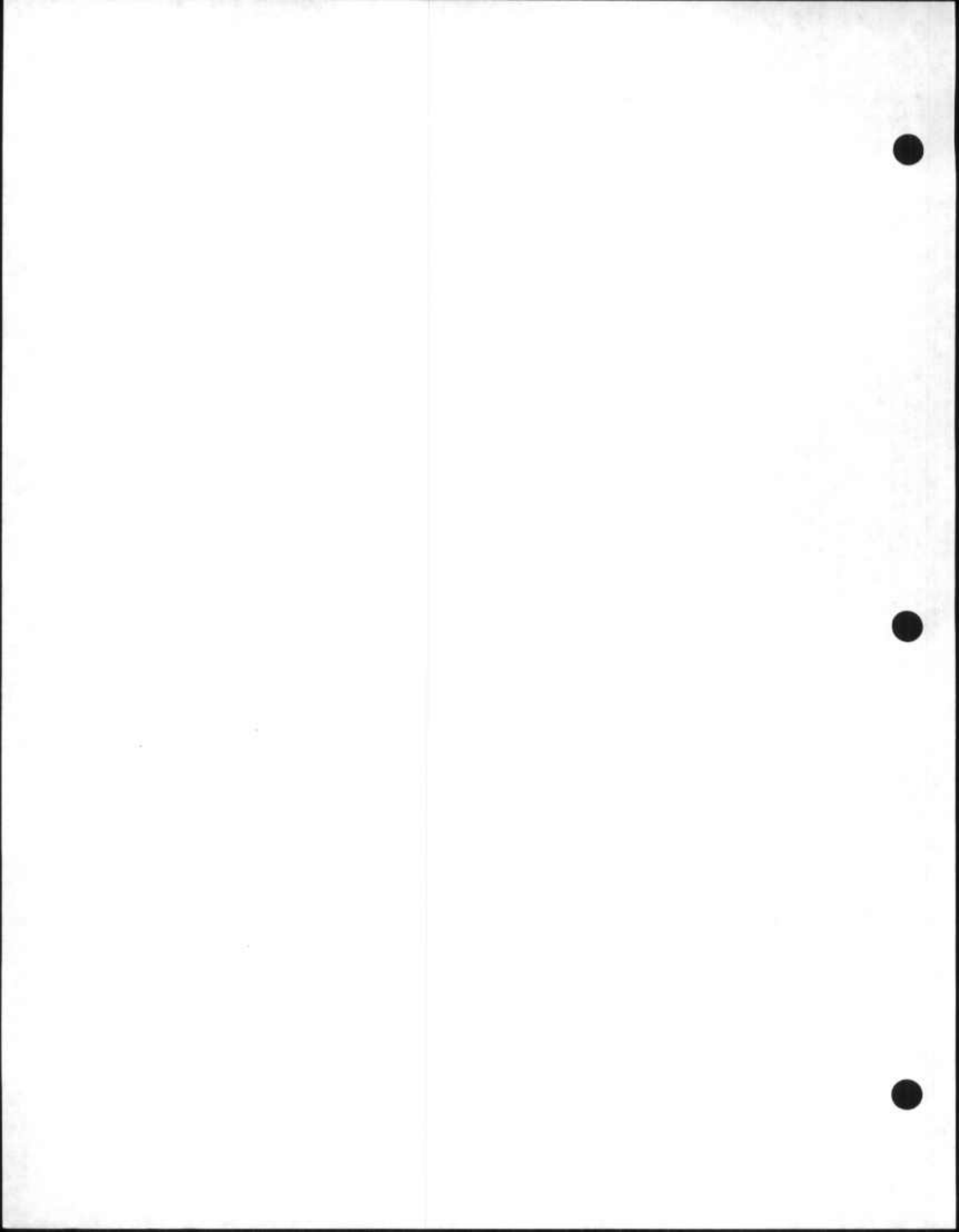
Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 42-07



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 1, 2007

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

Re: Taylor, Robb VAR 2007-0229-V

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow a dwelling addition (deck) with less setbacks and Buffer than required. The property is in the Limited Development Area (LDA). Provided this lot is properly grandfathered, this office does not oppose a variance for a reasonable side deck. My comments are outlined below:

1. We recommend that mitigation be performed at a 3:1 ratio for the area of new disturbance (disturbance includes grading, footprint and clearing) to offset the disturbance the Buffer. Mitigation of native species should occur in the Buffer area to the extent possible.
2. Measures should be taken to minimize disturbance to the Buffer during construction (use of silt fence, etc.).
3. The deck should be constructed in a pervious manner, with spacing between the boards, six inches of gravel substrate below the deck and native plantings surrounding the foundation.

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

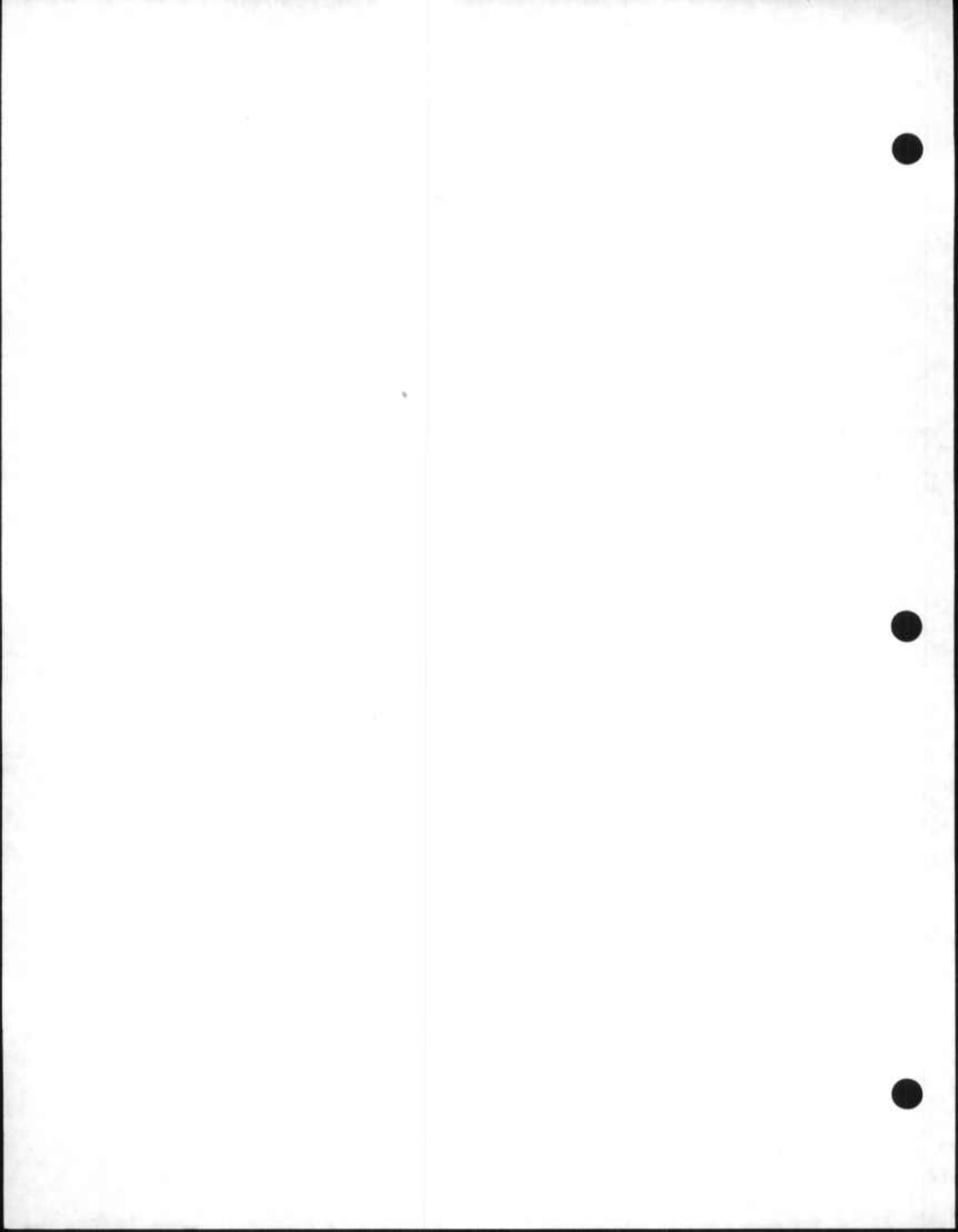
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 445-07



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 31, 2007

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

Re: Mike's Crab House/Grading and Site Development Plan
TM 50, Parcels 187, 182, 283, 233, 275, and 363

Dear Ms. Krinetz:

I have received the resubmittal for the above-referenced project for review and comment. The applicant has not fully addressed all of the comments from the letter from this office dated May 8, 2007. The comments that remain to be addressed are outlined below:

1. The 10% pollutant reduction information provided on Sheet 1 does not provide the specifications on the design of the proposed best Management Practices (BMPs). The applicant needs to provide a copy of the completed Worksheet A in order to fully evaluate whether compliance with a 10% pollutant reduction requirement is achieved.

Thank you for the opportunity to provide comments on this site and development plan submittal. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resource Planner
AA 13-07

CC: Tom Burke, AA 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 31, 2007

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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Ms. Adriene Stiffler
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Chesapeake Cove SUB, Lots 2-11

Dear Ms. Stiffler:

I have received the application for the above-referenced subdivision request for review and comment. The applicant is proposing to subdivide a 121.25 acre parcel in the Resource Conservation Area (RCA) into 6 lots. Lot 1 was reviewed as a separate proposal; this proposal includes review of lots 2-5, 11. A total of 11 lots are proposed for the larger 158.37 acre parcel with lots 6- 10 outside the Critical Area. My comments are outlined below:

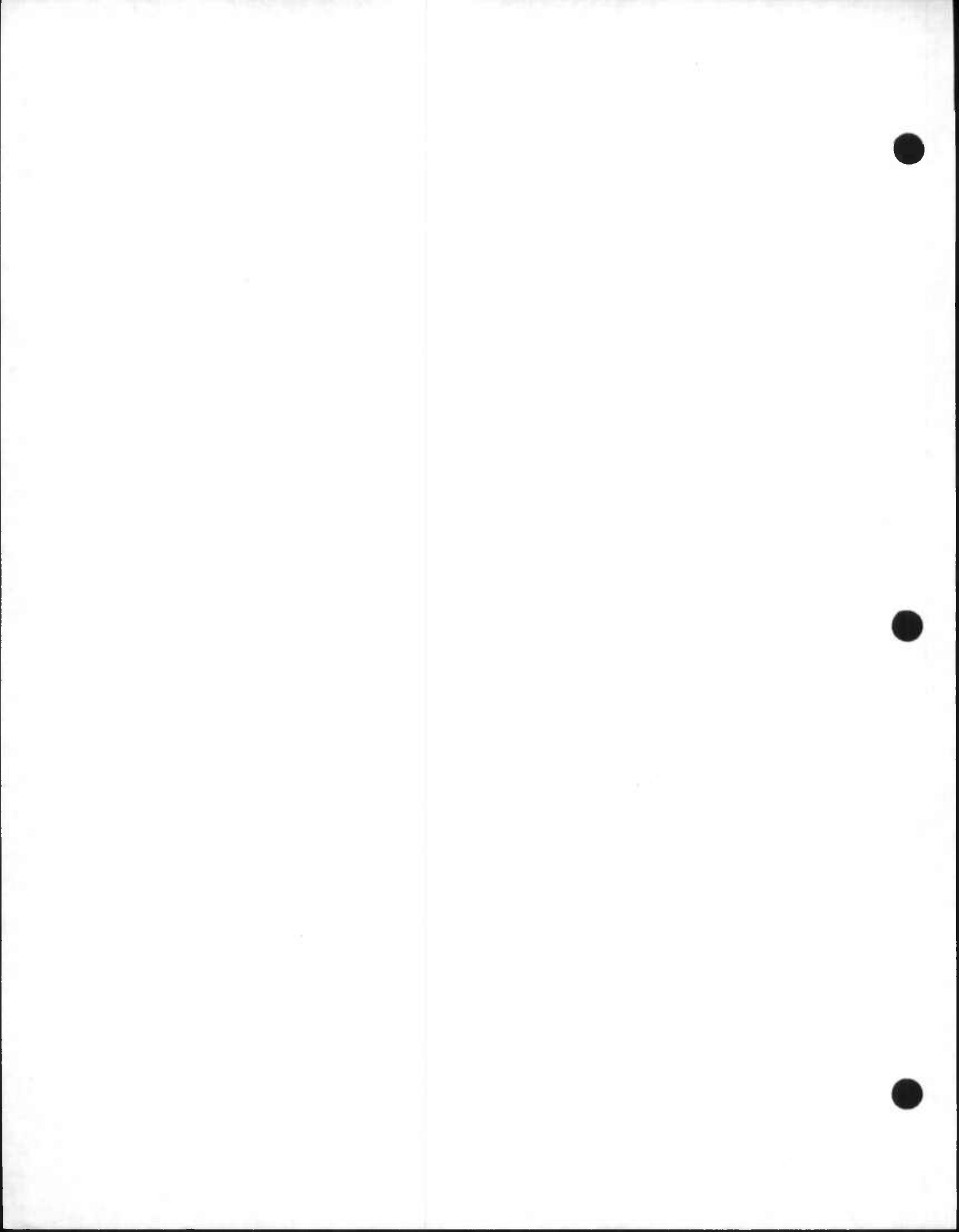
1. The proposed clearing needs to be provided. If clearing is proposed to be under 20% mitigation at a ratio of 1:1 will be required. If clearing is greater than 20 and up to 30% mitigation at the rate of 1:5:1 will be required. The mitigation area needs to be indicated on the plat and plan or it needs to be noted that mitigation will be handled off-site or through a fee-in-lieu.
2. We recommend a table be added to the final plat and plan indicating the total allowable impervious area and clearing per lot and for the overall subdivision.
3. A plat note should be added to indicate that all plantings for the required afforestation and/or stormwater management be native species.
4. A line marking the Limits of Disturbance should be shown on the final plans.
5. The applicant needs to provide whether the wetlands on site are public or private wetlands. This will determine the actual upland acreage that can be used for density and impervious surface calculations.
6. A letter from the Wildlife and Heritage Division of the Department of Natural Resources (DNR) shall be received prior to final recordation to ensure there are no threatened or endangered species habitats on site.
7. Measures should be taken to minimize disturbance to the Buffer during construction (use of silt fence, etc.).

Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner
cc: CE 397-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 31, 2007

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

Re: Albright, Ronald VAR 225

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow a dwelling addition (porch) with less setbacks than required. The property is in the Limited Development Area (LDA). Since there appears to be no Critical Area issues, this office has no comment regarding this request.

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

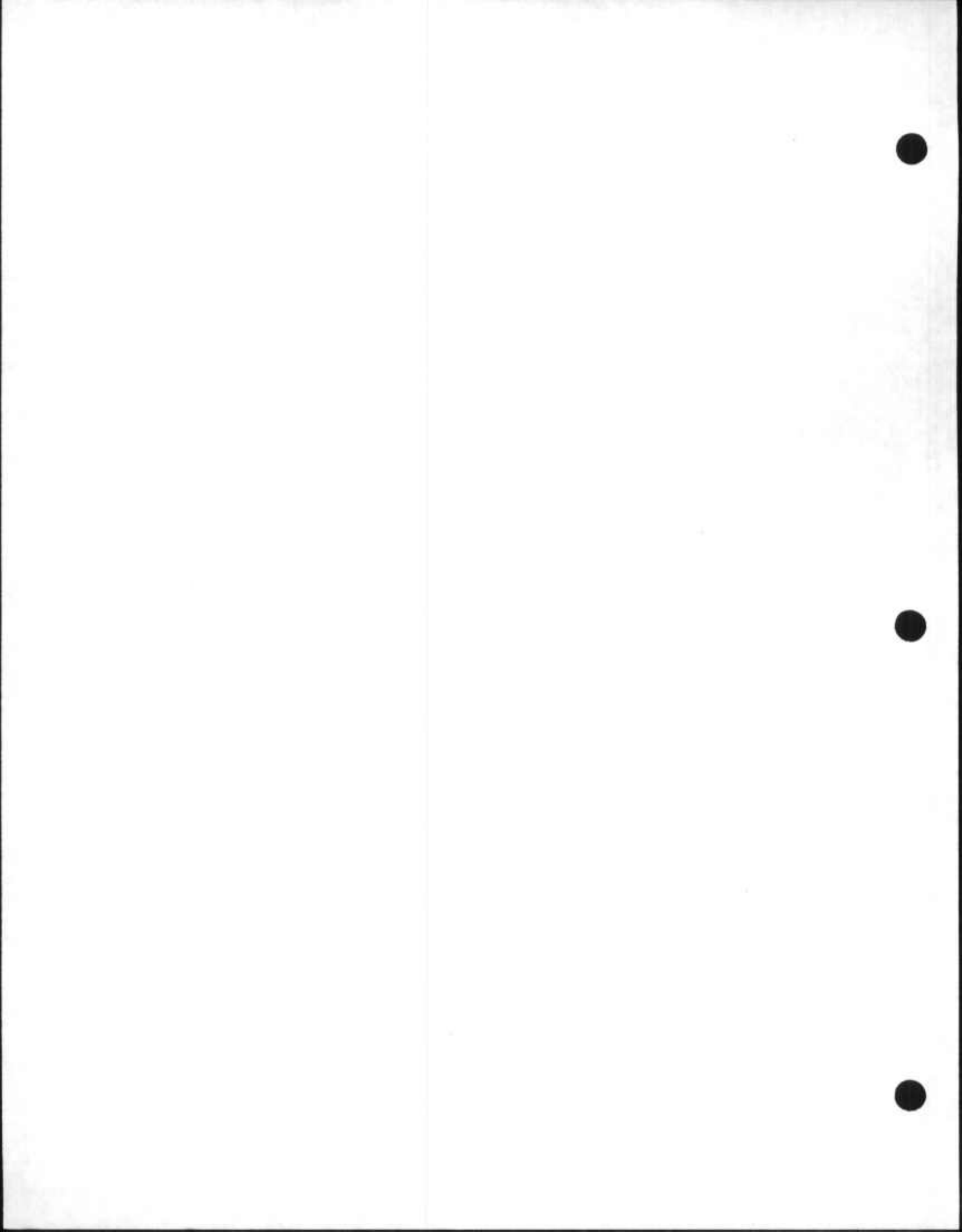
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 443-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 30, 2007

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

Re: Flannigan, Mark VAR 226

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant proposes to allow a dwelling addition (garage, porch, and steps) with less setbacks than required. The property is in the Intense Development Area (IDA). Since there appears to be no Critical Area issues, this office has no comment regarding this request.

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

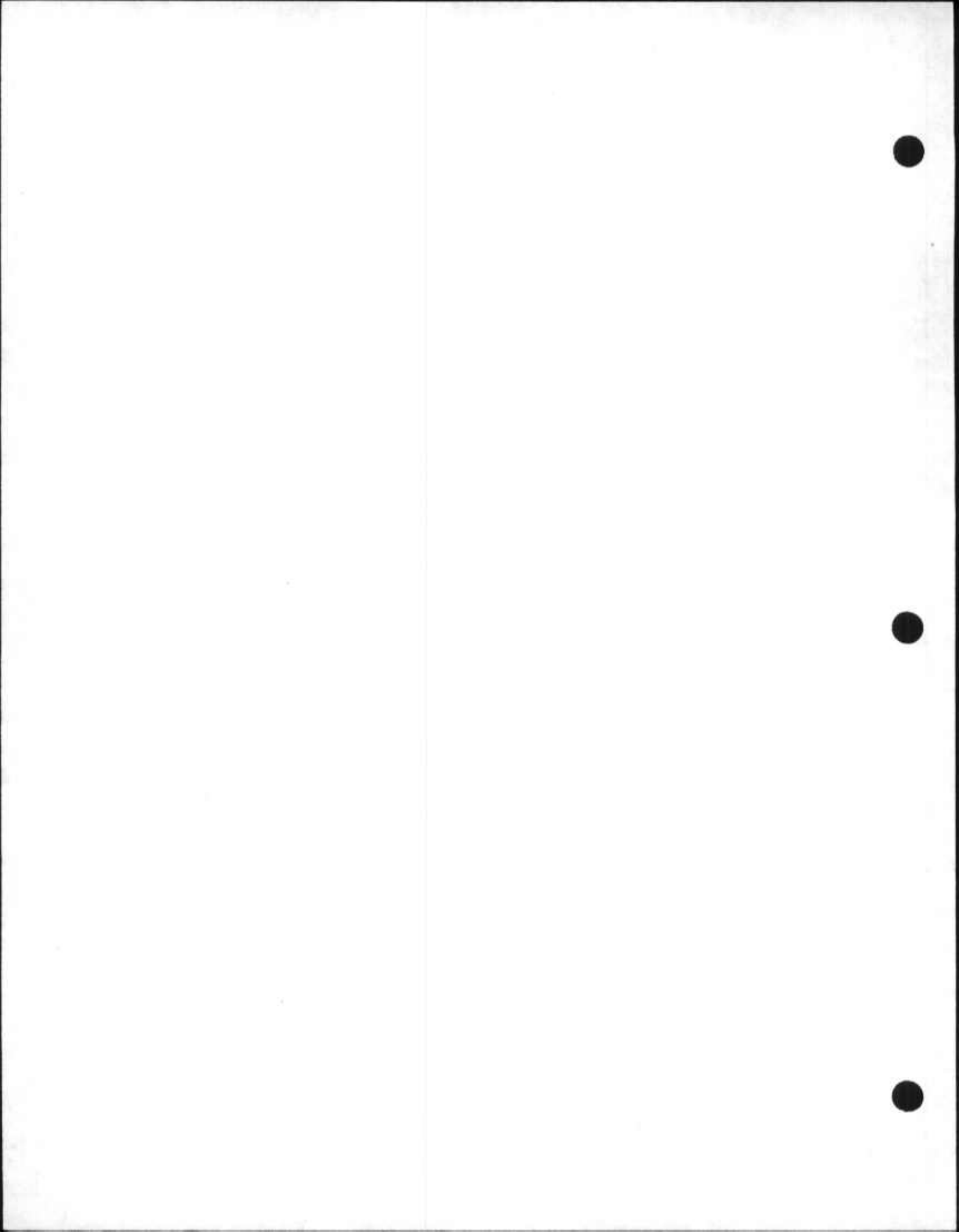
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 444-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 30, 2007

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

Re: Anderson, Faye VAR 026

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow an extension of time for implementation and completion of a previously approved variance. This office has no comment regarding this request; however, it appears that there is a deck has been added to the plan which was not part of the previous variance request. The previous decision granted the variance with a condition that stated, "no further expansion of the dwelling is allowed." It is unclear if this statement meant to include ancillary uses like decks; however, we would like to point this out to our office and the Administrative Hearing Officer for consideration.

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

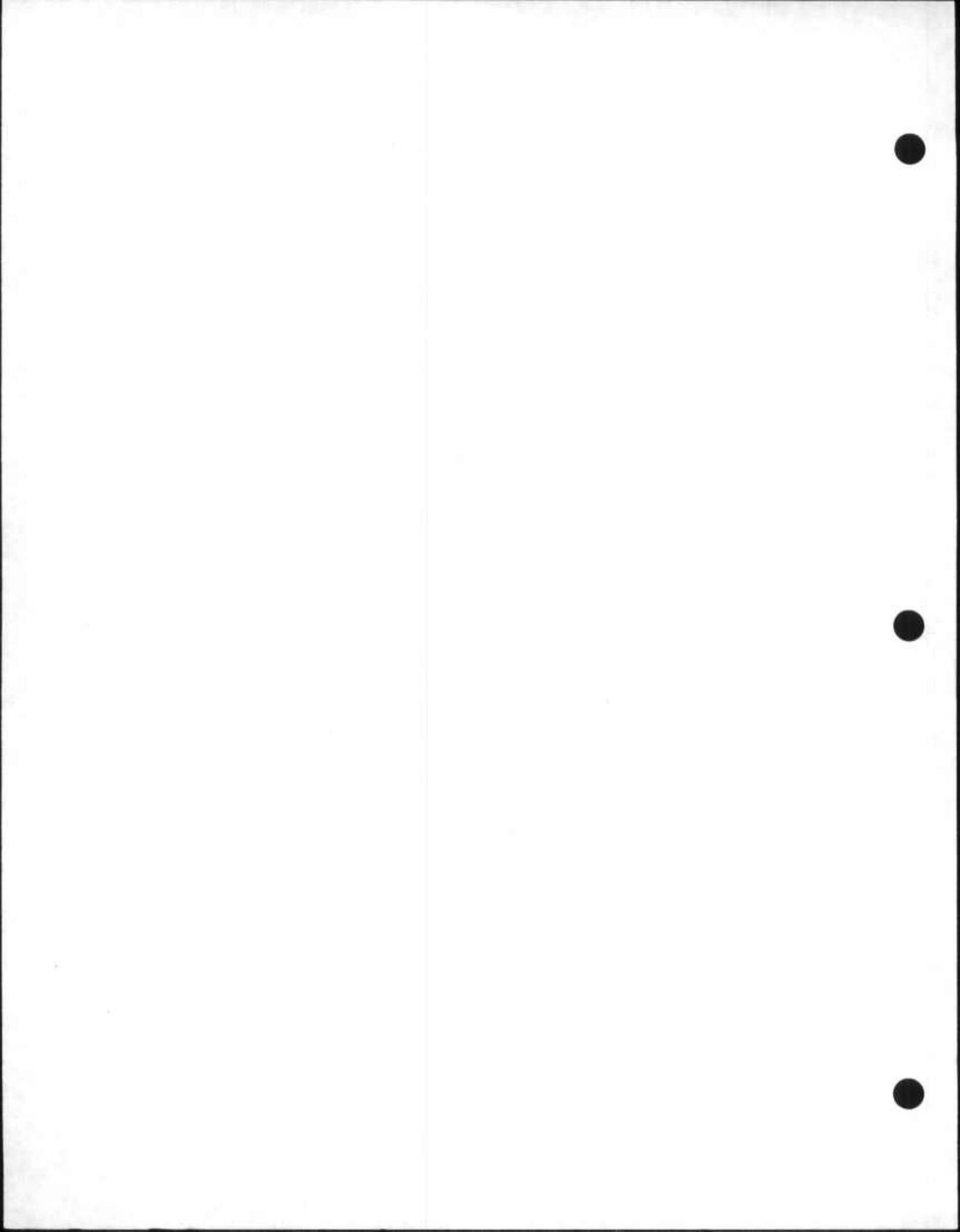
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 123-05



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

Re: Pleasure Cove Marina
C 05-0068

Dear Ms. Krinetz:

I have received a resubmittal for the above-referenced request. It appears the applicant has addressed the comments in the last letter from this office dated April 12, 2007. Please forward a copy of the planting plan when it is completed.

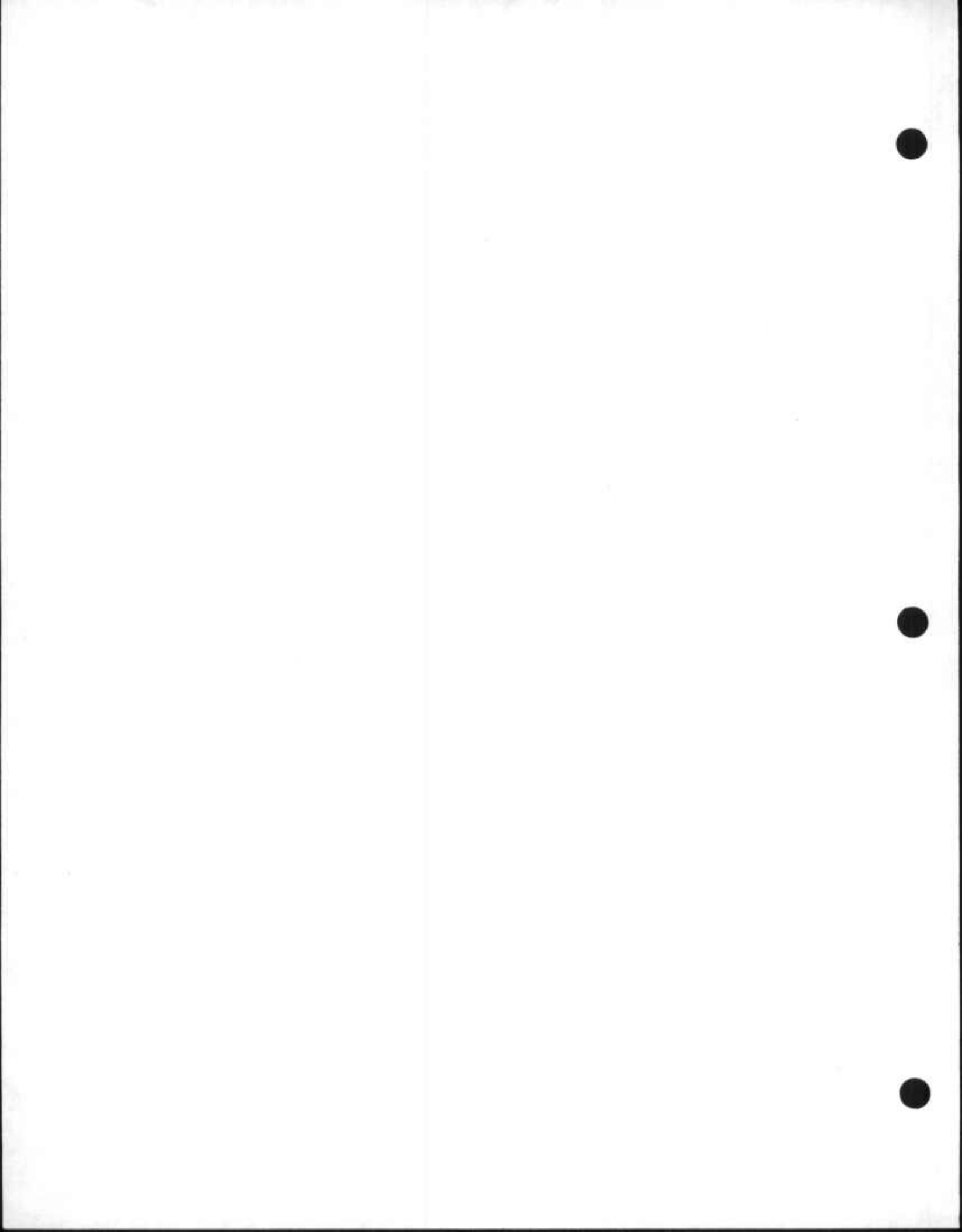
Thank you for the opportunity to comment. Please telephone me at (410) 260-3476 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 71-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 24, 2007

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

Re: EMP Enterprise, LLC Rezoning 0200

Dear Ms. Schappert:

This office has received the above-referenced rezoning request for review and comment. The applicant is seeking a zoning reclassification from C-1 Local Commercial District to R-5 Residential District. Since this property is in the Limited Development Area, this office has no comment regarding this request.

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

If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

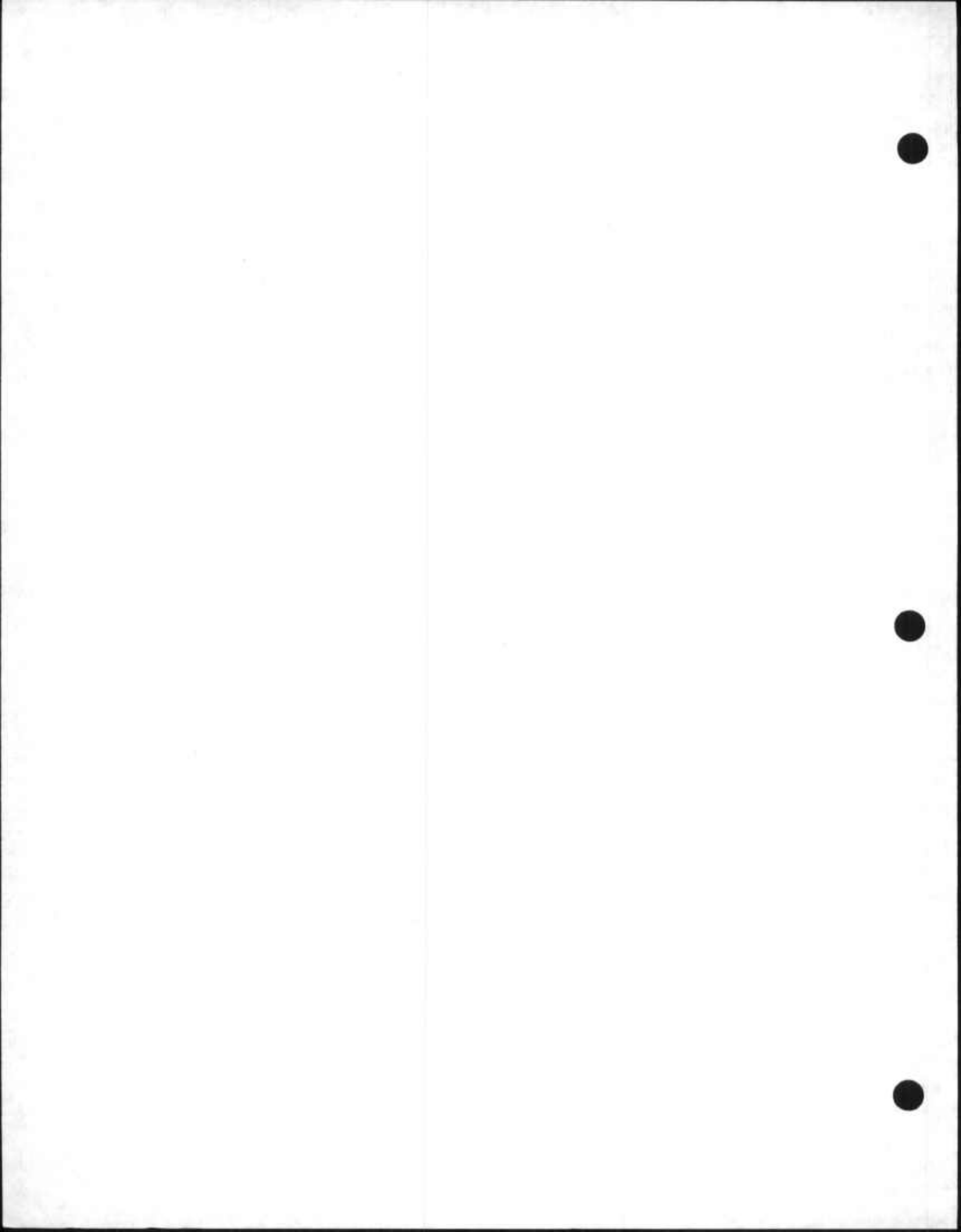
A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 414-07

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 24, 2007

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

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

Dear Ms. Shatt:

I have received the resubmittal for the above-referenced subdivision request. It appears the applicant has addressed all of the comments of the last letter from this office dated September 25, 2006; therefore, we have no further comments except that the applicant intends to conduct a field study to verify the presence or absence of the state-listed endangered species. Please forward a copy of that study when it is completed. Should the species be found on site, appropriate protection and conservation measures shall be undertaken at the direction of the Department of Natural Resources. Therefore, we recommend that the final plat approval be withheld until this issue is resolved.

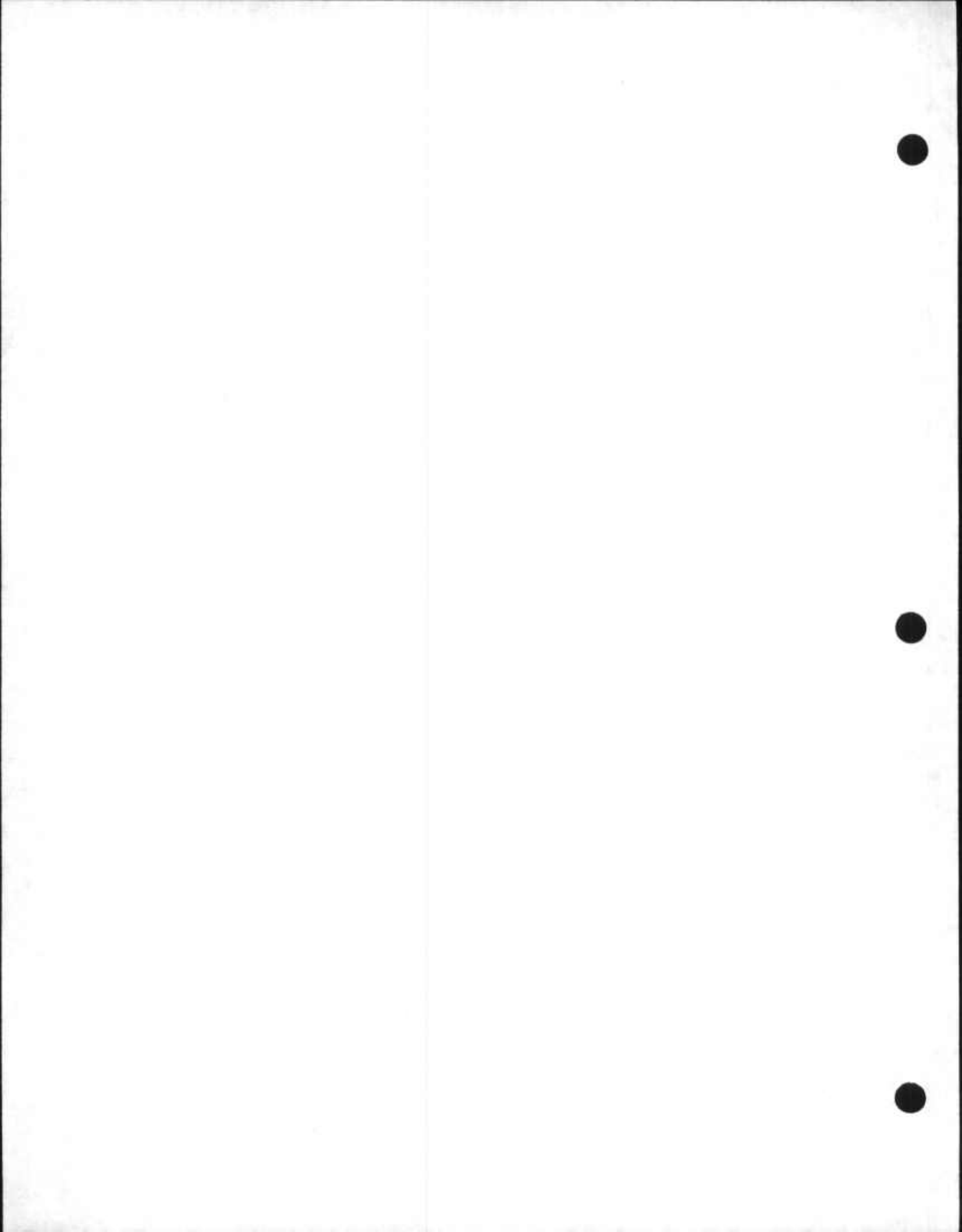
Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA376-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 24, 2007

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

Re: Palmisiano VAR 198

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow a dwelling with less setbacks than required. The project involves replacing a dwelling on the existing footprint. Impervious coverage will remain unchanged at 32% coverage. The property is in the Limited Development Area (LDA).

We recommend that the footprint be reduced if the current structure is being totally removed including the original foundation.

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

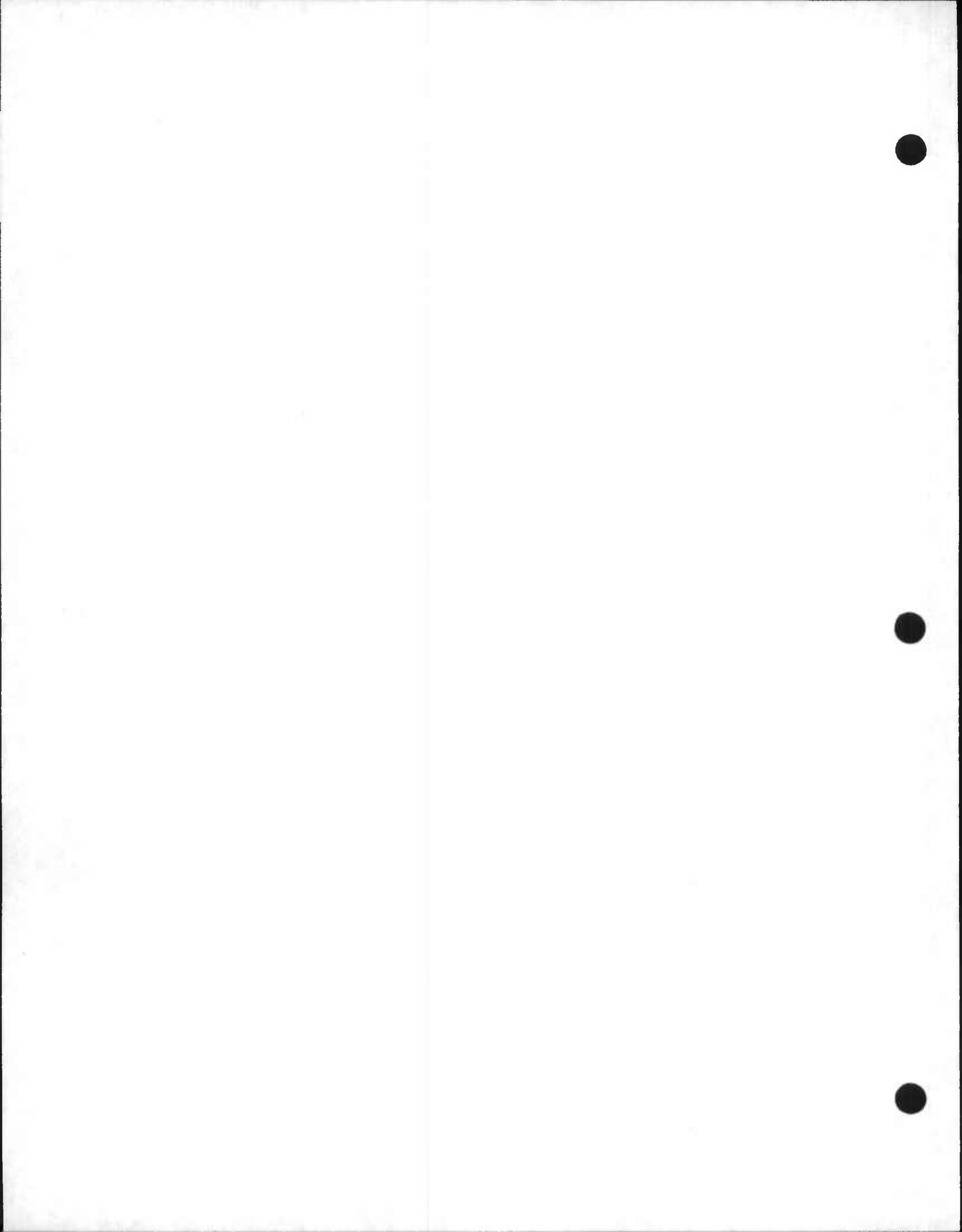
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 413-07



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 24, 2007

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

Re: Teti VAR 192

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow dwelling additions with less setbacks than required. The project involves building an addition to an existing dwelling, adding to the walkway, and the addition of a wood porch. The property is in the Limited Development Area. My comments are outlined below:

1. We recommend that the new porch is constructed in a pervious manner, with spacing between the boards, six inches of gravel substrate below the deck and native plantings surrounding the foundation.

This office has no comment regarding the setback variance.

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

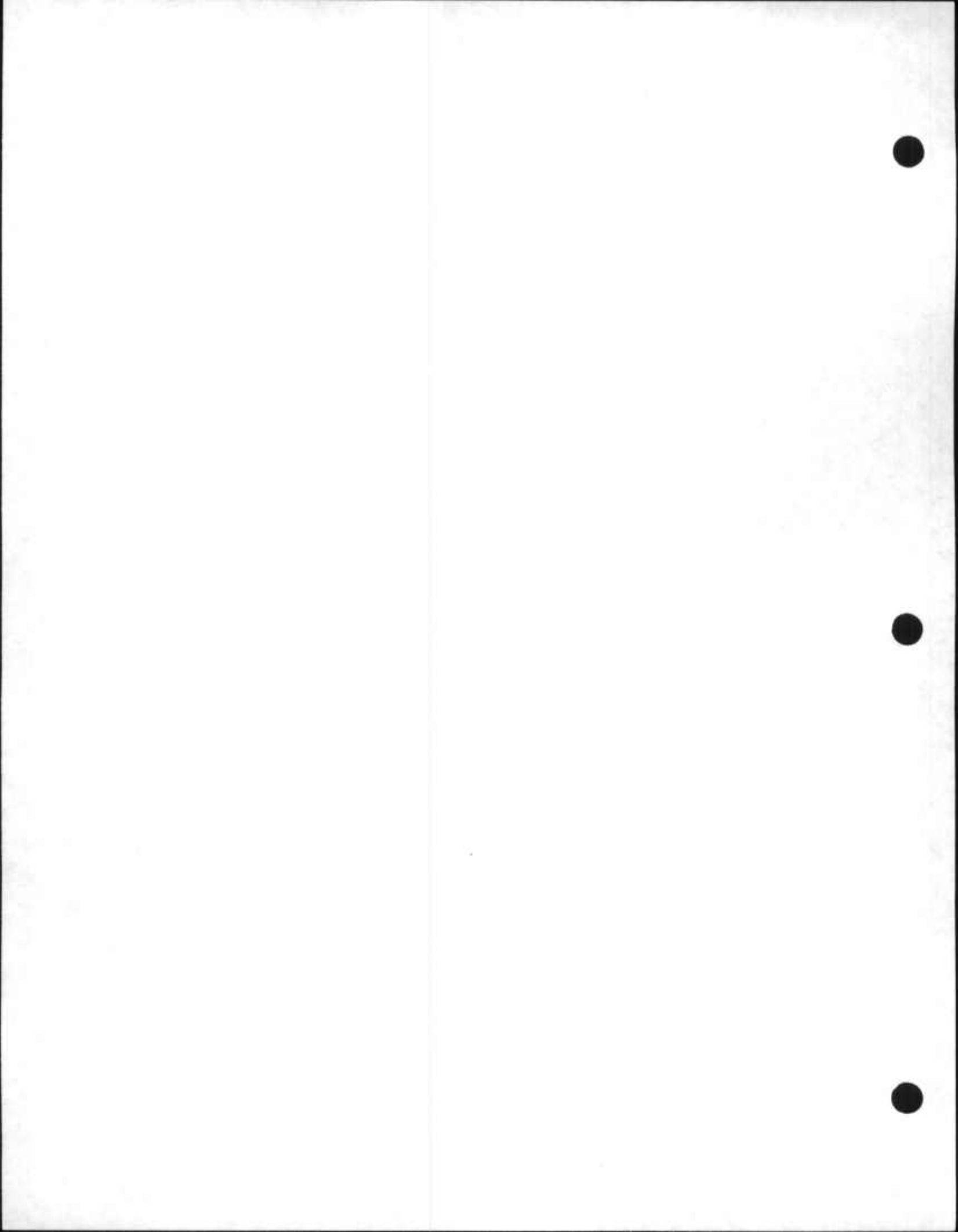
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 415-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Executive Director

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July 24, 2007

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

Re: Kafka/Cavanagh VAR 358

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow a dwelling addition with less Buffer than required. The project involves enclosing an existing deck thus increasing impervious surface coverage by 184 square feet for a total of 14% impervious surface coverage. The property is in the Limited Development Area.

It is unclear whether the existing deck is pervious; however, this office does not oppose the requested variance provided the conditions of the previous variance (2001-0358-V) have been met (attached).

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

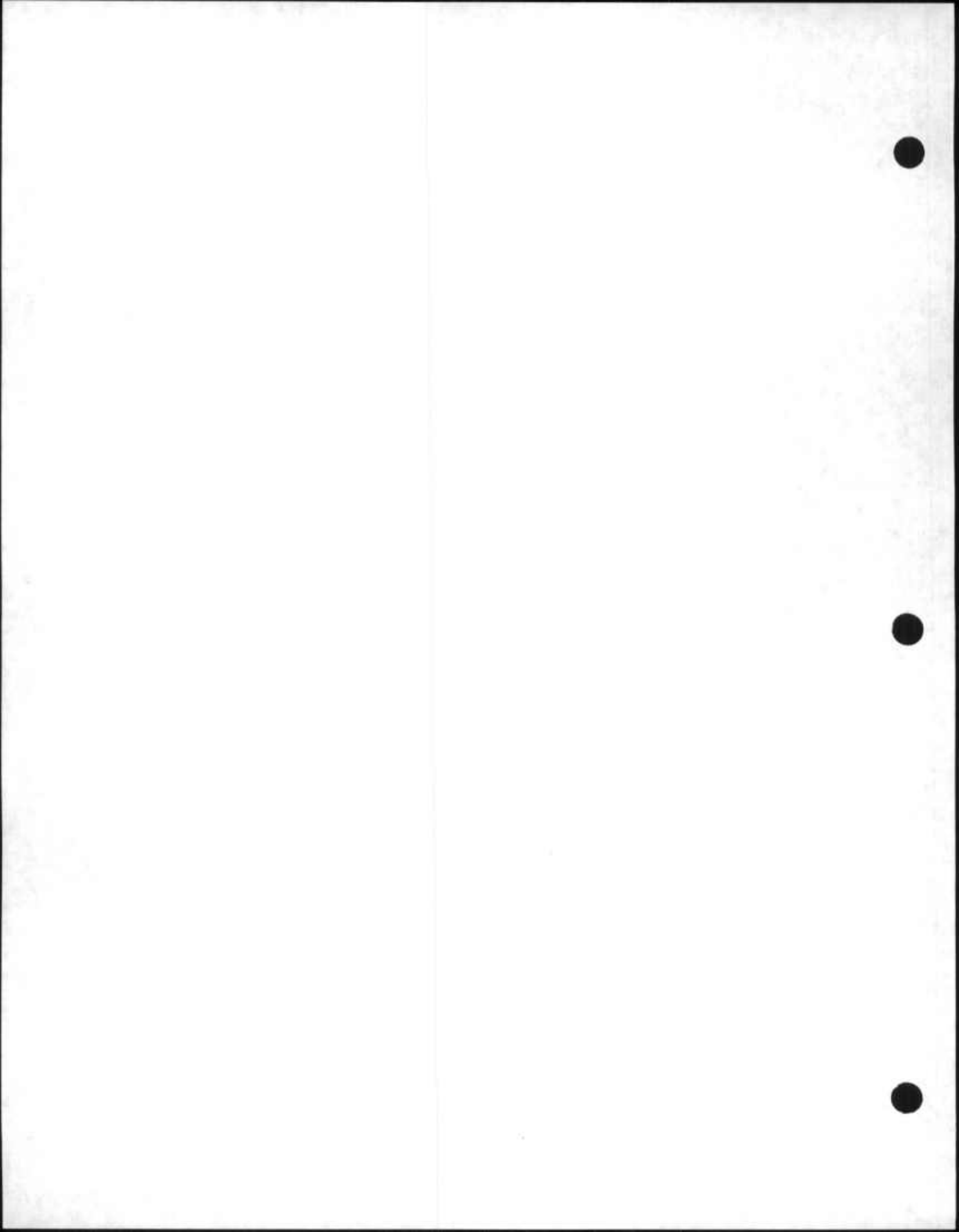
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 562-01



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Ren Serey
Executive Director

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July 23, 2007

Mr. Walter Dombrowski
Department of Public Works
150 Main St, Suite 206
Prince Frederick, MD 20678

Re: Chaneyville Road Bridge Replacement

Dear Mr. Dombroski:

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 conditionally approved the replacement of the Chaneyville Road Bridge over Graham Creek proposed by the Calvert County Department of Public Works in accordance with the staff report and presentation and the following conditions:

- (1) Prior to commencement of construction, the Calvert County Department of Public Works shall submit erosion and sediment plans approved by the Calvert County Soil Conservation District to Commission staff; and
- (2) Prior to commencement of construction, the Calvert County Department of Public Works shall submit a Buffer mitigation plan to Commission staff for review and approval. The plan shall demonstrate compliance with the required 3:1 mitigation ratio for new disturbances to the 100-foot Buffer, an area totaling 16,530 square feet.

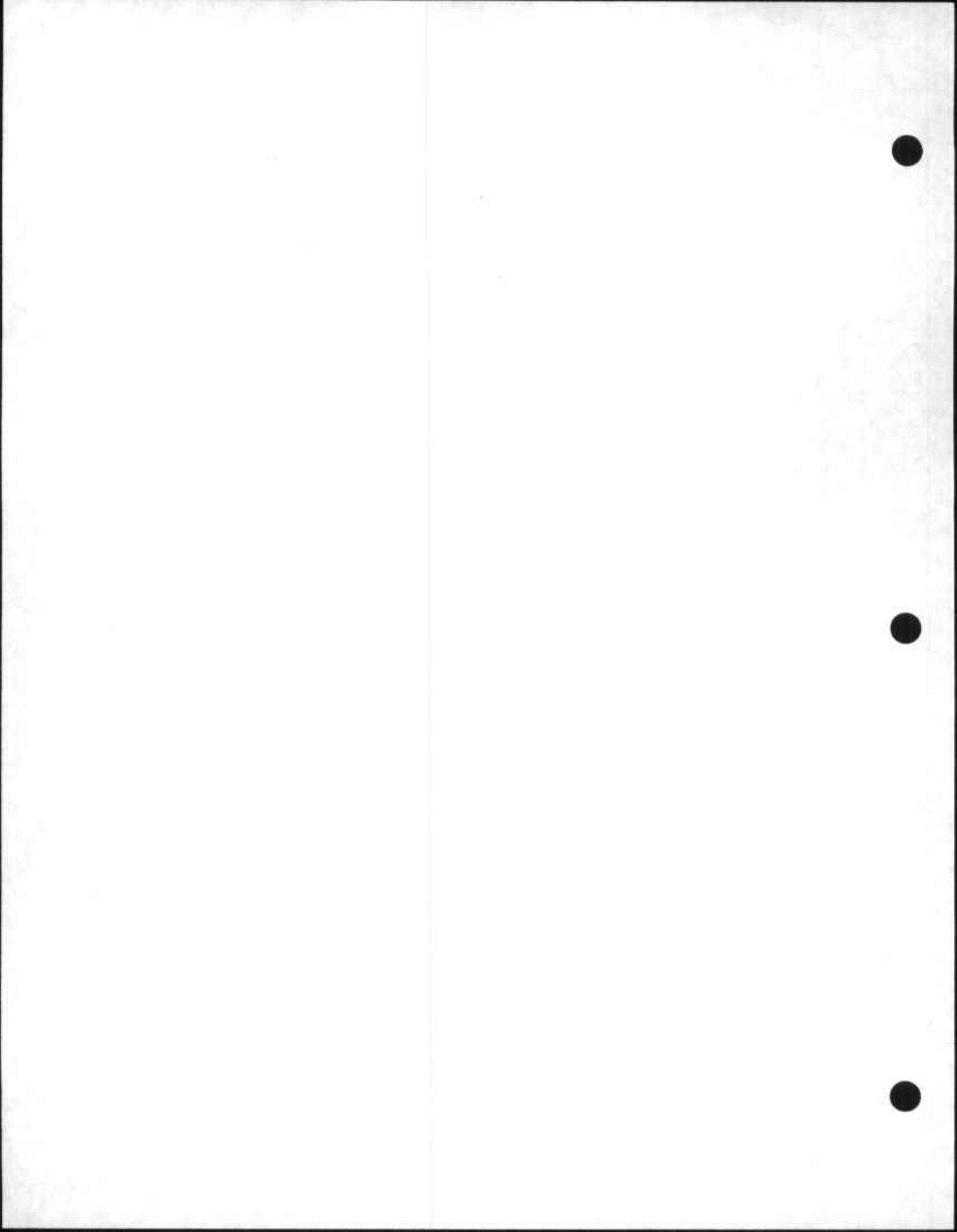
Please note that should any changes to the site plan be proposed for the completion of the project, additional review and approval by the full Commission would be required. Should you have any questions, please feel free to contact me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resource Planner

cc: Mr. Jason Lodge, Wallace, Montgomery & Associates, LLP



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July 19, 2007

Ms. Heather Erickson
Town of Perryville
515 Broad Street, PO Box 773
Perryville, MD 21903

Re: Sumpter Woods Subdivision

Dear Ms. Erickson:

I have received the above-referenced subdivision request for review and comment. The applicant is proposing subdivision of a 3.45 acre site in the Limited Development Area (LDA). The proposed plan includes six single family home sites. My comments are outlined below:

1. The proposed clearing is proposed to be over 20%; therefore 1.5:1 mitigation will be required as per Jurisdiction Code Section 132.7.a. A planting plan should be developed for review prior to final approval.
2. Impervious surface calculations should include all impervious surfaces including walkways. Impervious surface is limited to 15% (21,824 square feet).
3. A letter from the Wildlife and Heritage Division of the Department of Natural Resources (DNR) shall be received prior to final recordation to ensure there are no threatened or endangered species habitats on site.
4. We recommend a table be added to the final plat indicating the total allowable impervious area and clearing per lot.

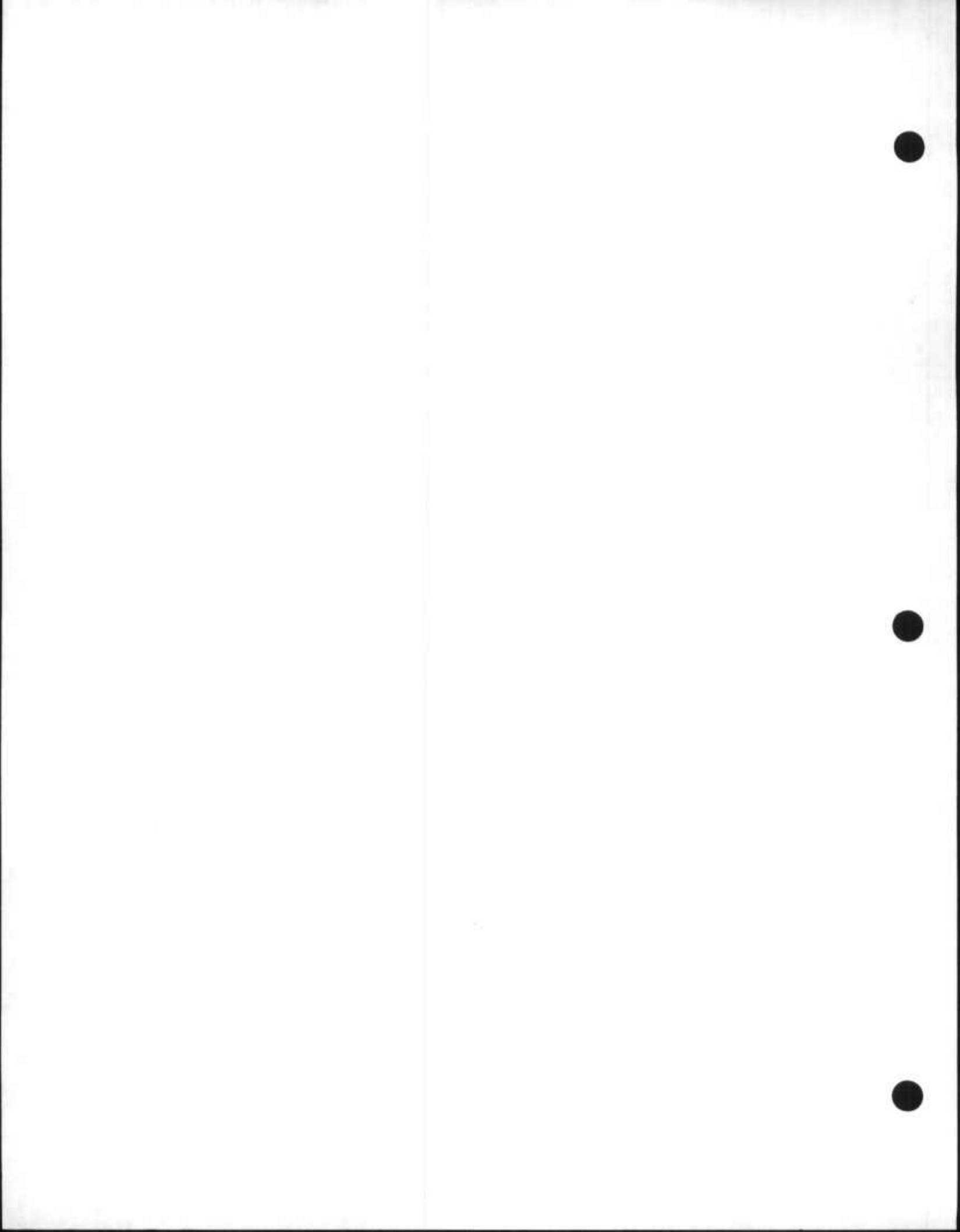
Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: PE 425-07



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July 18, 2007

Ms. Adriene Stiffler
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Chesapeake Cove

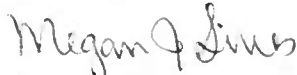
Dear Ms. Stiffler:

I have received the application for the above-referenced subdivision request for review and comment. The applicant is proposing to subdivide a 58.395 acre lot from a larger 121.25 acre parcel in the Resource Conservation Area (RCA). My comments are outlined below:

1. A letter from the Wildlife and Heritage Division of the Department of Natural Resources (DNR) shall be received prior to final recordation to ensure there are no threatened or endangered species habitats on site.
2. A plat note should be added to indicate that all plantings for the required afforestation and/or stormwater management be native species.
3. A line marking the Limits of Disturbance should be shown on the final plans.
4. Measures should be taken to minimize disturbance to the Buffer during construction (use of silt fence, etc.). We recommend moving the proposed dwelling envelope back 10-15 feet from the 100 foot Buffer in order to ensure adequate protection to the Buffer as well as to allow space for future modifications.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

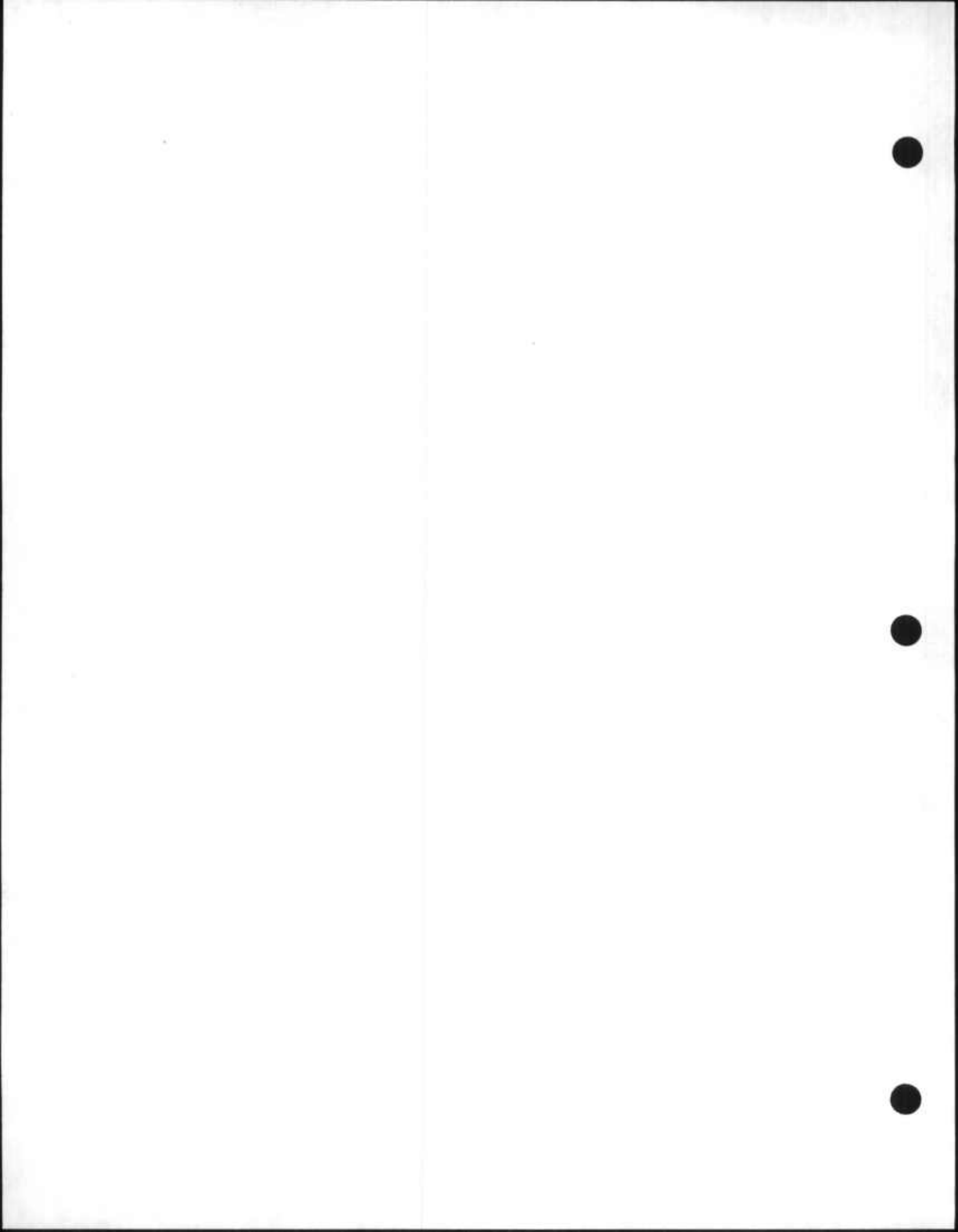
Sincerely,


Megan J. Sines
Natural Resources Planner

cc: CE 397-07

TTY for the Deaf

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July 10, 2007

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

Re: Sorrell 07-0040

Dear Mr. Soldano:

I have received the resubmittal for the above-referenced subdivision request. It appears the applicant has addressed all of the comments of the last letter from this office dated March 12, 2007. I have no further comments at this time.

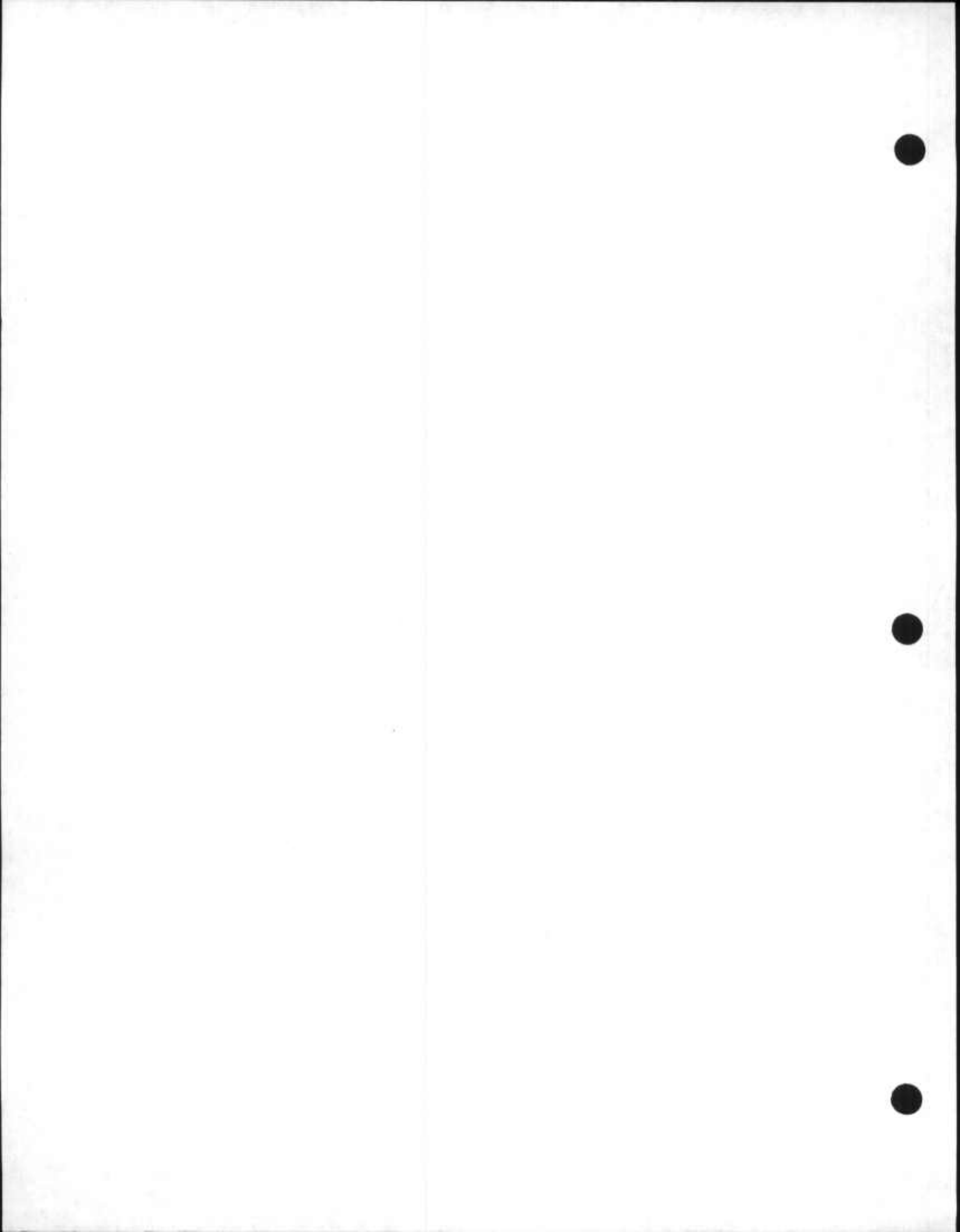
Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 118-07



Martin O'Malley
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Anthony G. Brown
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July 9, 2007

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

Re: Weems Creek Baptist Church Site Plan 07-0066

Dear Ms. Schappert:

This office has received the above-referenced site plan for review and comment. The applicant is proposing to add additional parking to the existing church complex. The site is 217,800 square feet with 86,781 square feet in the Limited Development Area of the Critical Area. Total disturbed area in the Critical Area is proposed to be 10,633 square feet (12%). My comments are outlined below.

1. The proposed clearing appears to be under 20%; therefore 1:1 mitigation will be required. Since no mitigation area is shown, I assume mitigation will be handled through a fee. If not, please have the applicant indicate the area of mitigation on the plan and plat.

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

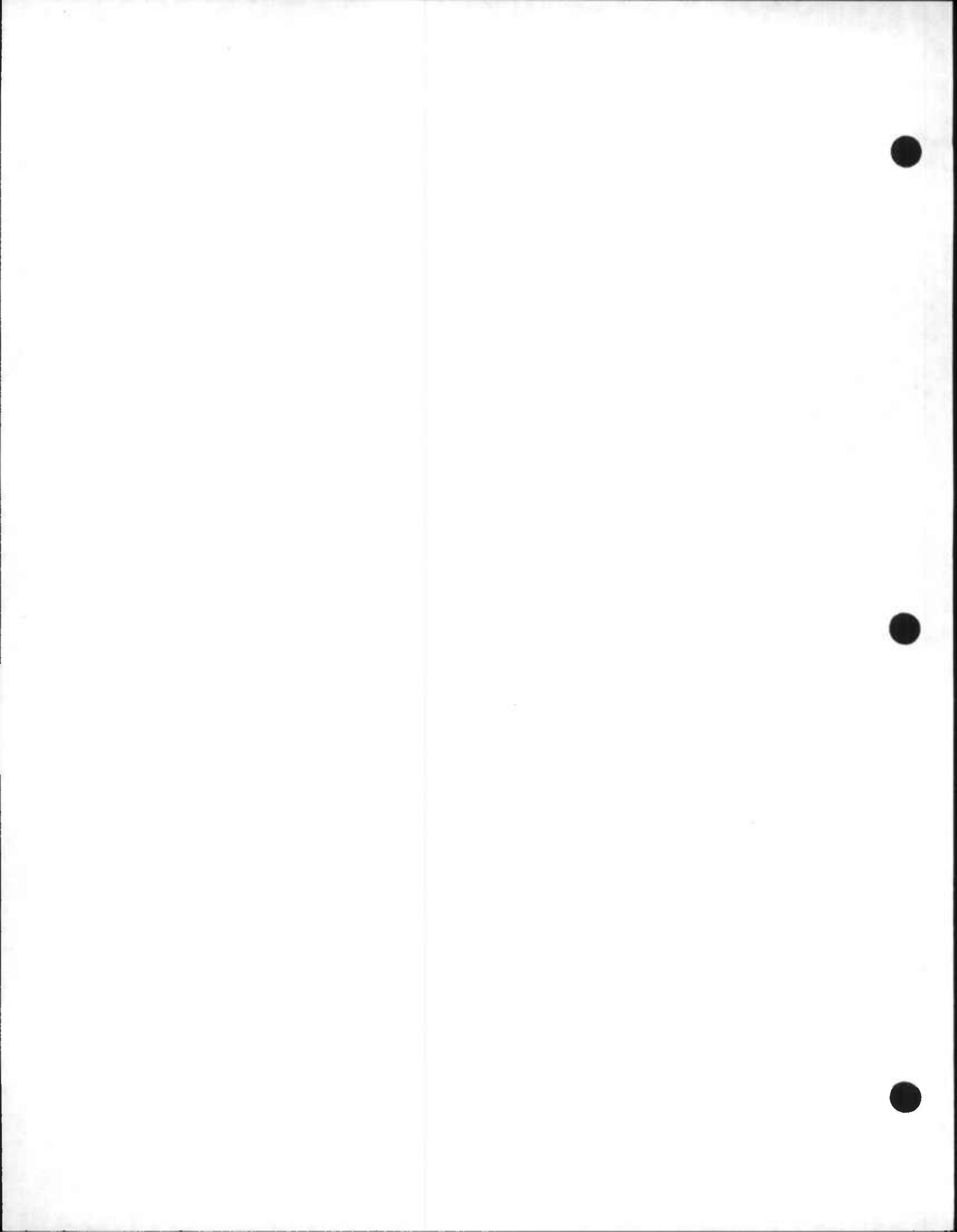
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 401-07



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July 9, 2007

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

Re: Babich, Karen VAR 191

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant proposes to allow a dwelling addition with less setbacks than required. The property is in the Limited Development Area. Since there appears to be no Critical Area issues, this office has no comment regarding this request.

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

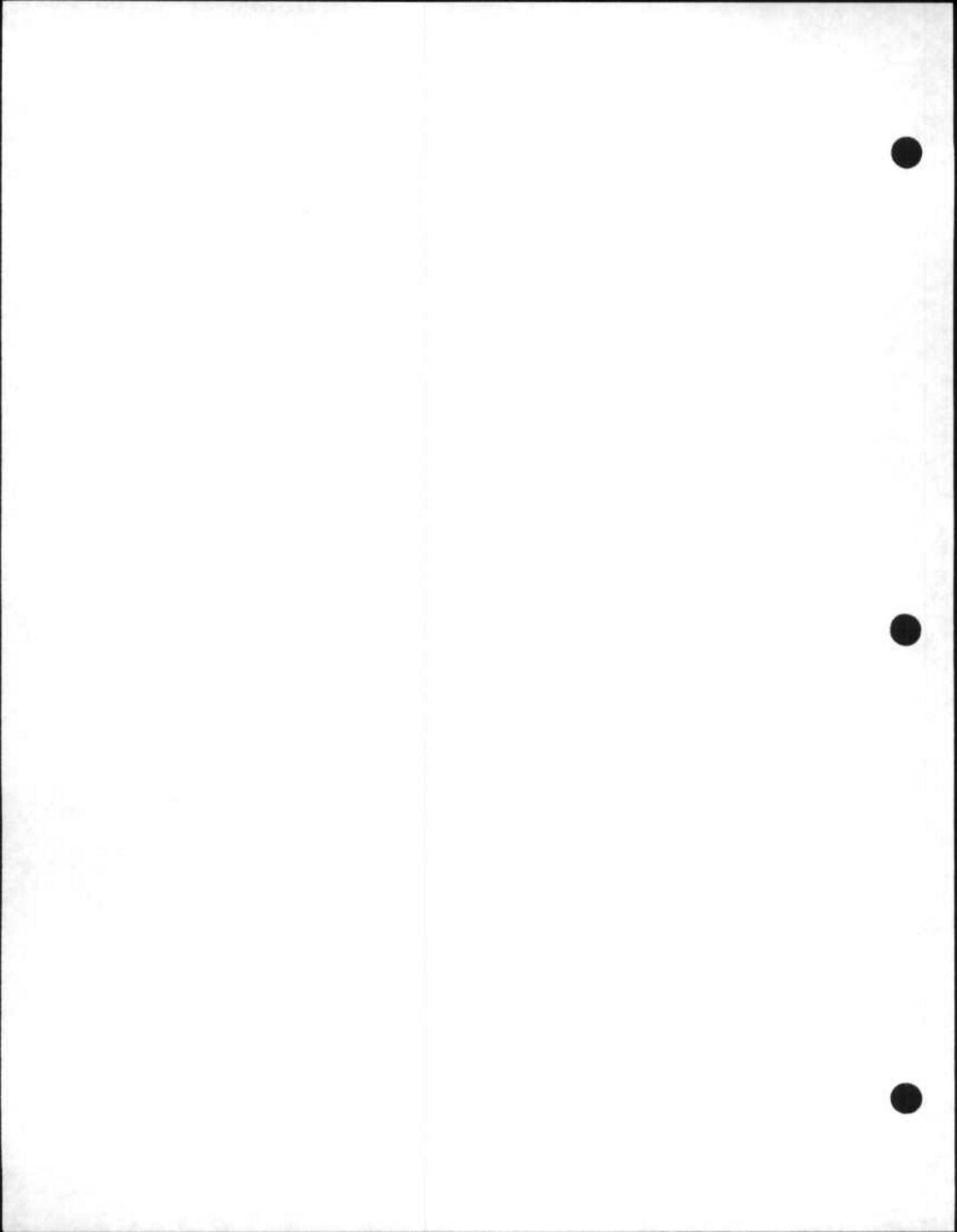
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 395-07



Martin O'Malley
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Margaret G. McHale
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July 9, 2007

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

Re: Weaver, John VAR 200

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow an extension of time for implementation and completion of a previously approved variance. This office has no comment regarding this request.

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

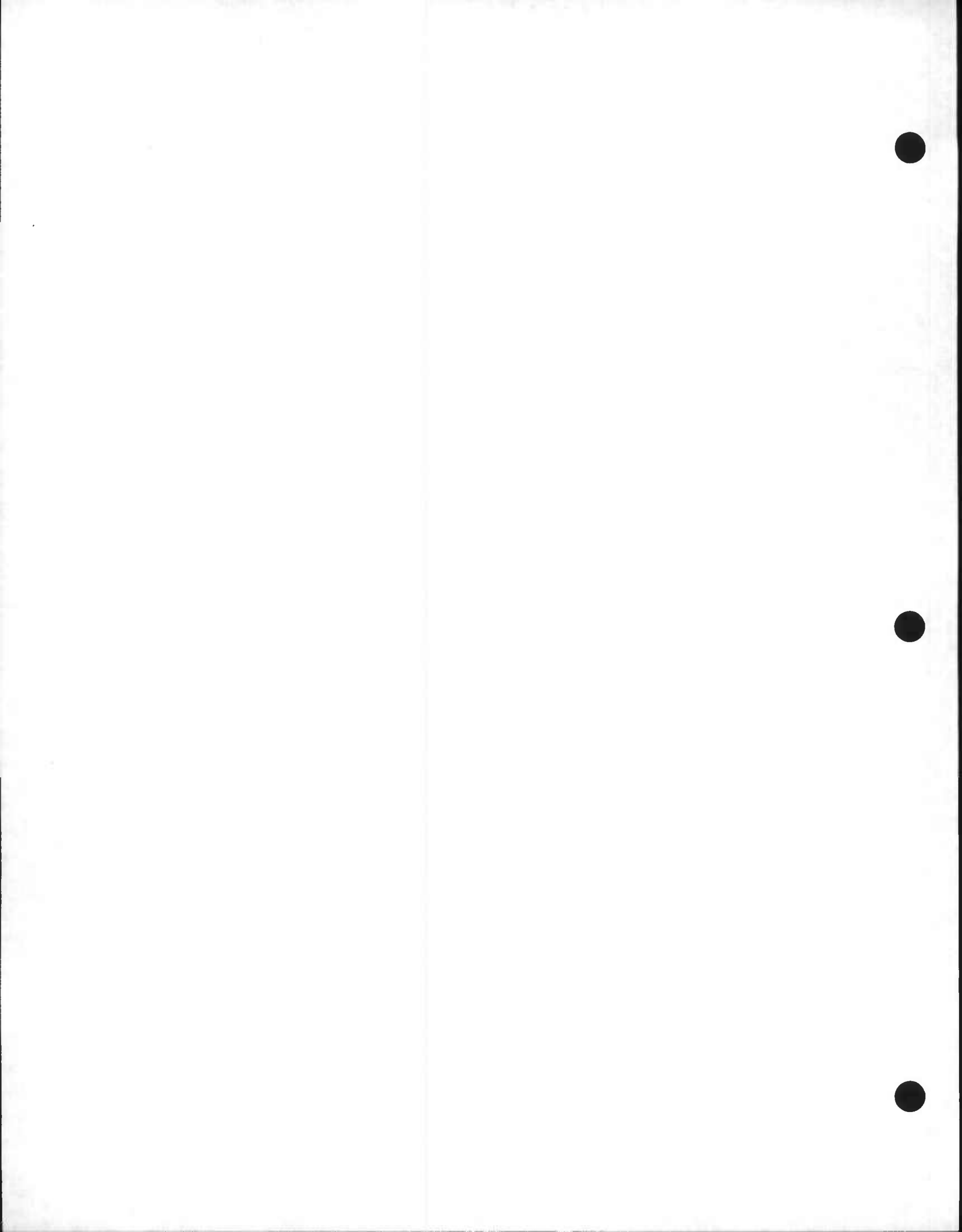
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 350-02



Martin O'Malley
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Anthony G. Brown
Lt. Governor



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July 9, 2007

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

Re: Suddeth
SUB 07-0108

Dear Ms. Krinetz:

I have received the above-referenced subdivision request for review and comment. The property is 20.19 acres with 1.27 acres in the Critical Area. The Critical Area portion is designated as Limited Development Area (LDA). The applicant proposes to remove existing impervious coverage and then install a Storm Water Management Pond for a subdivision of 19 homes. The project would remove 9,838.21 (17.8%) square feet of existing impervious and create 7,706.37 square feet (13.9%) of impervious coverage on site. The installation of the pond will require clearing of 0.48 acres of forest (37.7%). The site has been classified by the Maryland Department of Natural Resources Wildlife Heritage Program as priority habitat for Forest Interior Dwelling Species (FIDS). My comments are outlined below.

1. Since clearing is proposed to be over 30%, mitigation is required at a ratio of 3:1. Mitigation of native species should occur on site.
2. The applicant should consider alternatives involving greater onsite treatment on each lot so as to reduce the size of the stormwater management facility in the Critical Area. Reducing the impact is also prudent given the designation by Maryland Department of Natural Resources Heritage Program as priority habitat for Forest Interior Dwelling Species (FIDS), in order to minimize the disturbance to the habitat.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 207-07

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July 9, 2007

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

Re: Janney- VAR 07-70

Dear Ms. Moredock:

This office has received the above-referenced variance request for review and comment. The applicant proposes to build a 1,371 square foot dwelling with 2,304 square feet of disturbance area and total impervious surface area of 1,371 square feet. The property is in the Limited Development Area (LDA). This project will require less Buffer setbacks than required. My comments are outlined below:

1. Our mapping resources indicate that there are both wetlands and a blue-line stream on site which would significantly limit the buildable area of the lot. Permits will be required from the Maryland Department of the Environment for disturbance to these resources.
2. Given the large footprint of the dwelling, house and deck, and the 11 foot setback from the edge of water, it does not appear that minimization of impact has been sufficiently demonstrated.

Therefore, we cannot support the variance as proposed, as it appears the applicant has not met all the variance standards, including how disturbance has been minimized. Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

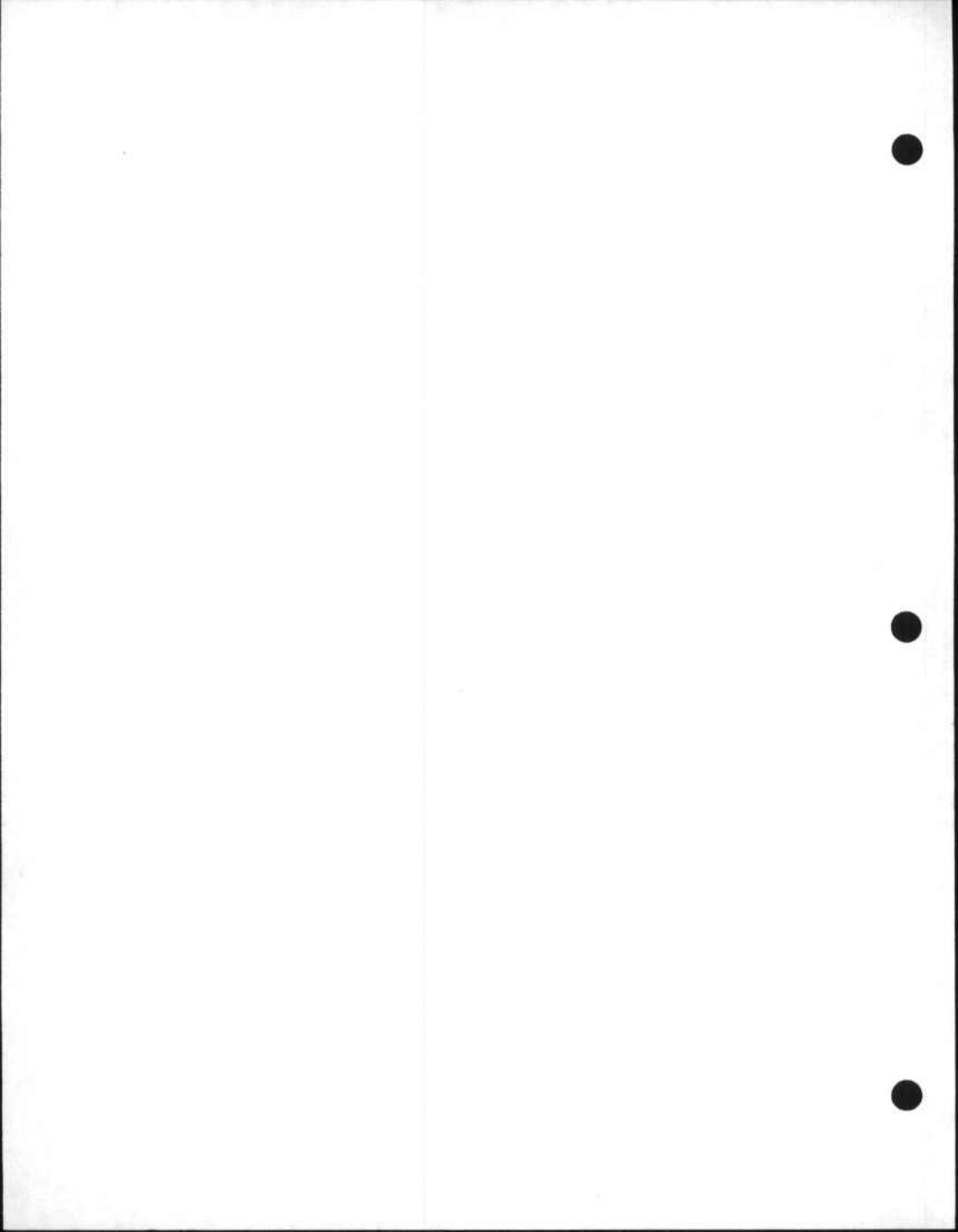
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: KC 368-07



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July 6, 2007

1804 West Street, Suite 100, Annapolis, Maryland 21401
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Mr. Thomas Burke
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Knox
S 07-041, P 07-113

Dear Mr. Burke:

I have received the submittal for the above-referenced subdivision request. The applicant is proposing to subdivide a parcel of 1.14 acres into two parcels of 0.61 and 0.53 acres respectively. Impervious surface area for the entire property is proposed to equal .17 acres (15%). The property is in the Limited Development Area (LDA). My comments are outlined below:

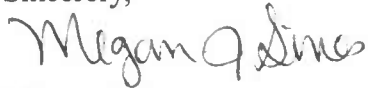
1. The 100-foot Buffer and expanded Buffer must be clearly shown and labeled on the plan.
2. We do not support development of new lots that will require a variance, and it appears the site may be entirely within the expanded Buffer.
3. Seeing as the slope of the land is in the direction of Cadle Creek, extensive clearing being proposed, and the proposed lots appear to be in the Buffer and/or expanded Buffer, it is unclear how the applicant proposes to minimize disturbance such that it will not affect the aquatic environment, and therefore not necessitate the need for an expanded Buffer due to hydric soils.
4. It appears lots 1 & 2 will be at, or near the 15% impervious surface limit for each lot. We recommend the applicant reduce the initial impervious area in order to reserve impervious area for the future lot owners and any additions or improvements that may be desired in the future, assuming this subdivision can be approved.
5. It appears proposed clearing will be 47% of the existing forested area; therefore, mitigation at a 3:1 ratio is required.



6. In summary, until the issue of the expanded Buffer is resolved, this office cannot support the subdivision request.

Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,



Megan J. Sines
Natural Resources Planner

cc: AA 371-07

Martin O'Malley
Governor

Anthony G. Brown
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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: Bruchey VAR 162

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant proposes to construct a two-car garage next to an existing house. Impervious surface will increase by 528 square feet to a total of 2198 square feet. The property is in the Intense Development Area (IDA). A variance is being sought to allow the addition with less setbacks than required.

This project will need to address requirements under County Code 16-3-205 to address the 10% pollution reduction guidelines. However, this article does not oppose the requested variance.

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

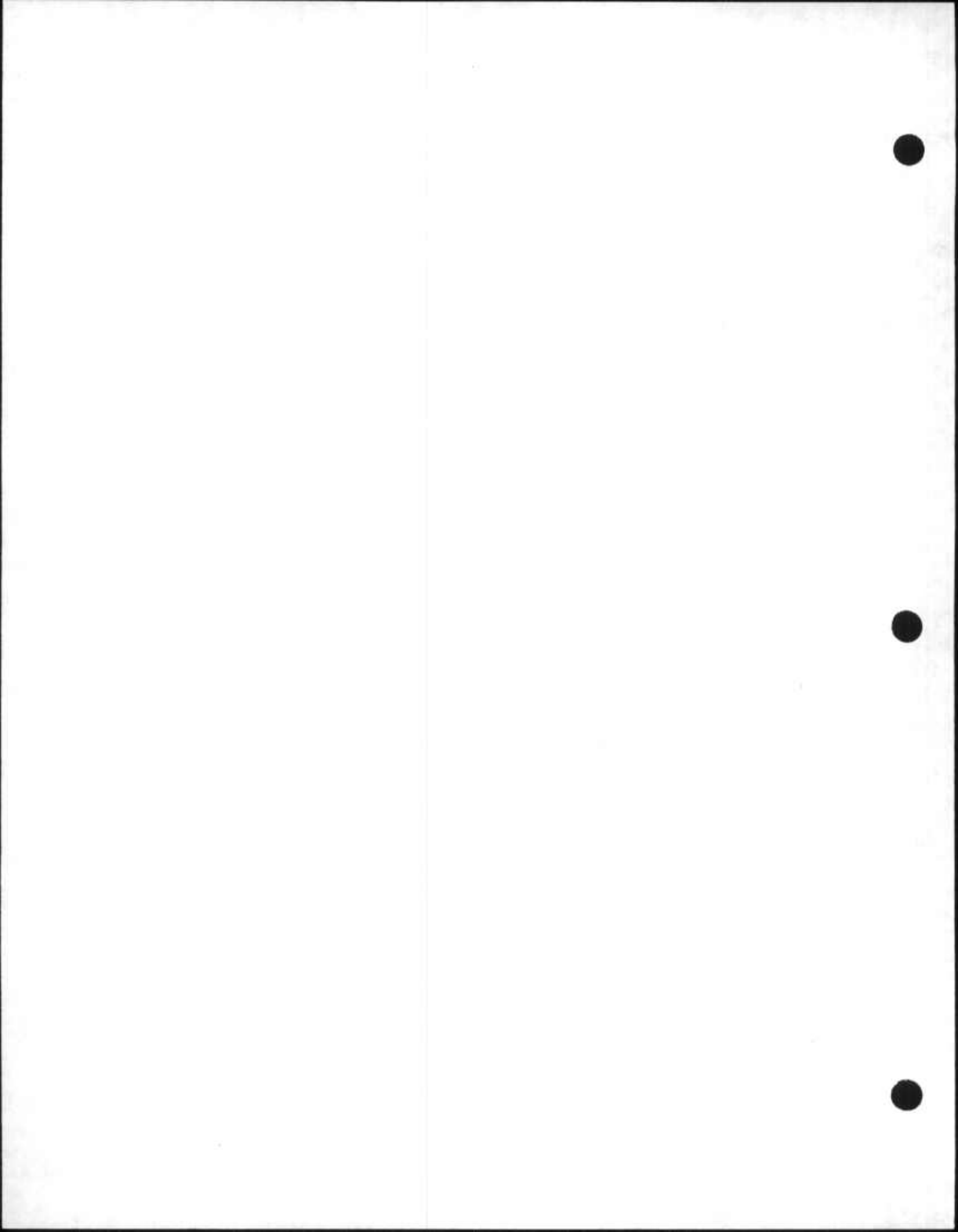
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 375-07



Martin O'Malley
Governor



Margaret G. McHale
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Ren Serey
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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: Bortle, Nick VAR 158

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant proposes to build a pier and mooring pilings with less setbacks than required. Since there appears to be no Critical Area issues, this office has no comment regarding this request.

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

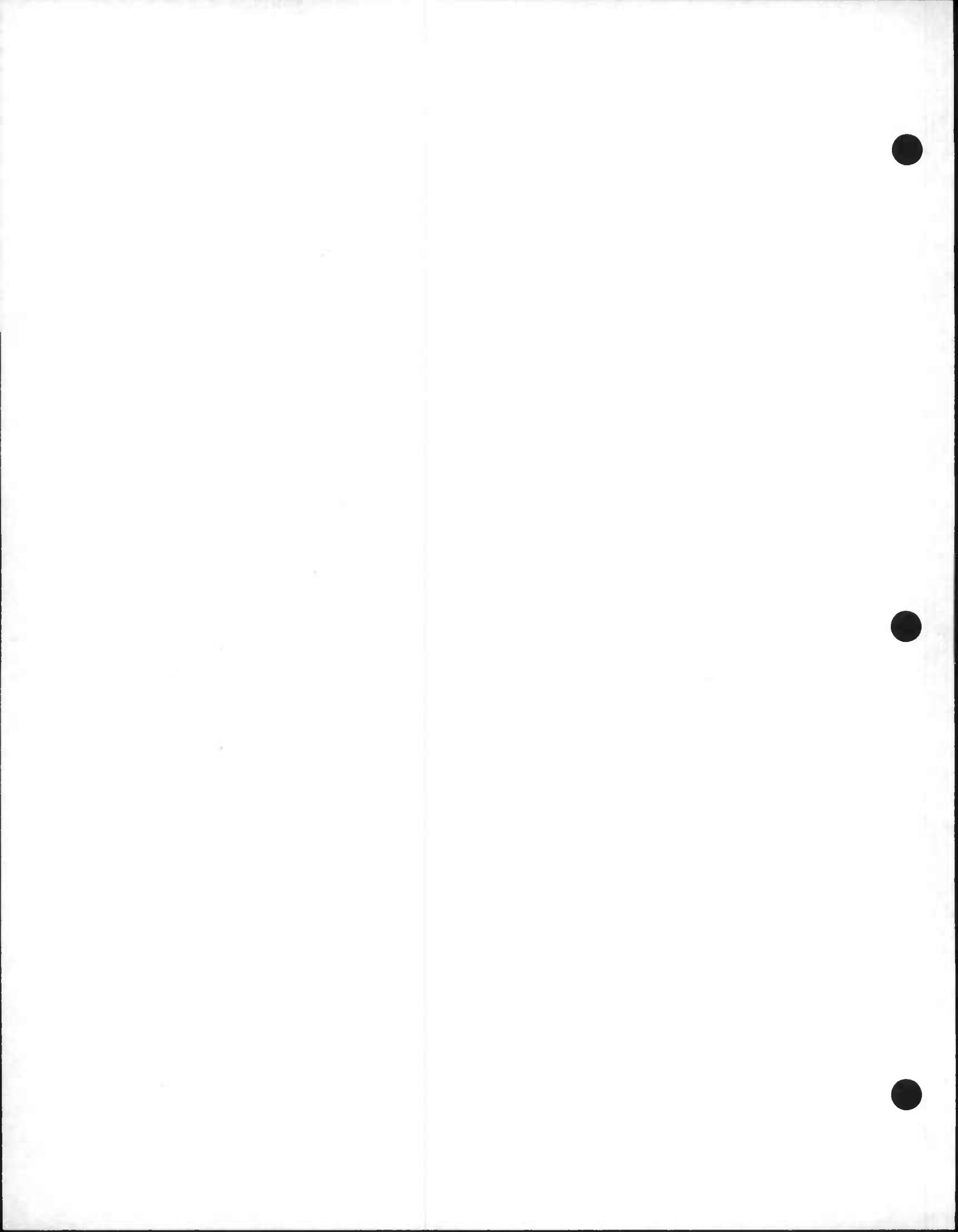
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 385-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Ren Serey
Executive Director

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July 5, 2007

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

Re: Broglie VAR 173

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant proposes to build an addition of 1.5 stories over an existing one story residential dwelling. The property is in the Intense Development Area (IDA). A variance is being sought to allow the addition with less setbacks than required. Since the addition will not create additional impervious surfaces and will in fact reduce impervious coverage by 850 square feet through installation of a green roof, this office does not oppose the request.

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

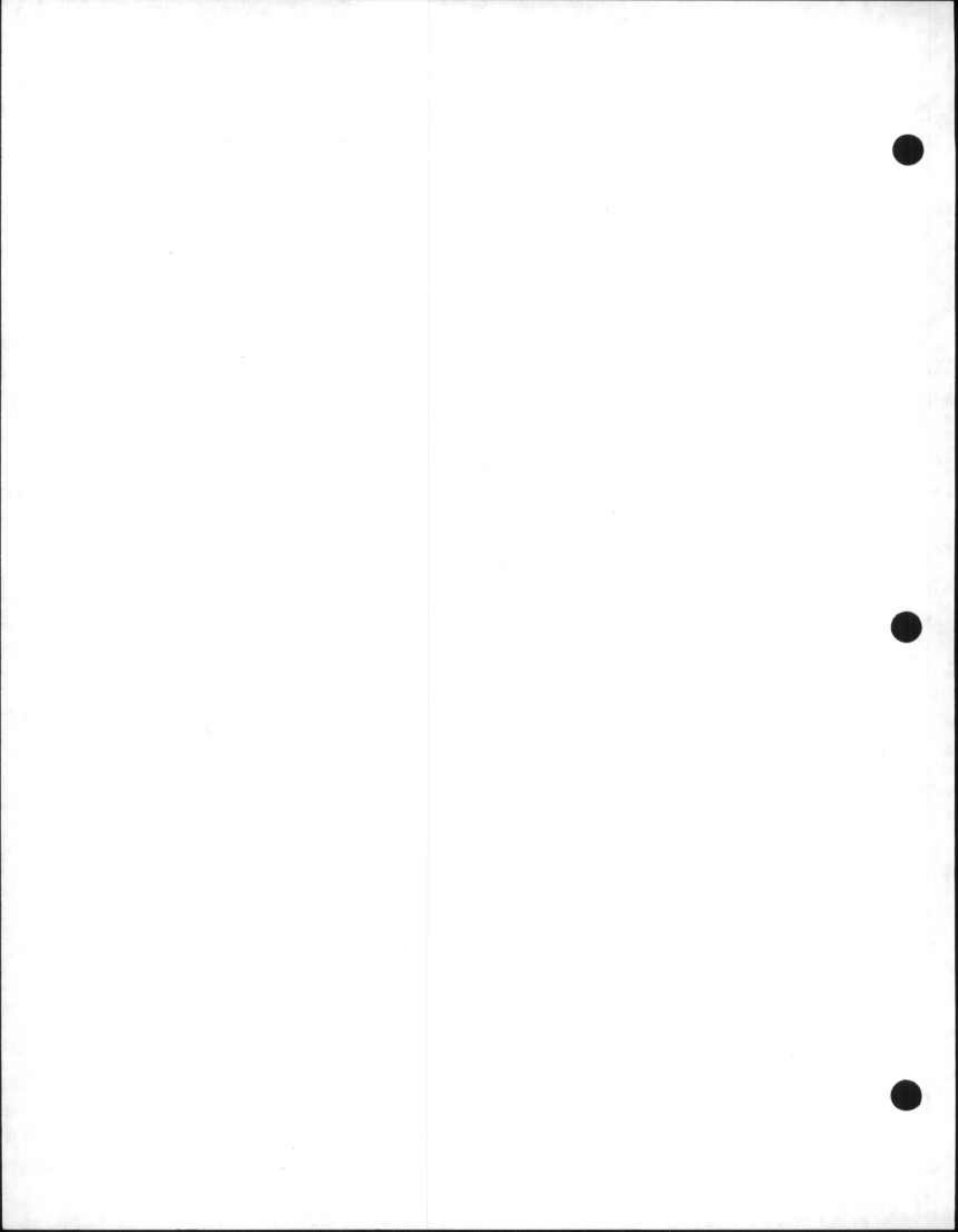
If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 389-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 5, 2007

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

Re: Wallace Manor Lot G-2
S 97-029, P 06-0054

Dear Mr. Murray:

I have received the resubmittal for the above-referenced subdivision request. The applicant has addressed the comments from the last letter from this office dated March 14, 2007. I have no further comments at this time.

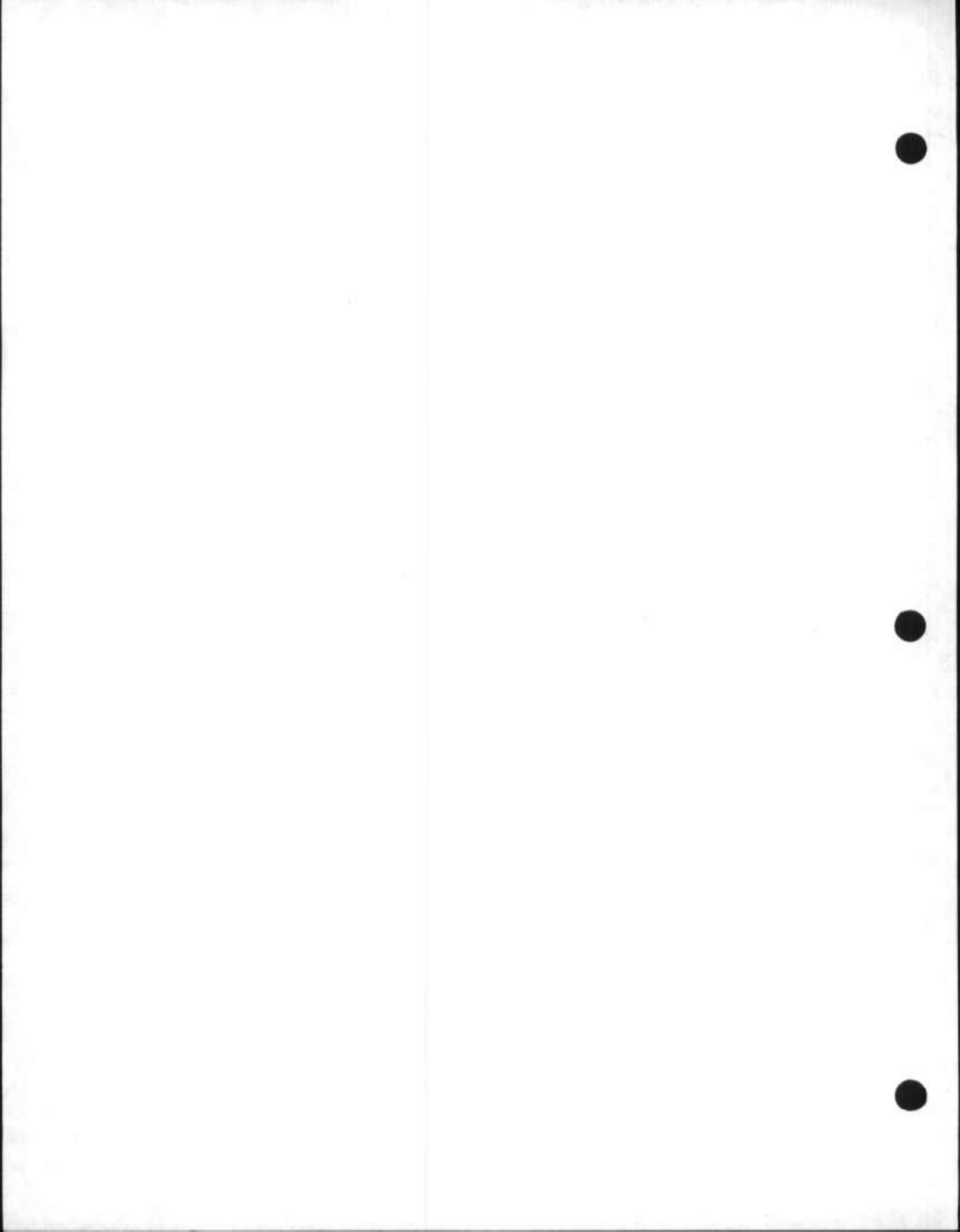
Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: Tom Burke, Anne Arundel County
AA 243-06



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

July 2, 2007

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

Re: Christopher Maio
S 99-130, P 06-0120

Dear Mr. Burke:

I have received the resubmittal for the above-referenced subdivision request. It appears the applicant has addressed all of the comments of the last letter from this office dated February 12, 2007; therefore, we have no further comments.

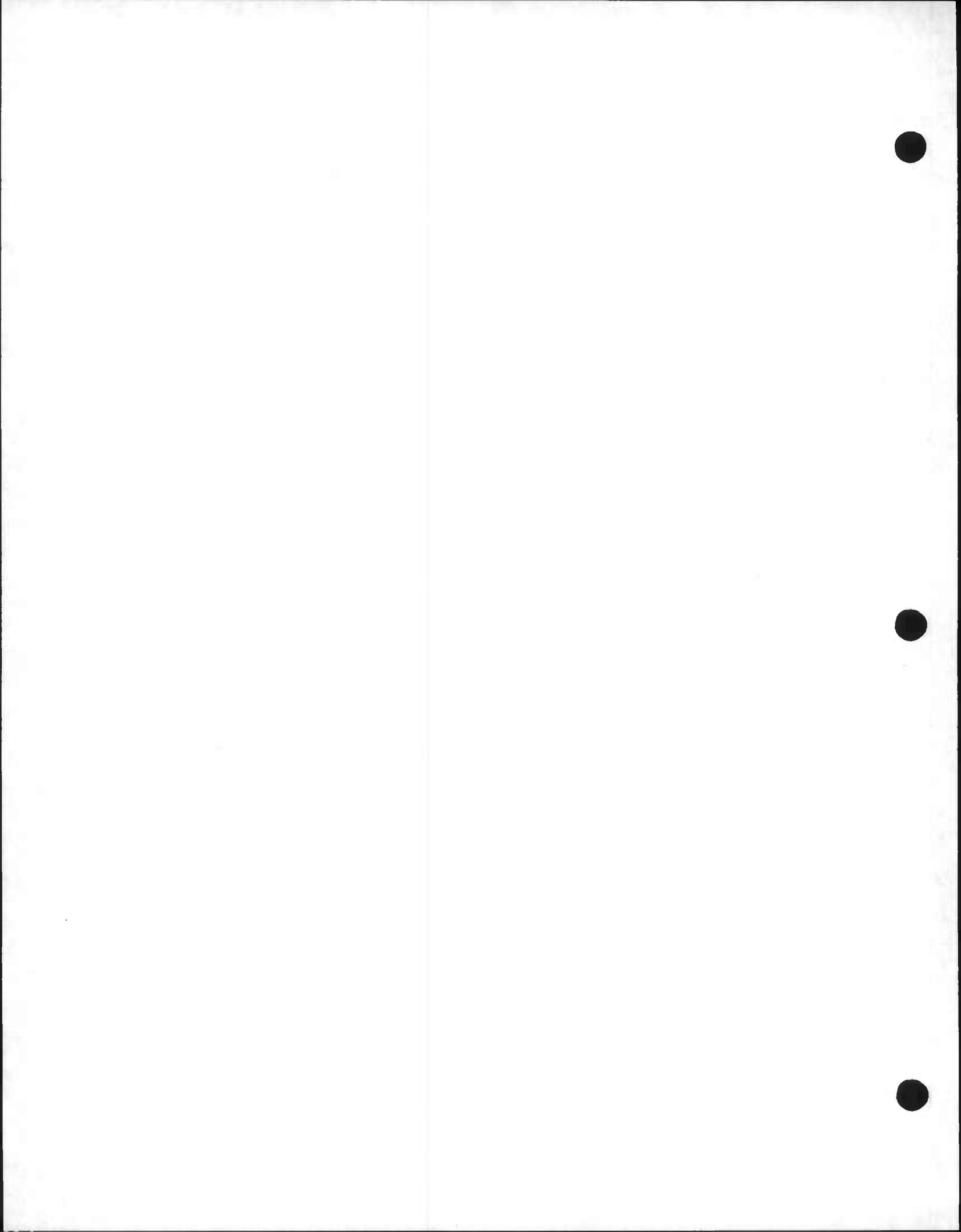
Thank you for the opportunity to comment. Please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Megan J. Sines".

Megan J. Sines
Natural Resources Planner

cc: AA 207-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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MEMORANDUM

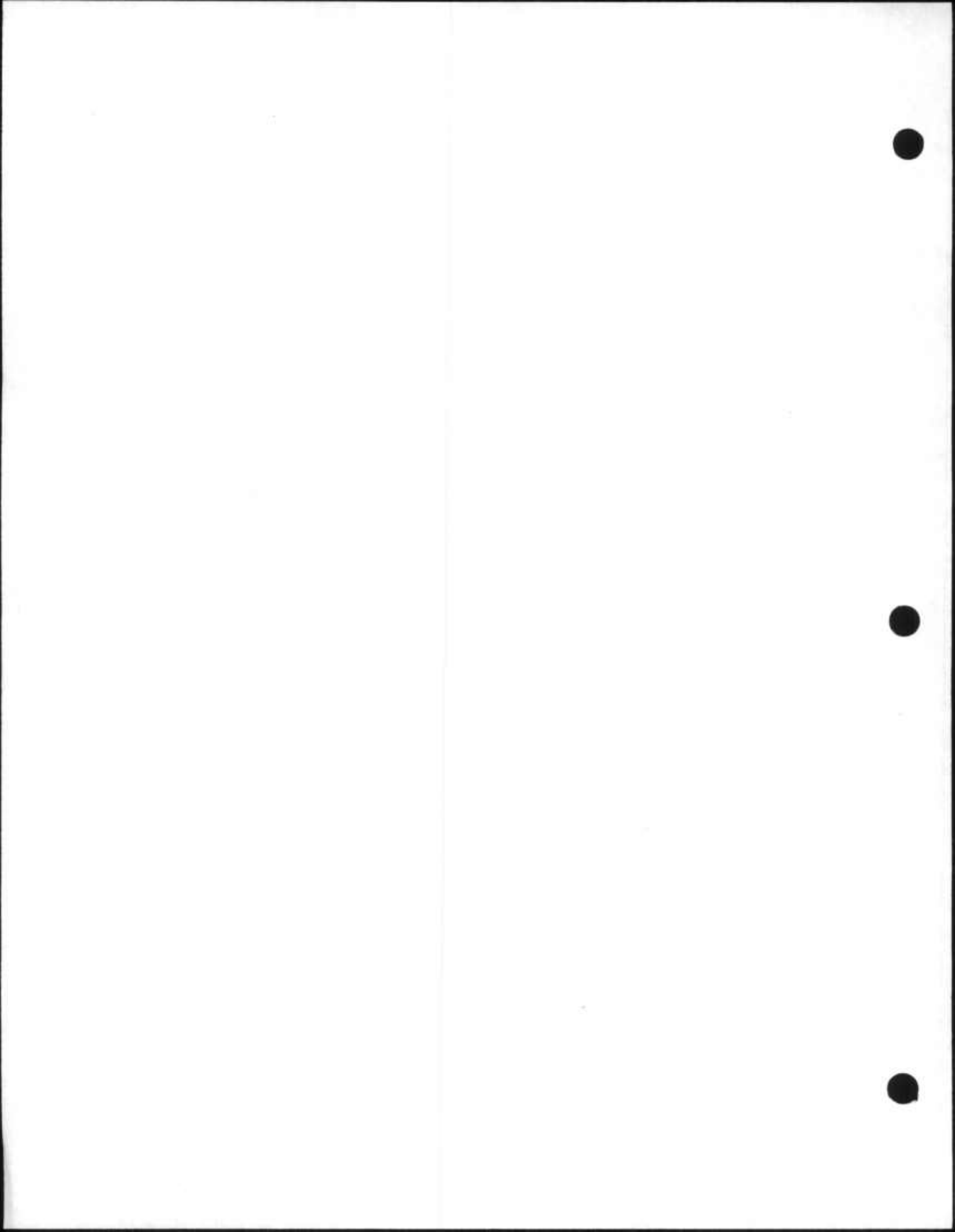
To: Marti Sullivan, Program Open Space
From: Amber Widmayer AJW
Date: December 31, 2007
RE: POS Project #5252-22-187, Cherry Beach Park,
Wicomico County

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to install a bio-retention facility and to repave the parking lots. It appears that the proposed project site is located entirely within the Critical Area and is designated as an Intensely Developed Area (IDA). Accordingly, the project must submit the 10% pollutant reduction calculations and show how it will address the pollutant reduction requirement. The worksheets that are necessary for completing these calculations can be found on the Commission's website at the following link:

http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html

While the project notification describes only a proposed bio-retention facility and parking lot repaving, the submitted site plan shows numerous proposed structures and activities within the Buffer. It is unclear whether these proposed activities will occur in conjunction with this project. Sharptown's Critical Area Program prohibits development activities in the Buffer and therefore we recommend that the applicant amend the plans accordingly if necessary. If development is proposed in the Buffer, the applicant will have to submit this project proposal to the Commission as a conditional approval and mitigation for the area of disturbance within the Buffer for any grading, clearing or footprints of structures will be required at a 3:1 ratio. The plans should also show the Critical Area designations on the site, the location of the 100-foot Buffer, the limits of disturbance for the proposed project, and how the 10% requirement will be addressed.

We note that the proposed activities qualify under COMAR 27.02 as a local agency action on lands owned by local jurisdictions and as such, the project will require formal review by the Commission. We recommend that the project implementation be coordinated with the town and Commission staff to make sure that any Critical Area issues are adequately addressed at both the State and local levels. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3481.



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Governor

Anthony G. Brown
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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Amber Widmayer *AJW*

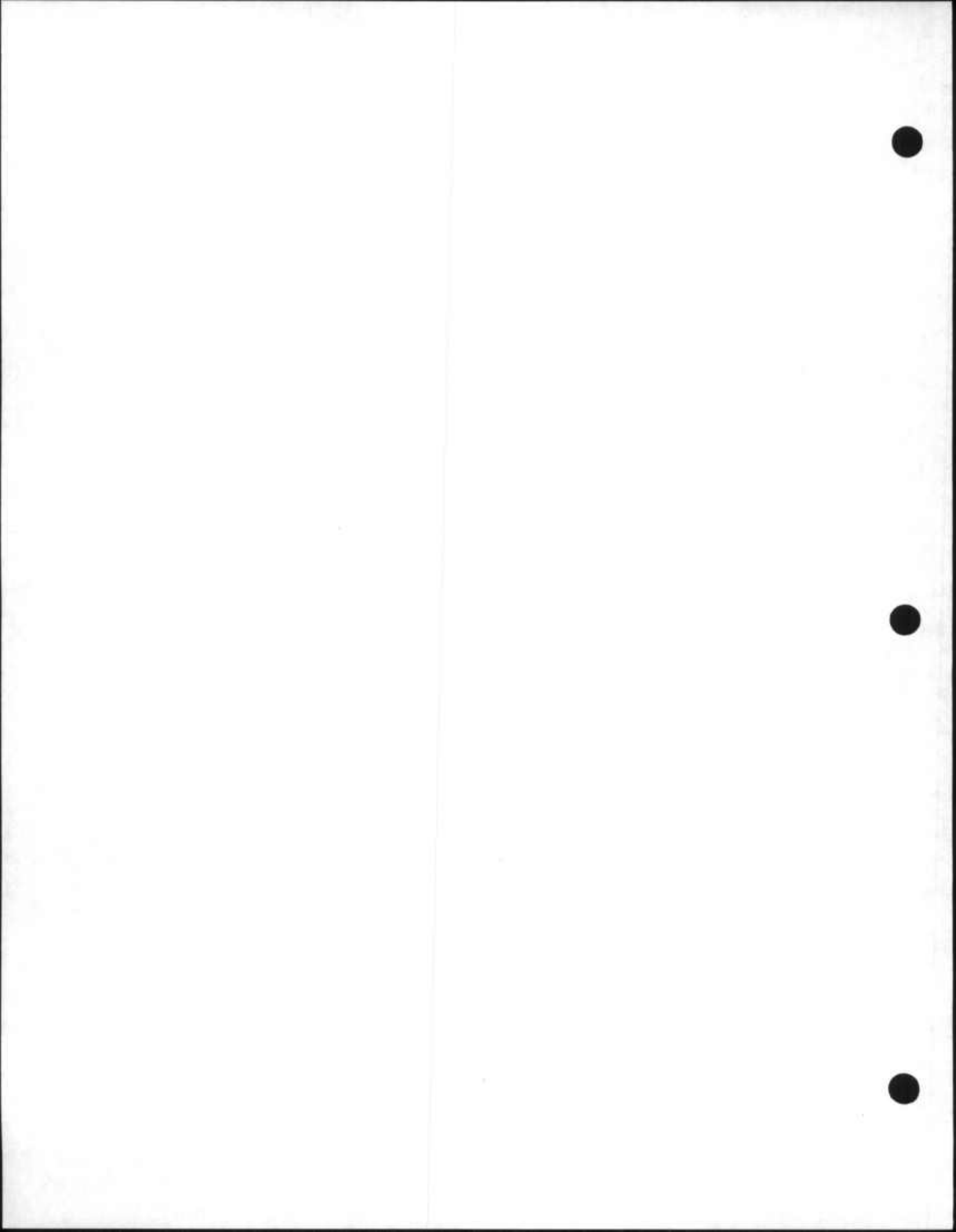
Date: December 31, 2007

RE: POS Project #5310-2-239, Bay Head Park, Anne Arundel 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 complete parking areas, extend underground utilities, improve existing structures, construct a concession and restroom building, install athletic lighting and create a children's playground.

It appears that the site may lie partially within the Critical Area and is designated as a Resource Conservation Area (RCA). Accordingly, the project must meet Anne Arundel County's Critical Area Program requirements for development within an RCA, including the 15% impervious surface limit, forest clearing limitations, 15% forest cover, and allowable uses within the RCA. These requirements are determined based on the total area of the property that is within the RCA and the criteria for development outlined within the Anne Arundel County Critical Area Program.

I have received a grading plan submitted with this notice and it appears that a portion of the proposed road and parking lot closest to Bay Head Road will be located within the RCA portion of the project site. The applicant should revise the plans to show the Critical Area on the site, and should include calculations that indicate the total acreage of the Critical Area portion of the property, how much of this area will be impervious surface, and whether any clearing of forested area will result from the proposed development. Additionally, if at least 15% of the Critical Area portion of the site is not forested, the applicant must include a planting plan to show how the afforestation requirement will be met on the site. Finally, we note that the proposed activities qualify under COMAR 27.02 as a local agency action on lands owned by local jurisdictions and as such, the project will require formal review by the Commission. We recommend that the project implementation be coordinated with Anne Arundel County Staff to make sure that any Critical Area issues are adequately addressed at both the State and local levels. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3481.



Martin O'Malley
Governor



Margaret G. McHale
Chair

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Lt. Governor

Ren Serey
Executive Director

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MEMORANDUM

To: Marti Sullivan, Program Open Space
From: Amber Widmayer *AW*
Date: December 31, 2007
RE: POS Project #5294-2-237, Truxtun Park Pavillion Replacement,
City of Annapolis

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to relocate two 24 feet by 24 feet picnic shelters within Truxtun Park.

It appears that the proposed project site is located entirely within the Critical Area and is designated as an Resource Conservation Area (RCA). Accordingly, the project must meet the City of Annapolis' Critical Area program requirements for development within an RCA, including the 15% impervious surface limit, forest clearing limitations, minimum 15% forest cover, and allowable uses within the RCA.

We note that the proposed activities qualify under COMAR 27.02 as a local agency action on lands owned by local jurisdictions and as such, the project will require formal review by the Commission. We recommend that the project implementation be coordinated with the City and Commission staff to make sure that any Critical Area issues are adequately addressed at both the State and local levels. In order to provide further review of this project, this office will need to receive detailed project plans including features such as the Critical Area line and designations on the site, the location of the 100-foot Buffer, and should include calculations that indicate the total acreage of the Critical Area portion of the property, the limits of disturbance for the proposed removal and replacement of the picnic shelters, the existing and proposed impervious surface areas, and whether any clearing of existing forested areas will result from the proposed development. It appears that the proposed site of pavilion number 2 may be within the 100-foot Buffer. If this is the case, the applicant will have to submit this project to the Commission as a conditional approval, and we recommend that the plans be amended so that no Buffer disturbance is proposed if applicable. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3481.



Martin O'Malley
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Anthony G. Brown
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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Amber Widmayer *AWW*

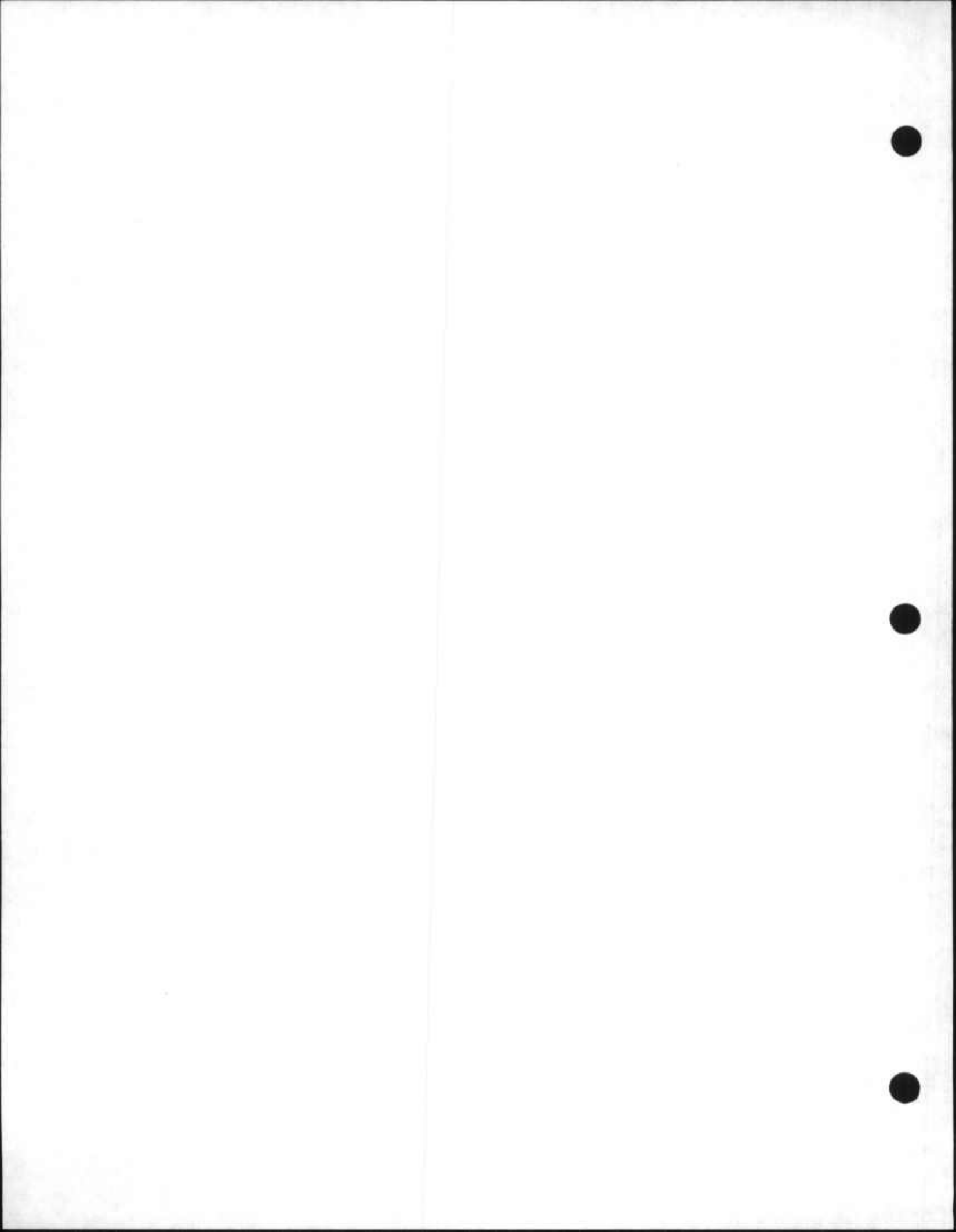
Date: December 31, 2007

RE: POS Project #5305-2-236, Truxtun Park Softball Field Lighting,
City of Annapolis

This office has received the Clearinghouse review notice for the above referenced project. The notice states that the purpose of the project is to replace athletic field lighting at two softball fields in Truxtun Park.

It appears that most of the proposed project site is located within the Critical Area and is designated as a Limited Development Area (LDA). Accordingly, the project must meet the City of Annapolis' Critical Area program requirements for development within an LDA, including the 15% impervious surface limit, forest clearing limitations, minimum 15% forest cover, and allowable uses within the LDA. These requirements are determined based on the total area of the property that is within the LDA.

We note that the proposed activities qualify under COMAR 27.02 as a local agency action on lands owned by local jurisdictions and as such, the project will require formal review by the Commission. We recommend that the project implementation be coordinated with the City of Annapolis and Commission staff to make sure that any Critical Area issues are adequately addressed at both the State and local levels. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3481.



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 21, 2007

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

Re: South, Jerry Property
S 07-022, P 07-0071

Dear Ms. Krinetz:

This office has received a revised submission for the above referenced subdivision application. The applicant proposes to combine two parcels into one lot and to replace an existing dwelling. The property is currently developed with a dwelling and driveway and is designated as a Limited Development Area (LDA) and as a Resource Conservation Area (RCA).

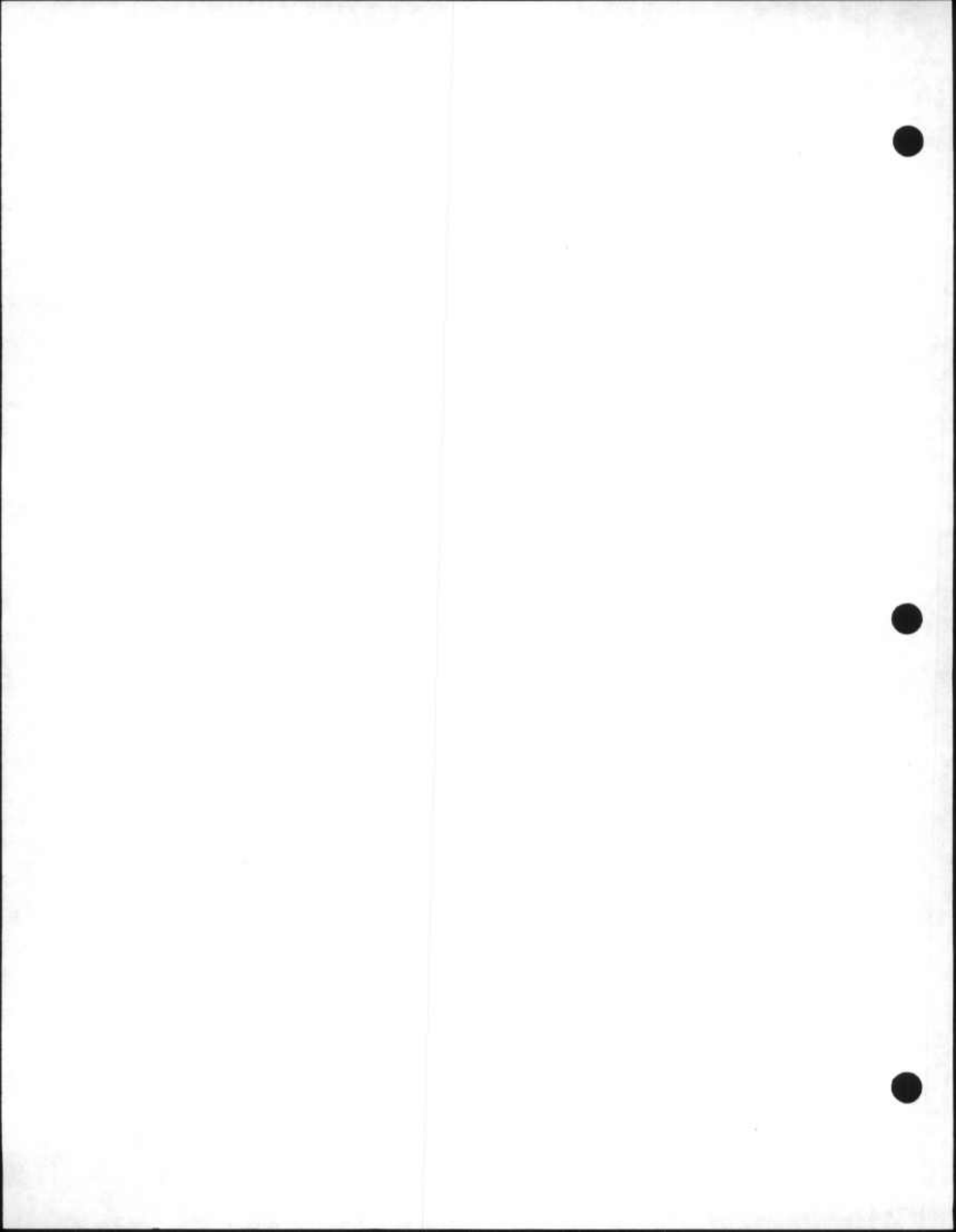
The applicant has addressed most of this office's comments from my October 31, 2007 letter and I have no further comments at this time.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "AW", written over a faint, illegible typed name.

Amber Widmayer
Natural Resources Planner
cc: AA 226-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 21, 2007

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

Re: Spruill Farm Subdivision
S 07-047, P 07-0130

Dear Mr. Burke:

Thank you for forwarding the above-referenced subdivision for review and comment. The applicant proposes to divide one lot into two with retention of the existing structures. The portion of the existing lot that is in the Critical Area is designated a Resource Conservation Area (RCA) and is currently undeveloped, while the portion of the lot outside of the Critical Area is developed with a dwelling and barns. I have outlined my comments below.

1. The applicant proposes to subdivide a portion of RCA to create two smaller portions of RCA that are in nonconformance with the County's Critical Area program. While we acknowledge that the current subdivision has been in the review process through several submissions, the extension of lot lines within the RCA has been a topic of recent conversations between County and Commission staff. Specifically, it has been repeatedly demonstrated that the extension of lot lines within the RCA creates the potential for future conflicts and illegal development activities within the RCA portion of the lots. While the RCA portion of the lots may be restricted by plat note, there is no demarcation of this line in the field and individual lot owners are often unaware of the restrictions agreed to by a developer. In addition, it remains our position that the drawing of lot lines within the RCA further degrades the quality and size of the RCA and is therefore not consistent with the density provisions in the law. This office notes that as requested, the applicant has taken measures to prevent future development or clearing within the RCA portion of the lots by placing the RCA in an agricultural easement with a plat notation that any clearing or cutting within the existing forested area in the RCA is prohibited. In recognition of the review history preceding this letter, and provided the applicant addresses this office's comment number two below, Commission staff finds that these measures are acceptable for protecting the RCA on this property, but future non-conforming lots in the RCA should not be approved.

Mr. Burke
December 21, 2007
Page Two

2. This office notes that there appears to be tidal wetlands on the southeastern corner of the property. We recommend that the applicant include a plat note stating that the presence of these wetlands does not necessarily create a riparian property right for the property, and that there is not a riparian property right associated with proposed lot two.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AA 454-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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December 19, 2007

Mr. Dan Gerczak
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: West River United Methodist Camp
G 02013034, B02236185


Dear Mr Gerczak:

I have received revised plans for the above referenced proposed project. The applicant proposes construction of a new building to be used as a camp dining hall. The property is designated as a Resource Conservation Area and is currently developed with other camp related structures. I have provided my remaining comments below.

1. We note that the revised plans show where the proposed trees to be cleared will be replanted on the property. However, the replanting area is not shown within the 100-foot Buffer as this office recommended in my September 19, 2007 and October 25, 2007 letters. Anne Arundel County's Critical Area program § 17-8-602(f) requires that "reforestation and afforestation planting shall be established first within the 100-foot Buffer, if feasible, and shall include a combination of native species of trees, shrubs, and ground cover approved by the Office of Planning and Zoning." Additionally, the County's Code states, "development on a site without an existing natural Buffer within 100 feet of the shoreline shall have a Buffer reestablished in accordance with the following: 1) a fully functioning buffer shall be created in accordance with an approved Buffer management plan; and 2) planting shall consist of a combination of trees, shrubs, and ground cover approved by the Office of Planning and Zoning." Therefore, the mitigation plantings must be located in the Buffer, and the applicant should provide plantings to reestablish the Buffer.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,


Amber Widmayer
Natural Resources Planner

cc: AA 505-07

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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December 18, 2007

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

Re: Variance 08-3494 White, Richard and Letitia

Dear Ms. Whitt:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to permit disturbance within the expanded Buffer and to slopes greater than 15% in order to remove an existing two story dwelling with a footprint of at least 1,900 square feet, and to construct a new single family dwelling with a footprint greater than 3,800 square feet. Additionally, the applicant proposes to construct a driveway that appears between 35 and 50 feet in width, an 875 square foot garage, and three decks which amount to 1,700 square feet in size. The 2.76 acre property is currently developed with a dwelling, driveway, three concrete patios, deck, walkways, pier, boathouse and pool and it is classified as a Limited Development Area (LDA).

This office opposes granting the requested variance for the project as it is currently proposed because the variance request is not the minimum necessary for redevelopment of the property and it creates significant adverse impacts to water quality and plant and wildlife habitat. The applicant currently enjoys reasonable and significant use of the property as the property is already extensively developed with a dwelling and other structures as described above. To allow over 9,000 square feet of new disturbance within steep slopes, the expanded Buffer and in an area of established vegetation for development appears unnecessary in order to reasonably redevelop the property, and would be in sharp contrast with the intent of Calvert County's Critical Area law. In particular, the extent of the proposed new disturbance associated with the variance request is contrary to the County's goals for Buffer management, protection of steep slopes and protection of environmentally sensitive plant and wildlife habitat. The following is an analysis of the requested variance for this project in the context of Calvert County's 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. 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. 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 relevant County Code provisions requiring the variance include 8-1.01.C.4.a which provides that only structures that are water dependent facilities may be located in the Buffer, 8-1.01.C.4.e which prohibits any grading or disturbance in the Buffer that is not for erosion control or to enhance the Buffer function and 8-1.04.G.1.e which prohibits development on slopes greater than 15% unless "the project is the only effective way to maintain or improve the stability of the slopes."

It is this office's position that the applicant's proposed Buffer and steep slope disturbance is in conflict with the County's Buffer management goals and will create unnecessary adverse impacts to water quality and habitat. Additionally, the request appears excessive and not the minimum variance request necessary given the unique, sensitive site conditions. We question why the applicant cannot utilize the footprint of the existing dwelling, thereby minimizing the amount of disturbance proposed. While this office understands it is sometimes necessary to disturb steep slopes in association with proposed development or redevelopment, all disturbance must be necessary to both establish a dwelling and maintain the structural integrity of the dwelling. Further, the applicant cannot meet each one of Calvert County's variance standards, and in particular, the applicant does not meet the standards included and discussed below.

Relevant Variance Standards

11-1.01.B6.c-the variance is the minimum adjustment necessary to afford relief from the regulations

As described above, the variance is not the minimum adjustment necessary to afford relief from the regulations. The applicant proposes to build a new dwelling on a new footprint on a lot where there is room to build a reasonably sized new dwelling on the footprint of the existing dwelling. If the applicant were to do so, the more than 9,000 square feet of proposed new disturbance on the property would be eliminated. Therefore, it appears that the property could be reasonably redeveloped with a significantly minimized variance request, and the requested variance is not the minimum adjustment necessary to afford relief from the regulations.

11-1.01.B6.d-special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship

While the presence of steep slopes and expanded Buffer require that the applicant seek a variance for redevelopment of this property, to deny the requested variances for the currently proposed project would not create an unwarranted hardship for the applicant. The General Assembly and Calvert County Code state that unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested. This is not the case where a property such as this is already developed with a dwelling. In addition to the existing dwelling with a footprint of at least 1,900 square feet, the property is already developed with what appears to be a 1,900 square foot pool, an 850 square foot detached deck and patio in the 100-foot Buffer with a walkway leading to a pier and a 750 square foot boathouse, two other concrete patios totaling 350 square feet in size, and a 15 foot wide driveway loop. The applicant does not suffer an unwarranted hardship from being denied permission to more intensively develop the property with a dwelling footprint that is 2,000 square feet larger than the existing one, an 875 square foot garage, an approximately 40 foot wide driveway, a 500 square foot deck beside the pool, a 693 square foot deck that is completely within an undisturbed area of 25% slopes, and a 500 square foot deck which appears to span the width of a ravine on the property.

11-1.01.B6.e-a literal interpretation of the Critical Area Legislation and the Calvert County 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 County

A literal interpretation of Calvert County's 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 variance requests that are not the minimum necessary for redevelopment of a property, especially requests that will create significant adverse impacts to water quality and plant and wildlife habitat. The applicant has not shown that construction of a dwelling with a 3,800 square foot footprint, a garage, a 40 foot wide driveway and three decks on an already extensively developed lot with substantial new disturbance to the expanded Buffer and slopes greater than 15% is a right commonly enjoyed by any property in the Critical Area, or a right enjoyed by other properties in similar areas within the Calvert County Critical Area.

11-1.01.B6.f-the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County'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 create new disturbance to the expanded Buffer or steep slopes where evidence has not been provided to show that it is the minimum necessary disturbance in order to redevelop a property. 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. We do not believe the applicant has overcome this burden.

11-1.01.B6.g-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. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, the Board of Appeals may consider that fact; and

The extent of the variance requested is based upon the actions of the applicant. It appears that the applicant has voluntarily chosen to locate the proposed house and other structures such that they are not located within the existing dwelling's footprint and will create significant new disturbance to the Buffer and steep slopes. Consequently the applicant has created the need for more than the minimum variance necessary. The applicant has not shown any reason that the proposed house could not be constructed completely within the footprint of the existing house and with a minimized variance request.

11-1.01.B6.h-the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County'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.

In contrast with the above standard, granting the requested variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The footprints of the proposed dwelling, driveway, garage, and multiple decks within the expanded Buffer and slopes greater than 15% will require clearing of established vegetation and prevent regeneration of vegetation in that area which would provide benefits to fish, wildlife, and plant habitat. The proposed clearing and construction will disturb soils on steep slopes which will spur erosion and sediment transport into St. Leonard creek during storm events. County law recognizes that a naturally vegetated fully functioning Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. This proposal not only further reduces the functions provided by the Buffer, but would create extensive disturbance of the soils on steep slopes on this site, and significantly contribute to the cumulative impacts of development on the Bay.

Because the Commission opposes the requested variance with reference to the expanded Buffer and steep slope disturbance from the proposed dwelling and other construction, and because the applicant has not met each one of Calvert County's variance standards, it is this office's position that the variance request for the development as it is currently proposed should be denied and the applicant should be required to locate the proposed redevelopment within the footprint of the existing dwelling.

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

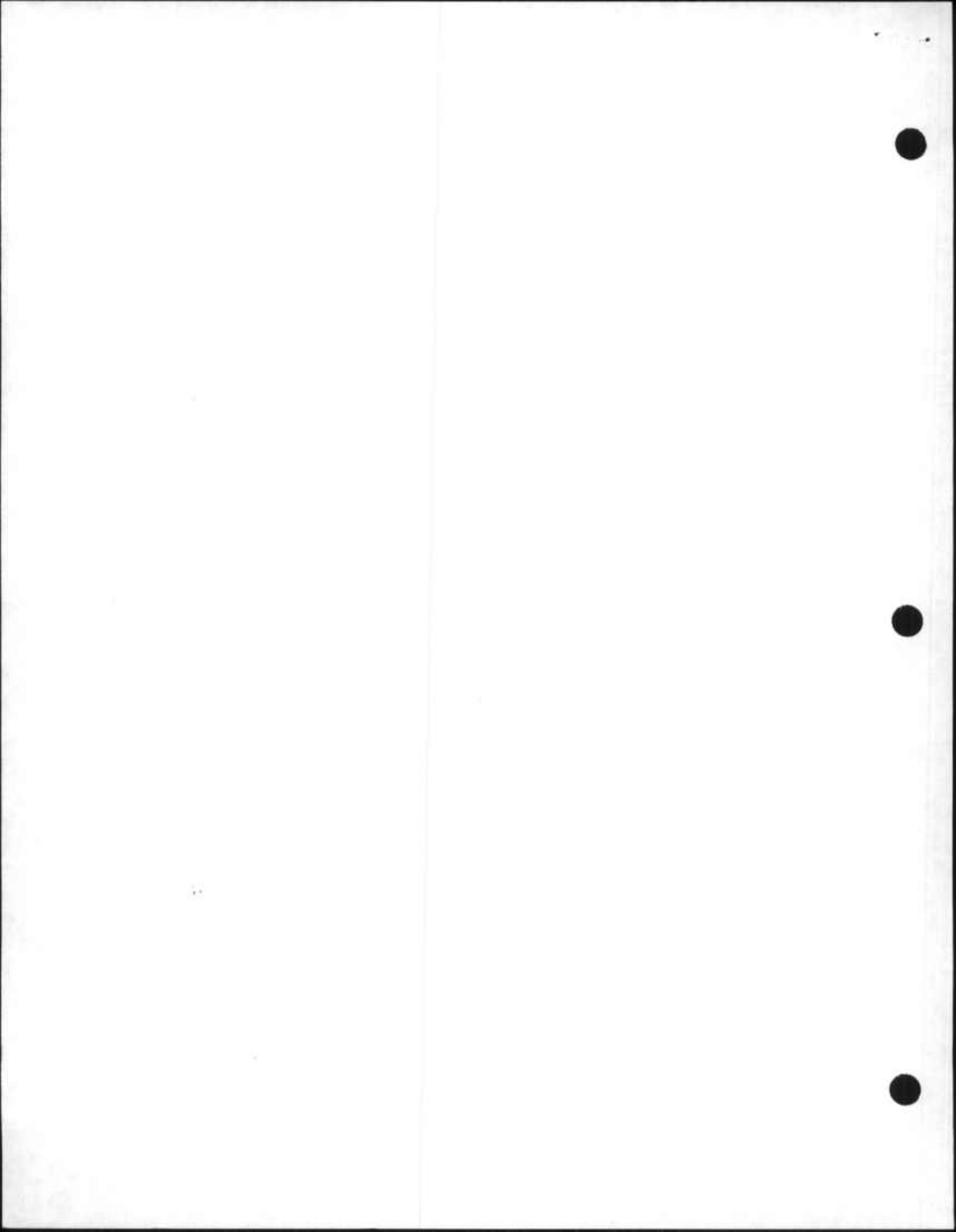
Ms. Whitt
December 18, 2007
Page 5 of 5

addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3481.

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 711-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

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Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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December 18, 2007

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

Re: Variance 08-3493 Crupi, Rick

Dear Ms Whitt:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to permit disturbance within the 100-foot cliff setback to construct a new single family dwelling and garage. The 2.4 acre property is undeveloped and is classified as a Limited Development Area (LDA).

Since the lot is properly grandfathered because it was platted in 1946, this office does not oppose granting a variance for construction of a dwelling with disturbance to the 100-foot cliff setback. However, Calvert County's variance standards require that the requested variance be the minimum necessary to afford relief from the regulations. Based on the information submitted, it appears that the applicant can make adjustments to the plan that would minimize the extent of proposed disturbance within the 100 foot cliff setback. Accordingly, this office cannot support granting the requested variance unless the applicant shows an attempt to site the dwelling on the property in a way produces only the minimum necessary impact within the 100 foot cliff setback.

Examples of ways in which the applicant can show minimization of the proposed construction's impact to the 100 foot cliff setback include the following:

- It is our position that a garage is unnecessary on properties where the developable area is substantially limited by the presence of environmentally sensitive features. Such is the case on this property, since the majority of the lot is comprised of steep slopes, the 100-foot Buffer and the 100-foot cliff setback. Therefore, we recommend that the applicant remove the proposed garage from the plans.
- It appears that if the proposed garage is removed from the plans, there would be more room to pull the proposed house out of the cliff setback. Additionally, it appears that if the house were reconfigured to be more narrow and long than the current square dwelling

Ms. Whitt
December 18, 2007
Page 2 of 2

that is proposed and located perpendicular to the shoreline, the majority of the dwelling could be located outside of the 100-foot cliff setback.

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 410-260-3481.

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 710-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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December 18, 2007

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

Re: Variance 08-3492 McNeil, Lawrence

Dear Ms. Whitt:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to permit disturbance within slopes greater than 15% to replace a 100-gallon propane tank with an underground 500-gallon propane tank, and to construct a 32 square foot concrete pad for a back-up generator. The 9,780 square foot property is currently developed with a single family dwelling and it is classified as a Limited Development Area (LDA).

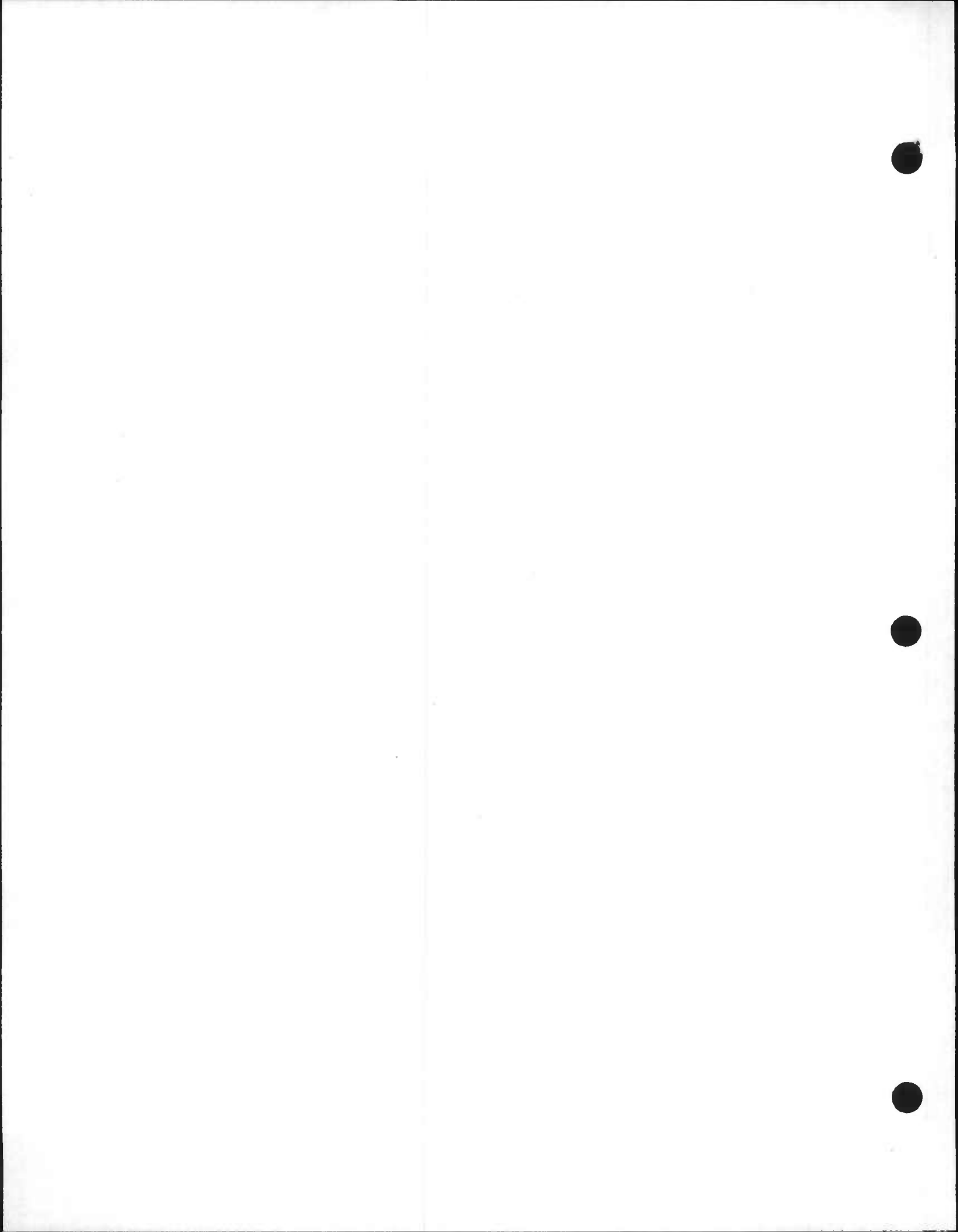
This office does not oppose granting the requested variance which is needed for the purpose of upgrading the utilities for the existing residential use on the property. In order to mitigate for the area of proposed disturbance to the steep slope from trenching and construction of the concrete pad, we recommend that the applicant provide plantings on site at a ratio of 2:1. We note that the property is mapped as being within the habitat area of the tiger beetle, which is a federally listed endangered species. However, because the proposed project is being done on an already developed lot and the proposed disturbance is located on the side of the house that is farthest from the water, it does not appear that any additional measures are necessary to prevent impacts to the species from this project.

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 410-260-3481.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner
CA 709-07



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 17, 2007

Mr. Dan Gerczak
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: South River Park lots 12 & 13 Section G
S 94-055, P 07-0218

Dear Mr. Gerczak:

Thank you for forwarding the above-referenced subdivision application. The applicant proposes to re-subdivide two existing lots into 3 lots, to retain the existing dwelling on one of the lots, and to construct a new dwelling on each of the other two lots. The 31,972 square foot property is designated as an Intensely Developed Area (IDA). I have outlined my comments below.

1. The applicant must complete and submit the 10% pollutant reduction worksheets that are available on the Commission's website at the following website, http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html, and show on the plans how the required pollutant load reduction will be addressed on the site.
2. It appears that the proposed dwellings will require removal of some existing trees on the property. We recommend that clearing be minimized where possible, and that new trees and shrubs be planted on the site where feasible. Please have the applicant submit a landscaping plan which demonstrates planting of pervious areas to the extent possible, in accordance with COMAR 27.01.02.03(4).

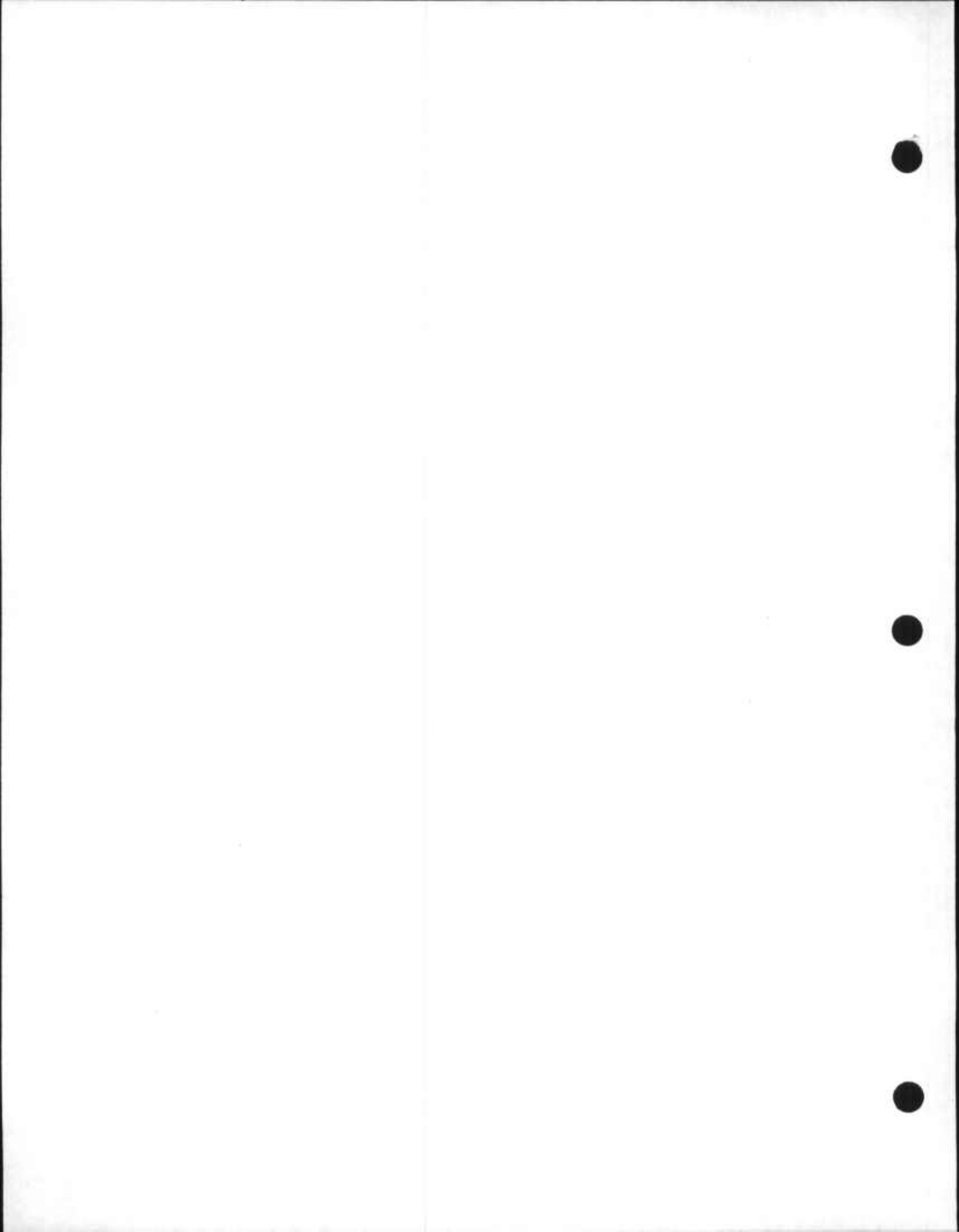
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 684-07



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

Re: Variance 07-3463 Boomerangs Restaurant

Dear Ms Whitt:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to the 15% impervious surface area limit to construct a 480 square foot building addition to an existing restaurant. The property is currently developed with a restaurant and parking lot and is designated as a Limited Development Area (LDA).

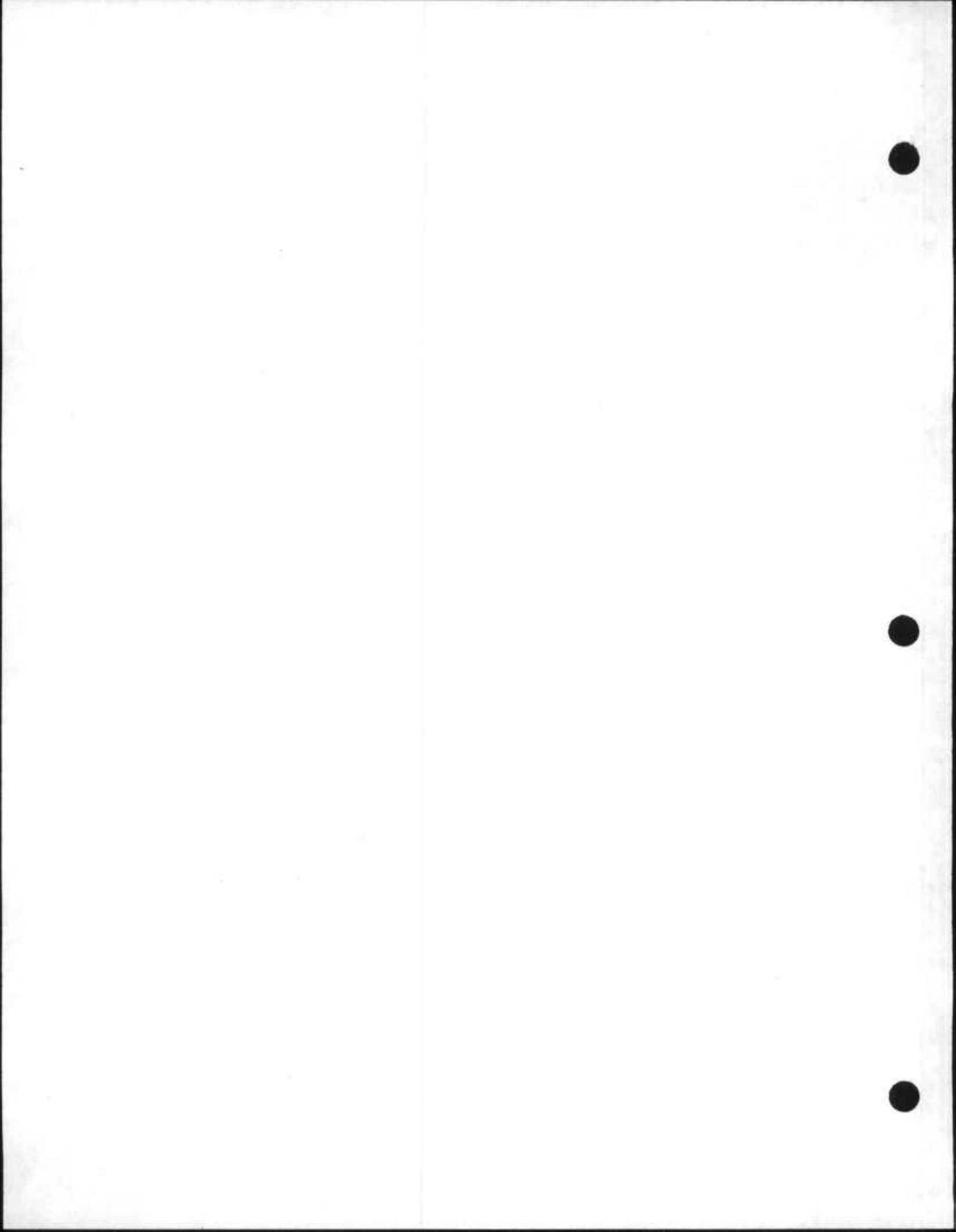
While the applicant's property currently does not conform to Calvert County's Critical Area Program in that 90% of it is already developed with impervious structures and parking lot, this office does not oppose granting the requested variance because the property's current impervious surface is a grandfathered non-conforming use and the proposed project will not increase the impervious footprint on this property. Rather, the applicant proposes to minimize the existing impervious surface footprint by constructing the 12 by 40 foot first floor building addition over an area that is currently 266 square feet of impervious sidewalk, and to remove 388 square feet of impervious area from the parking lot and other areas. As a result, the total impervious area on the property will be reduced by 174 square feet. We recommend that the newly created pervious areas be planted to the extent feasible to provide a water quality enhancement on the property.

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 410-260-3481.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner
CA 528-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 14, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 08-WL-0255; Bees Nest LLC,
454 Severn Rd., Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for marina reconfiguration, shoreline erosion control and navigable access improvement. The proposed project includes removal and replacement of existing piers, pilings and a boat ramp, 296 linear feet of marsh creation, construction of a 137 foot stone revetment, and periodic dredging. Based on the information provided, I have the following comments:

1. It appears that the proposed marsh creation and stone revetment will require grading and filling in the 100-foot Buffer. The applicant should provide mitigation in the form of plantings on-site at a 1:1 ratio for the area of Buffer disturbance if there will be any permanent impacts to the Buffer above the mean high waterline, and mitigation at a 2:1 ratio for any temporary impacts to the Buffer including clearing for construction access. The applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning for any impacts to land that is above mean high water. The applicant should also contact the Anne Arundel County forester, in order to complete a Vegetated Management Plan for the required mitigation.

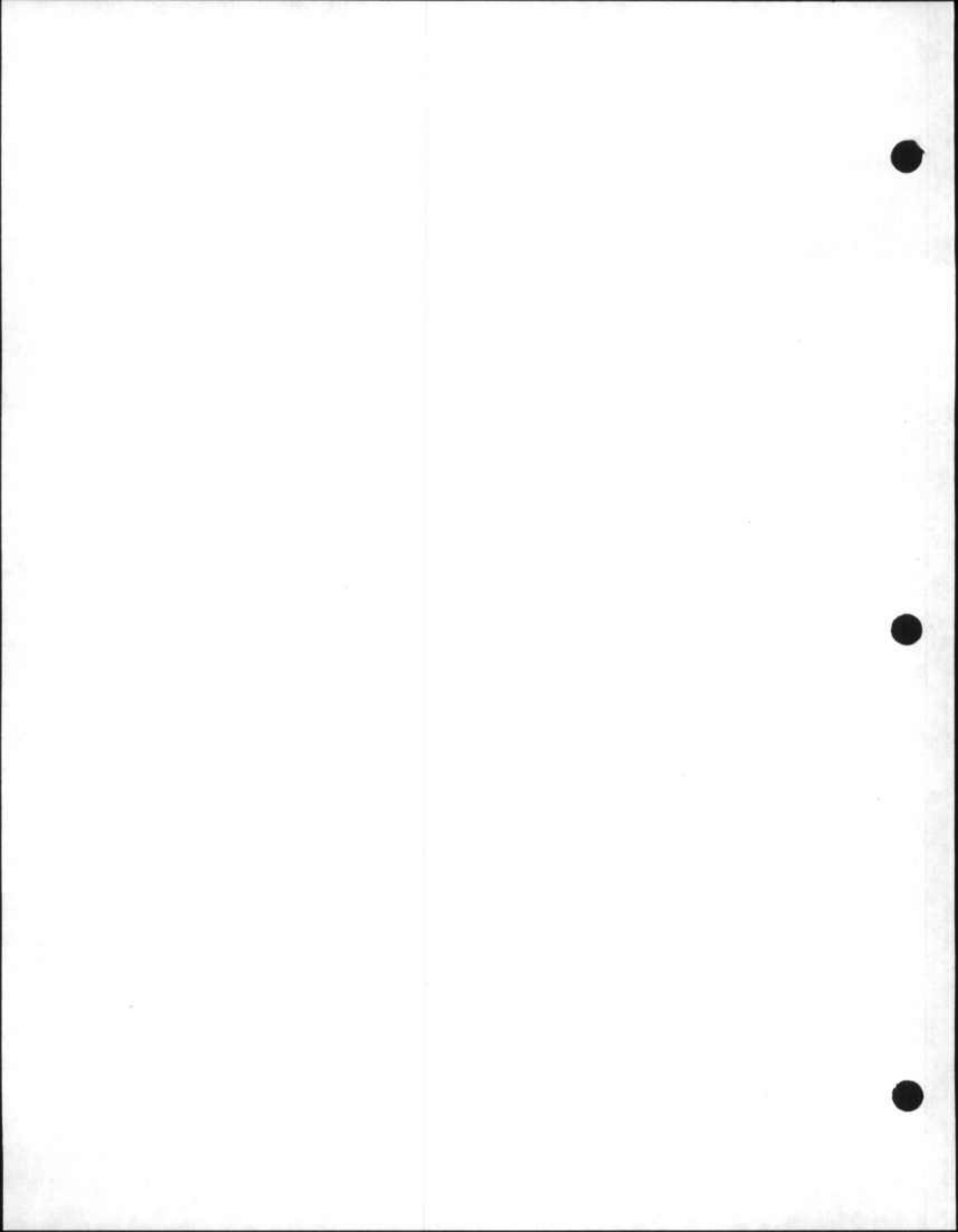
Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3481.

Sincerely,

A handwritten signature in dark ink, appearing to read "AW", written over a light-colored background.

Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 12, 2007

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

Re: Lamon's Landing
S 07-073, P 07-0219

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision application. The applicant proposes to subdivide an existing 4.26 acre parcel into a 10-lot subdivision, to construct new dwellings on nine of those lots and to retain an existing dwelling on the tenth lot. Eight of the proposed lots are within the 3.48 acre portion of the property that is in the Critical Area and designated as a Limited Development Area (LDA). I have outlined my comments below.

1. The current proposal shows 21% of the proposed subdivision as impervious surface area, which exceeds the 15% impervious surface limit for subdivisions in the LDA. Also, most of the proposed lots within the Critical Area portion of the property exceed the 25% impervious surface limit for lots that are less than one acre in a subdivision where the 15% overall impervious surface limit is met. Accordingly, the applicant must reduce the proposed impervious surface area in the subdivision in order to comply with the County's Critical Area program.
2. The applicant proposes to clear 31.5% of the existing forested area on the property. However, Anne Arundel County's Critical Area program only permits clearing up to 20% of the existing forested area, and allows clearing greater than 20% and less than 30% of existing forested areas only with County approval. The applicant must reduce the proposed clearing to less than 30%, and it appears that the applicant could minimize the proposed clearing to 20% of the existing forested area by retaining more of the tree cover on proposed lots 3, 4, 9, and 10. If the applicant obtains approval to clear more than 20%, the total area of clearing must be mitigated with reforestation plantings at a 1.5:1 ratio.
3. We note that the plans show a 2.38 acre natural conservation area to the rear of the proposed lots. It appears that the majority of this area is currently forested, and may count toward the requirement that 80% of the existing forested area be placed in a protective easement. However, we recommend that instead of a natural area easement, this area be placed in a forest

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Ms. Krinetz
December 12, 2007
Page Two

conservation easement to ensure that there will be no future cutting or clearing of the existing forest cover in this area.

4. It appears that the boundaries of proposed lots three through eight extend into the proposed easement area. We recommend that the applicant amend the proposed lot lines so that they do not overlap with the easement area. If this is not feasible, we recommend that the applicant provide and show permanent tree fencing or signs that identify this as a protected area to prevent clearing and encroachment into this area by future lot owners.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 681-07

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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December 10, 2007

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

Re: Powhattan Beach lot 19
S 02-033, P 07-0197

Dear Mr. Burke:

Thank you for forwarding the above referenced subdivision application. The application is for the subdivision of an existing non-conforming lot with two existing dwellings into two conforming lots. The property is designated as a Limited Development Area (LDA) and it does not appear that any new development is proposed on the property. I have provided my comments below.

- 1) This office notes that 34% of the proposed subdivision is currently impervious surface area which is over the 15% limit for subdivisions in the LDA. Because the excess impervious surface currently exists and the subdivision is proposed only for the purpose of creating lots that conform to the County's zoning regulations and not for further development of the property, this office does not oppose approval of the subdivision. However, if variances are requested in the future for redevelopment or further development of this property, this office will not support the granting of those variances. For this reason, we recommend that the applicant include a notation on the plat stating that no further expansion of the impervious footprint on the property will be allowed in the future. We also note that if the property is redeveloped in the future, we will not consider the lots to be grandfathered and each property will have to comply with the 15% impervious surface limit.
- 2) We recommend that the applicants reestablish the property's 100-foot Buffer with native trees and shrubs to provide water quality improvements to some of the stormwater runoff from the excess impervious surface area on the property. The

Mr. Burke
December 10, 2007
Page Two

applicant should work with the County forester to develop and obtain approval for a Buffer management plan prior to subdivision approval.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AA 651-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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December 10, 2007

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

Re: Mill Creek Subdivision
S 06-050, P 06-0109

Dear Mr. Sharp:

Thank you for forwarding the above mentioned subdivision application. The project is for the subdivision of several existing parcels into a 92-lot subdivision and construction of a single family home on each proposed lot. It appears that 44 of the proposed lots are within the 31.7 acre portion of the property that is within the Critical Area and is designated as a Limited Development Area (LDA). I have outlined my comments below.

1. The applicant proposes to clear 21.67 acres of the existing 27.28 acres of forested area within the Critical Area portion of the property, which is 79.4%. Based on the County's Code, this is not permitted. §125-20(F)(5)(c) of Wicomico County's Critical Area Resource Protection Chapter limits the clearing of existing forested area on a property within the Critical Area to 20%, and requires the remaining 80% of forest cover to be maintained through the use of appropriate instruments, such as forest conservation easements that are recorded with the County. Therefore, the subdivision can not be approved with the amount of clearing that is proposed.
2. According to Maryland Department of Natural Resources Wildlife and Heritage Service's (WHS) letter, the forested area on the property contains forest interior dwelling birds (FIDs) habitat. Therefore, the applicant must complete and submit the FIDs conservation worksheet that is found in this office's "Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" guidance document, available on the Commission website at http://www.dnr.state.md.us/criticalarea/tweetyjune_2000.pdf prior to project approval.

3. WHS letters indicate that a number of rare, threatened or endangered plant and animal species are within the vicinity of the proposed subdivision. Therefore, we recommend that the applicant do a survey of the property for those species, and develop and submit a conservation plan for protection of those species on the property as necessary.
4. The labeling of the proposed lot sections is inconsistent. The Critical Area Table identifies the section that includes lots 10-63 and 1-8 as section 1, blocks A and B. However, the plans show these lots as section 2. Similarly, the lots identified as section 2 in the table are labeled as section 1 on the plan. Please have the applicant resolve this inconsistency.
5. Please have the applicant provide a soils map for the property. Given the presence of nontidal wetlands on the property, it is probable that at least these and possibly other areas on the property are comprised of hydric soils.
6. Please have the applicant map the Buffer on the property based on a field delineated tidal and nontidal wetland survey. It appears that several of the proposed lots are within the 100-foot Buffer to tidal waters and the expanded Buffer for hydric soils. The 100-foot Buffer appears to be within the proposed lot lines for the Lot 5 that is north of the shown nontidal wetland and lots 21-23 that front North Nithsdale Drive. Also, the 100-foot Buffer is expanded when it is contiguous with hydric soils, which appears to be the case on this property where Rockawalkin Creek's tidal wetlands merge into nontidal wetlands. It appears that this expanded Buffer is within the proposed lot lines for lots 5-10 that are north of the nontidal wetland, and lots 10-14 that front proposed Road B. The applicant will have to seek and obtain a variance for any proposed disturbance on lots within the 100-foot and expanded Buffer, including proposed grading, clearing and building footprints. This office will not support variances that are required for the development of newly created non-grandfathered lots. Therefore, we recommend that the applicant amend the proposed lot lines so that no lots are shown within the Buffer.
7. The applicant proposes to create lot lines within the nontidal wetland and its 25-foot Buffer. In order to do so, the applicant must seek and obtain a permit from MDE. Please indicate whether the applicant has submitted an application for an MDE nontidal wetland permit.
8. This office is concerned that the proposed impervious surface area is exactly 15%. We recommend this be reduced since approval of new subdivisions that propose the maximum impervious area upfront since it will prevent future lot owners from making impervious area property enhancements in the future. It is this office's position that future disturbance to newly created lots should not require variances to the County's Critical Area Program. Therefore, the applicant should adjust the proposed impervious area to allow for lot owners to make reasonable impervious area enhancements in the future.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

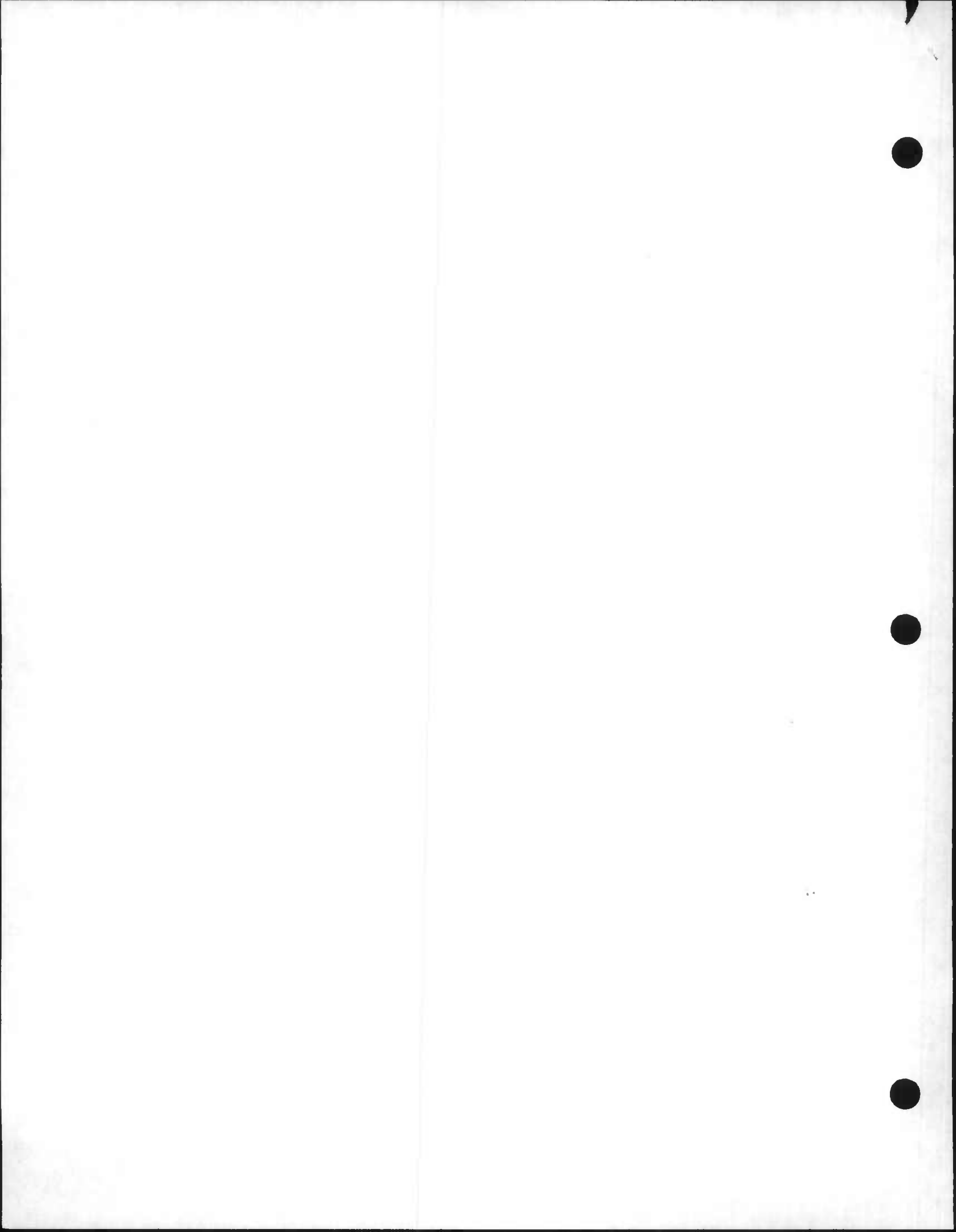
Mr. Sharp
December 11, 2007
Page 3 of 3

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: WI 700-07
Ace Adkins, MDE nontidal wetland permit reviewer for Wicomico County



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 10, 2007

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

Re: Karr, Dorothy Property
S 06-050, P 06-0109

Dear Mr. Burke:

I have received a resubmittal for the above referenced subdivision request. It appears that the applicant has addressed this office's comments from my May 25, 2007 letter. The applicant has changed the configuration of the previously proposed six lot subdivision and now proposes to subdivide the existing 9.41 acre parcel into two residential lots with construction of a single family dwelling on each lot, and a bulk parcel for future development of a church. 1.48 acres of the property are within the Critical Area and are designated as a Resource Conservation Area (RCA). I have outlined my comments below.

1. The applicant proposes to subdivide an already non-conforming portion of RCA to create three smaller portions of RCA that are in greater nonconformance with the County's Critical Area program.

While we acknowledge that the current subdivision has been in the review process through several submissions, the extension of lot lines within the RCA has been a topic of recent conversations between County and Commission staff. Specifically, it has been repeatedly demonstrated that the extension of lot lines within the RCA creates the potential for future conflicts and illegal development activities within the RCA portion of the lots. While the RCA portion of the lots may be restricted by plat note, there is no demarcation of this line in the field and individual lot owners are often unaware of the restrictions agreed to by a developer. In addition, it remains our position that the drawing of lot lines within the RCA further degrades the quality and size of the RCA left undisturbed and is therefore not consistent with the density provisions in the law. In this case, and in recognition of the review history preceding this letter, Commission staff recommends that the County require the applicant to include the entire portion of the lot areas located within the RCA on proposed lots one and two and on the bulk parcel within a permanent conservation easement, forest or other, and that a restriction in perpetuity on development within the

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Mr. Burke
December 10, 2007
Page Two

RCA portion of the lots be recorded within the individual deeds and noted on the recorded plat. Alternatively, the applicant may choose to remove all lot lines on the referenced lots from the RCA.

We note that the applicant has proposed to place the RCA portion of the two proposed residential lots in such an easement. However, the submitted materials do not show any development restrictions on the portion of RCA within the proposed bulk parcel. If the applicant wishes to further segment the existing non-conforming 1.48 acre portion of RCA to create the proposed 43,135 square foot portion of RCA on the bulk parcel, the applicant must place the bulk parcel RCA under the restrictions as described above.

2. The plans show that the RCA on proposed lots one and two will be used to meet the reforestation requirements for the proposed clearing. Accordingly, this area should be placed in a forest conservation easement instead of a natural area easement to ensure that no cutting or clearing takes place within this RCA in the future. Please have the applicant make the necessary corrections to the easement language on the plat and plans.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 668-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 10, 2007

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

Re: Hidden Creek, formerly Brockmeyer Prop.
S 07-019, P 07-0128

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision application. The applicant proposes to subdivide an existing parcel into five new lots with construction of a single family dwelling and driveway on each lot. The 4.14 acre parcel is entirely within the Critical Area, is designated as a Limited Development Area (LDA) and is currently undeveloped. The applicant has addressed some of this office's previous comments from Megan Sines' August 29, 2007 letter. I have outlined my remaining comments below.

1. Please have the applicant clarify which areas of existing tree cover will be cleared. For instance, will everything that is outside of the proposed forest conservation areas be cleared? Will all existing tree cover that is within the limits of disturbance be cleared?
2. Please provide a chart or notation indicating the acreages of the proposed forest conservation easements on the property as a whole and within the proposed lots. The location of the proposed onsite reforestation should be shown and placed within a forest conservation easement as well. Also, please have the applicant revise the information in the woodland clearing calculations charts that indicates 30% of the existing forested area on the property is the allowable clearing. Anne Arundel County's Critical Area program only permits clearing up to 20% of the existing forested area, and allows clearing greater than 20% and less than 30% of existing forested areas only with County approval. Further, COMAR 27.01.02.04.C(3)(c) requires that an area equal to 80% of the existing forested area be placed in a conservation easement. If the total area in the proposed forest

conservation easements is less than 80% of the existing forested area on the property, the easements should be modified accordingly.

3. This office continues to recommend a community pier for this proposed subdivision. The proposed subdivision will intensify the current activity within the Buffer by a factor of five if the subdivision is permitted to be platted with individual property rights to private piers. Allowing the resulting disturbance from the construction and use of four new piers on the proposed lots is in direct conflict with the findings on which the General Assembly based the creation of the Critical Area Law.

“The restoration of the Chesapeake and Atlantic Coastal Bays and their tributaries is dependent, in part, on minimizing further adverse impacts to the water quality and natural habitats of the shoreline and adjacent lands, particularly in the Buffer. The cumulative impact of current development and of each new development activity in the Buffer is inimical to these purposes.”
Natural Resources Article § 8-1801(a)(8) and (9).

Anne Arundel County incorporated these goals into its Critical Area program through provisions such as Anne Arundel County Code § 17-8-502, which states that Habitat Protection Areas, including the 100-foot Buffer, “shall be preserved and protected in connection with all development as set forth in this subtitle and as required by the Office of Planning and Zoning in accordance with the recommendation of the Department of Natural Resources and other reviewing agencies.”

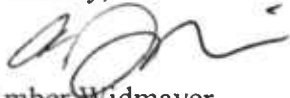
Therefore, as this office has previously indicated, we recommend a community pier to provide the proposed lot owners access through the Buffer and to Cattail Creek.

4. It is unclear what the proposed impervious area will be for the proposed roads. This information must be provided in order to calculate the total proposed impervious area for the subdivision. Also, the impervious surface charts are confusing in that the column labeled “maximum allowable impervious coverage” shows various percentages of impervious coverage on each lot, instead of the uniform 25% that lots less than an acre within a subdivision are typically allowed if the subdivision as a whole is less than 15% impervious. Therefore, the applicant should either correct the figures in this column to uniformly represent the allowable impervious surface per lot, or delete this column. We also recommend that to promote clarity on this and future plans, the applicant label the column that shows the proposed impervious surface area calculations as such.

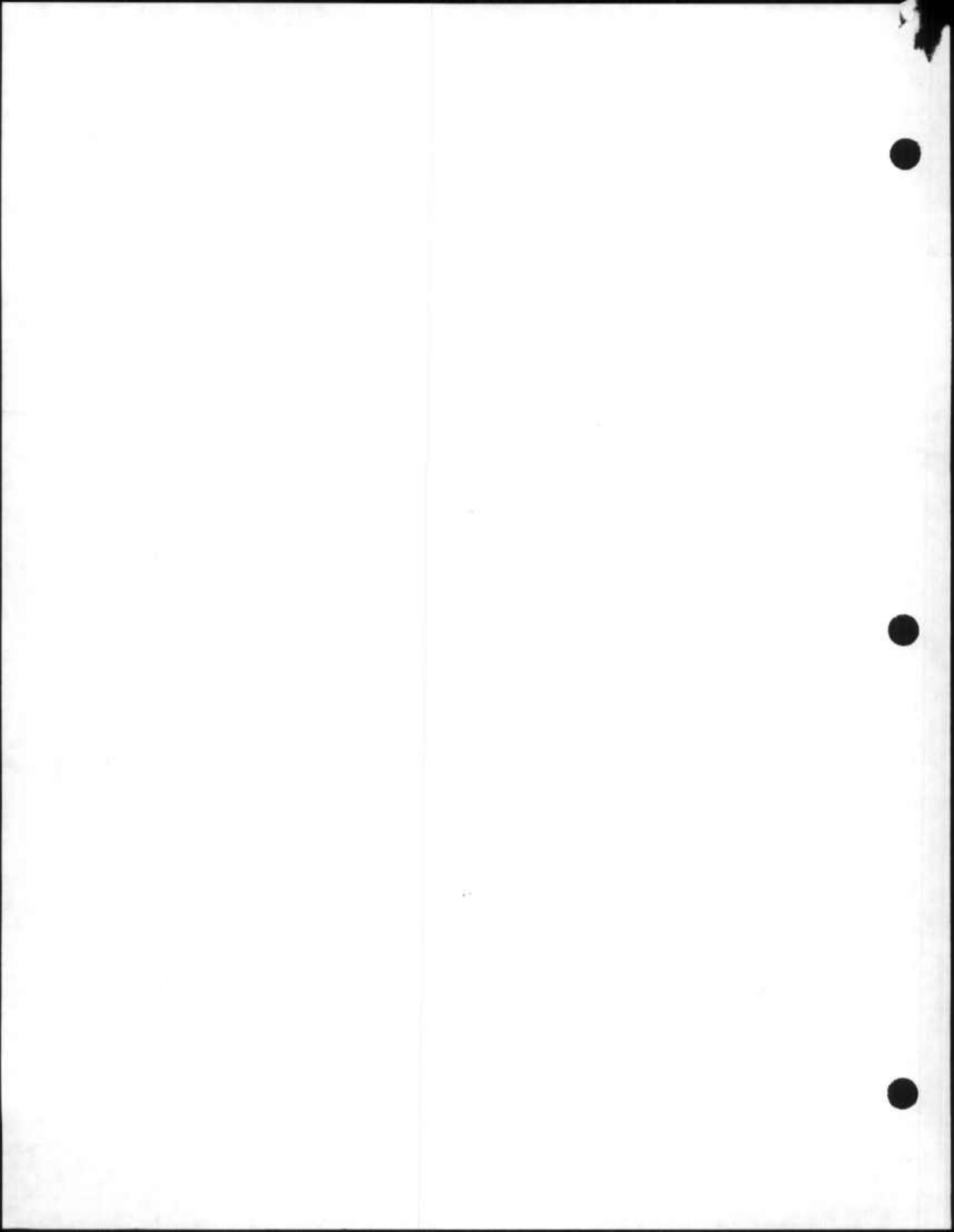
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Ms. Krinetz
December 10, 2007
Page Three

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AA 358-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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December 7, 2007

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

Re: Chew Creek Section 2 Subdivision

Dear Ms Vidotto:

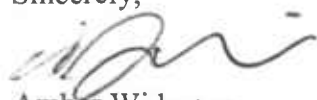
Thank you for forwarding information regarding the above-mentioned subdivision application. The applicant proposes to subdivide an existing 110.93 acre parcel to create 3 new residential lots, a 24.07 acre farm open space lot, a 4.70 acre conservation open space lot, and a 75 acre residue. 43.96 acres of the proposed residue are within the Critical Area and they are classified as a Resource Conservation Area (RCA). I have provided my comments below.

- 1) It appears that the only currently proposed developable lots on this property are outside of the Critical Area and consequently, it does not appear that any Critical Area issues are raised at this time by the proposed residential lots. While no subdivision of the 43.96 acre RCA portion of the property is proposed at this time, we note that any future subdivision of the RCA appears to be restricted by the fact that a significant portion of the 43.96 acres of RCA is State owned tidal wetlands. The State-owned tidal wetland acreage must be subtracted from the total RCA area for purposes of calculating the allowable number of lots in the RCA. It is not clear whether this deduction has been calculated at this time. If not, it appears that once the area of tidal wetlands is subtracted from the 43.96 acres of RCA in the proposed residue, there will be less than the necessary acreage to create more than one developable lot in the RCA on this property. Therefore, we recommend the applicant include a notation on the plat at this time that only 1 lot will be allowed in the RCA portion of this property in the future.

Thank you for the opportunity to provide comments. Please feel free to contact me at (410) 260-3481 if you have any questions.

Ms. Vidotto
December 7, 2007
Page Two

Sincerely,

A handwritten signature in dark ink, appearing to read 'Amber Widmayer', written in a cursive style.

Amber Widmayer
Natural Resources Planner
CA 712-07

Martin O'Malley
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Margaret G. McHale
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Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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December 3, 2007

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

Re: The Villas at Deep Creek
S 96-039, P 06-0010

Dear Ms. Krinetz:

Thank you for forwarding the final development plans for the above-referenced subdivision request. It is unclear whether the applicant has addressed this office's remaining comment from my August 20, 2007 letter. I have inserted this comment below along with a request for clarification.

- As this office mentioned before, it appears that the applicant has provided the required stormwater quality treatment facilities outside of the RCA. If so, then the proposed series of step pools and cascades which comprise an environmentally sensitive outfall alternative may be located as proposed within the RCA. The applicant will need to provide mitigation for this outfall alternative for the area of disturbance it creates within the Buffer. I was unable to determine whether the applicant has quantified and provided mitigation for the proposed disturbance within the Buffer for construction of the proposed step pools. Mitigation should be provided for this disturbance at a 3:1 ratio.

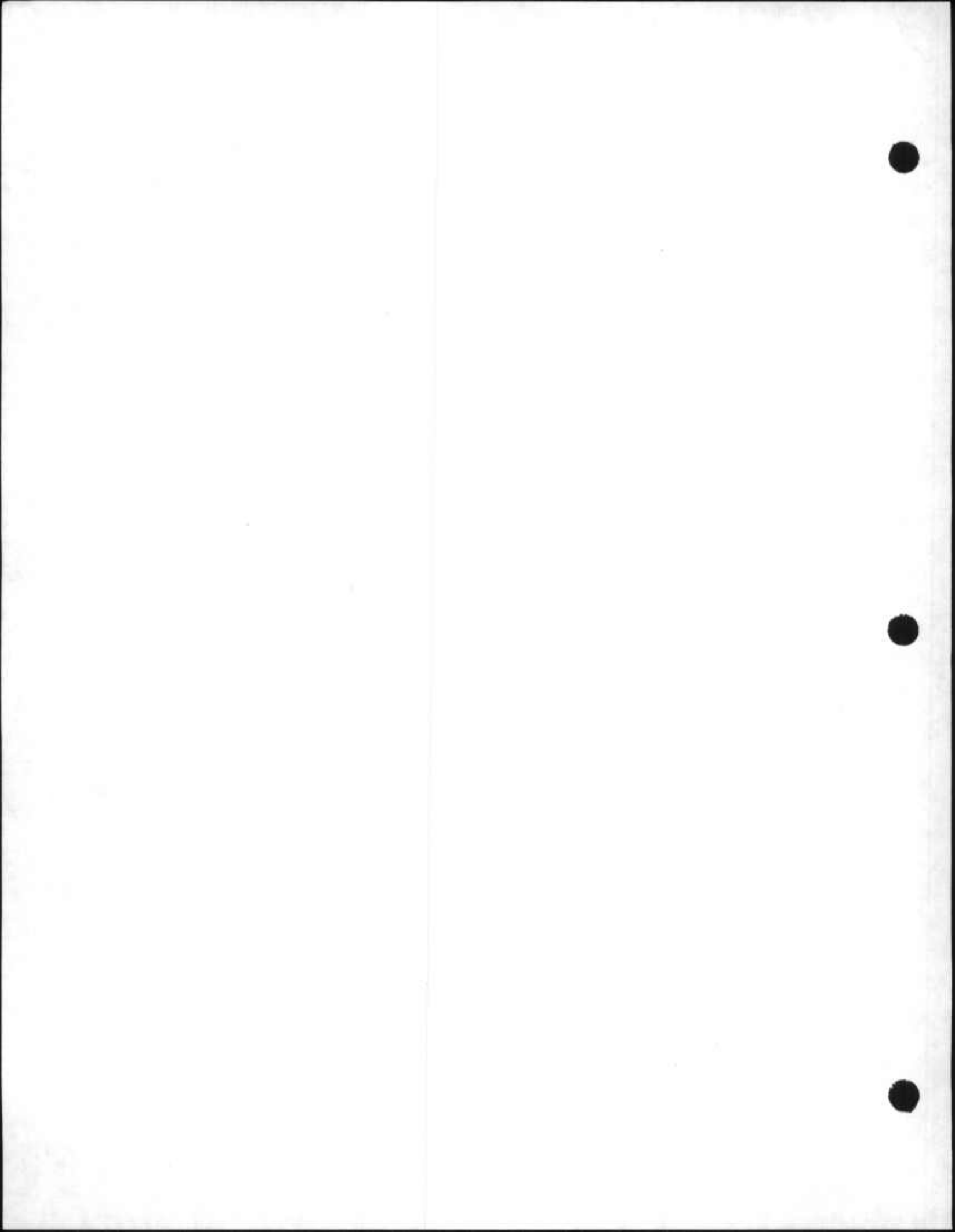
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 422-02



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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Executive Director

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December 3, 2007

Ms. Sally Nash
City of Annapolis
Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, Maryland 21401

Re: Rogers Heights Growth Allocation

Dear Ms. Nash:

Thank you for forwarding information on the above-referenced project proposal. The proposed project is the creation of a nine lot subdivision, converting an existing nonconforming parcel with seven existing dwellings into nine lots. It appears that the applicant proposes to redevelop the existing dwellings on the existing footprints, and to construct two new dwellings on the two additional proposed lots. The applicant is requesting 2.5 acres of growth allocation to change a portion of the 5.27 acre parcel from a Limited Development Area (LDA) to an Intensely Developed Area (IDA). Please note that this letter is intended to provide preliminary comments on the proposed project. At the time of the Commission's formal review, additional information may be requested or additional concerns may be raised. I have outlined my initial comments below.

1. The applicant will need to use growth allocation for the entire area of the parcel. Growth allocation must be used for the whole parcel unless the applicant can show that the proposed project is consistent with the development envelope concept which requires that all of the following areas be within the proposed development envelope: individually owned lots, required Buffers, impervious surfaces, roads, utilities, stormwater management measures, and any areas subject to human use such as active recreation areas. On the applicant's parcel, there is no portion of the parcel that is not proposed for one of the above listed uses. Specifically, the proposed subdivision shows that the whole parcel is either divided up as individual lots or as a common recreational area. Therefore, the applicant must obtain growth allocation for all 5.27 acres of the existing parcel. Even if the applicant were able to show that the RCA portion of the parcel, much of which is shown as a proposed common recreational area, would not be used for

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any of the above purposes, growth allocation would still have to be obtained for the RCA area because where less than 20 acres of RCA remain outside of a development envelope, the entire parcel area must be deducted.

2. According to our records, there are tidal wetlands on the property that will affect how the Buffer is measured. The Buffer must be field delineated and mapped from the landward edge of tidal waters. Also, the applicant should submit a map of the soils on the property and any slopes greater than 15% since the Buffer may be expanded to include steep slopes and hydric soils.
3. Prior to the Commission's formal acceptance of a growth allocation request, the applicant will need to identify all Habitat Protection Areas that are on the property. In addition to mapping the 100-foot Buffer, the applicant will need to obtain a letter from Maryland Department of Natural Resources Wildlife and Heritage Service to determine whether there are any rare, threatened or endangered species on the property or any other Habitat Protection Areas that may be affected by the project.
4. The redevelopment of proposed lot five is not consistent with the Annapolis or state Buffer regulations. A minimum 100-foot naturally vegetated Buffer must be established for waterfront growth allocation projects. Therefore, the applicant should revise the plans so that no development is proposed within the Buffer. The plans should also include a planting plan for establishment of a vegetated 100-foot Buffer.
5. The applicant must provide documentation that the current parcel configuration has not been changed since December 1, 1985, which is the original mapping date for the Critical Area.
6. The applicant must show that the use of the requested growth allocation will meet each of the Natural Resources Article § 8.1801(c) Guidelines for locating a new intensely developed or limited development area. This text was amended by the General Assembly in 2006 and can be found in Senate Bill 751, available on the web at <http://mlis.state.md.us/2006rs/bills/sb/sb0751t.pdf>. Please ensure that the City provides written findings regarding these guidelines prior to submission of a formal growth allocation request.

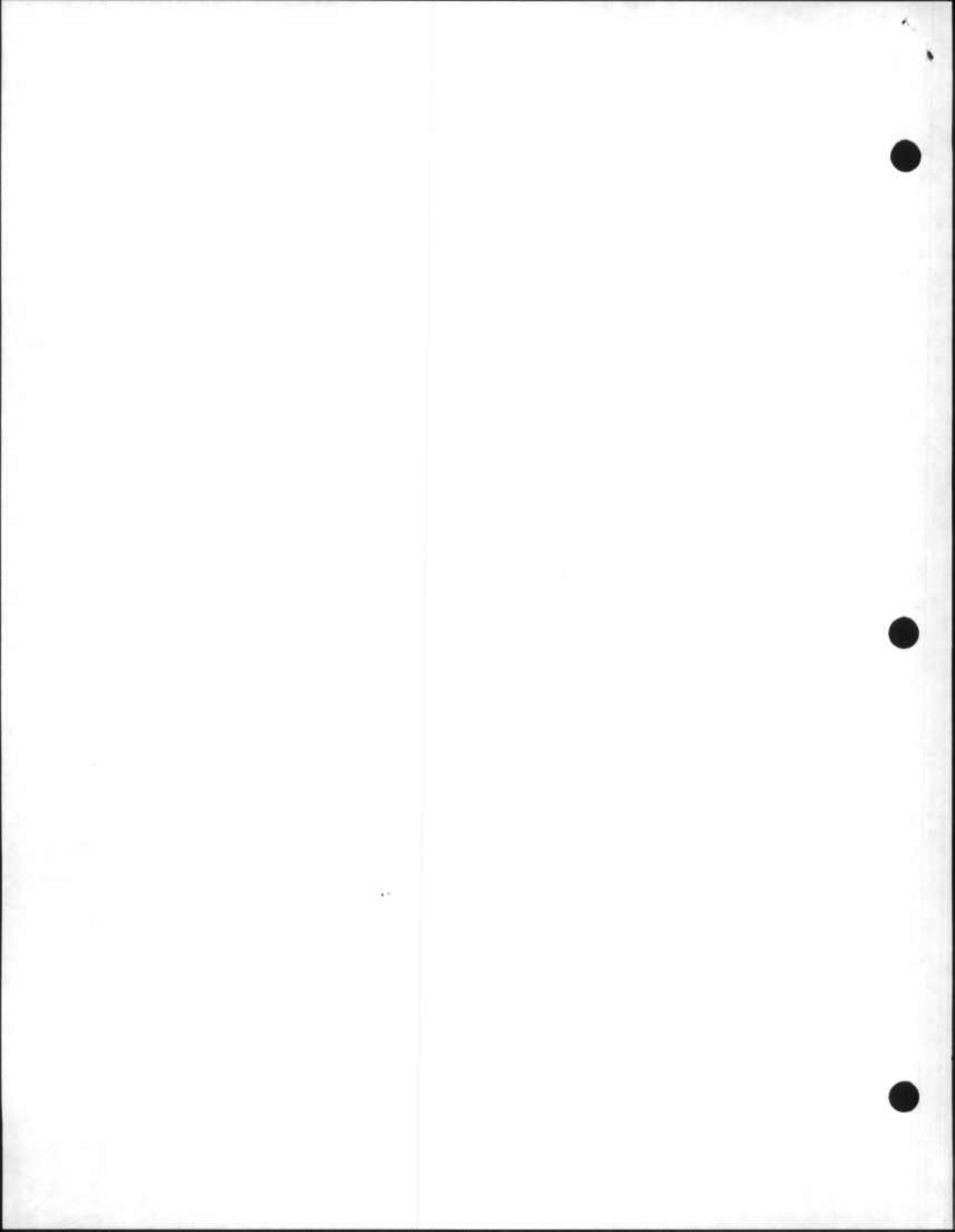
The comments above are based on the information this office has received to date about the project and reflect the review and evaluation of the project by Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. We are happy to meet with the applicant to discuss any further questions about the proposed project. Please feel free to contact me at (410) 260-3481.

Ms. Nash
December 3, 2007
Page 3 of 3

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Widmayer', written in a cursive style.

Amber Widmayer
Natural Resources Planner
cc: AN 605-07



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

Re: The Villas at Severna Park
S01-038, Tax Map 32H, Parcel 148

Dear Ms. Krinetz:

Thank you for providing information regarding the above referenced revised subdivision. The applicant is proposing to subdivide a 24.94 acre property, 6.04 acres of which are located within the Critical Area and are designated as a Limited Development Area (LDA). Within the Critical Area, it appears that portions of four new lots are proposed in addition to a roadway and recreation area. It appears that the applicant has addressed some of this office's comments from Kerrie Gallo's July 2, 2007 letter. I have outlined my remaining comments below:

1. We note that as requested, the applicant has provided a chart listing the proposed impervious surface areas for the portions of the proposed lots that are within the Critical Area. However, the applicant has not provided the total area of each lot and other proposed areas of the subdivision that are within the Critical Area. In response to this office's request for this information, the applicant states, "...we are allocating total impervious from previous approved plat, agreed upon at final review. We cannot demonstrate per lot allowable by square footage per lot, only by mass area of entire lot totals." It is unclear what this means.

It is this office's understanding that on the previously developed portion of the lot which includes units 9 and 19, the applicant has proposed common areas surrounding the dwellings instead of lot lines and calculated the impervious surface area for the property as a whole. Please have the applicant clarify whether proposed lots 24-29 are actually also common areas even though it appears that lot lines are drawn on the most recently submitted materials. If the proposed lots are common areas, calculating the impervious surface area for the portion of the subdivision that is within the Critical Area as a whole is an acceptable method for showing that the proposed subdivision is under the 15% impervious limit. However, if the applicant proposes to create individually owned lots and not common areas, the impervious surface limits of 25% of the portion of the lot that is in the Critical Area will apply. It appears that some of the

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proposed lots within the Critical Area are well over this 25% limit and would have to be reconfigured in order to be platted as individually owned lots.

Further, the applicant must provide the proposed impervious surface calculations with respect to proposed roads and recreation areas. In response to this office's previous request for this information, the applicant states, "no activity table will take place with in recreation area." Please have the applicant clarify what this means and describe what is proposed within the active recreation area.

2. We note that the applicant has requested a current Wildlife and Heritage Service evaluation of the property from DNR to ensure that no new species have been located within the Critical Area portion of the property in the last several years. Please provide a copy of this letter once it is received.
3. Please have the applicant correct notation number 5 under the Critical Area Analysis on the plans which states that 30% of woodlands are allowed to be cleared. Under Anne Arundel County's Critical Area program, only 20% of the existing forested area may be cleared on a property within the Critical Area. An applicant is only allowed to clear more than 20% and not more than 30% of the existing forested area if permission is granted by the County to do so. Further, COMAR 27.01.02.04 requires that the remaining 80% of existing forested area be maintained through recorded restrictive covenants or similar instruments. Accordingly, the applicant should place an additional 10% of the existing forested area in a forest conservation easement.
4. In response to this office's previous request for the applicant to resolve the inconsistent acreage figures provided for the total Critical Area acreage on the property, the applicant states, "Critical area property will contain previous recorded plat area (Plat Book 114, Page 30) difference in chart, indicated on sketch plan is to include additional proposed area. (Previous Bulk Area allocated more than necessary area)." It is unclear what this means. Please have the applicant indicate the correct Critical Area acreage total for the proposed subdivision.

Thank you for the opportunity to provide comments for this revised subdivision plat. Please have the applicant address the comments above and submit a revised subdivision plat. If you have any questions, please contact me at 410-260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner
AA381-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 29, 2007

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

Re: Wallace Manor Lot G-1
S 97-029, P 07-0208

Dear Mr. Burke:

Thank you for forwarding the materials for the above referenced subdivision application. The applicant proposes to subdivide an existing lot into two lots and to construct a new dwelling. The 4.54 acre property is designated as a Limited Development Area (LDA) and is currently developed with a dwelling and driveway which will remain. I have reviewed the application and have provided my comments below.

1. Our records appear to show that there is an inconsistency between the treeline that is shown on the submitted plans and the existing treeline on the property. For instance, our records show existing tree cover where the proposed driveway will be on lot G-1B. In contrast, the plans do not show any existing tree cover in this area, nor do the plans show tree cover on the majority of proposed lot G-1B. Please have the applicant clarify where the existing tree cover is located on the property and submit revised plans and forest clearing calculations if necessary.
2. We note that the plans show proposed areas that will be in "conservation easements for SWM." Please clarify what the implications of this type of easement will be. We recommend that the existing forested areas that will remain be placed in a forest conservation easement that is noted on the plat and plans and recorded by the County.
3. The applicant has not indicated whether any of the required mitigation for the proposed clearing will be provided on site. These plantings should be first be done



Mr. Burke
November 29, 2007
Page Two

on the property to the extent feasible, and the Anne Arundel County Code §17-8-602 (f) specifies that "reforestation and afforestation planting shall be established first within the 100-foot Buffer." If the required mitigation will be met through a fee in lieu payment, the applicant should show why on-site plantings are not feasible.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 719-07

Martin O'Malley
Governor



Margaret G. McHale
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Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 27, 2007

Mr. Dan Beverungen
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

Re: Clifford Property
S 06-044, P 06-0145

Dear Mr. Beverungen:

I have received the revised plans for the above-referenced subdivision request. The project proposal is for the subdivision of an existing lot into two, and the construction of a house and a commercial or retail structure. It appears that the applicant has addressed this office's previous comments from my January 5, 2007 letter. I have provided my remaining comment below.

1. There is a conflict between the required reforestation calculation that is included in the chart on the title page of the plat and plans and the required reforestation calculation that is included on the Critical Area landscape plan. Please have the applicant resolve this inconsistency.

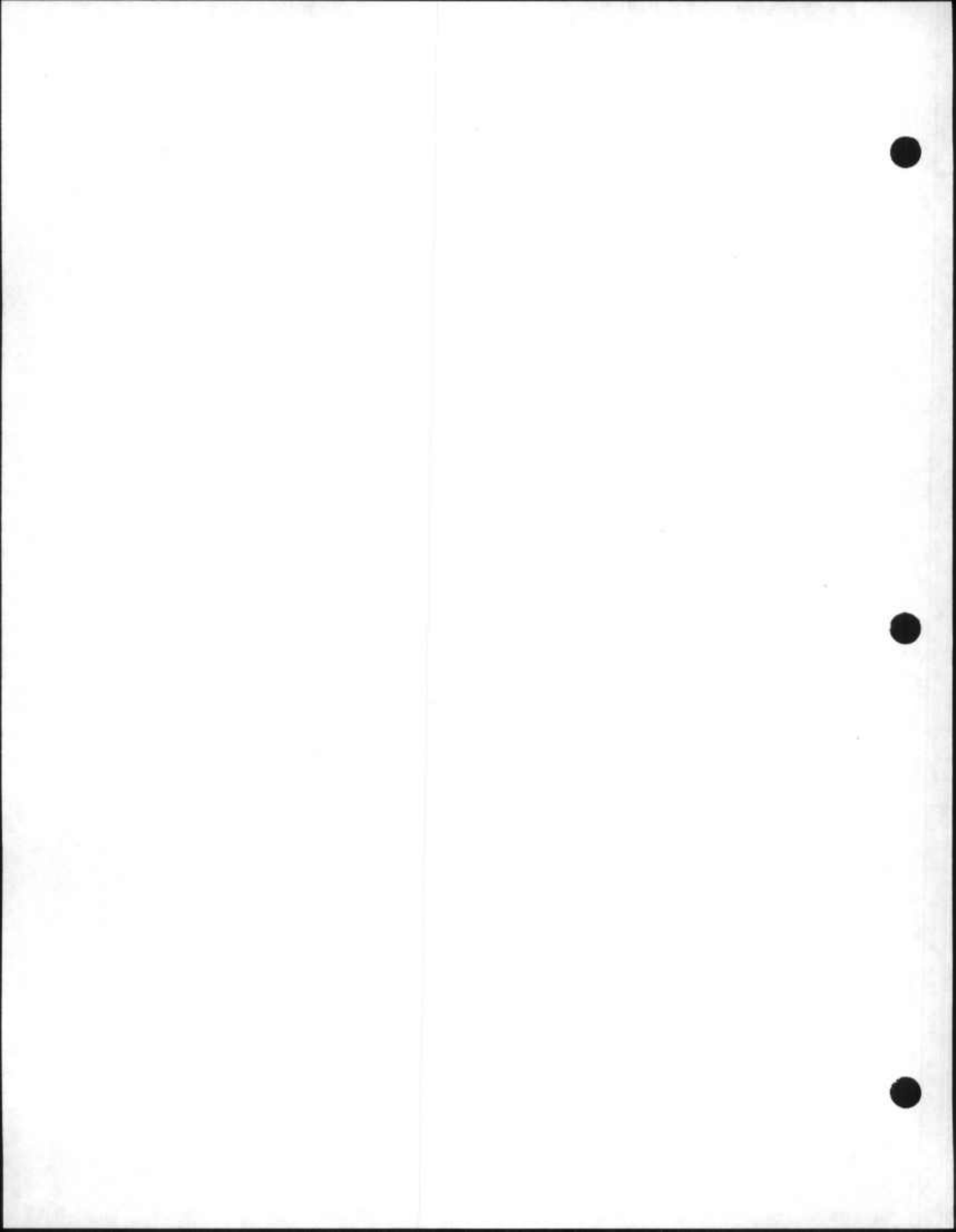
Thank you for the opportunity to comment. Please contact me at (410) 260-3481 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 763-06



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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November 26, 2007

Mr. William Lesko
Anne Arundel County
Department of Public Works
2662 Riva Road, MS 7301
Annapolis, Maryland 21401

Re: Poplar Avenue Sewer Extension
Consistency Report

Dear Mr. Lesko:

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 County Department of Public Works is proposing to extend an existing sewer line by 500 feet with approximately 3,000 square feet of disturbance from trenching. The project site is within the Critical Area and is designated as a Limited Development Area (LDA). The project will not create any new impervious surface area or require any tree clearing.

It appears that there is a tidal wetland just north of the project site and that consequently the project may create disturbance within the 100-foot Buffer. In order to mitigate for this Buffer disturbance, this office recommends that the applicant provide a revised plan showing the 100-foot Buffer on the project site, the area of proposed disturbance within the Buffer from the project, and mitigation plantings for the total area of disturbance from trenching within the 100-foot Buffer at a 1:1 ratio.

Once this office has received and reviewed the revised plans, including a planting plan showing how the Buffer disturbance will be addressed, it appears that the proposed project will be consistent with the Anne Arundel County's Critical Area Program and will require no further Commission review or action.

We appreciate the opportunity to provide comments on this development proposal. If you have any questions, please contact me at 410-260-3481.

Mr. Lesko
December 3, 2007
Page Two

Sincerely,

A handwritten signature in black ink, appearing to read 'AW', with a long horizontal flourish extending to the right.

Amber Widmayer
Natural Resources Planner
cc: AA 269-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 26, 2007

Mr. Robert Tabisz
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 08-WL-0462; George Mathews,
695 Seagull Beach Rd., Calvert County

Dear Mr. Tabisz:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project includes a 1,504-foot long stone revetment within a maximum of 35 feet channelward of the mean high water line. Based on the information provided, I have the following comments:

1. The applicant has submitted a hand drawn sketch as the plans for the extensive amount of proposed stone revetment on this property. It is difficult to ascertain from this sketch several pertinent details regarding the extent of resulting disturbance to the 100-Buffer from construction of the 1,504-foot long revetment as proposed. For instance, it is unclear whether grading within the Buffer will be required to achieve the proposed 2:1 grade of the shoreline. Accordingly, we recommend the applicant submit professionally drawn plans with a scale drawing of the existing and proposed condition of the shoreline. At a minimum, these plans should include; 1) a cross-section of the existing slope of the shoreline, showing height at the top of the bank; 2) a cross-section of the proposed slope of the shoreline, showing height at the top of the bank; 3) where the top of the revetment will be in relation to the top of the existing and the proposed bank; 4) a field delineated map of the tidal wetland; 5) a scale drawing of the proposed opening in the revetment on the edge of the tidal wetland to allow for tidal flow. It is necessary that the applicant provide this information so that this office may accurately assess the type and extent of impacts to the 100-foot Buffer that will result from construction of the proposed stone revetment.
2. This office opposes disturbance to the Buffer from grading for shoreline stabilization

Mr. Tabisz
November 26, 2007
Page Two

projects that exceed what is the minimum disturbance necessary to protect the property from erosion. Therefore, if grading of the Buffer is currently proposed, we recommend that the applicant revise the plans such that the proposed stone revetment is placed at the toe of the existing slope, and the existing grade of the slope is maintained.

3. The applicant will need to obtain approval and permits from the Calvert County Office of Planning and Zoning for any impacts to land that is above mean high water. Also, the applicant will need to provide mitigation at a 2:1 ratio for temporary impacts to the Buffer, such as clearing of vegetation for construction access, and mitigation at a 1:1 ratio for permanent impacts to the Buffer resulting from the proposed placement of fill and stone in the Buffer above the mean high water line. The applicant should contact the Calvert County forester in order to complete a buffer management plan for the required mitigation.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: John Swarz

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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November 21, 2007

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

Re: Johnson, Anna
S 07-006, P 07-0013-1

Dear Mr. Burke:

Thank you for forwarding the above referenced subdivision application. The applicant proposes to subdivide an existing undeveloped nine-acre parcel into three new lots, and to construct a dwelling and driveway on each proposed lot. 6.51 acres of the property are within the Critical Area and are designated as a Limited Development Area (LDA). It appears that the applicant has addressed most of this office's previous comments from Megan Sine's August 1, 2007 letter. I have outlined my remaining comments below.

1. We note that as requested, the applicant has included a Critical Area chart with impervious and forest clearing calculations on the plat and plan. Please have the applicant add a column to this chart that indicates what the proposed impervious surface area will be for each lot and for the subdivision as a whole.
2. The applicant has indicated that 1.27 acres of the existing 6.51 acres of forested area in the Critical Area will be cleared, which should mean that 5.24 acres of existing forest cover will remain on the property. However, the area of forest cover to remain as shown on the plan is only 4.25 acres. Please have the applicant clarify where the proposed 1.27 acres of clearing will be done. For instance, it is unclear whether the applicant proposes to clear everything within the limits of disturbance, and whether the proposed septic areas will be cleared. If more than 1.27 acres will be cleared, and the total clearing is more than 20% of the existing forest cover, the clearing mitigation ratio will increase to 1.5:1 for the total area that is cleared. Also, an area equal to 80% of the existing forested area must be placed in a conservation easement, in accordance with COMAR 27.01.02.04.C(3)(c), and the easement area should be shown on the plat and plans.
3. The legend on the submitted plat includes 25% slopes but these slopes are not shown on the plat. Please have the applicant indicate where the slopes greater than 15% and slopes greater than 25% are on the plat.

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Mr. Burke
November 21, 2007
Page Two

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 42-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 21, 2007

Sally Nash
City of Annapolis
Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, Maryland 21401

Re: Turner Marina Site Plan

Dear Ms. Nash:

Thank you for providing information on the above referenced site plan. The applicant plans to redevelop an existing lot that is designated as an Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA). The property is currently developed with a dwelling, marina and parking lot and the proposed development is construction of a new commercial building, marina office and parking lot.

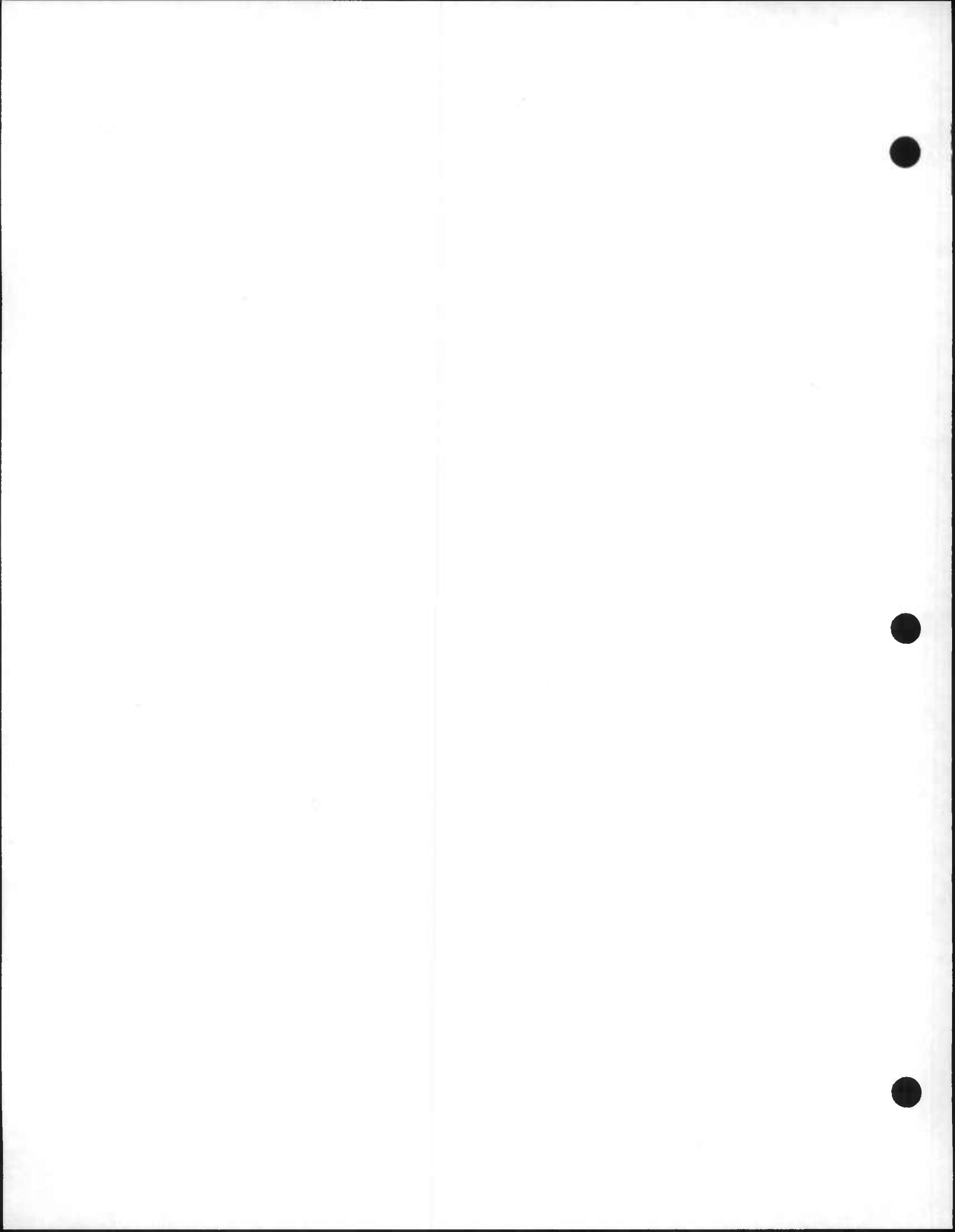
It appears that the applicant has revised the plans such that both the 10% pollutant reduction requirement and the 2:1 BEA mitigation requirement for the proposed project have been addressed. The applicant has addressed the 10% removal requirement of 0.158 pounds of phosphorous per year through an offset of plantings onsite and on the adjacent City owned property. The applicant has addressed the 2:1 BEA mitigation requirement through a combination of plantings onsite, removal of impervious surface, and through payment into the City's fee in lieu of planting fund. Therefore, the applicant has addressed this office's concerns as stated in our meeting with the applicant on October 24, 2007, and this office has no remaining comments on this project.

Thank you for the opportunity to provide comments. If you have any questions, please feel free to call 410-260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner
AN 629-07



Martin O'Malley
Governor



Margaret G. McHale
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November 19, 2007

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

Re: Rowel-Stansbury Property
S 07-039, P 07-0190

Dear Mr. Burke:

Thank you for forwarding the above-referenced subdivision application. The applicant proposes to subdivide two existing parcels into two lots and one unbuildable bulk parcel. The property is currently developed with two dwellings and the applicant states that no new construction is proposed. 5.99 Acres of the property are designated as a Limited Development Area (LDA), 0.14 Acres of the property are designated as a Resource Conservation Area (RCA) and the remaining .53 Acres of the property are outside of the Critical Area. I have outlined my comments below.

1. The applicant should include the existing and proposed forested area and impervious area calculations for each lot and for the subdivision as a whole on the plat and plan. Also, please have the applicant clarify whether any new impervious surface area or forested area clearing is proposed. For instance, it appears that there is a new driveway and sidewalk proposed on lot one, and if so, this new impervious surface area should be included in the proposed impervious surface area calculations. Also, the plan shows a proposed 10,000-foot septic area on both lots one and two. Please have the applicant clarify whether any clearing of the existing forested areas on lots one and two will be necessary for these new septic areas and if so, this should be indicated in the proposed forested area calculations.
2. The applicant's submitted forms indicate that there are 0.14 Acres of RCA on the property. This RCA should be mapped on the plat and plans.
3. Because the majority of the undeveloped area on proposed lot two and the bulk parcel consist of steep slopes and habitat for forest interior dwelling birds (FIDs) as identified by the Maryland Department of Natural Resources Wildlife and Heritage Service, this office recommends that the bulk parcel and the undeveloped area within proposed lot two be placed in a conservation easement that would prevent future development of these areas. Additionally,

Mr. Burke
November 19, 2007
Page Two

such a conservation easement would permanently protect the .14 Acre portion of the property that is designated RCA from future development without the requisite 20 acres of density.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 632-07

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

Re: Rabbitt, Stephen
MS 07-027

Dear Mr. Burke:

Thank you for forwarding the revised plans for the above-referenced subdivision application. The applicant proposes to subdivide an existing 4.95 acre parcel into three new lots and to construct a new dwelling on each of the new lots. The property is currently developed with a tennis court, sheds and a pump house, and it is designated as a Limited Development Area (LDA). It appears that the applicant has addressed this office's comments from Megan Sine's May 14, 2007 letter. I have outlined my additional comments below.

1. It does not appear that the applicant has included the existing or proposed paved area within the right of way in the existing or proposed impervious surface area calculations. The right of way is part of the subdivision, and therefore the sum of the proposed impervious area on the three lots and the right of way cannot exceed 15%. Also, the necessary clearing within this right of way must be included in the existing and proposed forested area calculations. Please have the applicant revise the impervious area and clearing calculations accordingly.
2. A portion of the proposed Boxwood Grove Lane goes beyond the boundaries of the applicant's property. Although this portion of the road is not on the applicant's land, if this portion of the road will be cleared and paved for this project, the resulting area of clearing and impervious area for this offsite portion of road must be included in the applicant's forest clearing and impervious area calculations.
3. Please have the applicant clarify whether the area of the existing tennis court on proposed lot one has been included in the existing and proposed impervious surface calculations. If it has not, the impervious area calculations must be revised accordingly.
4. The provided information regarding the proposed clearing and reforestation requirement is inconsistent and confusing. Specific points of confusion are outlined below.

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Mr. Burke
November 19, 2007
Page Two

- It is unclear what is meant in the Critical Area Tabulations Chart by the subheadings "Clearing for Boxwood Grove Lane" as distinguished from "Proposed Clearing." Please have the applicant provide clarification for what the corresponding numbers are meant to represent.
- In a notation under the above described chart, the applicant indicates that the total reforestation required is 13,594 square feet. The plans show that this reforestation will be provided in reforestation areas on lots two and three which amount to 13,604 square feet. However, the calculations in the chart indicate that 2,262 square feet of reforestation is required and 5,067 square feet of reforestation will be provided. Both figures for the required reforestation are incorrect. The proposed 13,594 square feet of tree clearing is 26% of the existing forested area on the property. Because this is more than 20% of the existing forest area on the property, Anne Arundel County Code requires that the applicant provide mitigation for the total proposed clearing area at a 1.5:1 ratio, which equals 20,391 square feet, if 13,594 square feet of forested area is cleared as proposed.
- If at least 15% of the property will be in forest cover once the required mitigation plantings are provided, then the applicant does not need to provide additional afforestation plantings.
- Please have the applicant remove or correct the "permitted clearing" column within the chart. In this column, the applicant has indicated that clearing 30% of the existing forested area is permitted. However, Anne Arundel County limits the allowed clearing of existing forested area on a property to 20%. An applicant may only clear up to 30% of the existing forested area with authorization from the County.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 265-07

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. Elder Ghigiarelli
MDE, Water Management Administration
Wetlands and Waterway Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Smoke Park Restoration Plan, U.S. Naval Academy
Anne Arundel County

Dear Mr. Ghigiarelli:

This office has received the above-referenced project for review and comment. The project is to remove and reconfigure the existing paved areas, sidewalks and landscaping between King Hall and Mitscher Hall. It appears that the entire project site is in the Critical Area and is not within the 100-foot Buffer.

The applicant has included the 10% pollutant reduction calculations with the submitted materials and there is no removal requirement due to the fact that the proposed decrease in impervious surface will reduce the current pollutant load from the site by at least 10%. The plans indicate that currently there is 46,982 square feet of tree cover on the site and the proposed total tree cover will be reduced to 26,000 square feet. COMAR 27.01.02.03.D.4 provides that if practicable, permeable areas shall be established in vegetation. Therefore, we recommend that if possible, the applicant provide additional tree plantings within the proposed grass areas to minimize the proposed loss of tree cover. Additionally, we recommend that where possible, the applicant replace the several non-native species of trees, shrubs and plants on the proposed planting list with any of the native species that are listed in the U.S. Fish and Wildlife Service's "Native Plants for Wildlife Habitat and Conservation Landscaping" document.

Mr. Ghigiarelli
November 19, 2007
Page Two

Provided the applicant follows this office's recommendations described above to the extent feasible, Commission staff finds this application to be consistent with the goals and objectives of the Critical Area Law and Criteria.

Thank you for the opportunity to comment. Please do not hesitate to telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: FED 64-07
Jeff Morris

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 19, 2007

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

Re: Riviera Beach lots 29-33, Paul Mercer
S 79-037, P 07-01

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision application. The applicant proposes to combine five existing lots into two lots, to remove an existing dwelling and construct a new dwelling on each proposed lot. The property is designated as an Intensely Developed Area (IDA). I have provided my comments below.

1. While there is no 15% impervious surface area limit on property that is designated as an IDA such as this, the applicant must determine the existing and proposed impervious surface area calculations in order to calculate the 10% pollutant reduction requirement for the proposed redevelopment. The applicant must complete and submit this office's 10% calculation forms and show how the 10% removal requirement will be met on the site. The 10% forms can be found on the Commission's website at the link included below.

http://www.dnr.state.md.us/criticalarea/guidancepubs/10percent_rule.html

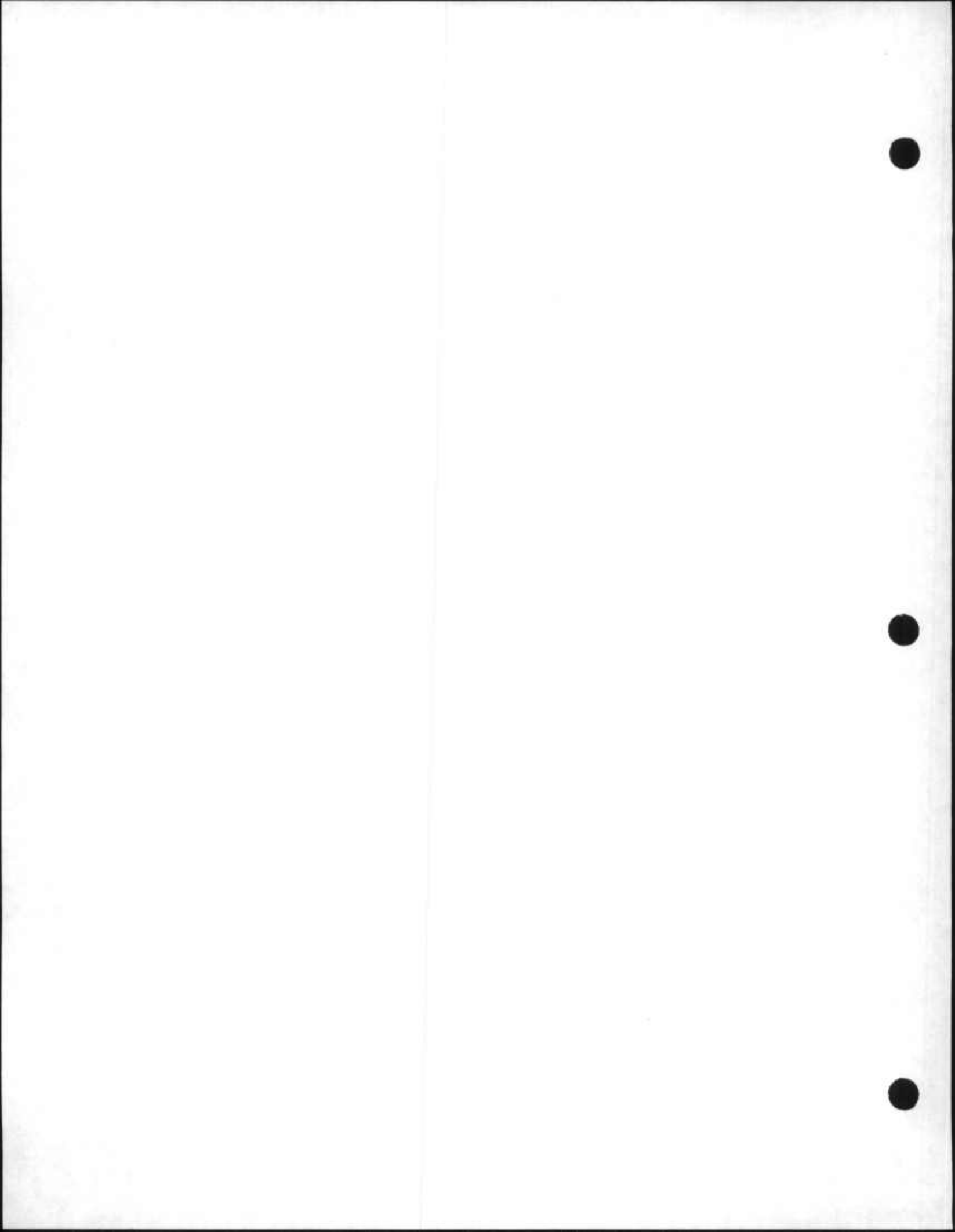
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 655-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 15, 2007

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

Re: Jeffrey Todd Neiman Lot Line Revision


Dear Ms Vidotto:

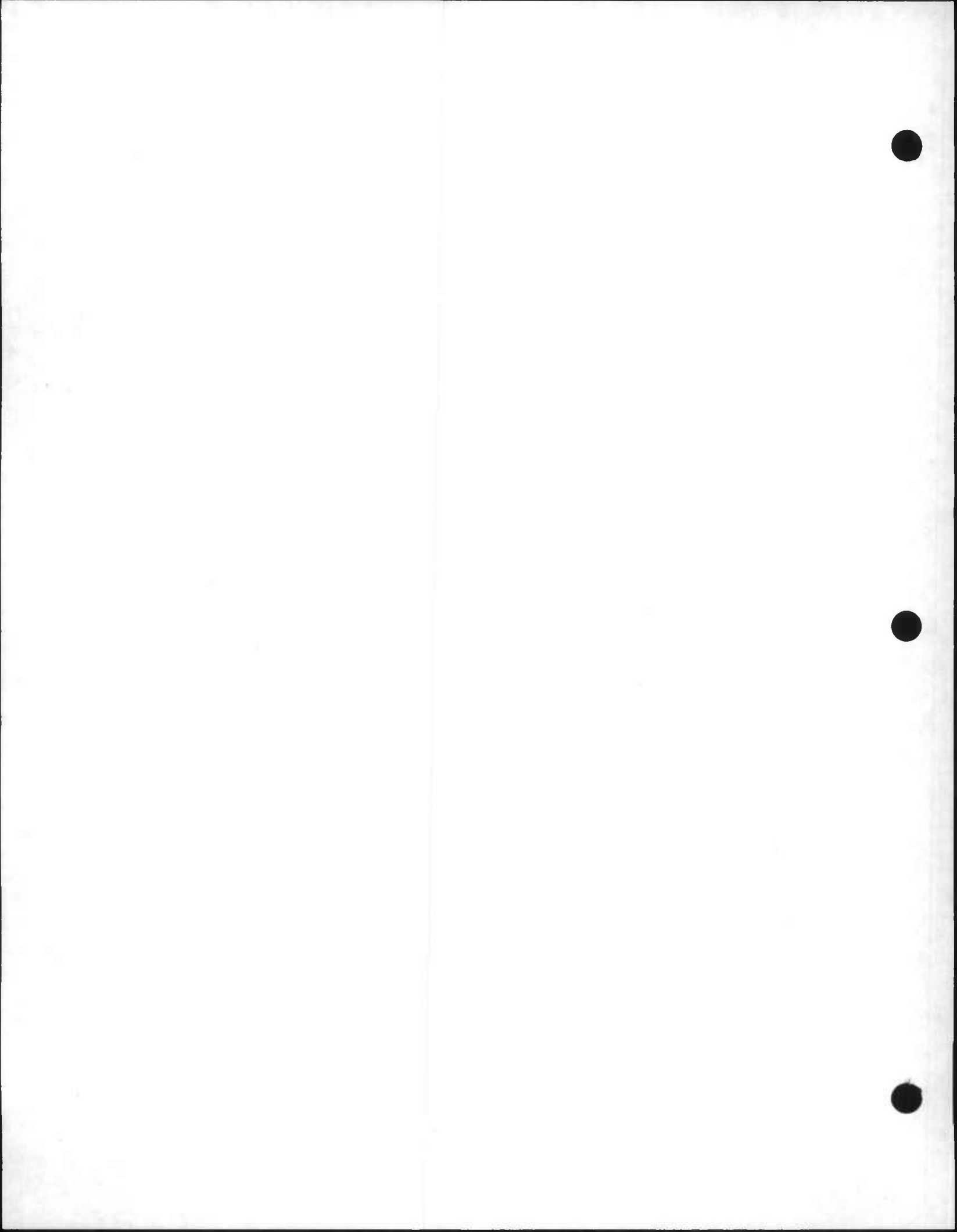
Thank you for forwarding information regarding the above-mentioned proposed lot line revision. The applicant proposes to combine two existing lots into one and to construct a new dwelling. A small portion of the proposed lot is within the Critical Area and is classified as a Limited Development Area (LDA). I have provided my comments below.

- 1) The portion of the proposed lot that is within the LDA is subject to the 15% impervious surface area limit. This percentage is calculated by dividing the total proposed impervious area within the LDA portion of the lot by the total area of LDA that is on the lot. Also, any clearing of existing forested area within the LDA must be mitigated at a 1:1 ratio.

Thank you for the opportunity to provide comments. Please feel free to contact me at (410) 260-3481 if you have any questions.

Sincerely,


Amber Widmayer
Natural Resources Planner
CA 667-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 15, 2007

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

Re: Cunningham-Van De Velde Lot Line Revision

Dear Ms Vidotto:

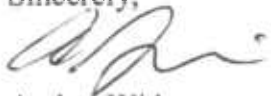
Thank you for forwarding information regarding the above-mentioned proposed lot line revision. The applicant proposes to combine five existing lots into one and to construct a new dwelling. The property is classified as a Limited Development Area (LDA) and it is not clear whether the property is currently developed. I have outlined my comments below.

- 1) Our records show that the property is mapped as habitat for a federally listed species and as a waterfowl concentration area. The applicant must obtain and submit a letter from the Maryland Department of Natural Resources Wildlife and Heritage Service that confirms whether these or any other protected species will be affected by the proposed development of the property, and specifies the measures that the applicant must take on the property to prevent impacting those species with the proposed construction.
- 2) It appears that the majority of the proposed lot is within the 100-foot Buffer, and the applicant should submit a revised plat that shows the location of the Buffer on the property. Also, if the proposed dwelling can not be constructed without disturbance within the Buffer, the applicant will have to obtain a Buffer variance.
- 3) The proposed lot is an LDA and consequently is subject to the 15% impervious surface area limit. Also, any clearing of the existing forested area on the property is limited to 6,000 square feet, and must be mitigated at a 1:1 ratio for the area of clearing that occurs outside of the Buffer, and at a 2:1 ratio for the area of clearing that occurs within the Buffer. However, if any clearing within the Buffer is necessary, a Buffer variance must first be obtained.

Ms. Vidotto
November 15, 2007
Page Two

Thank you for the opportunity to provide comments. Please feel free to contact me at (410) 260-3481 if you have any questions.

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 665-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 14, 2007

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

Re: Brice-Morton
S 06-069, P 06-0150

Dear Mr. Burke:

I have received a resubmittal for the above-referenced subdivision application. The proposal is for the removal of five houses, construction of one new house, expansion of an existing house, and adjustment of the lot line between two existing lots. The property is mostly within the Critical Area and is designated as a Limited Development Area (LDA). The applicant has addressed most of this office's comments from my July 16, 2007 letter. I have outlined my remaining comments below.

1. It appears that there will be more forested area clearing within the proposed subdivision than the 1,440 square feet of proposed clearing indicated in the charts on the plat and plan. For instance, the charts indicate that there will be no clearing on proposed lot 206R. However, it appears that the proposed driveway for the new dwelling on lot 208R goes through an existing forested area on proposed lot 206R. Also, there are proposed septic areas on both lots that do not seem to be included in the proposed clearing calculations. Please clarify whether these areas or any additional forested areas will be cleared for the proposed construction.
2. According to our resources, the existing forest cover on the property does not match the treeline that is provided on the plans. For instance, it appears that the proposed 1,440-square foot reforestation area is located in an area that is already forested. Please have the applicant clarify whether the treeline shown on the plans is representative of the existing forest cover, the proposed forest cover, or if the information is incomplete. Revised plans should include an accurate depiction of the existing forest cover.

3. In response to this office's letter, the applicant states that the required planting area is located in the Buffer. However, only a portion of the proposed 1,440 square feet of plantings is located in the Buffer on the plans. Once the proposed clearing and required forest mitigation calculations are revised if applicable, the required forest mitigation should be provided entirely within the Buffer. These Buffer plantings should be planted according to the spacing guidelines in table 3 of this office's forest mitigation guidance paper, which is available on the Commission's website.
4. It appears that even with the required reforestation plantings in the Buffer, there will be a substantial amount of area within the Buffer that is not established in vegetation. Anne Arundel County Code § 17-8-303 requires that, "development on a site without an existing natural buffer within 100 feet of the shoreline shall have a buffer reestablished in accordance with the following: (1) a fully functioning buffer shall be created in accordance with an approved buffer management plan; and (2) planting shall consist of a combination of native trees, shrubs, and ground cover approved by the Office of Planning and Zoning." Therefore, the applicant must submit a Buffer management plan that shows planting plans for full establishment of a vegetated Buffer. This area should be placed in a forest conservation easement, and we recommend that the applicant be required to provide surety for the Buffer plantings.
5. According to our records, it appears that there may be a stream that runs east to west through proposed lot 208R, between forest conservation areas 2 and 3, and south of the existing gravel drive. Please clarify whether there is a stream on the property, and if applicable, show the stream and its 100-foot Buffer on future versions of the plat and plans.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

Amber Widmayer
Natural Resources Planner

cc: AA 792-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 10, 2007

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

Re: Severndale South
S 75-035, P 07-0180

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision for review and comment. The applicant proposes to divide an existing undeveloped parcel into a ten-lot subdivision. A portion of the parcel is within the Critical Area and is designated as a Limited Development Area (LDA), and four of the proposed lots are partially within this area. I have outlined my comments below.

1. The applicant proposes to clear 30,256 square feet of the existing 40,187 square feet of forested area that is within the Critical Area portion of the property, which amounts to 75% of clearing within the Critical Area. However, Anne Arundel County Code § 17-8-601 prohibits clearing more than 20% of the forested area of properties that are greater than one half acre without obtaining approval from the County, and prohibits any clearing that is greater than 30% of the existing forested area. The portion of property that is within the Critical Area is 46,374 square feet which is larger than one half acre. Accordingly, the applicant must apply for a variance to clear more than 30% of the existing forested area of the property. If the applicant successfully obtains this variance, mitigation must be provided at a 3:1 ratio for the total area of proposed forest clearing.
2. As noted above, the applicant proposes to clear 30,256 square feet of the existing 40,187 square feet of forested area that is within the Critical Area portion of the property. However, it is unclear where the proposed 6,187 square feet of forested area to remain will be located. Please have the applicant identify areas of existing forest to remain and areas that will be reforested. These areas must be placed in a conservation easement and noted on the plat and plans. Additionally, if the applicant will provide part of the forest clearing mitigation as a fee in lieu of planting on the property, this amount should be noted as well.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

TTY for the Deaf

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Ms. Krinetz
November 10, 2007
Page Two

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Widmayer', with a stylized flourish at the end.

Amber Widmayer
Natural Resources Planner
cc: AA 610-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 8, 2007

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, MD 21401

Re: Muziks Mooring
MS 06-025

Dear Mr. Torney:

Thank you for forwarding the above referenced revised subdivision application. The application is for the subdivision of one residential lot with an existing house into three residential lots with construction of two new houses. It appears that the applicant has addressed this office's previous comments from my July 6, 2007 letter and I have no further comments on this project.

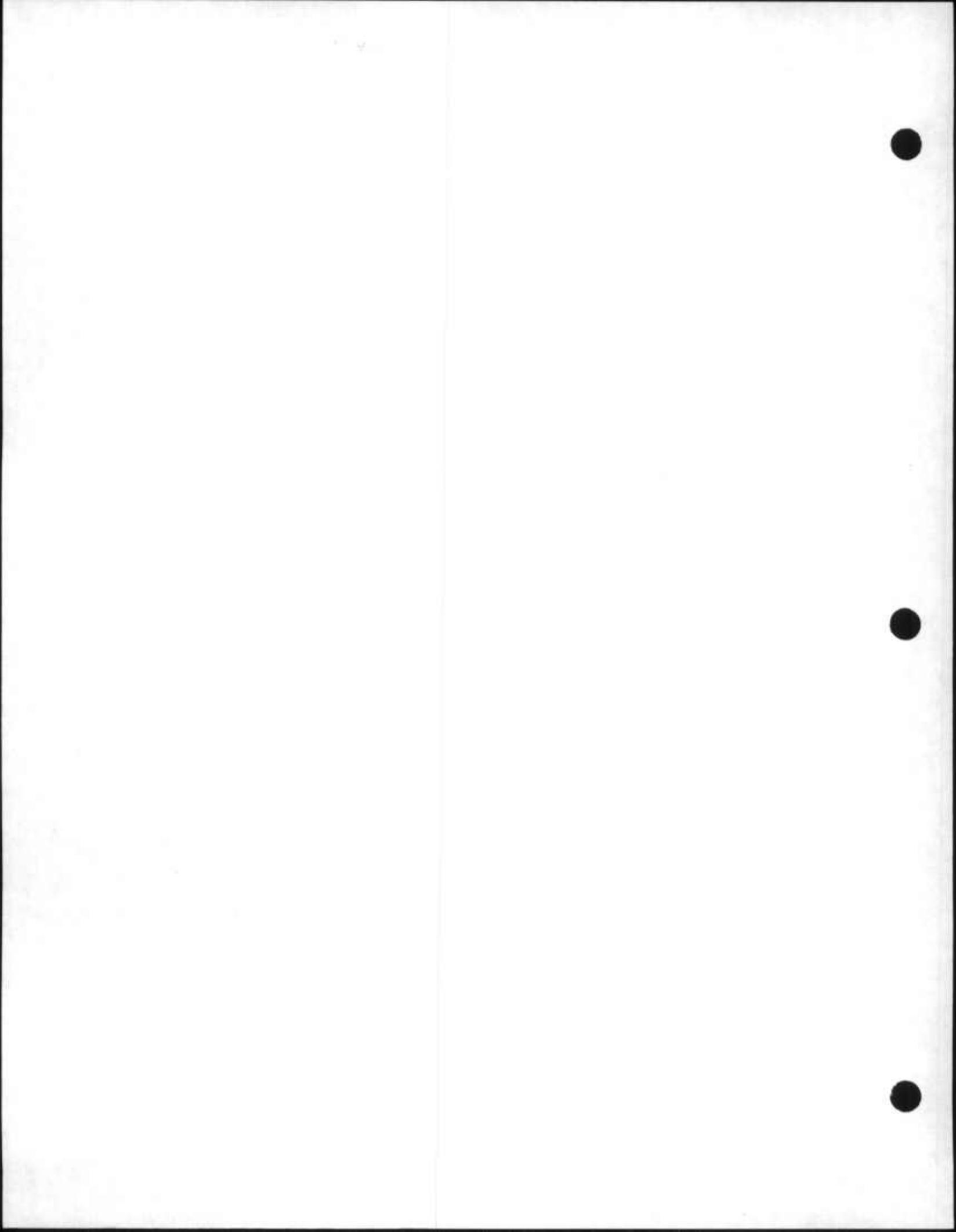
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

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

Amber Widmayer
Natural Resources Planner

cc: AA 366-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 2, 2007

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

Re: Northrup Grumman Undersea Systems Siteplan
C 07-0070

Dear Mr. Burke:

This office has received a revised submission for the above referenced site development plan. The applicant proposes to construct a 7,200 square foot addition to an existing manufacturing and office facility, and to construct two membrane structures and a shed. The property is currently developed and is designated as an Intensely Developed Area (IDA). The applicant has addressed this office's comments from Kate Schmidt's August 8, 2007 letter and this office has no further comments on this project at this time.

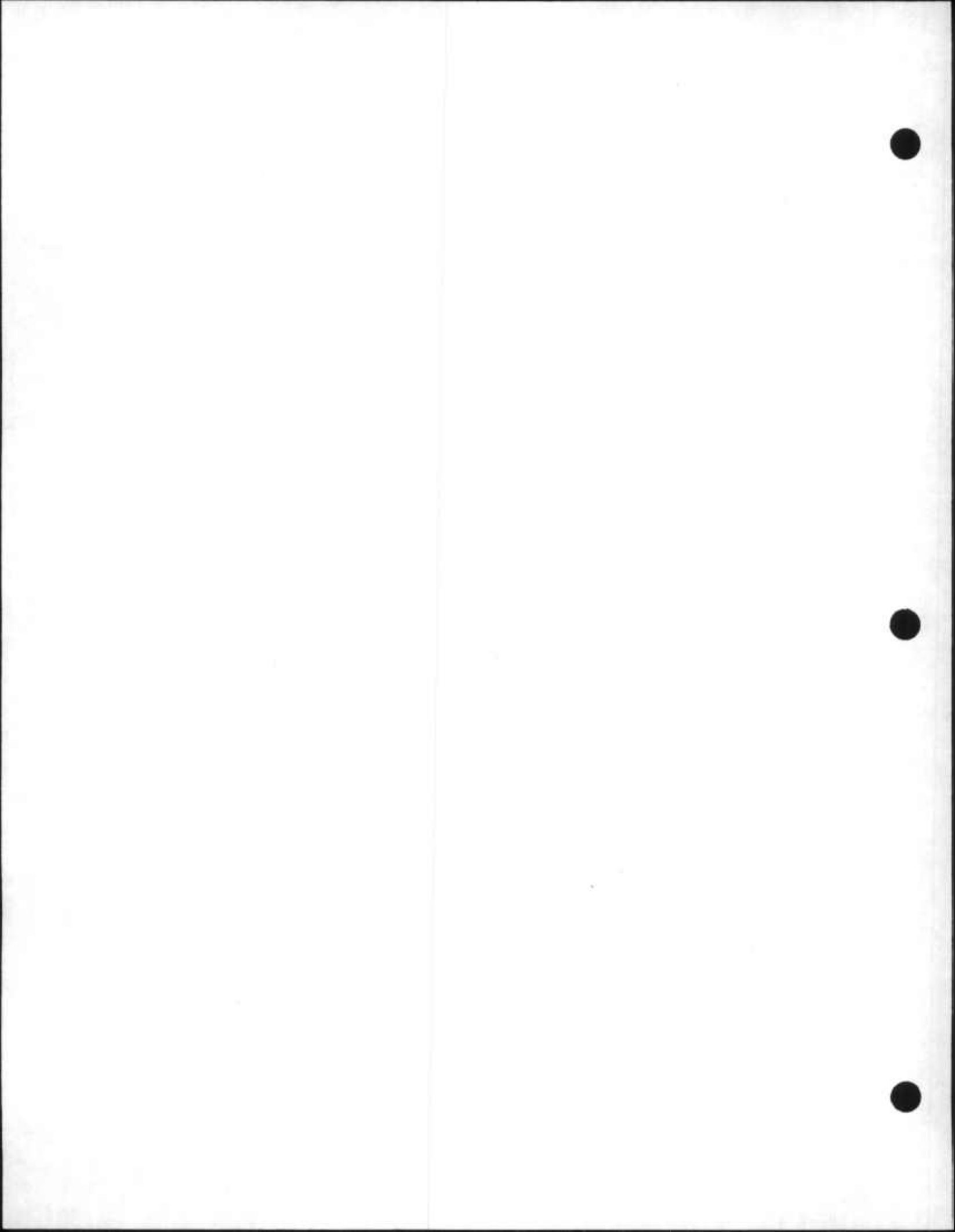
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner
cc: AA 448-07





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

Re: South, Jerry Property
S 07-022, P 07-0071

Dear Ms. Krinetz:

This office has received a revised submission for the above referenced subdivision application. The applicant proposes to combine two parcels into one lot and to replace an existing dwelling. The property is currently developed with a dwelling and driveway and is designated as a Limited Development Area (LDA) and as a Resource Conservation Area (RCA). The applicant has addressed most of this office's comments from my October 2, 2007 letter. I have outlined my remaining comments below.

1. As this office explained in our previous letter, Anne Arundel County Code § 17-8-303 requires that, "development on a site without an existing natural buffer within 100 feet of the shoreline **shall have a buffer reestablished** in accordance with the following: (1) a **fully functioning buffer shall be created** in accordance with an approved buffer management plan; and (2) planting shall consist of a combination of native trees, shrubs, and ground cover approved by the Office of Planning and Zoning." The applicant states in the response letter dated October 15, 2007 that this comment is acknowledged and the required plantings have been included in the revised plans. However, the plans only show that 18 shrubs will be planted along the adjacent properties' boundary lines within the 100-foot Buffer that fronts the South River, and five trees will be planted within the 100-foot Buffer to the tidal wetland on the eastern boundary line. These proposed plantings do not amount to reestablishment of a fully functioning 100-foot Buffer. It appears that if the applicant were to relocate all of the proposed plantings shown elsewhere on the property into the Buffer, the applicant could both meet the 15% afforestation requirement and the requirement to reestablish a fully functioning 100-foot Buffer. The Buffer plantings should be planted according to the spacing

Ms. Krinetz
October 31, 2007
Page Two

guidelines in table 3 of this office's forest mitigation guidance paper, which is available on the Commission's website.

2. It appears that there is an error in the applicant's afforestation mitigation summary chart with reference to the proposed planting credit calculations. The chart indicates that 250 square feet of planting credit is recognized for each proposed tree. This office recognizes 100 square feet of planting credit per 2-inch caliper tree and 50 square feet of planting credit per seedling or shrub. If a large tree is planted in a cluster with either two smaller trees or three shrubs, this office will recognize 400 square feet of planting credit for each cluster. Please have the applicant correct the planting credit language in the chart accordingly.
3. It appears that the applicant has calculated 400 square feet of planting credit per one tree and three shrubs, based on the total number of trees and shrubs proposed to be planted on the property. However, the plans do not show that the trees and shrubs will be planted in clusters. This office only recognizes the 400 square feet of planting credit when a cluster of one 2-inch caliper tree and 2 small trees or 3 shrubs are planted together according to the spacing guidelines in table 3 of this office's forest mitigation guidance document that are referenced above. Please have the applicant provide a planting plan that shows the required afforestation plantings in the 100-foot Buffer, and in clusters which create a mix of canopy trees and understory vegetation. In the absence of clustered plantings, planting credit will be recognized for each tree and shrub as described in comment #2 above.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AA 226-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 30, 2007

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

Re: Hidden View Farm
S 93-168, P 07-0156

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision application. The applicant proposes to subdivide two existing lots and an existing parcel into a total of seven lots. Four of the proposed lots are within the 52.14 acre portion of Resource Conservation Area (RCA) that is on the property. The property is currently developed with three dwellings, four new dwellings are proposed, and one of the proposed dwellings is within the Critical Area. I have outlined my comments below.

1. It does not appear that there is the required RCA acreage on the property to create the proposed number of lots in the Critical Area.
 - Within existing parcel 59, there are two existing lots. According to page one of the applicant's Critical Area report, these lots are completely within the RCA and their areas are 12.25 acres and 18.29 acres. Neither lot has the requisite density for further subdivision within the RCA. However, the applicant proposes to further reduce the size of these lots to create Open Space Area A. The proposed use of the RCA as both a recreational open space parcel and a residential lot is not permitted where the RCA land consists of less than 20 acres. Any further division of these existing lots will create increased nonconformity within the RCA and is not consistent with the Anne Arundel County Critical Area Program. Therefore, the two existing lots within parcel 59 cannot be modified as proposed.
 - 21.6 acres of existing parcel 151 are within the RCA. Newly created lots within the RCA must be at least 20 acres, or if they are less than 20 acres, there must be a permanently protected conservation area that in combination with the area of the

lot amounts to 20 acres of RCA. The applicant proposes to create Open Space Area C and two new lots that are partially within this portion of RCA out of only 21.6 acres of RCA. Only one new lot can be created within the existing RCA within parcel 151, and as described above, the proposed use of the RCA as both a recreational open space parcel and a residential lot is not permitted. Instead, the applicant can create one new lot and may place the rest of the 21.6 acres in a conservation easement. This area may not be developed or used for active recreation purposes, and should not count toward meeting open space requirements associated with the proposed lots on the property outside of the RCA.

2. Please have the applicant submit documentation of the history of the existing parcels including all subdivisions involving lots that are within the RCA on the property.
3. Our records indicate that there are tidal wetlands on the southern corner of existing parcel 59. Please have the applicant confirm and map the location of all tidal and non-tidal wetlands on the property, and their respective 100-foot and 25-foot Buffers. This mapping must be based on a field delineation.
4. It appears that some of the proposed development may be located on slopes greater than 15%. If so, the applicant will have to obtain a variance in order to develop the property as is currently proposed. This office will not support variances for development on newly created non-grandfathered lots because newly subdivided lots should only be created if they can be developed in conformance with Anne Arundel County's regulations. Therefore, development activities should not be located on slopes greater than 15%.
5. It appears that the property is habitat for Forest Interior Dwelling Birds (FIDs). Please have the applicant submit a FIDs Conservation Worksheet and Habitat Protection Plan. The applicant should consult the Critical Area Commission's guidance document, "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" which is available on the Commission website.
6. There appears to be a math error in the area calculations charts for the proposed lots on the plans. The charts show that the area of proposed lot 7 that is within the RCA is 256,998 s.f. and the drawing shows that the total area of lot 7 is 266,192 s.f. However, the charts indicate that the total area of lot 7 is 507,881 s.f., which appears to be the sum of the total area of lots 6 and 7. Please have the applicant correct the numbers provided in the area calculation charts accordingly.

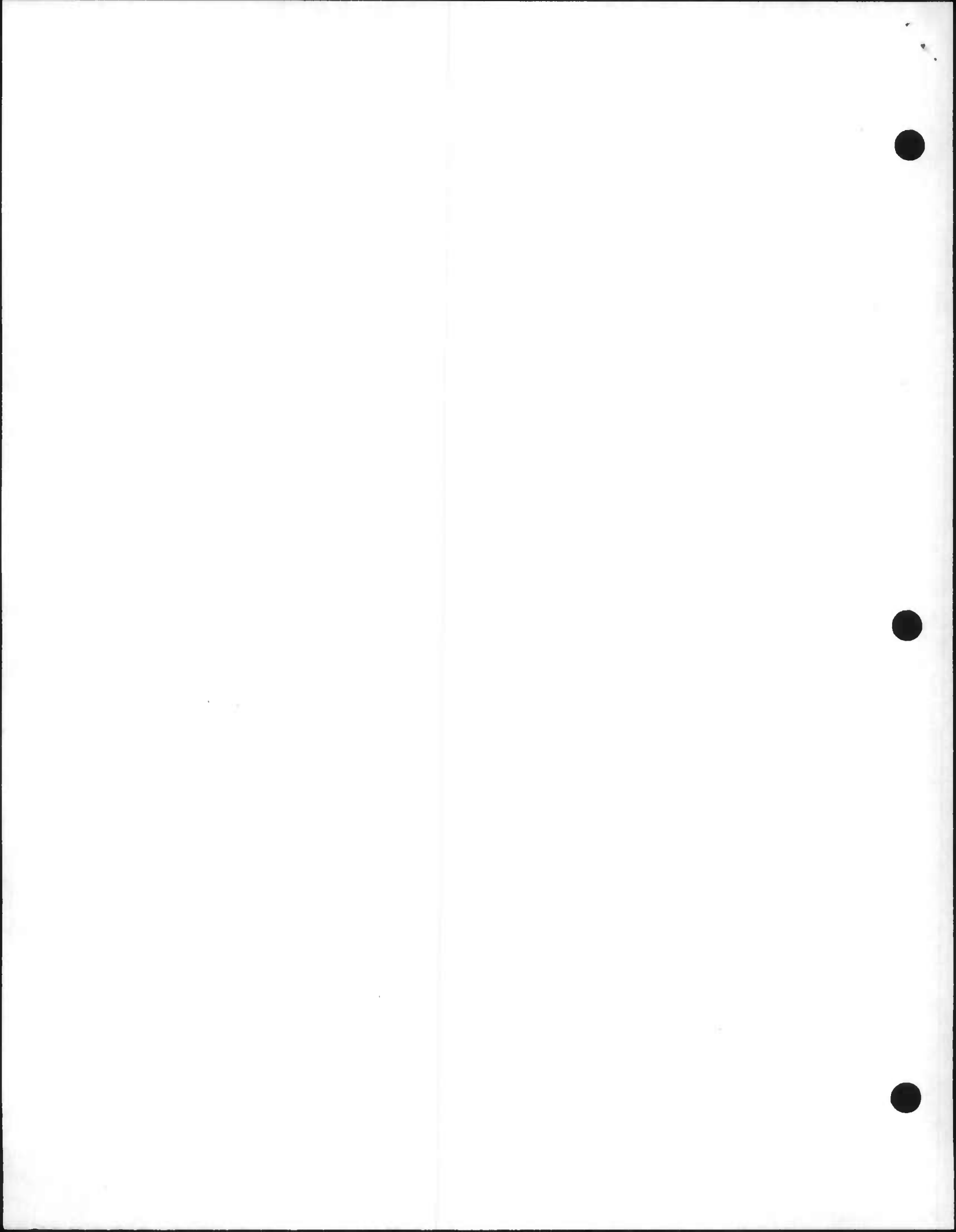
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Ms. Krinetz
October 30, 2007
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Widmayer', with a stylized flourish at the end.

Amber Widmayer
Natural Resources Planner
cc: AA 534-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 30, 2007

Mr. E. Thomas Smith, Jr.
City of Annapolis
Department of Planning and Zoning
145 Gorman St., 3rd floor
Annapolis, MD 21401

Re: Site Design and Subdivision Review
Port Annapolis/7074 Bembe Bach Road

Dear Mr. Smith:

I have received revised information regarding the above referenced project. The applicant is proposing to combine seven adjacent parcels of record into a single lot. In addition, site plan review is requested in order to construct a two-story retail and office building in an area currently utilized as a gravel parking lot. The property is currently developed with a marina, multiple retail and office building structures, and multiple parking areas. The Critical Area designation on the property is Intensely Developed Area (IDA) and it appears to also be designated as a Buffer Exemption Area (BEA).

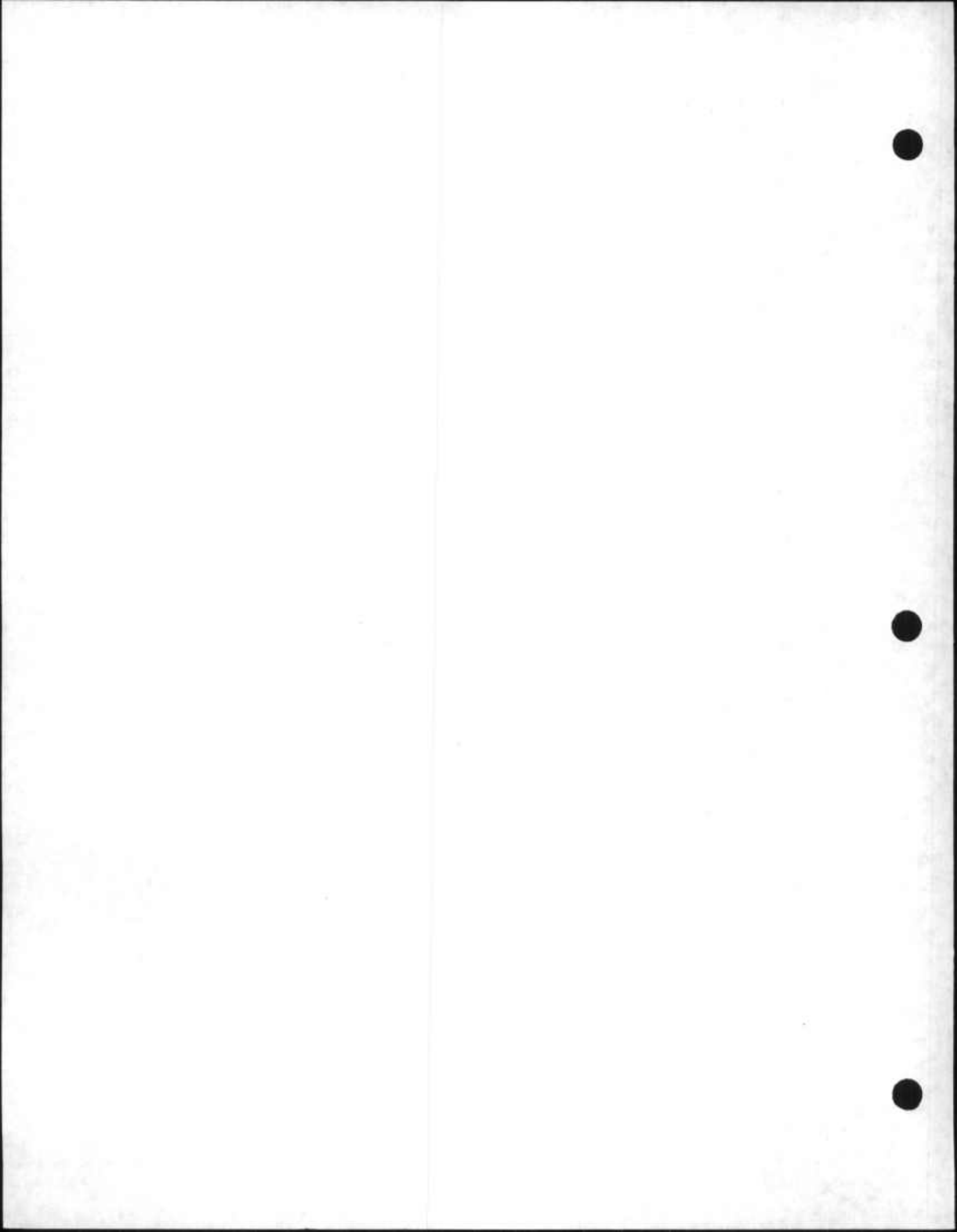
The applicant has addressed all of this office's comments from my October 30, 2007 letter and we have no further comments at this time.

Thank you for the opportunity to provide comments for this subdivision and site plan request. Please contact me at (410) 260-3481 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner
AN347-07



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 30, 2007

Mr. E. Thomas Smith, Jr.
City of Annapolis
Department of Planning and Zoning
145 Gorman St., 3rd floor
Annapolis, MD 21401

Re: Site Design and Subdivision Review
Port Annapolis/7074 Bembe Bach Road

Dear Mr. Smith:

Thank you for providing information regarding the above referenced subdivision and site plan. It appears that the applicant is proposing to subdivide the property via the abandonment of lots lines in order to combine seven adjacent parcels of record into a single lot. In addition, site plan review is requested in order to construct a two-story retail and office building in an area currently utilized as a gravel parking lot. The property is currently developed with a marina, multiple retail and office building structures, and multiple parking areas. The Critical Area designation on the property is Intensely Developed Area (IDA) and it appears to also be designated as a Buffer Exemption Area (BEA). It appears that the applicant has addressed most of this office's comments from Kerrie Gallo's June 18, 2007 letter. I have provided my remaining comments below.

1. The applicant has indicated the intent to utilize an existing bioretention pond to meet the 10% pollutant removal requirement. As requested, the applicant has provided information about the storage capacity of the existing pond. However, it does not appear that the submitted 10% pollutant removal requirement calculations take into account the pollutants that are currently removed by the existing pond. In order to provide a 10% improvement in pollutant reduction for the site, the calculations must be revised so that the pollutants that are currently removed by the existing pond are not included in the L_{pre} calculation. When the current pollutant treatment provided by the existing pond is incorporated into the 10% calculations, it appears that $L_{pre}=0.83$ pounds of phosphorous per year, instead of 1.66 pounds of phosphorous per year. When this corrected L_{pre} is used to calculate the removal requirement, the removal requirement becomes 0.803 pounds of phosphorous per year. As is currently proposed, the existing pond will only treat an additional 0.534 pounds of phosphorous per year after the proposed redevelopment is complete. Therefore, the applicant must show how the remaining .269 pounds of phosphorous per year will be treated. For example, it appears that some of the proposed plantings on the site could provide pollutant removal if used as an offset. Please have

E. Thomas Smith
Port Annapolis Subdivision and Site Plan
October 30, 2007
Page 2

the applicant submit revised 10% calculations and a revised proposal for how the corrected pollutant removal requirement will be addressed.

Thank you for the opportunity to provide comments for this subdivision and site plan request. Please have the applicant address the comments above and provide a revised submittal. Please contact me at (410) 260-3481 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'AWidmayer', is written in black ink.

Amber Widmayer
Natural Resource Planner
AN347-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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October 25, 2007

Mr. Dan Gerczak
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: West River United Methodist Camp
G 02013034, B02236185

Dear Mr Gerczak:

I am submitting this letter for the purposes of revising my previous comments on the above referenced project. The proposed project is construction of a new building to be used as a camp dining hall. The property is designated as a Resource Conservation Area and is currently developed with other camp related structures. I have provided my comments below.

1. The applicant should provide mitigation for the trees that will be cleared at a 1:1 ratio. The replacement mitigation should be located in the Buffer.
2. The property's use as a camp is allowed in the RCA under Anne Arundel County Code § 18-13-206(4), and unlike other RCA use categories, this provision does not require that the applicant meet any heightened impervious surface requirements. Because the proposed total impervious surface area on the property after construction of the new building is only 6.57% which is below the 15% impervious surface limit, the proposed construction is in compliance with the County's Critical Area program.

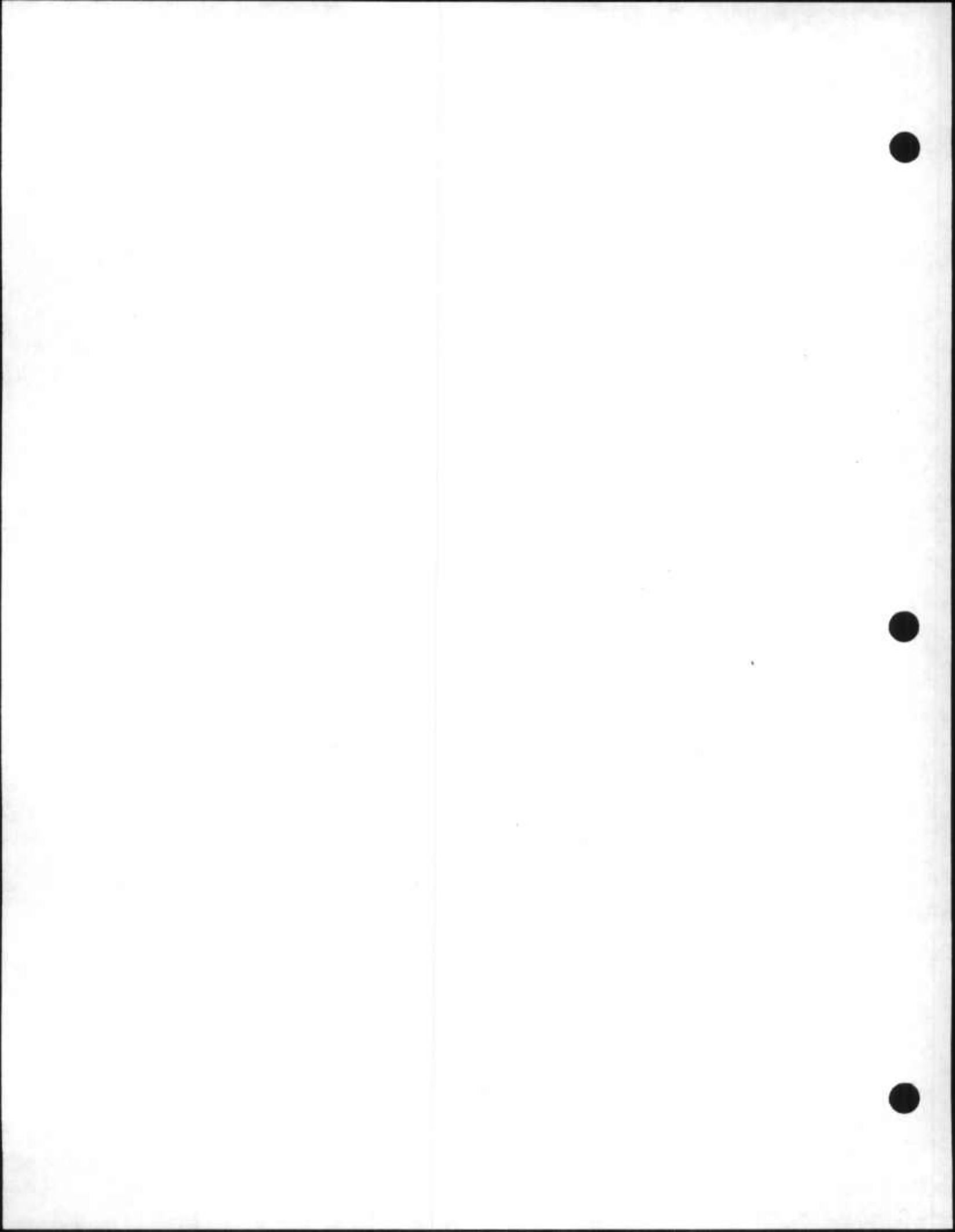
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in dark ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 505-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 25, 2007

~~Mr. Elder Ghigiarelli:~~

MDE, Water Management Administration
Wetlands and Waterway Program
Montgomery Park Business Center, Suite 430
1800 Washington Boulevard
Baltimore, Maryland 21230-1708

Re: Water System Vulnerability Improvements, U.S. Naval Academy
Anne Arundel County

Dear Mr. Ghigiarelli:

This office has received the above-referenced project for review and comment. It appears that the project consists of improvements to existing fencing, lighting systems and fire hydrants at the Naval Academy which are within the Critical Area.

Based on the submitted materials, it does not appear that the project will create any new impervious surfaces, any disturbance within the 100-foot Buffer, or any clearing of forested areas. If any tree clearing is necessary, we recommend that it be mitigated at a 1:1 ratio.

Commission staff finds this application to be consistent with the goals and objectives of the Critical Area Law and Criteria.

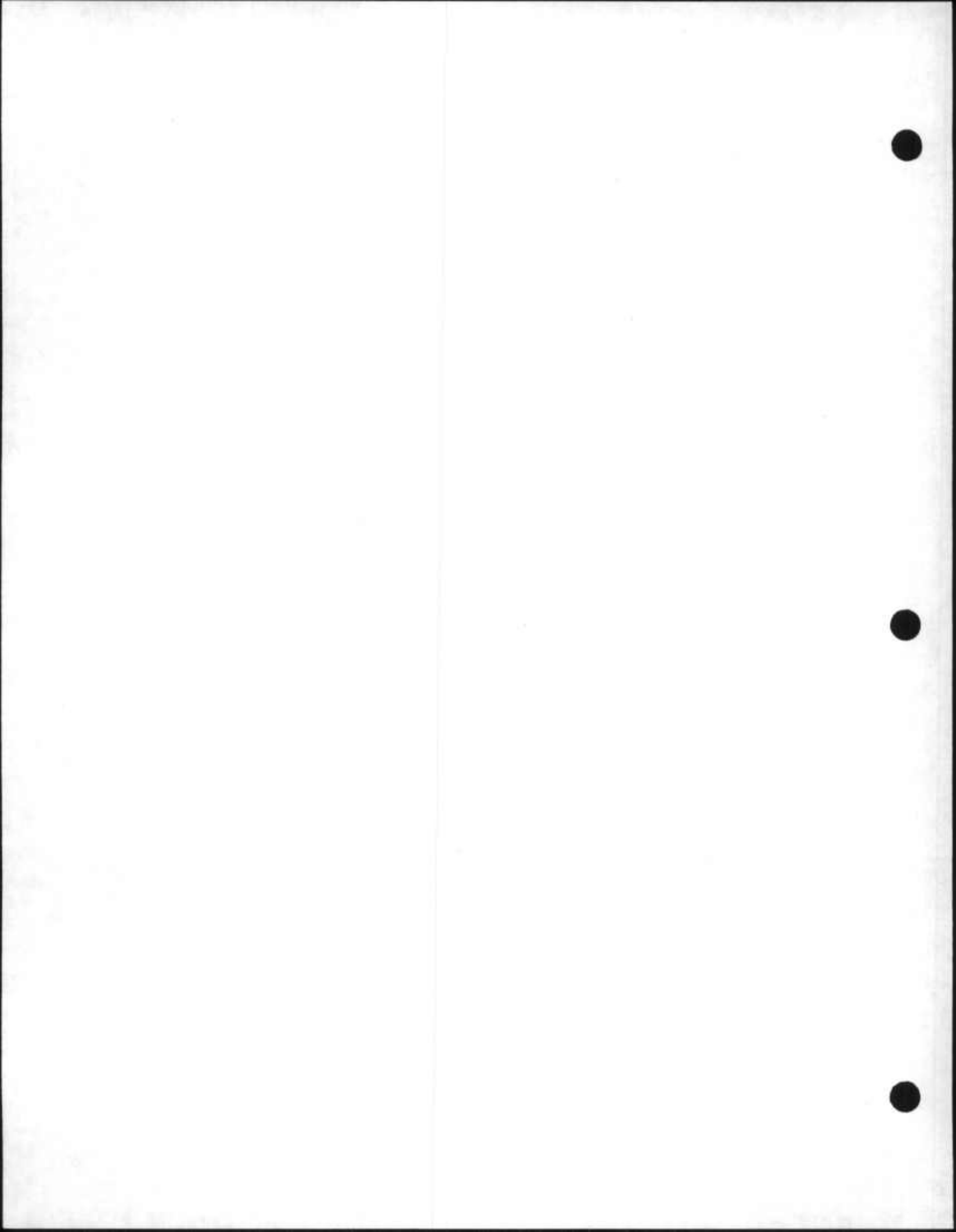
Thank you for the opportunity to comment. Please do not hesitate to telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in blue ink, appearing to read "AW", written over a horizontal line.

Amber Widmayer
Natural Resources Planner

cc: FED 50-07
Jeff Morris



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 25, 2007

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

Re: Class of '60 Plaza Irrigation System, USNA
Anne Arundel County

Dear Mr. Ghigiarelli:

This office has received the above-referenced project for review and comment. The project is the installation of an underground sprinkler system on the Class of '60 Plaza, and the project is located within the Critical Area.

Commission staff have reviewed the application materials and it does not appear that the project proposes any new impervious surfaces, any disturbance within the 100-foot Buffer, or any clearing of forested areas. If any tree clearing is necessary for the project, it should be mitigated at a 1:1 ratio.

Based on our review of this project, Commission staff finds this application to be consistent with the goals and objectives of the Critical Area Law and Criteria.

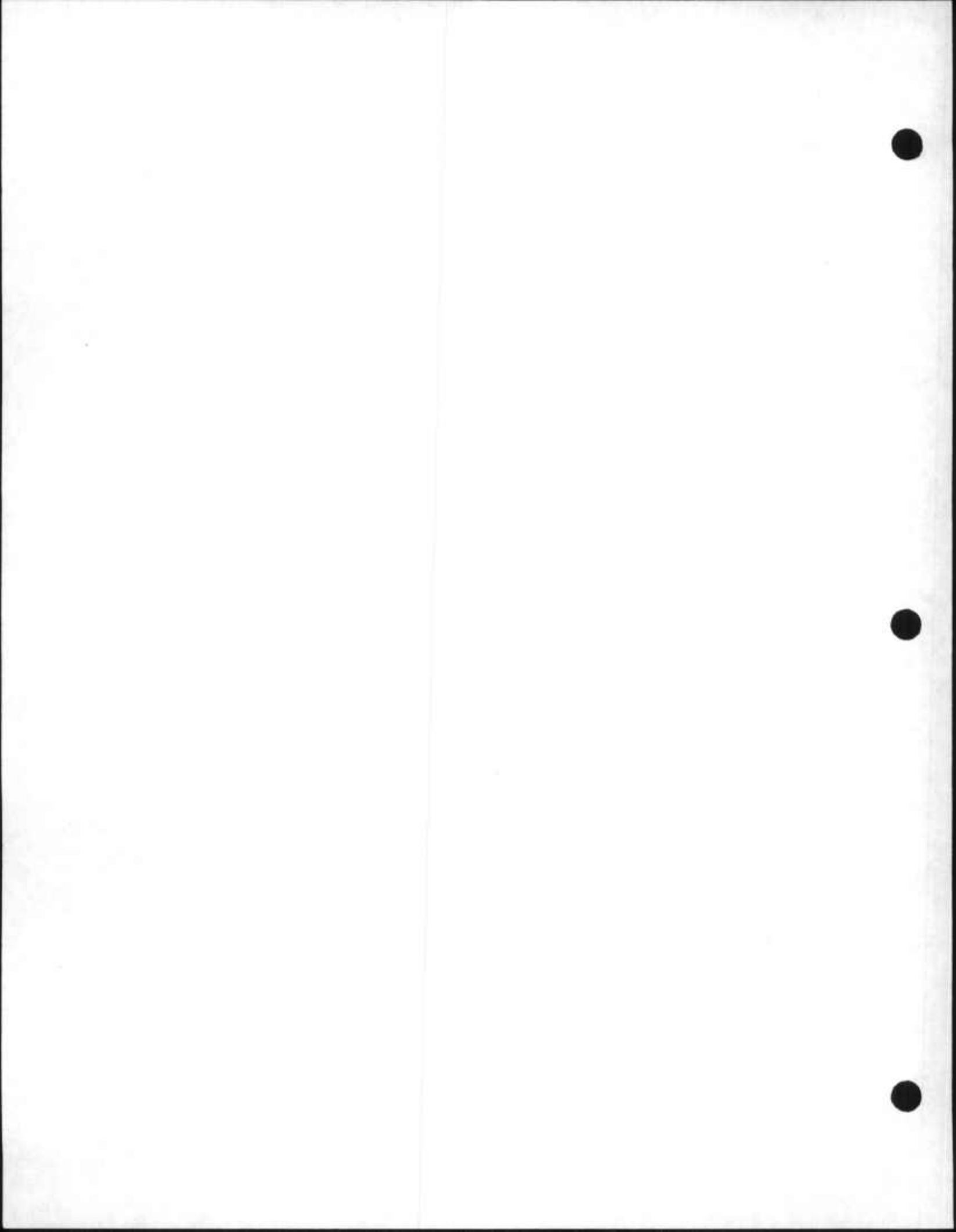
Thank you for the opportunity to comment. Please do not hesitate to telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: FED 48-07
Jeff Morris



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

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Executive Director

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October 25, 2007

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

Re: Preble Hall Renovation Project, U.S. Naval Academy
Anne Arundel County

Dear Mr. Ghigiarelli:

This office has received the above-referenced project for review and comment. It appears that the majority of the project consists of interior building renovations and that the exterior work for the project consists of utility modifications, and the related demolition and replacement of several impervious areas for the purposes of doing the utility work. The entire project site is in the Critical Area and is not within the 100-foot Buffer.

It does not appear that any new impervious surfaces will be created on the project site and therefore the applicant need not address the Critical Area 10% pollutant reduction requirement. We recommend that any necessary tree clearing be mitigated at a 1:1 ratio. If new construction is proposed on this site in the future, new structures should be kept outside of the 100-foot Buffer and Commission staff will need to review such plans to ensure they are consistent with our program goals.

Based on our review of this project, Commission staff finds this application to be consistent with the goals and objectives of the Critical Area Law and Criteria.

Thank you for the opportunity to comment. Please do not hesitate to telephone me if you have any questions at (410) 260-3481.

Mr. Ghigiarelli
October 25, 2007
Page Two

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: FED 49-07
Jeff Morris

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 23, 2007

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

Re: Knox, June
S 07-041, P 07-0113

Dear Mr. Burke:

Thank you for forwarding the above-referenced subdivision request. The applicant proposes to subdivide an existing parcel into two lots, and to build a new dwelling on each of the two proposed lots. The property is classified as a Limited Development Area ("LDA") and is currently undeveloped. It appears that the applicant has addressed some of this office's comments from Megan Sine's July 6, 2007 letter. I have my provided my comments below.

1. As this office previously noted, the 100-foot Buffer is expanded on this property to include the hydric soils that are contiguous with the 100-foot Buffer, as is required by Anne Arundel County's Critical Area Program. §18-13-104 of Anne Arundel County Code states, "the 100-foot Buffer **shall be expanded beyond 100-feet to include contiguous sensitive areas, such as slopes of 15% or greater and hydric soils** or highly erodible soils whose development may impact streams, wetlands, or other aquatic environments." As shown on the applicant's plans, the hydric soil Donlonton (DnA) is contiguous with the 100-foot Buffer. The hydric DnA soil is located within and beyond the 100-foot Buffer and covers the majority of the proposed lots. It appears that disturbance of this hydric soil for development will impact the tidal wetlands and waters within and abutting this property. Therefore, development activities on the proposed lots will require a variance for disturbance to the expanded Buffer. This office will not support a request for variances on newly created, non-grandfathered lots in a subdivision. Further, new subdivisions should be required to meet the current standards and requirements outlined within the County's ordinances and Critical Area Program. This office is unable to support the recordation of a new subdivision which requires variances to develop. We recommend that the proposed subdivision not be approved by the County.
2. The applicant has incorrectly shown in the forest calculations chart that 30% of clearing is allowed on the property. Instead, Anne Arundel County Code § 17-8-601 provides that, "clearing on lots in the LDA and RCA other than residential lots of one-half acre or less in

TTY for the Deaf

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existence on or before December 1, 1985 **may not exceed 20% of the lot**, except that the Office of Planning and Zoning may approve clearing up to 30%." Therefore, this column in the chart should be corrected to show 20% of clearing as the allowed amount, or it should be removed.

3. Environmental Conservation Note letter 'b' states, "this project does not have any wetlands on it." However, it appears that there are tidal wetlands on the property. Please clarify what is meant by this note. For example, the note could read, "there are no proposed impacts to wetlands on this site."
4. It appears that there is proposed clearing through existing forest cover on lot 2 for a six-foot path to the water. While this office does not object to such paths, they should not be wider than 3-feet and should not require clearing of existing forest or grading. The paths should be pervious and surfaced with mulch.
5. As this office previously noted, the applicant has proposed to develop 15% of the property as impervious surface. We are concerned that the creation of new subdivisions with the maximum 15% proposed impervious surface area will inevitably require variances in the future. Realistically, the reasonable use of a single family home will require additional impervious area that has not been reserved within the building footprint of the current plans, including such amenities as patios, sheds, and decks. If the current subdivision plans are approved and platted, although the applicant will technically meet the impervious limit, future homeowners that desire to make additional impervious area use of their properties will be faced with applying for a variance to the 15% impervious surface area limit. This office will not support such variances for lots that were created after the County's Critical Area program went into effect. In order to prevent this foreseeable dilemma, the applicant should reserve enough impervious surface area within the subdivision so future homeowners will not be prohibited from making reasonable use of their newly created homes and property as a result of the applicant's subdivision design.
6. Please have the applicant obtain and submit a letter from Maryland Department of Natural Resources Wildlife Heritage Service confirming that there are no rare, threatened or endangered species or other Habitat Protection Areas on the property.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 371-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 11, 2007

Mr. Elder Ghigiarelli
Water Management Administration
Wetlands and Waterway Program
Maryland Department of the Environment
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230-1708

Re: Restoration of Slope at Ramsey and Cemetery Roads
USNA, Anne Arundel County

Dear Mr. Ghigiarelli:

This office has received the above-referenced project for review and comment. The proposed project is planting trees and shrubs to replace and mitigate after-the-fact clearing of vegetation on the above-referenced slope. Applicable Critical Area requirements for this project include the Critical Area clearing regulations and regulations for clearing within the 100-Buffer, and the corresponding mitigation requirements written in this office's Guidelines for Mitigation Plantings in the Critical Area ("the Guidelines"). Because approval was not obtained for the clearing in advance, the Guidelines prescribe that mitigation plantings be provided at a 3:1 ratio.

The planting plan this office received indicates that 88 trees and 5,850 shrubs will be planted. However, this office does not consider the proposed wintergreen and Christmas fern species to be shrubs for purposes of receiving full mitigation credit. Native shrubs that would receive full credit include inkberry, southern bayberry and gray dogwood.

Additionally, the plans state that the proposed shrubs will be in 1-gallon pots. Shrubs must be in 3-5 gallon pots in order to receive full mitigation credit under this office's Guidelines. This office will provide mitigation credit for the proposed one-gallon shrubs and herbaceous plants as follows:

- One-gallon Christmas Fern= 2 square feet
- One-gallon Wintergreen Procumbens= 4 square feet
- One-gallon Lowbush Blueberry= 10 square feet
- One-gallon Bearberry, or similarly sized native shrub= 10 square feet

Mr. Ghigiarelli
October 11, 2007
Page Two

If the proposed shrubs are in 3-5 gallon pots, this office will provide 400 square feet of planting credit for each cluster of one 2-inch caliper tree and three 3-5 gallon shrubs. For instance, if 88 clusters consisting of 88 trees and 264 shrubs are planted and spaced according to the Guidelines, this will equal 35,200 square feet of planting credit. It appears that the above described planting scenario will consume most of the proposed planting area. If the proposed plantings cannot all be placed in the proposed planting area in accordance with the Guidelines, additional area may need to be set aside to plant the remaining shrubs and trees. Rather than providing the total number of proposed one-gallon shrubs, the remaining 39,800 square feet of mitigation planting can be addressed with planting any combination of trees and shrubs (in 3-5 gallon pots) according to the Guidelines.

We note that the area of proposed plantings on the slope behind the columbarium may be disturbed at a future date when the columbarium is expanded. The future disturbance to these proposed plantings will need to be mitigated for at a 1:1 ratio at that time.

Also, we note that one of the proposed shrub species, Bearberry, does not appear to be native and we therefore recommend that this be replaced with a native species, such as southern bayberry, inkberry, or gray dogwood, on the planting plan.

Provided the proposed project is implemented in accordance with this office's recommendations above, the project is generally consistent with the Critical Area Law and Criteria. Unless the project changes, no further review by this office is necessary.

Thank you for the opportunity to comment. Please do not hesitate to telephone me if you have any questions at (410) 260-3482.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: 47-07 FED
Jeffrey Morris, USNA

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 9, 2007

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

Re: Burgess, Michael- 2007-0306-V

Dear Mr. William Ethridge:

Thank you for forwarding information on the above reference variance request. The applicant has requested an after-the-fact variance to legalize an accessory structure in the Critical Area Buffer. The property is designated as a Limited Development Area (LDA) and is currently developed with a single-family dwelling, driveway, deck and pier.

The Existing Retaining Wall is in Violation of State and Federal Permits

The accessory structure is a 47-foot long concrete block retaining wall and steps that was constructed without authorization. This structure was not included within the scope of the permits issued by Maryland Department of the Environment (MDE) and by the United States Army Corps of Engineers (USACE) for a shoreline erosion control project on the applicant's property. The permit numbers are MDE permit #05-GL-1028, and USACE permit #200561760. The constructed retaining wall is in violation of the terms of both the MDE and the USACE permits.

The MDE permit required that the applicant establish a marsh between the shoreline and where the retaining wall is located for the purpose of both stabilizing the bank and providing enhanced water quality and habitat. Had the applicant complied with the permit, the retaining wall would not have been necessary.

This permit provided that in addition to emplacing 47 feet of stone revetment and construction of a pier, the applicant would "fill, grade and plant marsh vegetation on 40 linear feet of eroding shoreline." When I visited the property on October 10, 2007, I observed no marsh vegetation along the 40 linear feet of shoreline. Instead, the 40 feet of shoreline is currently a sandy beach. The MDE permit specifically conditioned

permission for the shoreline erosion control project on the completion of marsh establishment plantings of *spartina alterniflora* and *spartina patens* within one year of the sand filling, and on the marsh establishment project being maintained as a wetland, with non-nuisance species' aerial coverage of at least 85% for three consecutive years. The conditions further specified that "if 85% of [vegetative] coverage is not attained, the reasons for failure shall be determined, corrective measures shall be taken, and the area shall be replanted."

The constructed retaining wall is also in violation of the terms of the USACE permit #200561760. The USACE conditioned the granting of their permit on the work being completed in compliance with the submitted plans, including the applicant's proposed marsh creation. The USACE permit states, "if any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-2 authorization for your project may be modified, suspended, or revoked."

The applicant is currently in violation of both the MDE and the USACE permits by failing to complete the proposed marsh creation, and by constructing the unauthorized retaining wall. Accordingly, it is the position of this Office that the variance process is inappropriate. The applicant is trying to obtain legal permission from one unit of government (Anne Arundel County) for structures which violate both MDE and Army Corps permits. If the County nonetheless chooses to process this application, this office recommends that the applicant's variance to permit the retaining wall be denied, and that the applicant be required to comply with the terms of the MDE and USACE permits. Compliance with the MDE and USACE permits requires removal of the existing retaining wall, and stabilization and planting of the bank along the 40-feet of shoreline in accordance with the terms of the originally proposed and permitted shoreline erosion control project.

Recommended Mitigation

This office recommends that the applicant provide the standard mitigation plantings at a 1:1 ratio for the total area of disturbance to the Buffer that is above MHW from this shoreline erosion control project. The applicant should be required to provide these mitigation plantings onsite in the Buffer. It appeared during this office's site visit to the property that there is ample space for such plantings in the Buffer on the property.

Further, the County previously issued a variance for this property to allow forest clearing in excess of the maximum 6,534 square feet for a property less than one half acre, for construction of the dwelling. In case number 2004-0118-V, Administrative Hearing Officer Stephen M. LeGendre conditioned this variance on the applicant providing mitigation for the excess 5,843 square feet of clearing "on a 3:1 basis with plantings of native species onsite to the extent practicable." The applicant's mitigation planting plan that was submitted to Anne Arundel County shows that the applicant was to provide 4,000 square feet of plantings onsite, consisting of 10 trees and 30 shrubs, with at least four trees planted in the Buffer. As of this office's October 10, 2007 site visit, it did not

appear that these plantings had been done. From my observation, it seems clear that this applicant is in violation of the condition on his 2004 variance. The County should not need any additional reason to suspend processing on this new variance request until full compliance is achieved on the terms of the 2004 variance. We request that the applicant either provide confirmation that these mitigation plantings were done on the property, or that the applicant complete those mitigation plantings onsite at this time.

Variance Standards

Disturbance from 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. 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 an after-the-fact variance to legalize his unauthorized disturbance to the 100-foot Buffer in the form of a block retaining wall and steps. This structure does not comply with the shoreline erosion control project that both Maryland Department of the Environment (MDE) and the United States Corps of Engineers (USACE) determined was an effective means for controlling erosion on this property. Therefore, the retaining wall and steps are not an authorized shoreline erosion control measure, but rather are illegal construction of accessory structures in the Buffer.

The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. The applicant's unauthorized Buffer disturbance lies in direct contrast to the goals of the General Assembly and the goals of the Buffer. In opposing this variance, I have addressed each of the standards as it pertains to this case:

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

As stated in Anne Arundel County Code 17-8-301, no new structures may be located in the 100-foot Buffer except for water-dependent uses and shore erosion protection

measures and Section 17-8-302 states that the 100-foot Buffer and expanded Buffer shall be maintained in natural vegetation. As proposed and permitted, the applicant's prior shoreline erosion control project would have controlled erosion of the shoreline. The retaining wall was not within the scope of that project, and the property owner did not complete the project as was required by the MDE and USACE permits. Therefore, the applicant has not shown that denial of a variance to permit the retaining wall will create any hardship since he was able to and required by State and federal permits to control erosion on his property without construction of the retaining wall and steps. 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**. Because the applicant has not shown that he will suffer a hardship, let alone an unwarranted hardship if this variance is denied, the property owner has not met his burden of proof to overcome the presumption against him on this variance standard.

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

This office would not support similar variance requests to permit structures within the 100-foot Buffer, where evidence has not been provided to show that it is necessary to control erosion on the property. There is sufficient opportunity on this property to control erosion through the required terms of the MDE and USACE permits. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to allow disturbance to the 100-foot Buffer for a structure that was built illegally, and is not necessary for shoreline erosion control would confer a special privilege on the applicant. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

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

The need for the variance was entirely created by the property owner. If the property owner has completed the prior shoreline erosion control project as was originally proposed and required by the State and federal permits, there would have been no bank left to stabilize with a retaining wall. Instead the area would have been established as a marsh by the filled and graded sand and native wetland plantings.

Mr. Ethridge
October 9, 2007
Page 5 of 5

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. Allowing the retaining wall to remain will allow an unnecessary and unnatural structure to remain in the Buffer, where a natural method marsh creation would have provided the same shoreline stabilizing function. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. 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.

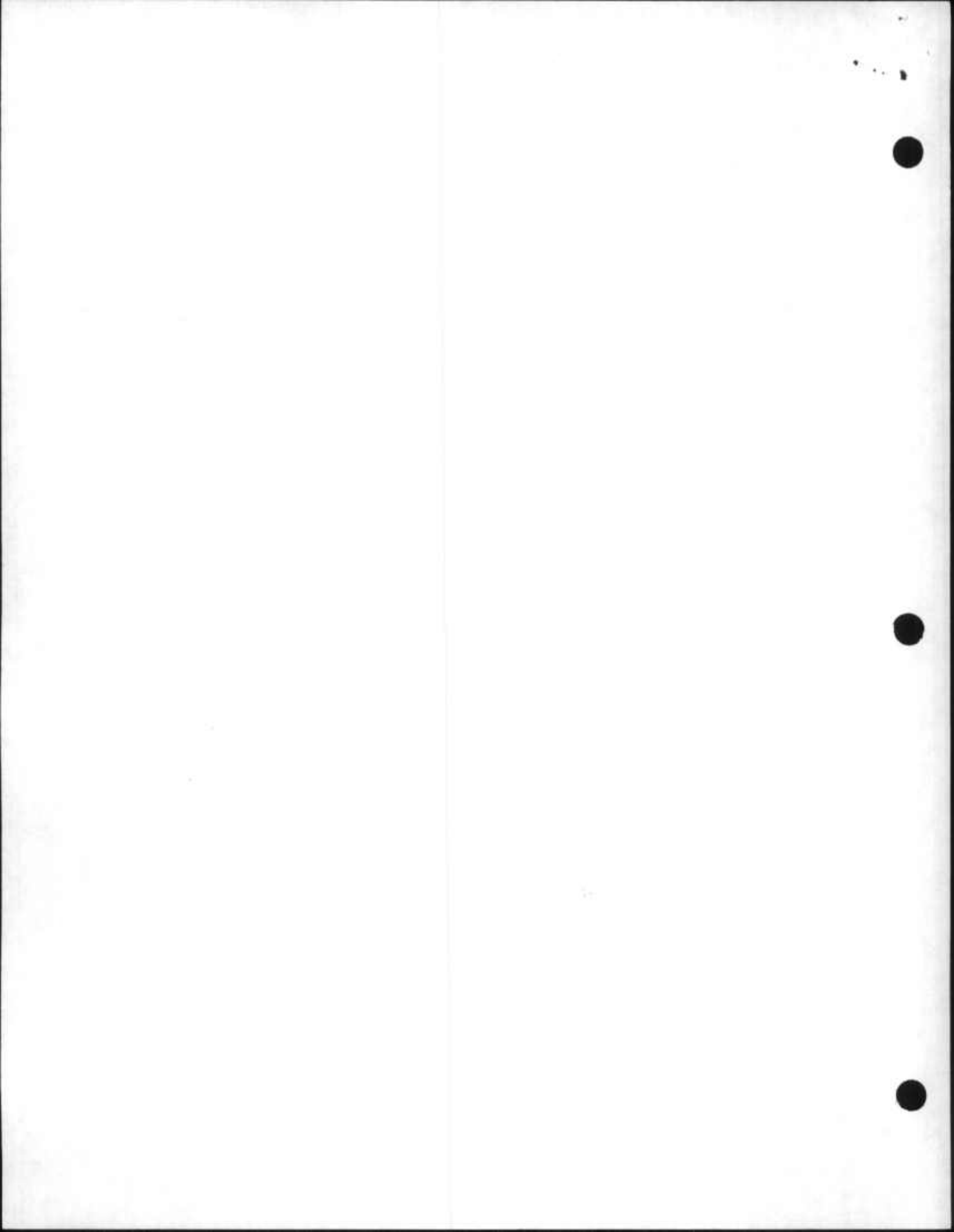
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 555-07
Robert Cuthbertson



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 9, 2007

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

Re: Mike's Crab House
C 07-0002, G 2012610

Dear Mr. Burke:

Thank you for forwarding the above referenced site plan resubmittal. The project is to relocate a portion of an existing roadway and to repave and abandon portions of the existing roadways. In addition, it appears that grading of the site is proposed in order to accommodate the installation of stormwater management measures. The property is designated as an Intensely Developed Area (IDA). Currently, two existing commercial restaurants exist on the property. The applicant has responded to this office's comments in Megan Sine's July 31, 2007 letter. I have provided my comments below.

- The applicant has completed the 10% pollutant reduction calculations using an outdated version of Worksheet A which contains an incorrect 'C' value. Please have the applicant revise and resubmit the 10% calculations using the current Worksheet A, which defines the C value as .30 mg/L. This worksheet can be found on our website under the guidance documents link, or by going directly to the web address below.

http://www.dnr.state.md.us/criticalarea/10percent_rule_manual/worksheet_a.pdf

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Mr. Burke
October 15, 2007
Page Two

Sincerely,

A handwritten signature in cursive script, appearing to read 'Amber Widmayer', written in dark ink.

Amber Widmayer
Natural Resources Planner

cc: AA 13-07

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 9, 2007

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

Re: Parker Creek
S-05-014, P-07-0153

Dear Mr. Burke:

Thank you for forwarding the above referenced subdivision resubmittal. The project consists of the subdivision of one parcel into five lots, removal of one dwelling and driveway, and construction of five dwellings and driveways. The property is designated as a Resource Conservation Area and a Limited Development Area. The applicant has addressed some of this office's comments from Megan Sines' January 29, 2007 letter. I have outlined my remaining comments below:

- 1) The current plans show that 18.9% of the LDA on the site is proposed impervious surface and is in excess of the 15% impervious surface limit. It appears that the applicant has mistakenly combined the acreage of both the RCA and the LDA for purposes of calculating what is shown on the plans as the 14.99% proposed impervious surface area. Proposed impervious surface calculations must be done separately for the proposed impervious surfaces within the RCA and the LDA, and each calculation must be under the 15% limit. Therefore, the applicant must reduce the proposed impervious surface area in the LDA.
- 2) We note that the applicant proposes to provide the required reforestation on-site in the 100-foot Buffer as is typically recommended. However, the applicant only proposes reforestation plantings in the portion of the Buffer that is mapped as tidal wetlands. Buffer plantings that meet the reforestation requirement must consist of woody, upland species of plants. This can be a combination of canopy, understory and herbaceous plants. It is unclear how these upland plantings will

TTY for the Deaf

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

Mr. Tom Burke
October 9, 2007
Page Two

survive in a tidal wetland. Accordingly, we recommend that the reforestation area be located in the portion of the Buffer that is not a tidal wetland, and the applicant may provide additional tidal wetland plantings in the tidal wetland if these will not disturb the existing tidal wetland vegetation and habitat; however, these plantings may not be counted towards meeting our planting requirements. All proposed plantings must be shown in a buffer management plan and the plan should be submitted to the Commission and the County.

- 3) The plan shows that no part of the RCA portion of the existing parcel is within the proposed lots. However, the plat shows the RCA line crossing through a portion of lot 3. Please have the applicant clarify which RCA line is correct, and if necessary, adjust the proposed lot 3 boundary so that no portion of RCA is within the proposed lots.
- 4) As mentioned above, we recommend that the forest conservation area be within the Buffer outside of the tidal wetland area. We also recommend that the applicant provide signage and a plat and plan notation that there will be no disturbance within this forest conservation area.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 15-07

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. Sally Nash
City of Annapolis
Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, Maryland 21401

Re: St. Luke's Growth Allocation

Dear Ms. Nash:

Thank you for forwarding information on the above-referenced project proposal. The project is construction of a 32-unit housing complex for seniors. It is my understanding that the applicant plans to re-subdivide two existing parcels and will seek growth allocation to change a portion of the property from a Resource Conservation Area (RCA) to a Limited Development Area (LDA). I have outlined my initial comments below.

1. The applicant will need to use growth allocation for the entire area of the RCA on the property because the Critical Area Commission's Guidelines for the Counting of Growth Allocation require that if the original parcel in the RCA is less than 20 acres, then the entire area of the parcel must be reclassified to either LDA or IDA using growth allocation. This requirement is based on the principle that at least 20 acres are needed to maintain the RCA character.
2. The submitted materials indicate that the applicant proposes to construct a green roof. While the Commission encourages the use of environmentally sensitive design, it only recognizes green roofs as pervious areas for the purposes of performing the pollutant removal calculations on land that is classified as an Intensely Developed Area. It appears that the applicant will not be able to meet the City's 15% impervious limit when the roof area is added into the total proposed impervious surface area in a Limited Development Area as proposed. Accordingly, the applicant will either need to reduce the proposed impervious surface area to 15% of the property, or the applicant can apply to have the whole property classified as IDA.

Ms. Nash
October 9, 2007
Page Two

3. The applicant will need to identify all Habitat Protection Areas that are on the property. In addition to mapping the 100-foot Buffer, the applicant will need to obtain a letter from Maryland Department of Natural Resources Wildlife and Heritage Service to determine whether there are any rare, threatened or endangered species on the property or any other Habitat Protection Areas that may be affected by the project.
4. The applicant must provide documentation that the current parcel configuration has not been changed since December 1, 1985, which is the original mapping date for the Critical Area.
5. The applicant must show that the use of the requested growth allocation will meet each of the Natural Resources Article § 8.1801(c) Guidelines for locating a new intensely developed or limited development area. This text was amended by the General Assembly in 2006 and can be found in Senate Bill 751, available on the web at <http://mlis.state.md.us/2006rs/bills/sb/sb0751t.pdf>.

The comments above are based on the information this office has received at this point about the project and reflect the review and evaluation of the project by Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. Saving the Commission's formal review, additional information may be requested or additional concerns may be raised. We are happy to meet with the applicant to discuss any further questions about the proposed project. Please feel free to contact me at (410) 260-3482.

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AN 536-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Amber Widmayer *AW*

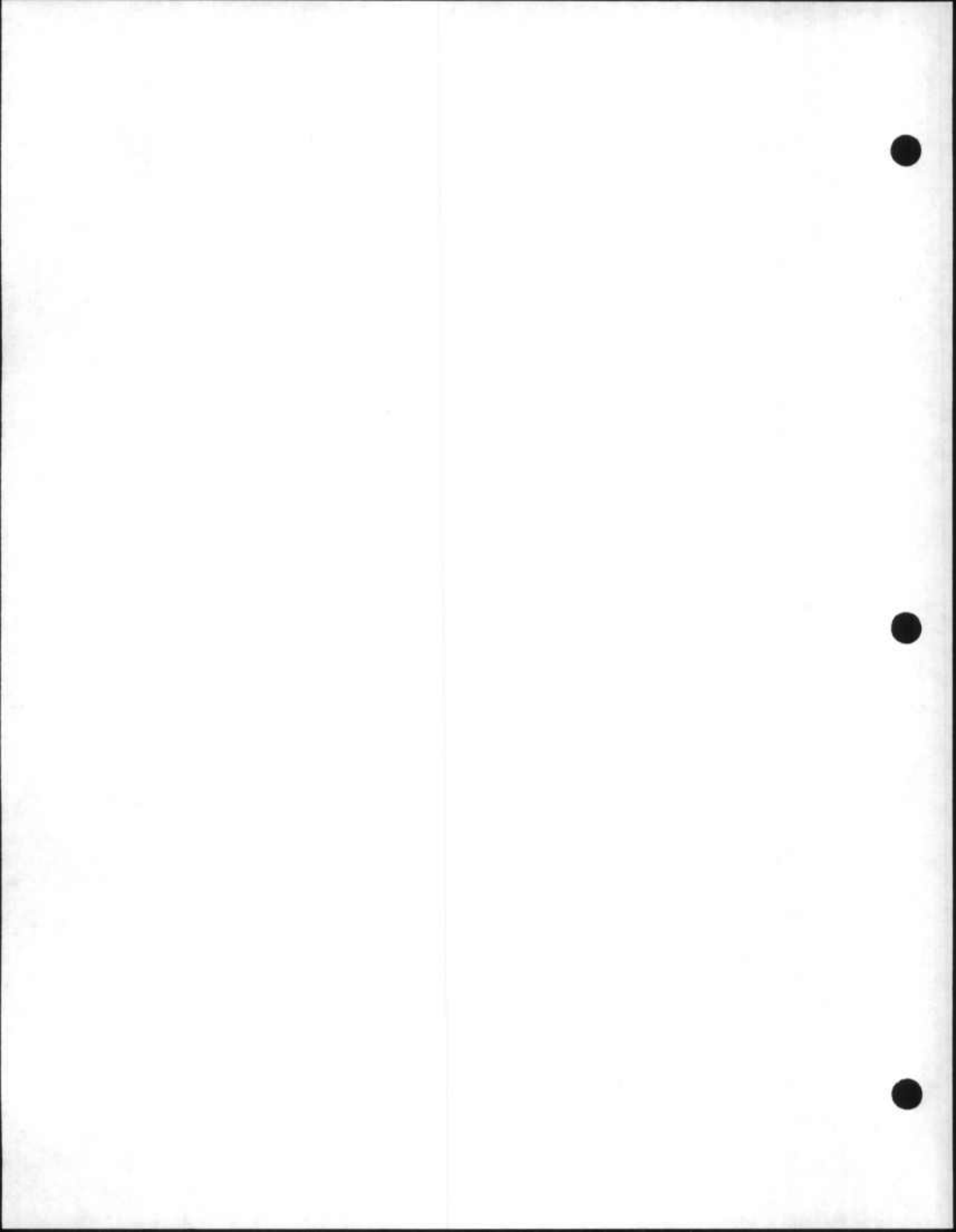
Date: October 9, 2007

RE: POS Project #5120-2-226, Bay Head Park, Anne Arundel 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 complete parking areas, extend underground utilities, improve existing structures, construct a concession and restroom building, installation of athletic lighting and creation of a children's playground.

It appears that the site may lie partially within the Critical Area and is designated as a Resource Conservation Area (RCA). Accordingly, the project must meet Anne Arundel County's Critical Area Program requirements for development within an RCA, including the 15% impervious surface limit, forest clearing limitations, 15% forest cover, and allowable uses within the RCA. These requirements are determined based on the total area of the property that is within the RCA.

We recommend that the project implementation be coordinated with Anne Arundel County and Critical Area Staff to make sure that any Critical Area issues are adequately addressed at both the State and local levels. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3482.



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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MEMORANDUM

To: Marti Sullivan, Program Open Space

From: Amber Widmayer *AJW*

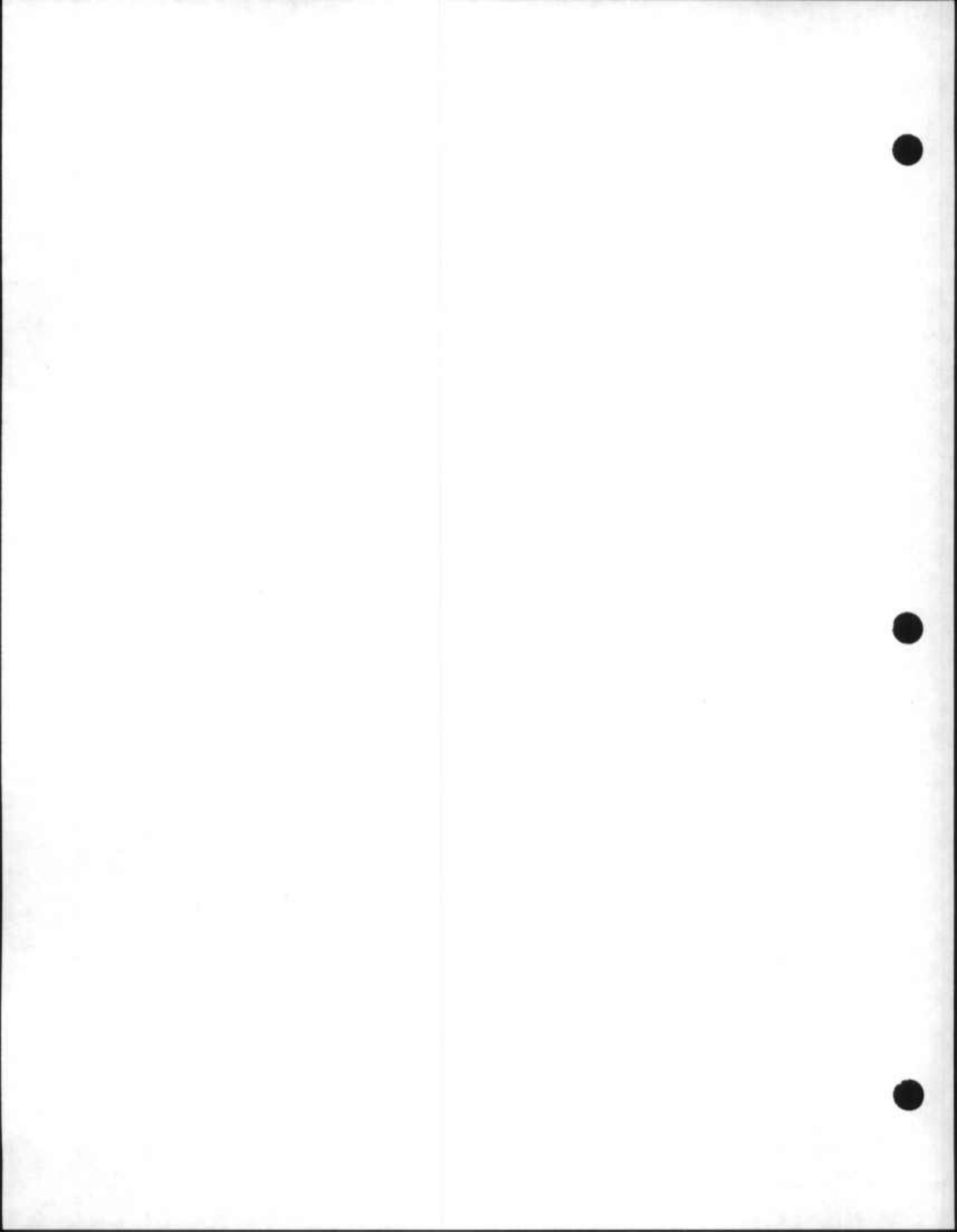
Date: October 9, 2007

RE: POS Project #5246-2-232, Quiet Waters Park Reflecting Pool Renovations
Anne Arundel 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 renovate the reflecting pool and ice rink and the scope of work includes demolition of the existing pool floor, mechanical modifications, and restoration of the reflecting pool and fountains.

It appears that the site may lie partially within the Critical Area and is designated as a Resource Conservation Area (RCA). Accordingly, the project must meet Anne Arundel County's Critical Area Program requirements for development within an RCA, including the 15% impervious surface limit, forest clearing limitations, and allowable uses within the RCA. These requirements are determined based on the total area of the property that is within the RCA.

We recommend that the project implementation be coordinated with Anne Arundel County and Critical Area Staff to make sure that any Critical Area issues are adequately addressed at both the State and local levels. Thank you for the opportunity to review this proposal. If you have any questions, please call me at 410-260-3482.



Martin O'Malley
Governor



Margaret G. McHale
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Ren Serey
Executive Director

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October 5, 2007

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

Re: Carlo, Earl and Linda- 2007-0238-V


Dear Mr. Konowal:

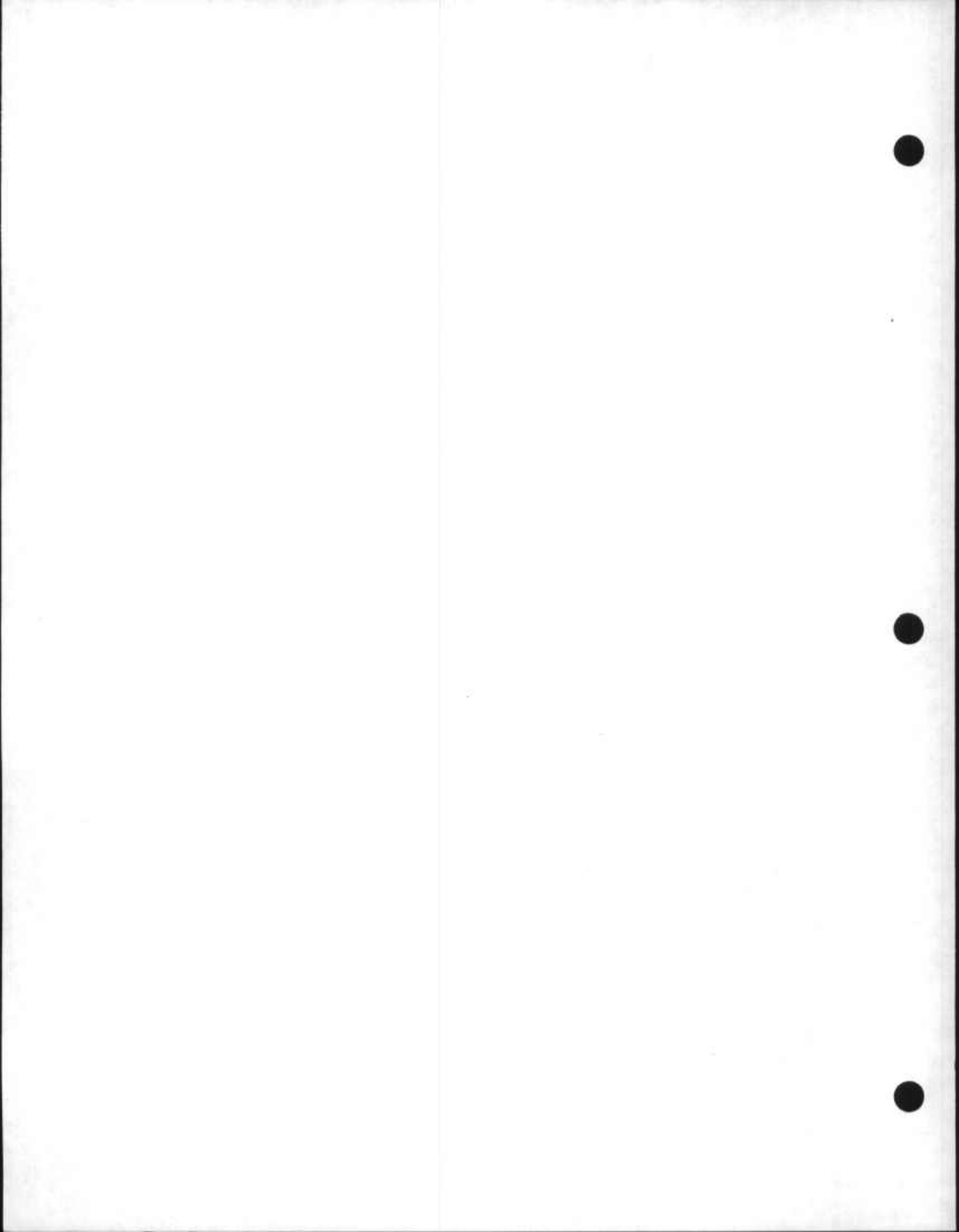
This office has received a variance request for the above referenced project. The applicant has requested a variance to allow a dwelling addition with less setbacks and Buffer than required for construction of a deck. The property is designated as a Limited Development Area (LDA), it is mapped as a Buffer Modification Area and it is currently developed with a dwelling and driveway.

This office does not oppose the requested variance, provided the property is properly grandfathered, and provided the applicant provides mitigation plantings at a ratio of 2:1 for the total area of disturbance to the 100-foot Buffer for construction of the deck. This area is calculated by totaling the areas of proposed clearing, grading and the footprint of the proposed structure. These plantings should be provided on-site in the Buffer to the extent feasible. Also, the deck should be constructed in a way that it remains pervious where it will cover land beyond the existing concrete patio. This is done by leaving spaces between the boards, placing gravel underneath the deck and planting vegetation surrounding the boundary of the deck.

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

Sincerely,


Amber Widmayer
Natural Resources Planner
cc: AA 611-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

STATE OF MARYLAND
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October 2, 2007

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

Re: Carlow, Charles
S 06-032, P 06-135

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced revised subdivision application. The applicant proposes to subdivide an existing parcel into two lots, and to construct a dwelling on one of the parcels. The property is designated as a Limited Development Area (LDA) and as a Resource Conservation Area (RCA). I have outlined my comments below.

1. The plans show the limit of disturbance and grading within the portion of the RCA on proposed lot 2. These activities may not occur within the RCA to support development outside of the RCA. Therefore, the plans should be amended so that the limit of disturbance and proposed grading are outside of the RCA on lot 2. Also, the RCA portion of lot 2 should be placed in an easement that will prohibit any development activities in this area in the future.
2. Please have the applicant quantify the existing forested area on the property, as well as the area of proposed clearing. If 15% of the property is not forested, the applicant will need to provide afforestation plantings on the site.

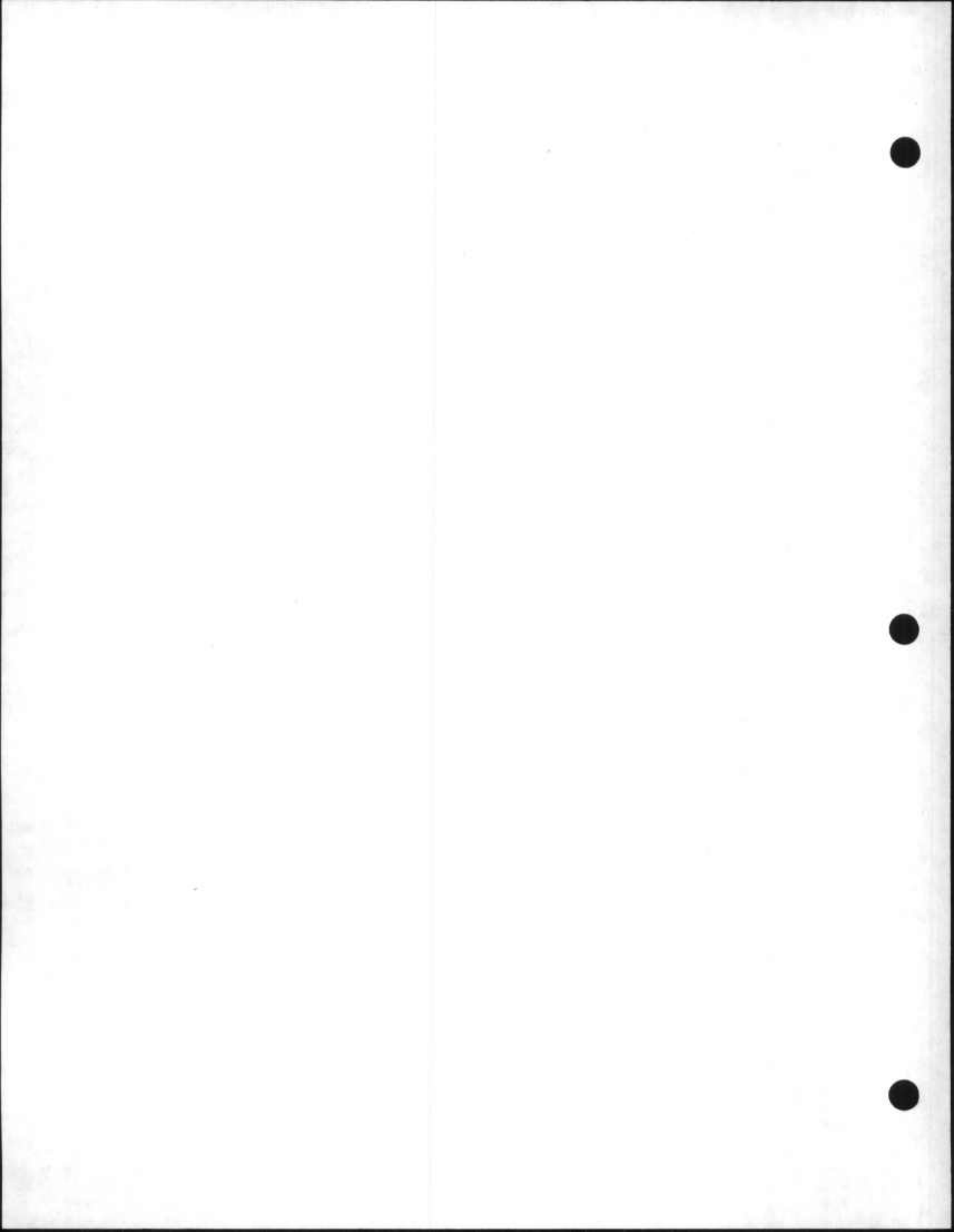
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 217-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 2, 2007

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

Re: Suit- MSD-06-34-32-Intrafamily Transfer

Dear Ms Vidotto:

Thank you for providing information regarding the above mentioned proposed intrafamily transfer. The applicant proposes to create two new lots in the Critical Area and two new lots outside of the Critical Area from an existing parcel. The property consists of two non-contiguous portions of an existing parcel with 37.02 acres that are within the Critical Area. The property within the Critical Area is designated as a Resource Conservation Area (RCA).

- 1) We note that currently the property is held by the estate of Morris Suit, and that it is the estate of Morris Suit and not a person who seeks to transfer the property. The intrafamily transfer provisions apply only to persons, not to estates or partnerships, etc. This is because the estate, as owner, has no "immediate family member" to whom the property may be transferred. Therefore, the proposed project is not eligible for review under the intrafamily transfer provisions until a person is the owner of the property. If the estate transfers the entire property to a person, then that person becomes the 'owner' and may transfer a lot or lots using the intrafamily provisions, assuming that all else is within the boundaries of the law.
- 2) The applicant must provide documentation showing that the current boundary of the existing parcel has not changed since March 1, 1986, and that no subdivision of the parcel has occurred since that date.
- 3) If an application for an intrafamily transfer is resubmitted once the above comments have been addressed, please have the applicant clarify what is proposed. It appears from the plan that the applicant proposes to create two new lots in the Critical Area, which are lots three and four, and two new lots that are outside of the Critical Area, which are lots one and two. However, in the Subdivision Letter of Explanation #6 the applicant only refers to proposed lots one and two when describing the purpose of the subdivision. Also, lot three is labeled as an intrafamily transfer lot on the plan while lot four is not. Please have the applicant explain the purpose of proposed lots three and four.

Ms. Vidotto
October 2, 2007
Page Two

- 4) The applicant must obtain and submit a letter from Maryland Department of Natural Resources Wildlife and Heritage Service stating whether there are any Habitat Protection Areas on the site and stating the Wildlife and Heritage Service's recommendations for necessary actions to be taken by the applicant in order to protect those areas from disturbance by future development.

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

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 424-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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October 2, 2007

Sally Nash
City of Annapolis
Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, Maryland 21401

Re: Stein Property Variance

Dear Ms. Nash:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 15% impervious surface limit on land that is designated as a Limited Development Area (LDA) for the purpose of reconfiguring and developing an existing three-lot subdivision. Lot three is currently developed with a dwelling and driveway, and the applicant proposes to construct new dwellings on lots one and two.

Based on the information provided, this office will consider the lots as if they were grandfathered. Therefore, if the applicant can show that the proposed development is within the impervious surface limits that are applied to grandfathered lots, this office will not oppose granting the requested variances for lots one and two.

The impervious surface limits on grandfathered lots that are between 8,001 and 21,780 square feet in size allow 31.25% of a lot to be impervious surface. As is currently proposed, the impervious surface on lots one and two will be 21.6% of each lot. Because this is less than the allowed 31.25%, this office does not oppose granting the impervious surface variance for development of lots one and two.

On grandfathered lots that are greater than 21,780 square feet but less than 36,300 square feet in size, there is an impervious surface limit of 5,445 square feet. As is currently proposed, lot three is 21,781 square feet and 5,758 square feet of lot three will be impervious. Because the proposed lot three is between 21,781 and 36,300 square feet and is limited to 5,445 square feet of impervious surface, this office cannot support granting the impervious surface variance with reference to the 5,758 square feet of proposed impervious area on lot three.

This office would not oppose granting the requested impervious surface variance for lots one, two and three if the applicant is able to reconfigure the lot lines such that each lot is under the impervious surface limits that are applied to grandfathered lots. It appears that this can be done on this property by

Ms. Nash
October 2, 2007
Page 2

either minimizing the proposed additions to lot three, or by reconfiguring the lot lines on lots one and two to include more of the proposed driveway.

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 410-260-3482.

Sincerely,



Amber Widmayer
Natural Resource Planner
AN 436-07

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

Re: South, Jerry Property
S 07-022, P 07-0071

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced revised subdivision application. The applicant proposes to combine two parcels into one lot and to replace an existing dwelling. The property is currently developed with a dwelling and driveway and is designated as a Limited Development Area (LDA) and as a Resource Conservation Area (RCA). The applicant has addressed most of this office's comments from Kerrie Gallo's May 29, 2007 letter. I have outlined my remaining comments below.

1. Please have the applicant quantify the existing forested area on the property, as well as the area of proposed clearing. If 15% of the property is not forested, the applicant will need to provide afforestation plantings on the site. The required Buffer plantings may count toward this afforestation requirement.
2. We note that currently, the proposed impervious surface area is 14.9%. We recommend including a notation on the plat and plan that no further impervious surface will be allowed on the property so that future property owners will have notice of this limit.
3. The proposed impervious surface area calculations on the plan do not reference the proposed brick area outside of the garage. Please clarify whether this impervious surface area has been included in the total proposed impervious surface area.
4. It does not appear that the plans provide the amount of area on the property that is designated RCA as opposed to LDA. Please have the applicant provide these amounts. Also, the applicant should provide separate impervious calculations for

Ms. Krinetz
October 2, 2007
Page Two

the existing and proposed impervious surface area within the RCA and the LDA on the property.

5. Anne Arundel County Code § 17-8-303 requires that, "development on a site without an existing natural buffer within 100 feet of the shoreline shall have a buffer reestablished in accordance with the following: (1) a fully functioning buffer shall be created in accordance with an approved buffer management plan; and (2) planting shall consist of a combination of native trees, shrubs, and ground cover approved by the Office of Planning and Zoning." Therefore, the applicant must show how this requirement will be met on the site. Also, we recommend that the applicant provide surety for the Buffer plantings.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AA 226-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 1, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-WL-0550; Brian Conner,
3920 Germantown Rd, Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project includes removal and replacement of an existing 113-foot bulkhead, removal and replacement of an existing 126-foot bulkhead with excavation of the shoreline within 10 feet landward of the mean high waterline, and removal and reconstruction of an existing pier. Based on the information provided and our phone conversation last week, I have the following comments:

1. It is unclear from the information submitted why it is necessary to excavate the shoreline to a depth of one foot at the mean low waterline. In the absence of such information, it does not appear that the proposed excavation is the minimum necessary disturbance for shoreline erosion control and consequently this office cannot support such an extreme impact to the 100-foot Buffer. If the excavation portion of the project is shown to be necessary and is permitted, we note that the 100-foot Buffer will be adjusted to begin at the new mean high waterline to encompass more of the applicant's property. Because the proposed excavation will require impacts to the 100-foot Buffer above the mean high waterline, the applicant must seek and obtain a variance for these impacts from Anne Arundel County Department of Planning and Zoning.
2. It appears from the applicant's plan that the marsh area adjacent to the existing 113-foot bulkhead to be replaced is above the mean high waterline. Therefore, this proposed construction creates disturbance within the 100-foot Buffer and the applicant must seek and obtain a variance from Anne Arundel County Department of Planning and Zoning. Further, it is unclear how this construction could be completed without disturbance to this

Mr. Cuthbertson
October 1, 2007
Page Two

wetland. Please have the applicant specify what measures will be taken to ensure that the wetland is not disturbed by the proposed construction.

3. The applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning for any other impacts to land that is above mean high water. Also, the applicant will need to provide mitigation at a 2:1 ratio for temporary impacts to the Buffer and mitigation at a 1:1 ratio for permanent impacts to the Buffer. The applicant should contact the Anne Arundel County forester, in order to complete a Vegetated Management Plan for the required mitigation.

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

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

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Executive Director

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September 27, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-WL-1608; John Nicklin,
1000 Stonington Drive, Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project includes mechanically dredging 552 cubic yards to a depth of six feet at Mean Low Water channelward of an existing pier to create a spur channel, and construction of five 35-foot stone groins and placement of the dredged materials along 260 feet of the applicant's shoreline. Based on the information provided I have the following comments:

1. Because it appears that there is a vegetated Buffer on the site, we recommend that the groin construction and sand placement be done via water access if feasible.
2. If any clearing is done for construction access, the applicant will need to provide mitigation at a 2:1 ratio for temporary impacts to the Buffer and mitigation at a 1:1 ratio for permanent impacts to the Buffer resulting from the proposed placement of the sand and groins above the mean high water line. The applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning for any impacts to land that is above mean high water. The applicant should also contact the Anne Arundel County forester, in order to complete a Vegetated Management Plan for the required mitigation.
3. It appears that the proposed placement of dredged materials is consistent with the Critical Area Criteria applicable to this activity, found in COMAR 27.01.03.04B(7). If this is not the case, we recommend that the proposed beach replenishment be done in accordance with this requirement.

Mr. Cuthbertson
September 27, 2007
Page Two

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

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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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/

September 27, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 08-WL-0248; Bodkin Yacht Club,
8091 Belhaven Avenue, Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project is an expansion of an existing marina from 65 to 68 slips, replacement of existing piers and piles, dredging of 33,750 square feet of the marina basin with periodic maintenance dredging over six years, and construction and backfill for replacement of an existing 853-foot long timber bulkhead, within a maximum one and a half feet channelward of the mean high waterline. Based on the information provided, I have the following comments:

1. It does not appear that the proposed project will create any permanent impacts to the Buffer. If there are any project impacts above the mean high waterline, the applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning. Also, the applicant will need to provide mitigation at a 2:1 ratio for any temporary impacts to the Buffer such as clearing of vegetation for construction access, and mitigation at a 1:1 ratio for any permanent impacts. If there is any required mitigation, the applicant should contact the Anne Arundel County forester in order to complete a Vegetated Management Plan for the required mitigation.

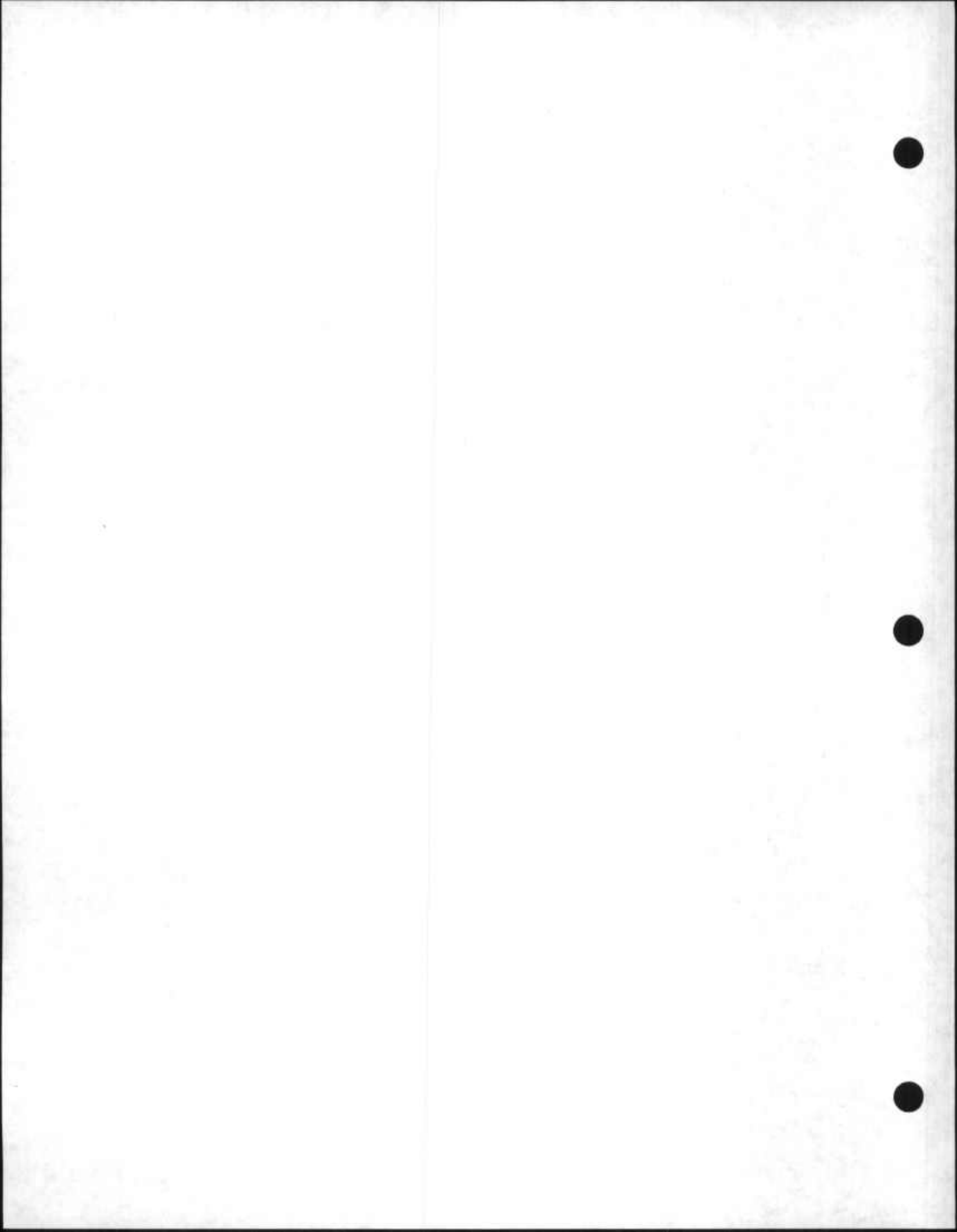
Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3482.

Sincerely,

A handwritten signature in dark ink, appearing to read "AW", written over a light-colored background.

Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 27, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-WL-1825; Peter Hooper III,
1107 Bay Front Avenue, Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project is for the replenishment of an existing 80-foot stone revetment within a maximum 16 feet channelward of the mean high waterline, and a 20-foot extension of the existing 80-foot stone revetment. Based on the information provided, I have the following comments:

1. The applicant should provide mitigation at a 1:1 ratio for the resulting permanent impacts to the Buffer from the construction of the stone revetment above the mean high waterline. If there are temporary impacts to the Buffer from activities such as clearing for construction access, these should be mitigated at a 2:1 ratio. The applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning for the impacts to land that is above mean high water. The applicant should also contact the Anne Arundel County forester, in order to complete a Vegetated Management Plan for the required mitigation.

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

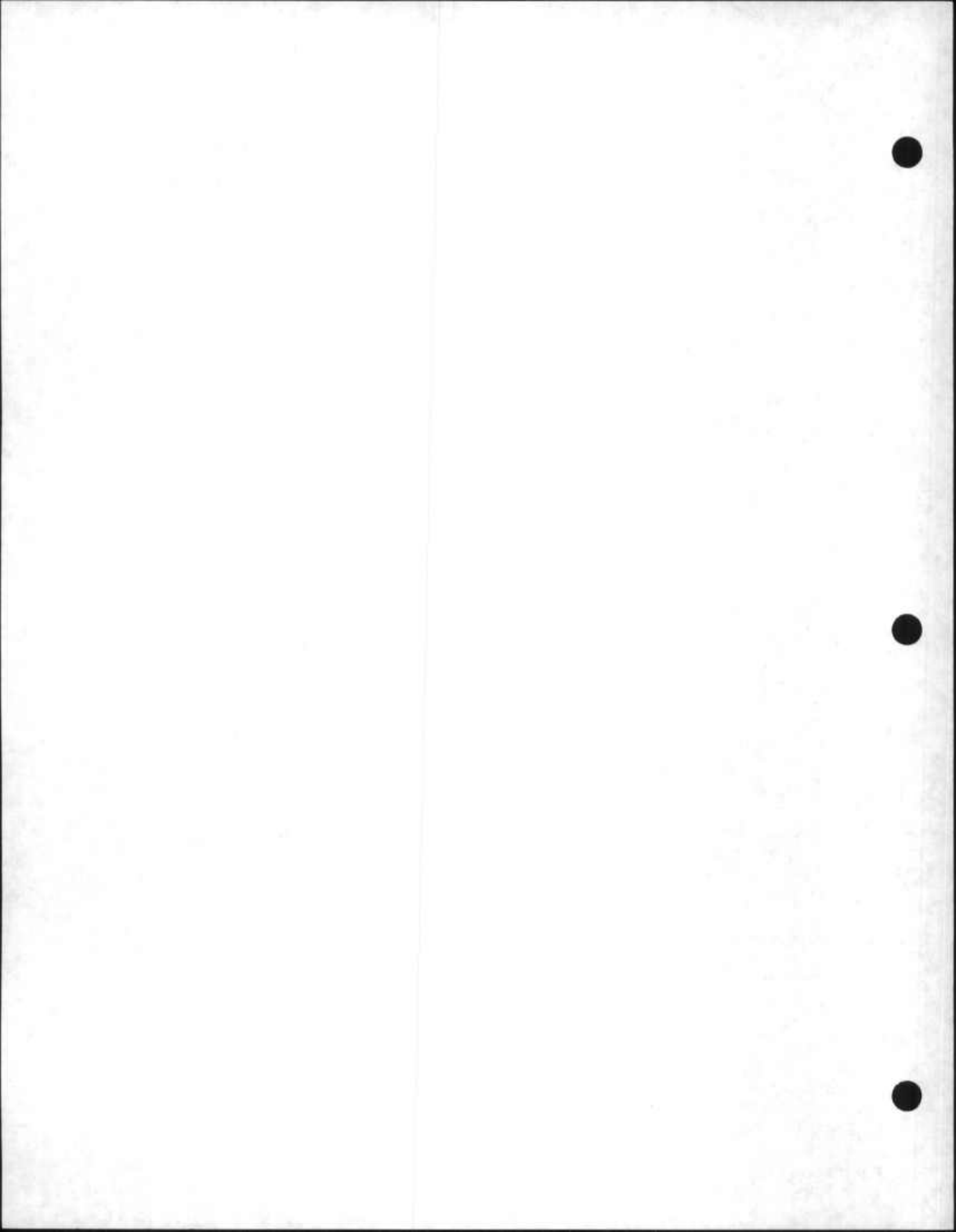
Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 27, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 03-WL-0171; Herrington Partnership,
7149 Lake Shore Drive, Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project includes a 100-foot extension of an existing harbor entrance jetty, and the construction of a 575-foot long low profile sill within 19 feet channelward of the mean high waterline, and placement of sand and planting of wetland plants behind the sill. Based on the information provided, I have the following comments:

1. It does not appear that the proposed wetland plantings, sand fill or low profile sill construction will create impacts to the Buffer above the mean high waterline. The applicant should provide mitigation at a 1:1 ratio if there will be any permanent impacts to the Buffer above the mean high waterline, and mitigation at a 2:1 ratio for any temporary impacts to the Buffer including clearing for construction access. The applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning for any impacts to land that is above mean high water. The applicant should also contact the Anne Arundel County forester, in order to complete a Vegetated Management Plan for the required mitigation.

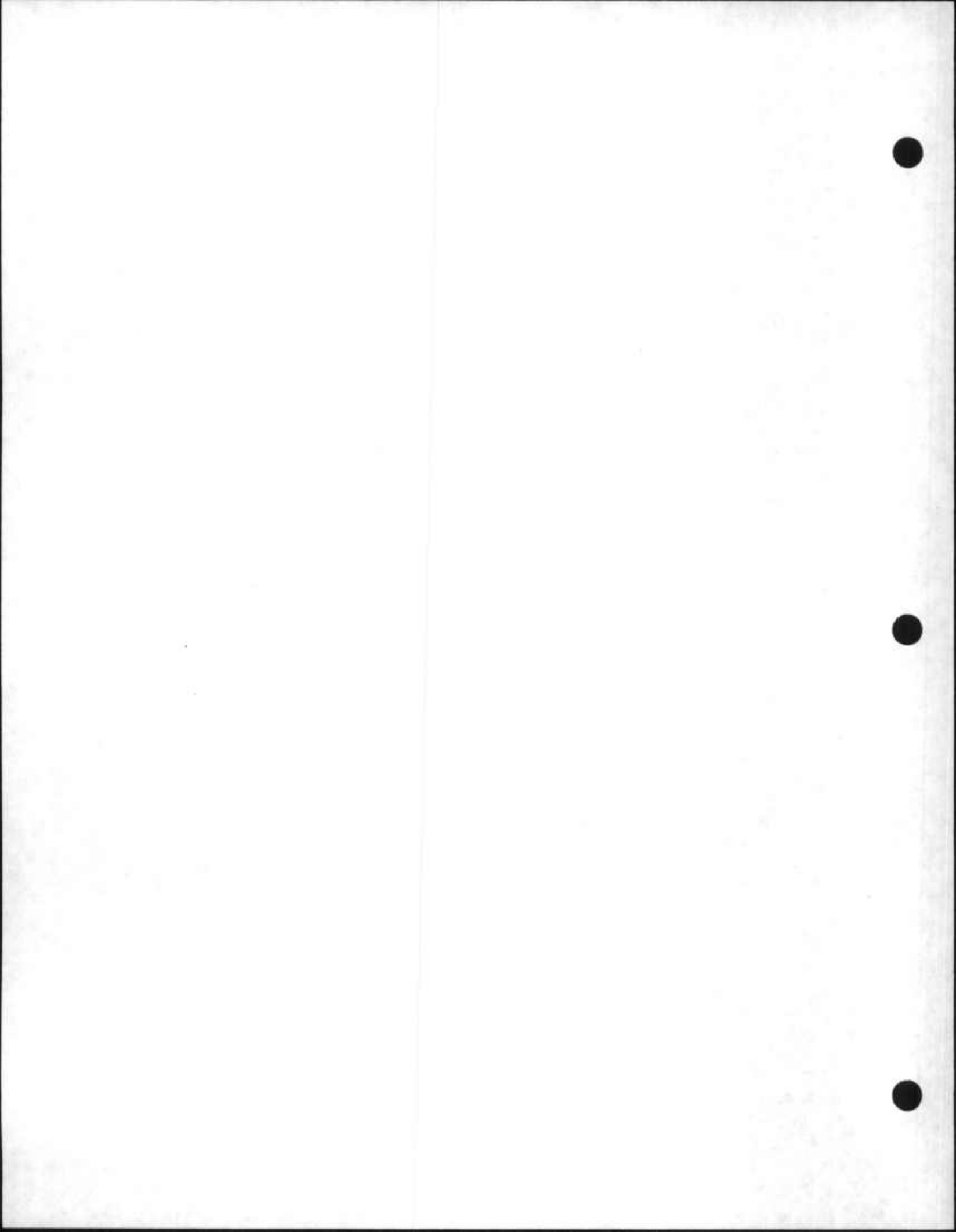
Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3482.

Sincerely,

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

Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester



Martin O'Malley
Governor



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September 27, 2007

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

Re: Elder, Emma- 2007-0279-V

Dear Ms. Cotter:

Thank you for forwarding the above referenced variance request. The applicant has requested a variance to allow construction of a single-family dwelling, driveway and well with less setbacks and steep slope buffer than required. The property is designated as a Resource Conservation Area (RCA) and is currently undeveloped.

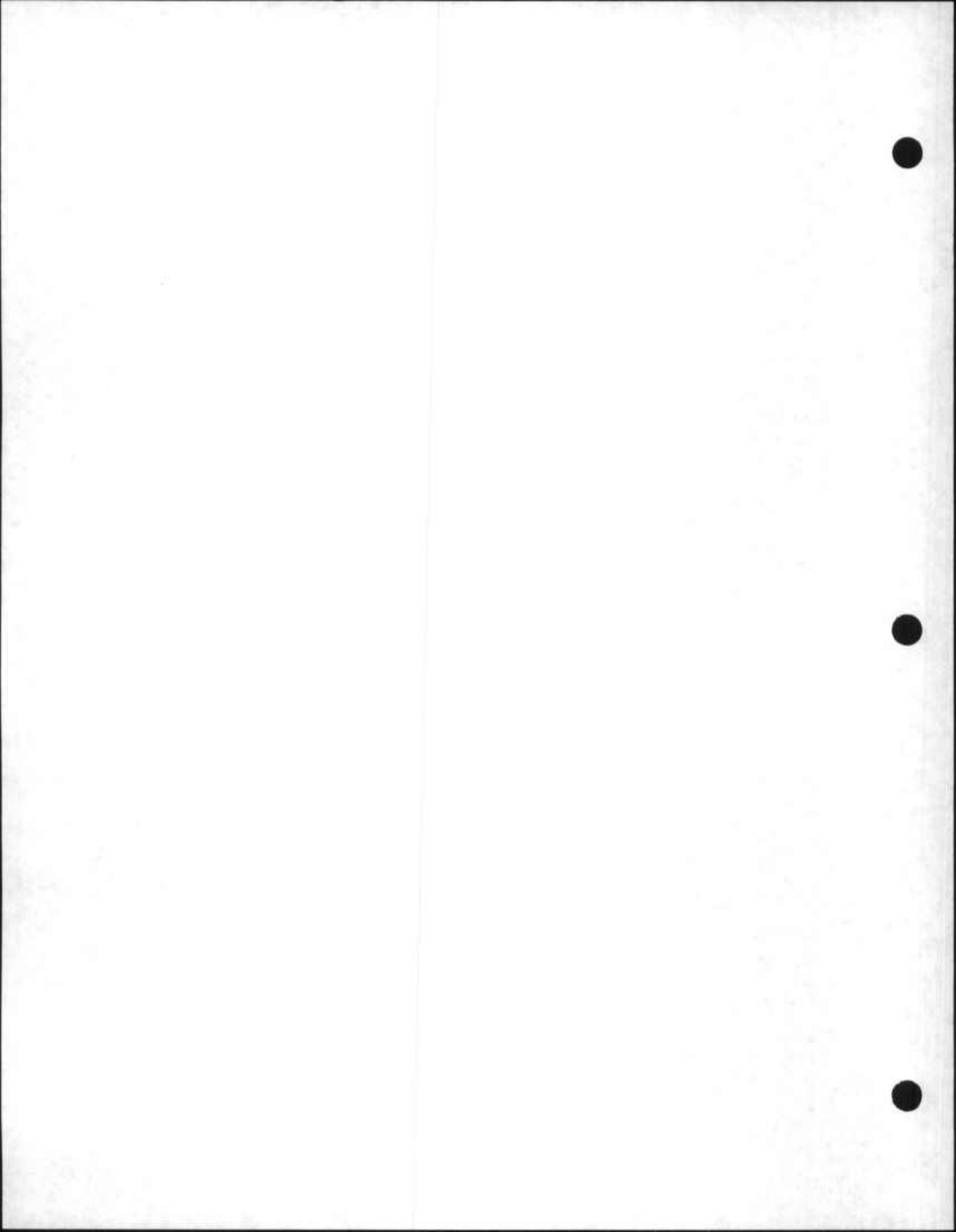
Provided that the property is properly grandfathered, this office does not oppose granting the requested variance. The applicant should provide reforestation for the proposed clearing at a 1:1 ratio, and the existing forest that will remain should be placed in a conservation easement. Also, because the construction is proposed on a currently undeveloped lot, we recommend that as a condition of the variance, the applicant seek and obtain a letter from the Maryland Department of Natural Resources Wildlife and Heritage Service (WHS) confirming that the proposed construction will not create any impacts to rare, threatened or endangered species on the property.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amber Widmayer'.

Amber Widmayer
Natural Resources Planner
cc: AA 513-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 26, 2007

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

Re: Grim, Deborah- 2007-0278-V

Dear Ms. Cotter:

Thank you for forwarding the above referenced variance request. The applicant has requested a variance to allow a dwelling addition with less setbacks and Buffer than required. The property is designated as a Limited Development Area (LDA) and is currently developed with a single-family dwelling and driveway.

Provided that the property is properly grandfathered, this office does not oppose granting the requested variance. While the proposed addition is not on the water-side of the house, it appears that most of the addition is still located within the 100-foot Buffer. Therefore, the applicant should provide mitigation plantings at a 3:1 for the total area of disturbance to the Buffer from both the deck replacement and the house addition. This mitigation planting should be provided in the Buffer on the site to the extent feasible.

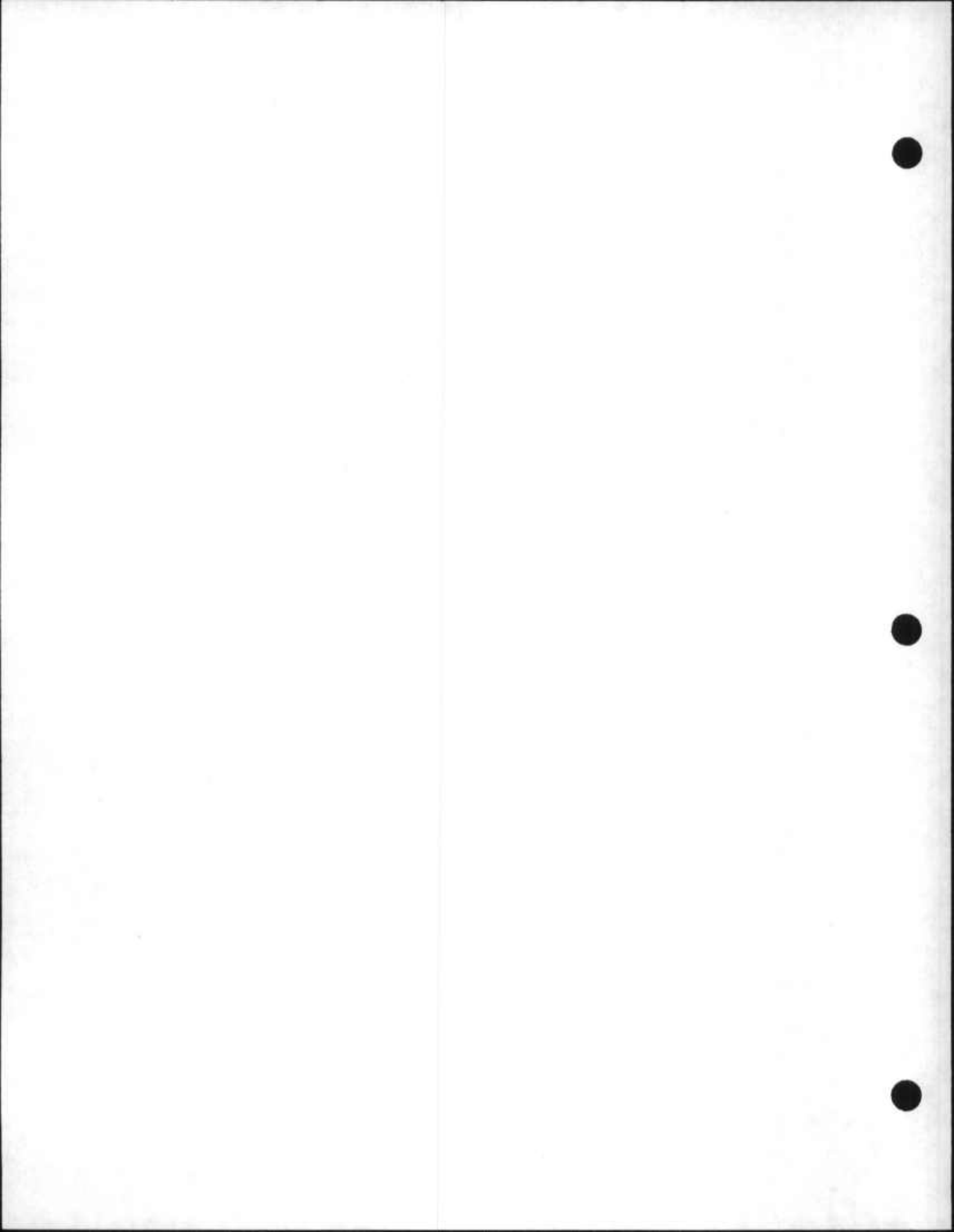
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 526-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 26, 2007

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

Re: Dew, Nelson- 2007-0277-V

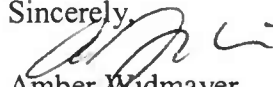
Dear Ms. Cotter:

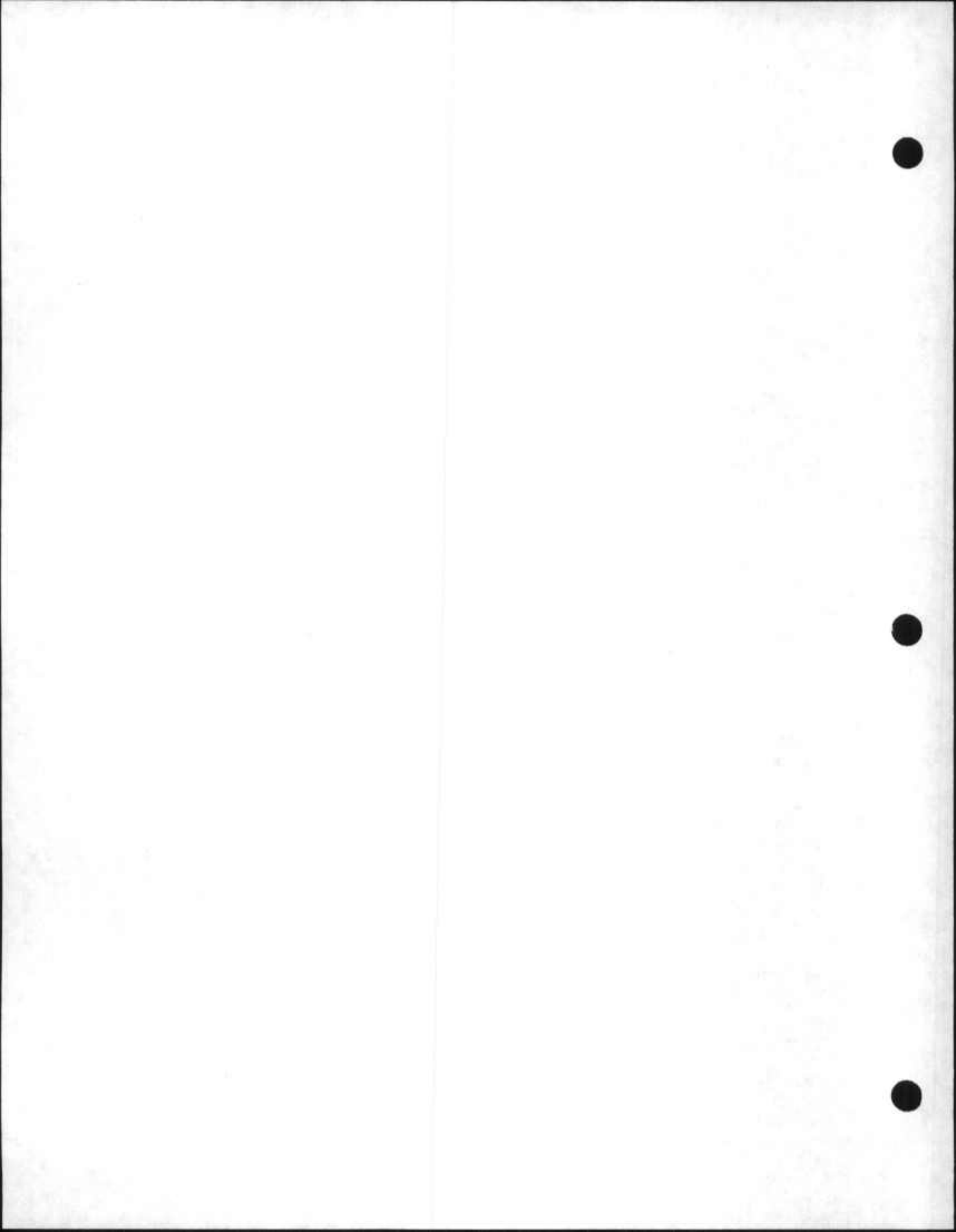
Thank you for forwarding the above referenced variance request. The applicant has requested a variance to allow construction of a single-family dwelling and driveway with less setbacks and non-tidal wetland buffer than required, and with disturbance to slopes 15% or greater. The property is designated as a Resource Conservation Area (RCA) and is currently undeveloped.

Provided that the property is properly grandfathered, this office does not oppose granting the requested variance. The applicant should provide mitigation at a 3:1 ratio for the total area of disturbance to slopes 15% or greater that results from clearing, grading and the constructed footprint of the driveway and dwelling. This area includes both the proposed area of disturbance on the applicant's lot and within the access right-of-way. Also, because the construction is proposed in a currently undeveloped area, we recommend that as a condition of the variance, the applicant seek and obtain a letter from the Maryland Department of Natural Resources Wildlife and Heritage Service (WHS) confirming that the proposed construction will not create any impacts to rare, threatened or endangered species on the property.

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

Sincerely,


Amber Widmayer
Natural Resources Planner
cc: AA 512-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 26, 2007

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Five Buoys at Rock Creek
S 04-096, P 07-0043

Dear Mr. Torney:

Thank you for forwarding the final submittal for the above referenced subdivision request. It appears that the applicant has addressed most of this office's comments from Kerry Gallo's April 30, 2007 letter. I have outlined my remaining comments below.

1. We note that as requested, the applicant has included a notation on the FSD and plan that no further clearing within the Critical Area is allowed. However, this notation does not appear on the plat. Please have the applicant add this notation to the plat as well.
2. There appears to be a typo on the plan with reference to the required Critical Area reforestation. The plan states that mitigation will be provided at a 1:15 ratio instead of at a 1:1.5 ratio.
3. There are some math errors in the impervious calculations chart on the plat and plan. The proposed impervious area for lot 11 is listed as 15.2%. However, I calculate that the proposed 614 square feet of impervious area is 20% of the 3,069 square foot lot. Also, the total proposed impervious area for houses and driveways is shown as 4,103 square feet. However, when I add up the proposed impervious area for lots 9-12 I get 3,965 square feet. Please have the applicant correct these calculations on the plat and plan.
4. There appears to be an error on the FSD in Forest Conservation Plan note #9. The note states that .22 acre will be in a conservation easement. I was unable to determine if this a separate area from the 2.9 acres of existing forest to be in a conservation easement that is referenced elsewhere in the submitted materials. Please have the applicant clarify what is meant in note #9.

Mr. Torney
September 24, 2007
Page Two

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 653-04

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

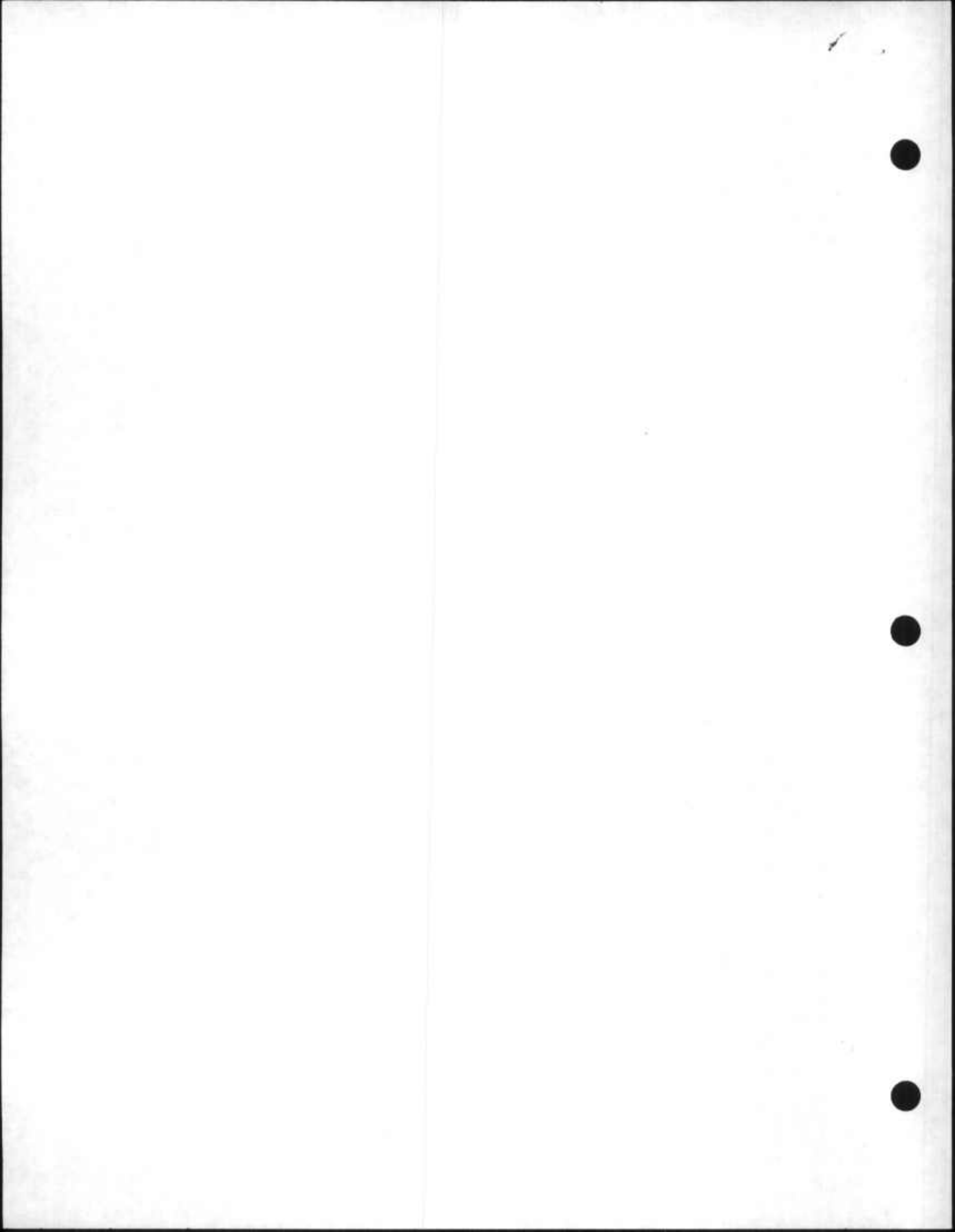
Re: Variance 07-3463 Boomerangs Restaurant

Dear Ms Whitt:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to the 15% impervious surface area limit to enclose an existing deck, and a variance to the 15% afforestation requirement. The property is currently developed and is designated as a Limited Development Area (LDA).

The applicant's property currently does not conform with Calvert County's Critical Area Program, in that 90% of it is already developed with impervious structures and parking lot. The applicant has not met its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." In this case, the property is already 90% developed and thus the applicant has not been denied reasonable and significant use of the entire parcel or lot. This high intensity of use is inconsistent with the development that is allowed in the LDA and consequently, this office cannot support a request that would allow more intense use of an already non-conforming property within the Critical Area. If the applicant wishes to further develop the property, the applicant must seek growth allocation from Calvert County in order to change the property designation from LDA to an Intensely Developed Area (IDA). Also, it is my understanding that the applicant has already installed a tent cover over the existing deck which has the effect of making the deck impervious. This applicant must remove the deck cover so that the deck will remain pervious.

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 410-260-3482.

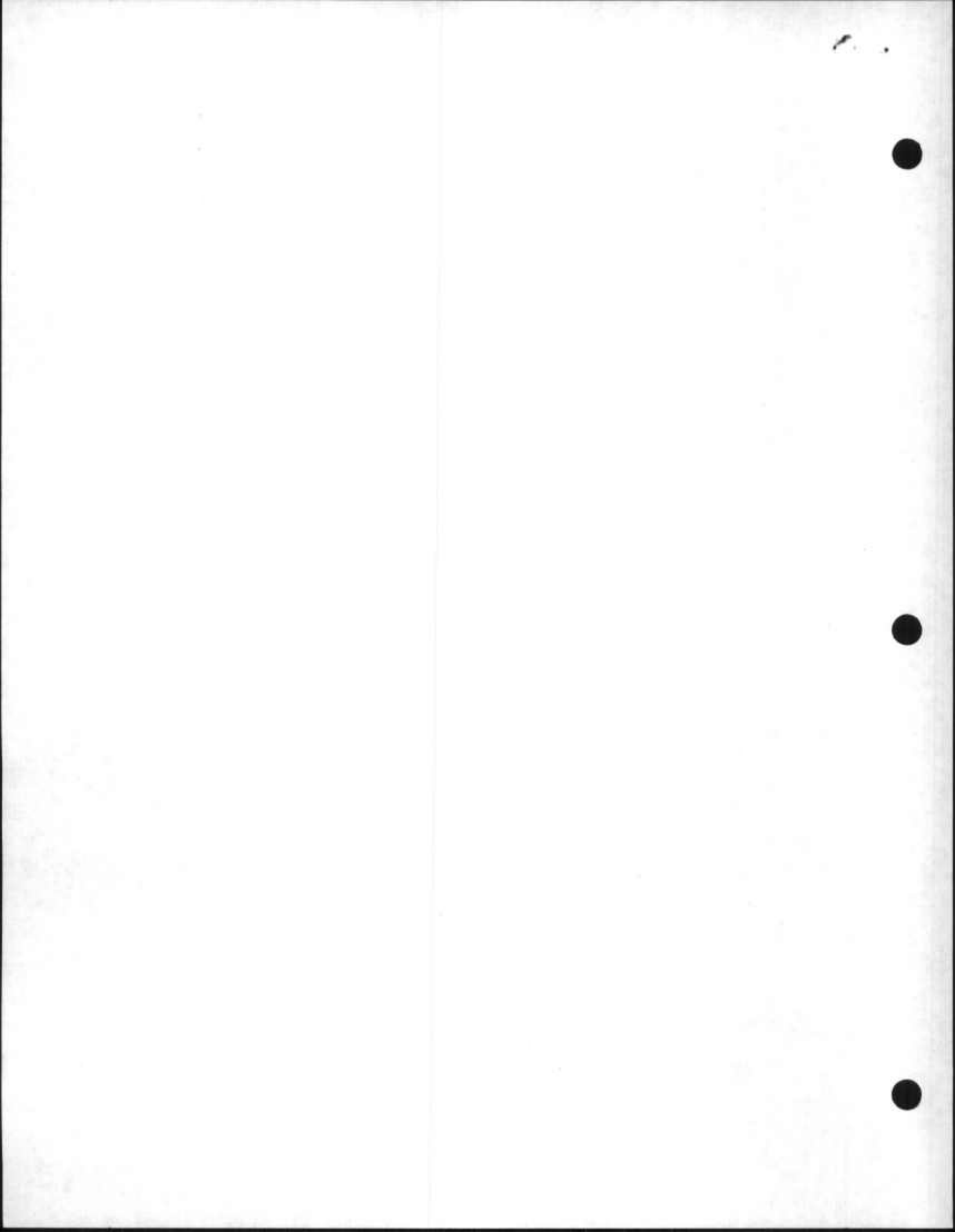


Ms. Whitt
September 21, 2005
Page Two

Sincerely,

A handwritten signature in cursive script, appearing to read 'Amber Widmayer'.

Amber Widmayer
Natural Resource Planner
CA 528-07



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

Re: Variance 07-3464 Woo, Marcus

Dear Ms Whitt:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to construct a dwelling and driveway with disturbance to slopes greater than 15% and the expanded Buffer. The property is currently undeveloped and is designated as a Limited Development Area (LDA).

Provided the applicant provides the required mitigation, this office does not oppose the requested variances. We recommend that the applicant provide mitigation at a 3:1 ratio for the total area disturbance to slopes greater than 15% from construction of the driveway. This includes disturbance from clearing, grading and the surface area of the driveway. It appears the applicant has sited the house in a way that minimizes impacts to the expanded Buffer and that there is no feasible alternate location for the septic fields that will not create impacts to the expanded Buffer. Therefore, we do not oppose the requested variance for disturbance to the expanded Buffer for these impacts. The applicant should provide mitigation at a 3:1 ratio for the area of the proposed septic fields within the expanded 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 410-260-3482.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner
CA 529-07

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Martin O'Malley
Governor



Margaret G. McHale
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September 19, 2007

Ms. Pam Helie
Calvert County Board of Appeals
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 07-3448 Mullican

Dear Ms. Helie:

Thank you for forwarding David Brownlee's map of the expanded Buffer on the Mullican property. The 5.84 acre property is designated as a Limited Development Area (LDA) and is currently developed with a single family dwelling, deck and driveway.

It appears from David Brownlee's mapping of the expanded Buffer that the expanded Buffer extends from the shoreline to the rear of the existing dwelling, and that there is less than ten feet between the rear of the dwelling and the edge of the expanded Buffer. This office concurs with this determination. Accordingly, the applicant must seek and obtain a variance for proposed disturbance to the expanded Buffer from the proposed deck, in addition to the variance to disturb slopes greater than 15% for which the applicant has already applied.

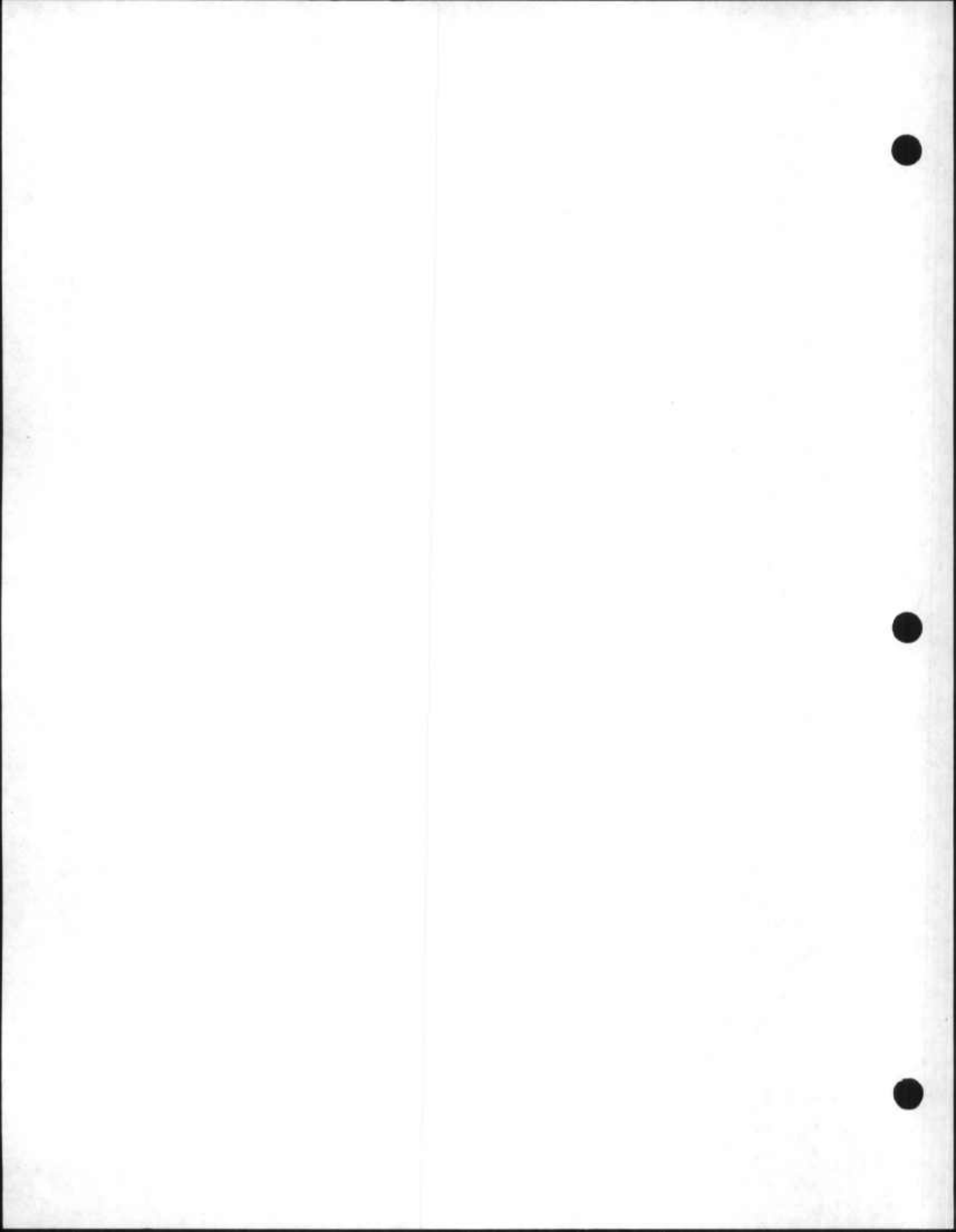
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner

cc: CA 0421-07
Dave Brownlee



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 19, 2007

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

Re: West River United Methodist Camp
G 02013034, B02236185

Dear Ms. Krinetz:

Thank you for forwarding the above referenced project. The proposed project is construction of a new structure to be used as a camp dining hall. The property is designated as a Resource Conservation Area and is currently developed with other camp related structures. I have provided my comments below.

1. The applicant should provide mitigation for the trees that will be cleared at a 1:1 ratio. The replacement mitigation should be located in the Buffer.
2. The property's use is allowed in the RCA under Anne Arundel County Code § 18-13-206(30). However, this provision of the County's Code limits impervious surface area for this use to the lesser of 15% of the lot or 20,000 square feet. In this case, 20,000 square feet is the appropriate limitation because it is less than 15% of the area of the property. The applicant's project proposes a total of 21,000 square feet. Accordingly, the applicant must either reduce the size of the proposed structure, or remove at least 100 square feet of existing impervious surface from the property.

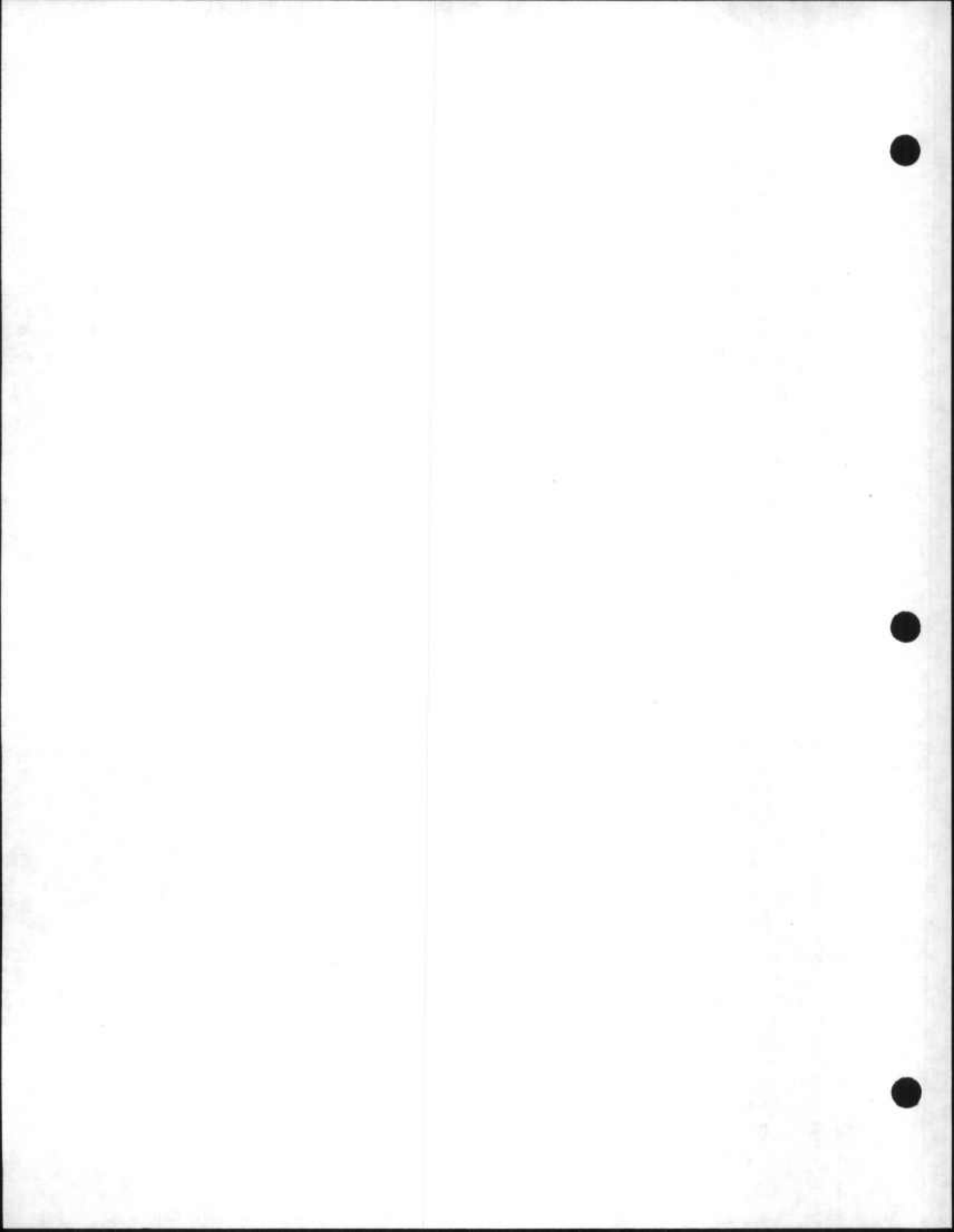
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "AW", written over a light blue horizontal line.

Amber Widmayer
Natural Resources Planner

cc: AA 505-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
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Ren Serey
Executive Director

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September 19, 2007

Ms. Ivy Dench-Carter
Penrose Properties, LLC
1318 East Fort Avenue
Baltimore, MD 21230

Re: Obery Court Phase I - Clay Street Revitalization

Dear Ms. Dench-Carter:

Thank you for providing information on the above mentioned project during our September 14, 2007 meeting. As you requested, I am sending this letter to document this office's position on the project as it is currently proposed. It is my understanding that the project site is designated as an Intensely Developed Area, that it is currently developed with multi-family dwellings and that the proposed project is to remove these structures and replace them with new multi-family dwellings.

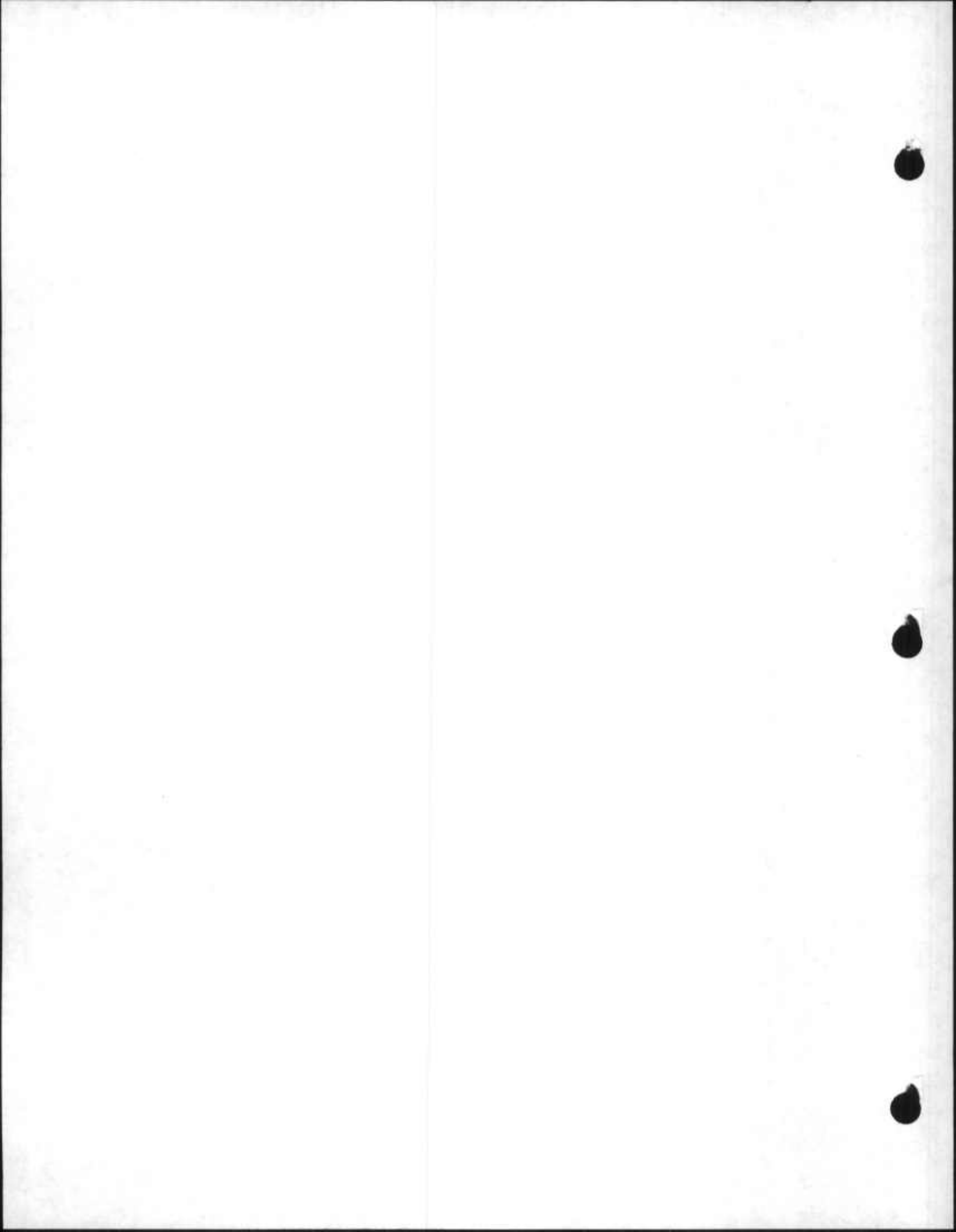
It appears from the plans you presented that the proposed multi-family dwellings will be located outside of the 100-foot Buffer, and there is not any other disturbance proposed within the Buffer. I note that the plans you presented showed a stormwater treatment facility in the 100-foot Buffer. However, it is my understanding that as a result of our discussion in the meeting, this facility will be relocated outside the Buffer and therefore no Buffer disturbance is currently proposed. Consequently, it appears that this office does not have any concerns with the proposed project configuration at this time.

Please feel free to call me if you have additional questions at (410) 260-3482.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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September 18, 2007

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

Re: Bussink, Jeffrey- BA 31-07V, BA 32-07V

Dear Ms. Cotter:

We have received notice of the above-referenced appeals. The applicant has requested an after-the-fact variance to perfect a shed without a principal structure and with less setbacks and Buffer than required, and to allow a pier without a principal structure. The property is designated an Intensely Developed Area. The Administrative Hearing Officer ordered that the pier be removed, and granted a variance for the shed conditioned upon the applicant providing mitigation and limiting usage of the shed to residential storage.

This office supports the denial of the requested variance for the pier and the order for its removal since it was constructed without permits from the County or the Maryland Department of the Environment. This office does not oppose the conditional variance allowing the shed to remain provided the structure was in place prior to the adoption of Anne Arundel County's adoption of its Critical Area Program. However, we do recommend that areas that have been added to the shed, such as the wooden platform on the waterside of the shed, be removed, to the extent that they are not grandfathered and were not permitted.

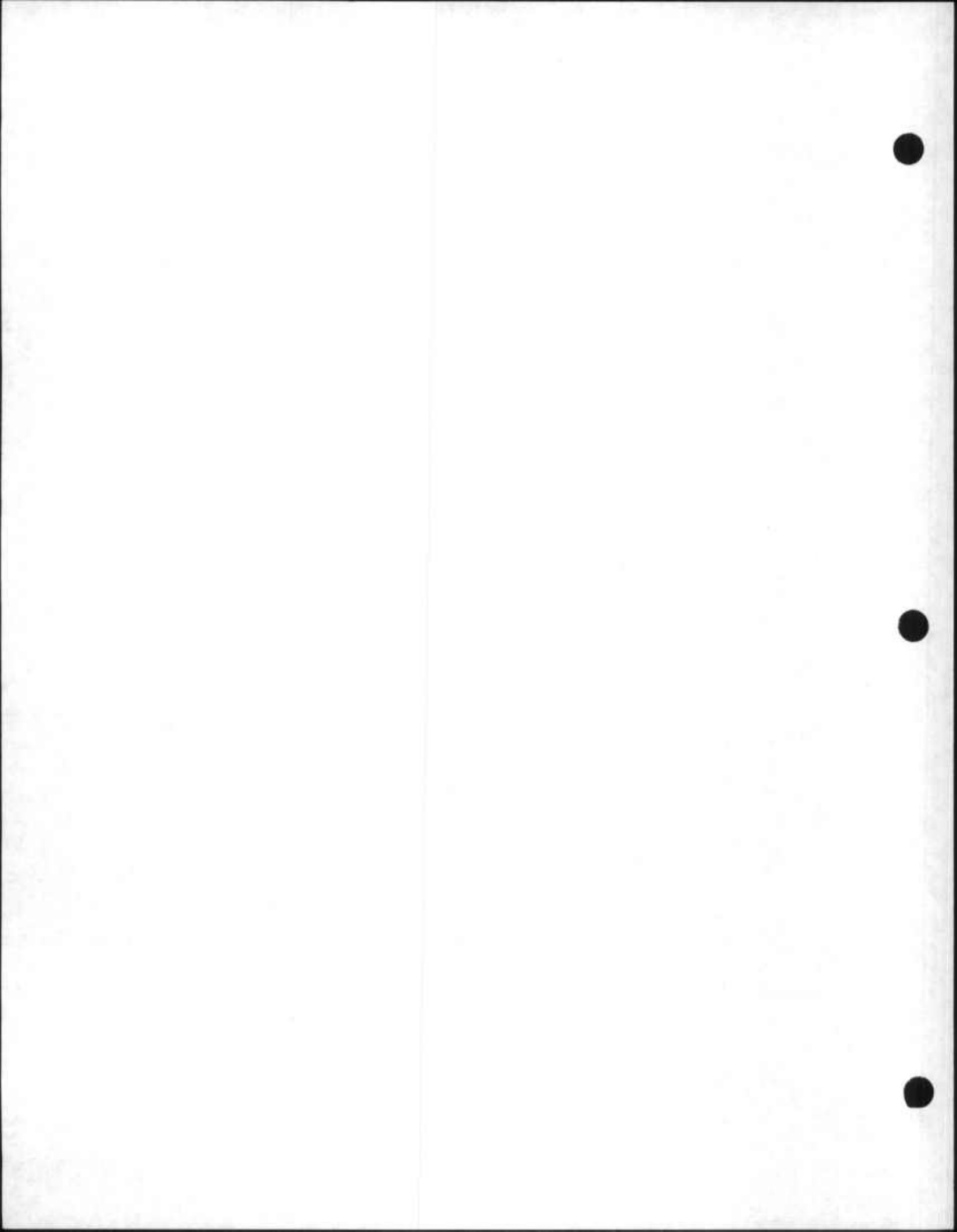
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this appeal. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 150-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 14, 2007

Mr. Dan Gerczak
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6303
Annapolis, Maryland 21401

Re: Chesapeake Development Group
S-07-049, P07-0133

Dear Mr. Gerczak:

Thank you for forwarding the above referenced subdivision request. The applicant has proposed to adjust the lot lines on two adjoining parcels such that the existing non-waterfront lot would become a waterfront lot, to remove an existing dwelling, and to construct a new dwelling on each lot. The existing lots are designated as an Intensely Developed Area.

We oppose a subdivision proposal that would allow greater disturbance to the Buffer than would be allowed under the current lot configuration, solely for construction and use of an additional pier. Allowing the resulting disturbance from the construction and use of a second pier on existing parcel #313 is in direct conflict with the findings on which the General Assembly based the creation of the Critical Area Law.

"The restoration of the Chesapeake and Atlantic Coastal Bays and their tributaries is dependent, in part, on minimizing further adverse impacts to the water quality and natural habitats of the shoreline and adjacent lands, particularly in the Buffer. The cumulative impact of current development and of each new development activity in the Buffer is inimical to these purposes." Natural Resources Article § 8-1801(a)(8) and (9).

Anne Arundel County incorporated these goals into its Critical Area program through provisions such as Anne Arundel County Code § 17-8-502, which states that Habitat Protection Areas, including the 100-foot Buffer, "shall be preserved and protected in connection with all development as set forth in this subtitle and as required by the Office of Planning and Zoning in accordance with the recommendation of the Department of

Mr. Dan Gerczak
September 14, 2007
Page Two

Natural Resources and other reviewing agencies.”

Accordingly, the proposed subdivision should not be approved. The applicant already has the ability to develop dwellings on both existing lots and to have one pier based on the riparian access rights attached to the existing parcel #313.

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

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 457-07

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

September 13, 2007

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

Re: Butler-Johnson- 2007-0249-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow a dwelling and driveway with disturbance to nontidal wetlands, the 100-foot Buffer, and Habitat Protection Areas. The property is currently undeveloped with a dwelling and is designated as a Resource Conservation Area (RCA). It appears from our records that the 100-foot Buffer is expanded for tidal wetlands on the property such that the entire lot is within the expanded Buffer.

Due to the proposed extensive degradation of the quality and quantity of sensitive environmental features of the property, this office cannot support the requested variance for the project as it is currently proposed. I have outlined the proposed environmental impacts, required mitigation, and additional required variances below.

Additional Required Variances

Anne Arundel County Code § 17-8-601 prohibits clearing more than 20% of the forested area of lots that are greater than one half acre without obtaining approval from the County, and prohibits any clearing that is greater than 30% of the existing forested area. The applicant states that the lot is 44,720 square feet, and proposes to clear 4,344 square feet of the existing 4,624 square feet of forested area, which equals 94% of the existing forested area. Accordingly, the applicant must apply for a variance to clear more than 30% of the existing forested area of the lot and the total area of proposed forest clearing requires mitigation at a 3:1 ratio. Also, the applicant must provide mitigation at a 3:1 ratio for any additional area within the Buffer that is disturbed by proposed grading or building footprint. This Buffer and forest disturbance mitigation requirement is separate

from the stormwater mitigation requirement that the applicant is proposing to meet on-site.

The applicant has incorrectly states the appropriate mitigation standards as described below:

- The applicant states that mitigation will be provided at a 2:1 ratio for the area of proposed impervious surface in accordance with Anne Arundel Code §17-8-702. However, § 17-8-702 is only applicable on properties that are mapped as a Buffer Modification Area, which is not the case for this property. Therefore, mitigation at a 3:1 ratio for the total area of disturbance within the expanded Buffer is the applicable standard.
- The applicant states that, "a variance will not be required for the extension of Creek Drive since this is a linear project less than one-half acre in size and forest clearing will be less than 6,534 square feet." This is not correct. If the applicant is making the improvements to the road, then the applicant, and not the Oyster Harbor Citizens Association, is responsible for addressing the impacts of this improvement. Therefore, the applicant must include the proposed road extension area in the variance request and correct the forest clearing and impervious area calculations accordingly. If the total impervious surface area of the lot and the road area is greater than 15% once the calculations are corrected, the applicant must seek an impervious surface variance.

Planting Area On-Site

In the applicant's critical area report, the applicant proposes to provide 2,040 square feet of mitigation plantings on-site for meeting stormwater management requirements, and the applicant must also provide the requisite mitigation for expanded Buffer disturbance and forest clearing. However, it appears from our records that the proposed house will consume most of the upland area of lot 13 on which these plantings could be located, and the rest of the lot is comprised of tidal wetlands. If the applicant plans to do mitigation plantings in wetlands, he must submit a planting plan to both the Critical Area Commission and MDE so that it can be determined whether the proposed numbers and types of plant species will survive in tidal waters and whether they will disturb the existing wetland vegetation and habitat.

Habitat Protection Areas

The applicant states on page 3 of the report that the southeast corner of the property is identified as waterfowl concentration and staging area, but does not include documentation of this fact in the submitted materials. The applicant must obtain and submit to the Commission a letter from Maryland Department of Natural Resources Wildlife and Heritage Service confirming the location of this and any other Habitat Protection Areas on the site, and stating the Wildlife and Heritage Service's

recommendations for necessary actions to be taken by the applicant in order to protect those areas from disturbance.

Extensive Wetland Acreage

As mentioned above, our records show that the majority of lot 13's acreage is comprised of tidal wetlands. In cases where extensive portions of a property are tidal wetlands, it is necessary for the applicant to have a licensed wetlands delineator field certify the acreage of tidal wetlands that are owned by the applicant as opposed to the state. State owned tidal wetlands cannot legally be included within the boundaries of a privately owned lot for purposes of meeting impervious surface or other Critical Area requirements. If the total acreage that is privately owned by the applicant is reduced as a result of the certification such that the proposed construction exceeds the 15% impervious surface area limit, the applicant will need to seek an impervious surface variance. Also, we note that there is a significant difference between what is shown as uplands on sheet two of the applicant's plan, and what appears on both sheet one of the applicant's plan and in our records regarding the forested upland area and wetlands on lots 13 and the adjacent lot to the east of lot 13, which is lot 14. We note that the applicant owns lot 14. Please have the licensed wetland delineator clarify which sheet of the applicant's plans is accurate, and map the location of the tidal and nontidal wetlands and Buffers on both lots 13 and 14.

Recommendations for Amended Variance Request

This office cannot support a variance for the currently proposed project. Lots 13 and 14 should be combined to eliminate or minimize the type and extent of disturbances discussed above. While the second sheet of the applicant's variance, grading and sediment control plan shows wetlands covering lot 14 and a smaller area of forested upland than lot 13, the first sheet of the applicant's plans is consistent with our records in showing a forested upland area that is more extensive than that on lot 13. Additionally, lot 14 is LDA while lot 13 is RCA. The applicant should make use of the buildable areas of both lots 13 and 14 for construction of the proposed dwelling to minimize the extensive negative impacts on the environment, and to minimize the resulting mitigation and variance requirements for the project as it is currently proposed. For instance, by combining the buildable area of the two lots, the applicant will be able to propose a lower percentage of forest clearing and impervious surface area. Additionally, it appears that if the applicant were to make use of the buildable area on lot 14 and lot 13, there would be enough room to pull the house back further from the tidal wetlands.

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

Ms. Cotter
September 14, 2007
Page 4 of 4

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AA 495-07

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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September 12, 2007

Mr. David Humphries
Calvert County Planning Commission Secretary
150 Main Street
Prince Frederick, Maryland 20678

Re: Earl Hance Replat

Dear Mr. Humphries:

Thank you for providing information regarding the above mentioned proposed replat. The applicant proposes to create a three acre lot in the Limited Development Area (LDA) with a residue of 28.63 acres in the Resource Conservation Area (RCA) and four acres in LDA. I have provided comments below.

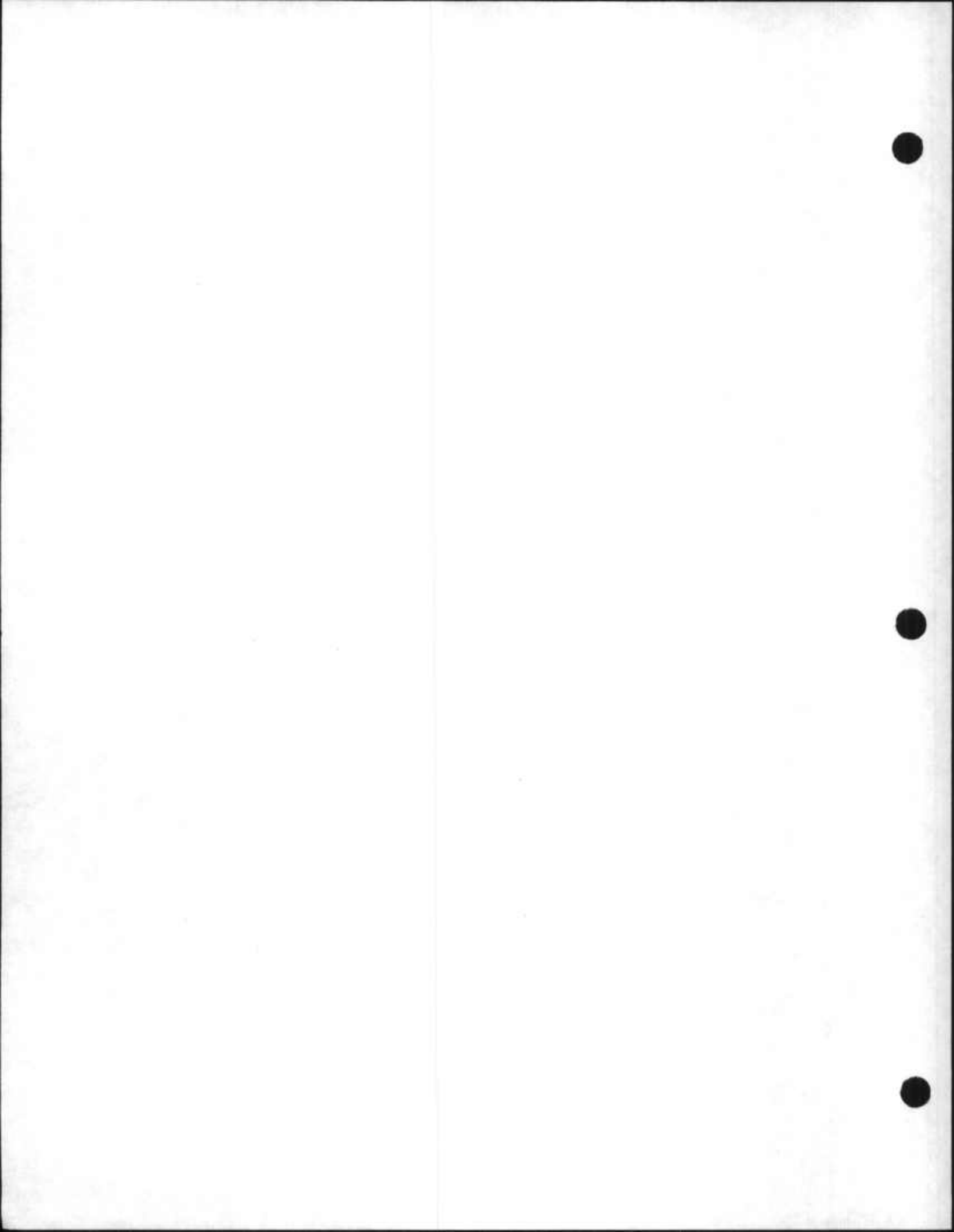
- 1) There seems to be a math error in note number 13 on the plat. The impervious area allowed on the proposed lot is 15% of the 3.0012 acres (130,734 square feet). This amounts to 19609.84 square feet. If the existing impervious area on the proposed lot is 4925 square feet, this leaves a maximum additional impervious area allowance of 14,684.84 square feet, not 125,809 square feet as is written on the plan. Please have the applicant correct this calculation on the final plat.
- 2) It does not appear that any other Critical Area issues are raised by the proposed lot since the plan states that the residue of the property is non-buildable without the applicant seeking further review by the County.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner
CA 535-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 12, 2007

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

Re: SD 02-08A-Harbours at Solomons

Dear Ms. Vidotto:

Thank you for providing the proposed plats for the above referenced subdivision. This subdivision is to be developed according to the terms of the Letter of Understanding signed by the applicant who is CG Solomons Marina LLC, the Calvert County Planning Commission, and this office. While the above mentioned parties have agreed that the development will be conducted according to the terms of the Letter of Understanding, the applicant must first show how these terms will be addressed in a final stormwater management plan and a final landscaping plan before plats may be recorded. This office has not received these plans from the applicant, and therefore we request that the County refrain from recording any of the proposed lots because changes to the proposed plats may be necessary as a result of final review of plans.

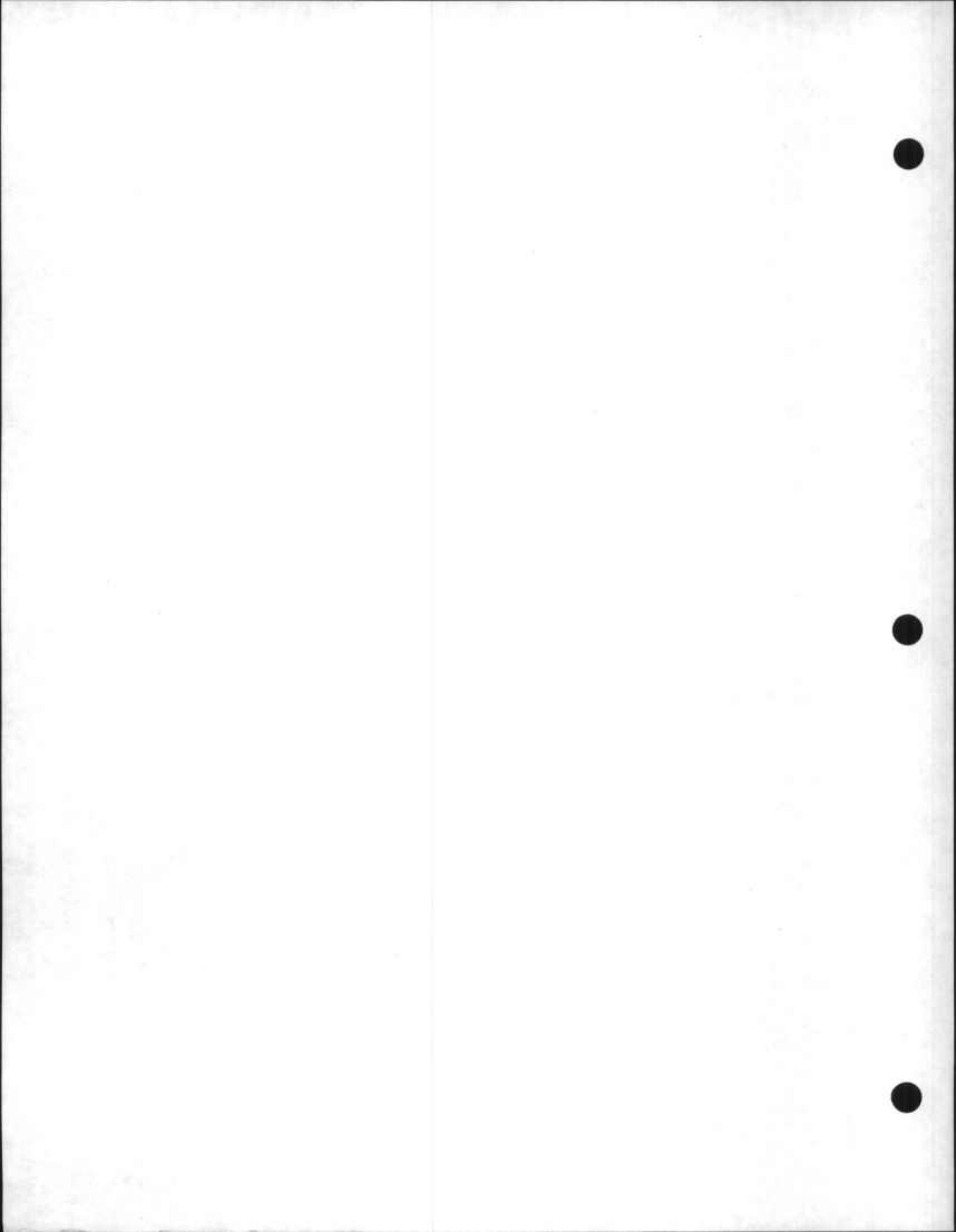
Also, all notations on the submitted plats should be consistent with the terms of the Letter of Understanding. For instance, the applicant has agreed to meet a 20% pollutant reduction requirement instead of the standard 10% pollutant reduction requirement for development on land that is designated as an Intensely Developed Area. Accordingly, the notations that refer to 10% pollutant reduction requirements on the plats and plans should be changed to reflect the agreed upon 20% pollutant reduction rate.

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 410-260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resource Planner
CA 474-06



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

Re: Aschenbak, Robert- 2007-0258-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested an after-the-fact variance to perfect an accessory structure with less Buffer to a bog than required. The property is currently developed with a dwelling, driveway and pool and is designated as a Limited Development Area (LDA).

This office cannot support the requested variance. Given the special protections provided by Anne Arundel County and the State for protection of bogs and their buffers, it is this office's position that a detached garage is an inappropriate use of the buffer to such a rare and sensitive natural resource. The applicant already has reasonable and significant use of the property since it is already developed with a dwelling, driveway and pool, and denial of a variance for a detached garage will not create an unwarranted hardship for the applicant. Accordingly, this office recommends that the unpermitted garage and its concrete pad be removed.

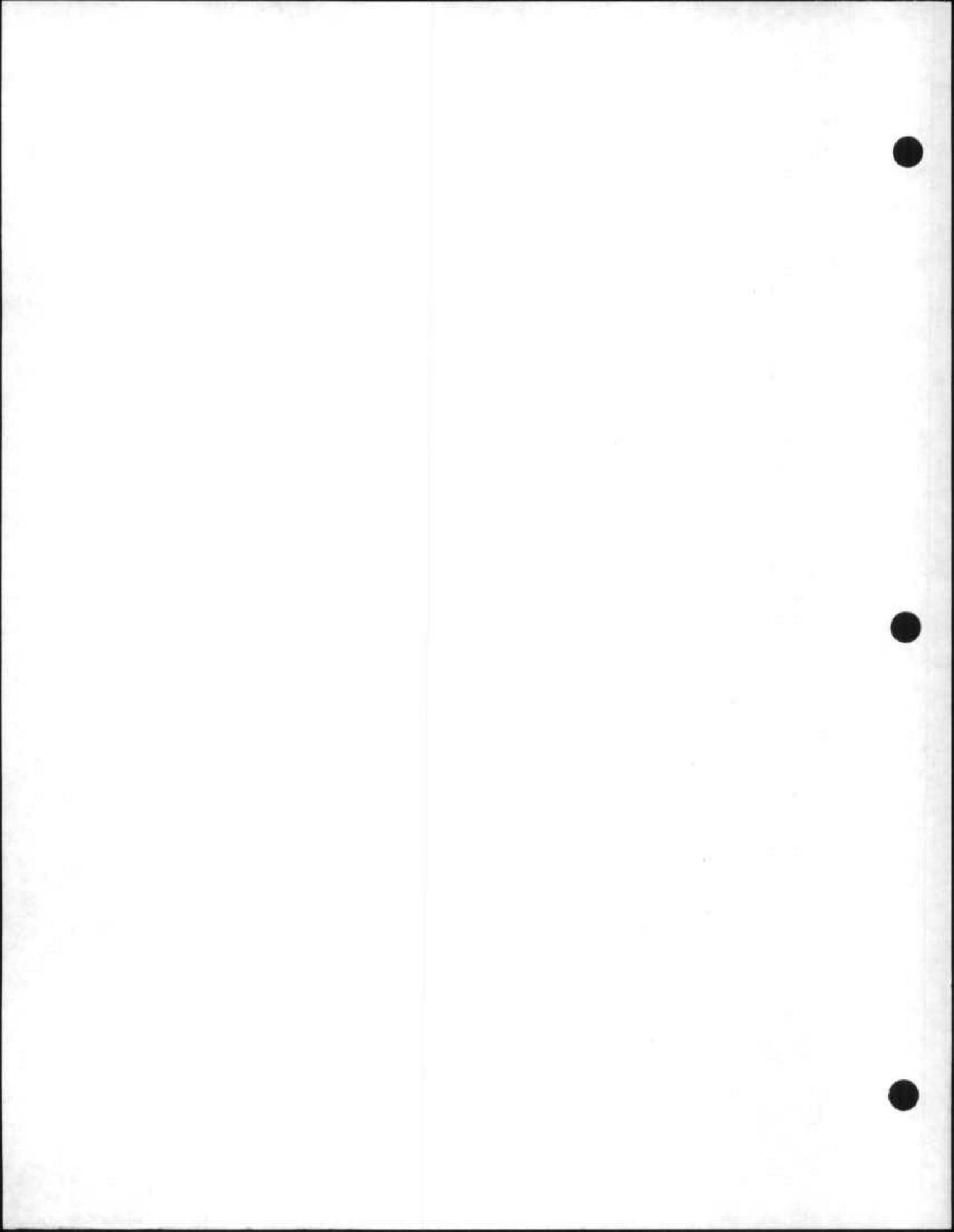
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in dark ink, appearing to read 'AWidmayer'.

Amber Widmayer
Natural Resources Planner

cc: AA 496-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 10, 2007

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

Re: Prager- 2007-0265-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested an after-the-fact variance to allow a walkway and steps with less setbacks to the 100-foot Buffer than required. The property is currently developed with a dwelling and is designated as a Limited Development Area (LDA).

While this office typically does not oppose variance requests for disturbance to the Buffer in order to provide property owners with riparian access where the applicant shows minimization of the proposed Buffer disturbance, we cannot support the requested variance in this case. The applicant's constructed steps and walkway are not the minimum necessary disturbance to the Buffer to create riparian access. It appears that the applicant has cleared a substantial swath of a previously functioning vegetated Buffer to construct stone steps and a wooden walkway that is parallel to the shoreline and spans the entire width of the applicant's waterfront edge of the property. While this office would not oppose the construction of wooden steps and/or a walkway from a dwelling to the shoreline to create riparian access, impervious stone steps and a walkway that is parallel to the shoreline is in excess of what is reasonable riparian access and is inconsistent with demonstrating minimization of disturbance to the Buffer. Accordingly, we cannot support the requested variance to the extent that it includes the lateral walkway, and to the extent that the steps are installed in a way that creates impervious area. We recommend that the walkway be removed, that the stone steps be replaced with pervious wooden steps, and that the applicant be required to reestablish a vegetated Buffer along the shoreline. Also, the applicant should provide mitigation at a 2:1 ratio for the area of disturbance to the Buffer for the steps. These mitigation plantings should be provided on-site in the Buffer to the extent feasible.

TTY for the Deaf

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

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

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 499-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 5, 2007

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

Re: Rabena, John - 2007-0223-V

Dear Mr. Ethridge:

Thank you for forwarding the above referenced variance application. The applicant has requested a variance to construct a dwelling, garage and deck on slopes greater than 15%. The property is currently undeveloped and is designated as a Limited Development Area (LDA). It is our understanding that the applicant has submitted revised plans for this site. While we have not yet received these revised plans, based on our conversation this morning our office is providing these comments to supplement the ones already provided by this office in Megan Sine's August 6, 2007 letter.

This office cannot support granting the requested variance for the construction as it is currently proposed. We would not oppose an amended variance application for construction of a dwelling on this property, provided the design and placement of the dwelling is modified to adequately minimize the proposed extensive impacts to the regulated and sensitive environmental features of the lot. In particular, this office would not oppose an amended variance application that incorporated the type and extent of modifications that are discussed below.

No Disturbance Within the 100-foot Buffer

It is our understanding that the applicant's new plans show the proposed 3,500 square foot house with a deck that is mostly within the 100-foot Buffer and slopes greater than 15%. The applicant should remove this deck and any proposed structures, clearing, or grading from the 100-foot Buffer, as this office will not support a variance for Buffer disturbance in cases such as this where it is possible to locate a dwelling elsewhere on the property. Therefore, the applicant should locate all proposed construction and limits of disturbance outside of the Buffer.

Minimization of Disturbance to Slopes Greater than 15%

The applicant's plans for the proposed dwelling do not minimize impacts to slopes greater than 15%. Anne Arundel County's Code contains several requirements that are designed to minimize impacts to steep slopes. The applicant has not met those that are possible to do given the site characteristics.

Anne Arundel County Code § 16-2-304(c) provides that development may not occur within 25 feet of the top of slopes with a grade of 25% or more. The applicant has shown this 25-foot setback line on the plan and there is sufficient room behind this line to locate the proposed house on the property. However, the applicant has located approximately half of the house within this setback. Within the Critical Area, Anne Arundel County Code §18-13-104 states, "if there are contiguous slopes of 15% or greater, the buffer shall be expanded by the greater of four feet for every 1% of slope or to the top of the slope and shall include all land within 50 feet of the top of the slopes." The applicant's plan shows slopes of 15-25% that are contiguous to the 100-foot Buffer. It is unclear exactly where the expanded Buffer would be if expanded four feet for every 1% of slope. However, even if the expanded Buffer were to be expanded by the lesser 50 foot setback from the top of the steep slopes, it seems that a significant portion of the proposed dwelling could be located behind this line. Accordingly, the applicant should locate as much of the dwelling as is feasible outside of at least the 50 foot setback from the top of the steep slopes.

Minimization of the Construction Footprint

In addition to the modifications of the placement of the proposed dwelling, it appears that it is possible for the applicant to reduce the size of the dwelling footprint. The applicant has proposed a house that is at least 3,500 square feet. This seems excessive given the constraints of the lot and the smaller size of the surrounding dwellings. Similarly, it is this office's position that the proposed garage and a parking pad are not necessary given the site constraints, and if they were removed from the plan would provide further area in which the proposed dwelling could be located. Therefore, it is this office's position that the size of the proposed dwelling and driveway can be reduced and that the proposed garage and parking pad are not necessary.

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

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 441-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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September 4, 2007

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

Re: Mazzone, John- 2007-0261-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow pilings with less setbacks than required. The property is currently developed with a dwelling, driveway and shed and is designated as an Intensely Developed Area (IDA).

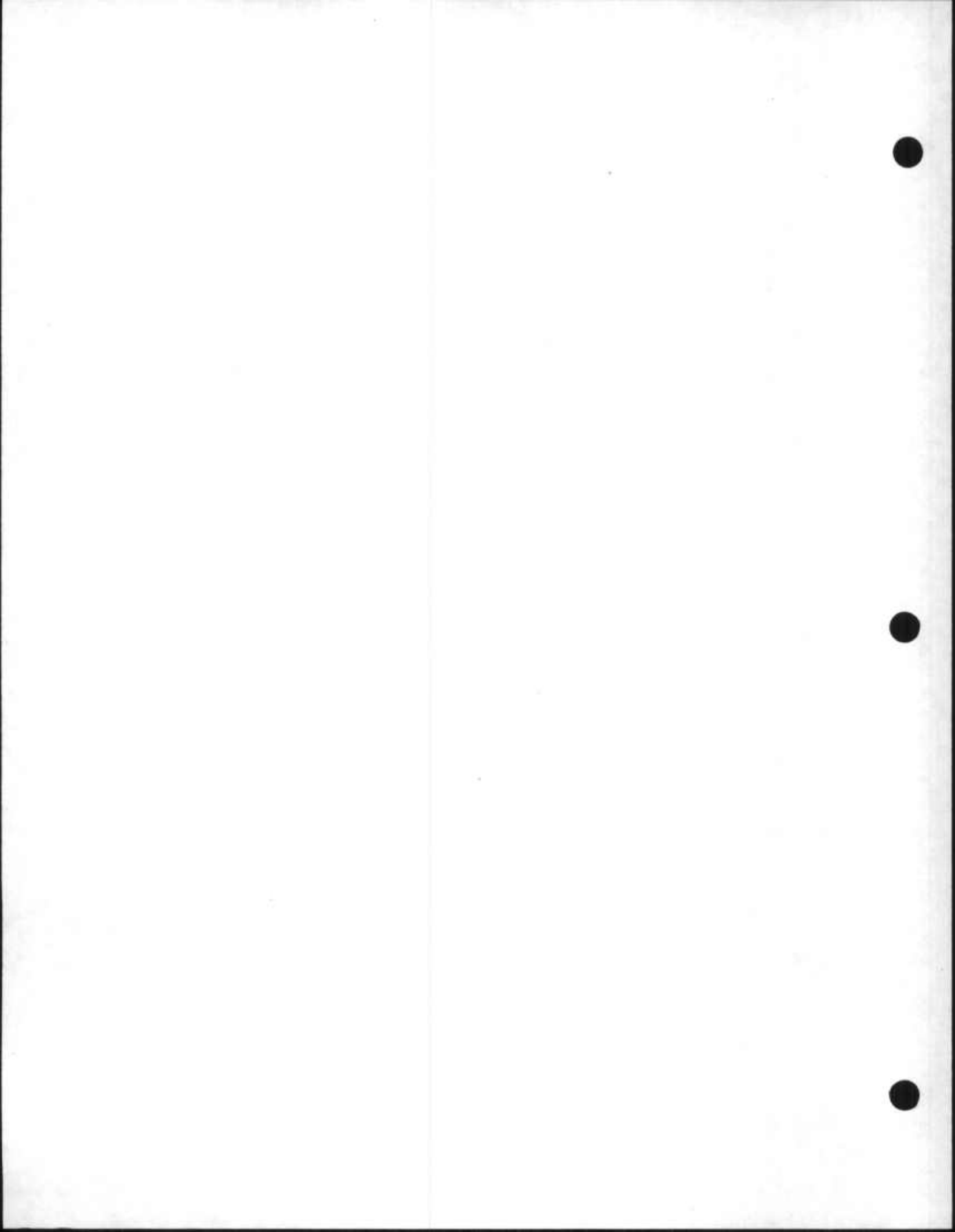
Provided the pilings will not impact any known aquatic plant or animal habitat, such as submerged aquatic vegetation or oyster beds, it does not appear that the requested variance will raise any Critical Area concerns. Therefore, provided the property is properly grandfathered this office does not oppose the requested variance.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'AWidmayer'.

Amber Widmayer
Natural Resources Planner
cc: AA 498-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 31, 2007

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

Re: Lueck, Kevin & Brenda- 2007-0260-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow construction of a roof over an existing concrete porch with less setbacks than required. The property is currently developed with a dwelling and driveway and is designated as an Intensely Developed Area (IDA).

Because the proposed porch roof will not create any new impervious surface area, it does not appear that the proposed deck will raise any Critical Area concerns. Therefore, provided the property is properly grandfathered this office does not oppose the requested variance.

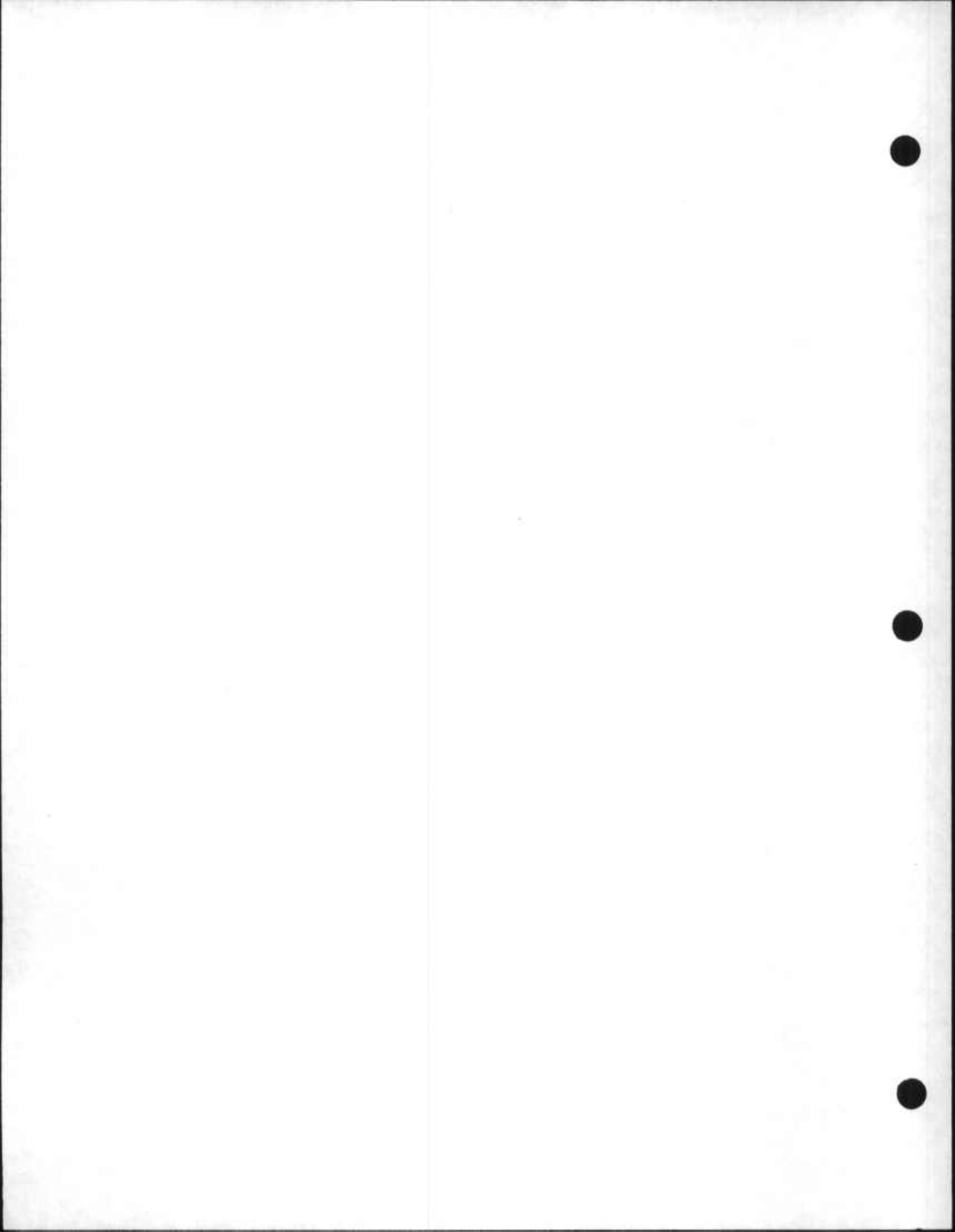
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 497-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 31, 2007

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

Re: Peyton, Richard & Margaret- 2007-0243-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow a deck with less setbacks than required. The property is currently developed with a dwelling, driveway and shed and is designated as a Limited Development Area (LDA).

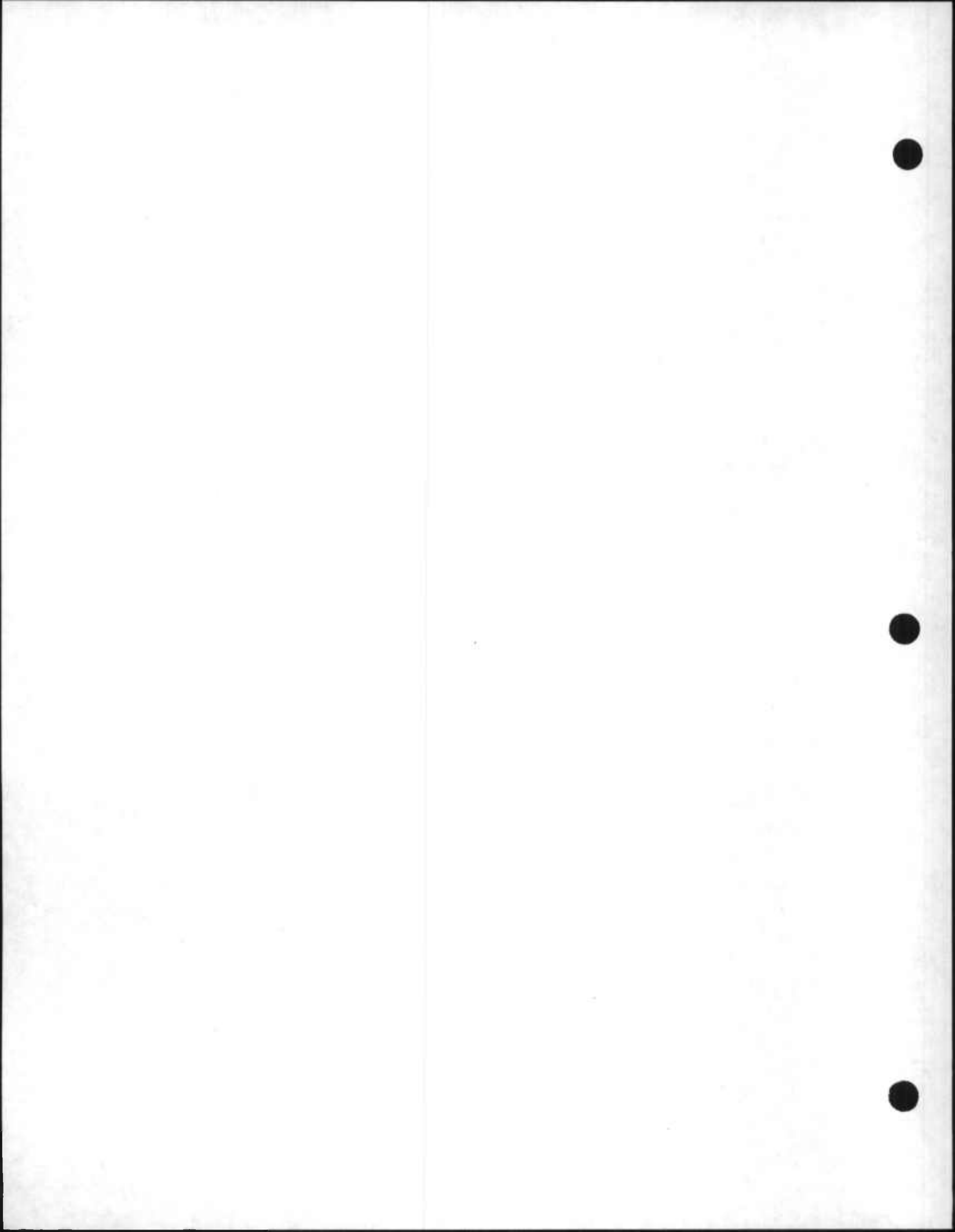
It does not appear that the proposed deck will raise any Critical Area concerns. Therefore, provided the property is properly grandfathered this office does not oppose the requested variance.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Amber Widmayer'.

Amber Widmayer
Natural Resources Planner
cc: AA 480-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 31, 2007

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

Re: Sporer, Richard & Shannon- 2007-0224-V

Dear Ms. Cotter:

Thank you for forwarding the above referenced variance application. The applicant has requested a variance to allow construction of a sunroom with less setbacks than required. The property is currently developed with a dwelling and driveway and is designated as an Intensely Developed Area (IDA).

Provided the property is properly grandfathered, this office does not oppose the requested variance. Because the property is designated IDA and the proposed project will create an additional 192 square feet of impervious surface area, the applicant must meet the 10% pollutant reduction requirement.

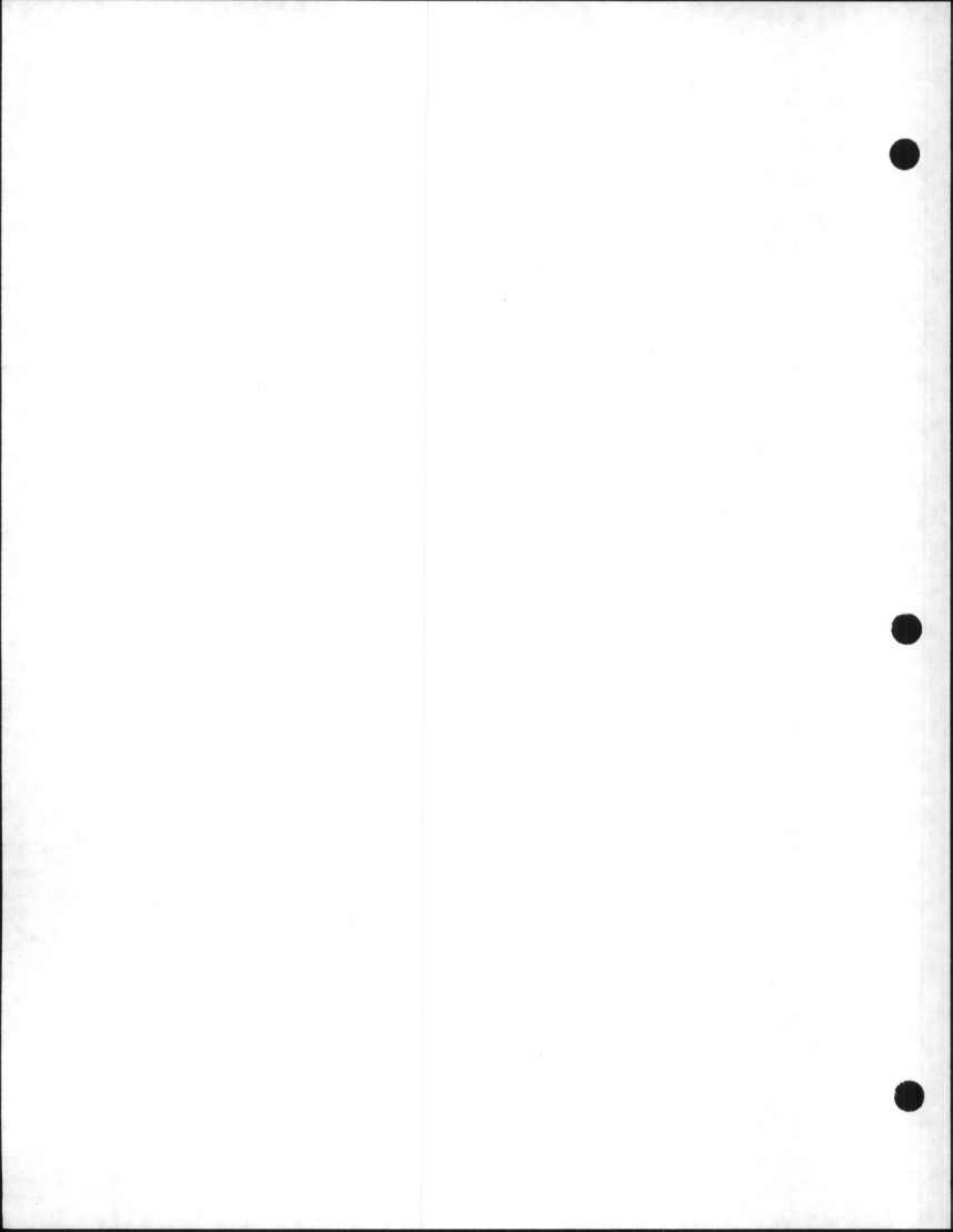
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "AW", written over a faint circular stamp.

Amber Widmayer
Natural Resources Planner

cc: AA 481-07



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 31, 2007

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

Re: Sharpe, Joeseph R. - 2007-0240-V

Dear Ms. Cotter:

Thank you for forwarding the above referenced variance application. The applicant has requested a variance to allow a deck with less setbacks and Buffer than required. The property is currently developed with a dwelling and driveway and is designated as a Limited Development Area (LDA).

Provided the property is properly grandfathered, this office does not oppose the requested variance. We recommend the applicant provide mitigation for the total area of disturbance to the Buffer at a 3:1 ratio. Disturbance includes grading, clearing and footprint of the proposed structures. These mitigation plantings should be provided on-site in the Buffer to the extent feasible. The deck should be constructed with spaces between the boards, with a gravel substrate and vegetative stabilization at the perimeter.

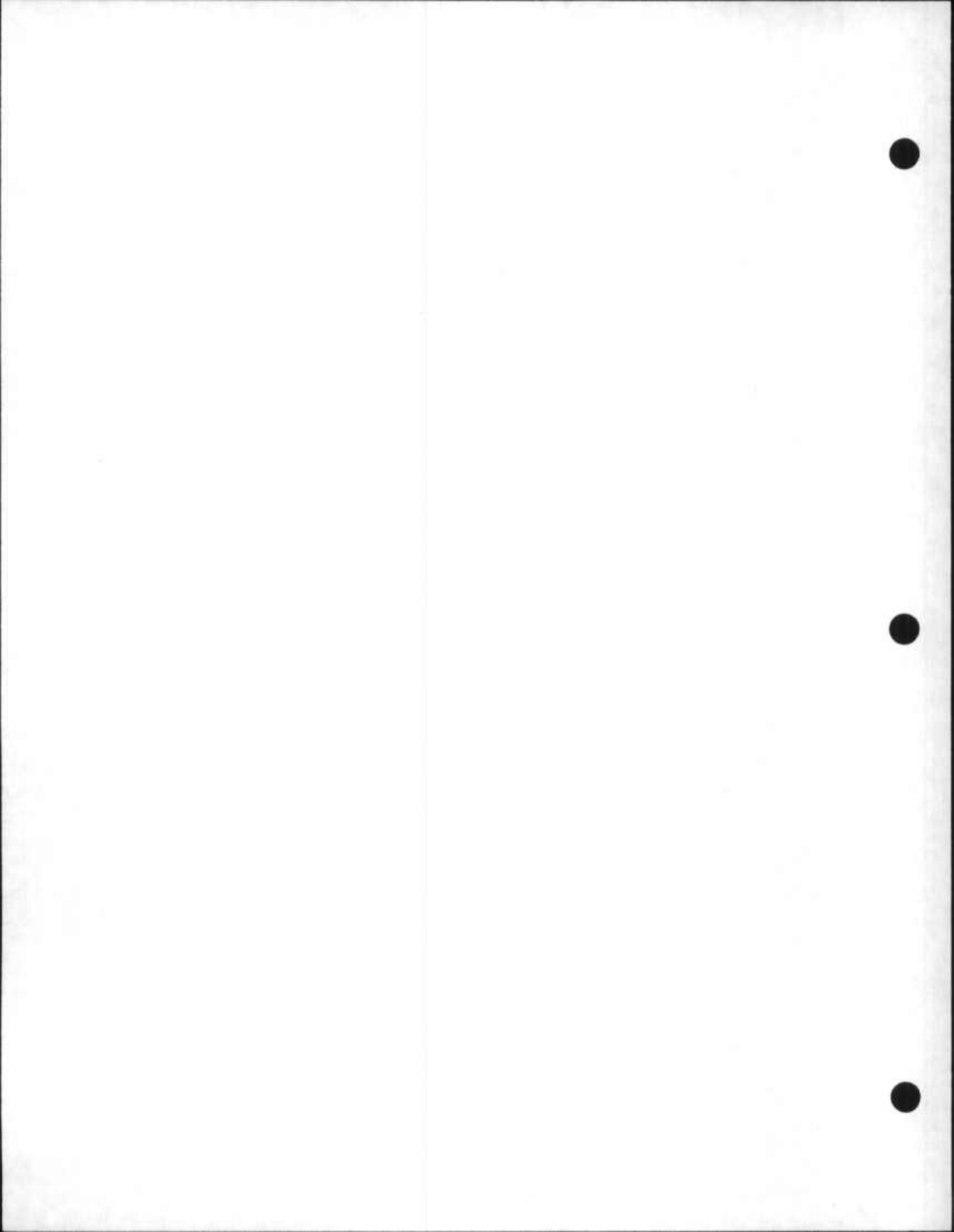
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 479-07



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

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

August 29, 2007

Ms. Laura Atkins
950 Tioga Lane
Crownsville, MD 21032

Re: Rabena, John VAR 2007-0233-V

Dear Ms. Atkins:

As you requested during our conversation this afternoon, I am sending you a copy of the comment letter we sent to Anne Arundel County Office of Planning and Zoning in response to Mr. Rabena's application for a variance to allow a dwelling on slopes greater than 15% on his property at 956 Tioga Lane.

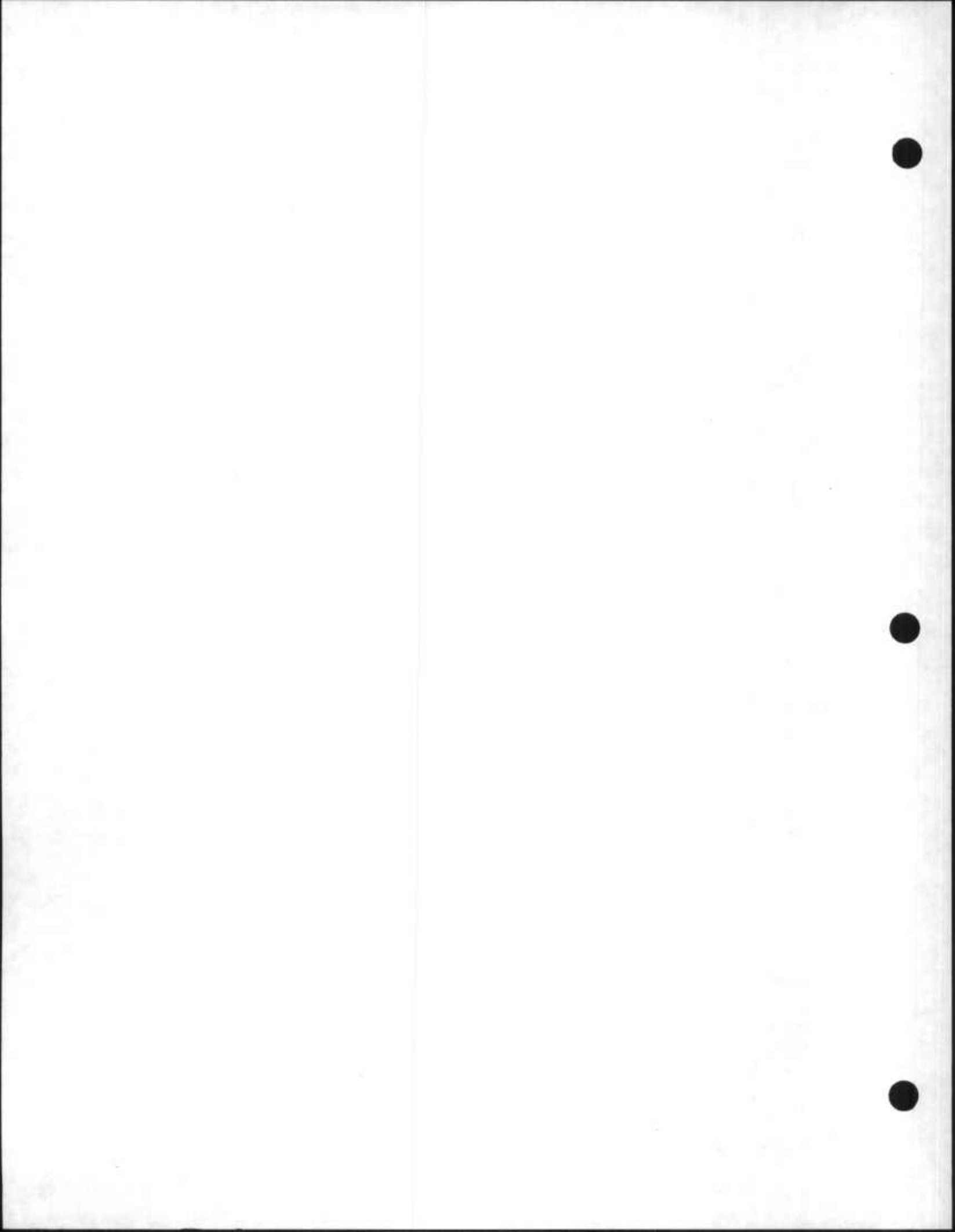
Thank you for your interest in Anne Arundel County's Critical Area Program. Please feel free to call me if you have additional questions at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 441-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 27, 2007

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

Re: Variance 07-3438 Oestringer, Peter

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting after-the-fact variances to the 100-foot Buffer and steep slope requirements in order to permit the continuation of steps, extensive retaining walls and decking. The property is designated a Limited Development Area (LDA) and is currently developed. This office is providing an amended comment letter based on information received at the last hearing.

Generally, this office is opposed to the granting of after-the-fact variances for disturbance to the 100-foot Buffer and steep slopes. However, because we recognize that requiring the applicant to completely remove the retaining walls, stairs and pavers will cause further disturbance to the 100-foot Buffer and steep slopes, we request instead that the applicant modify the existing development to establish a vegetated Buffer within the context of the existing structure. This should be accomplished in a way that results, to the extent feasible, with the minimum necessary development that would have been permitted on the property for purposes of providing access to the water, and shoreline stabilization.

This office further recommends that if the required variances are granted, they will be granted on the condition that the applicant develop, obtain review and approval of, and implement a plan by a licensed engineer and landscape architect to ensure that the modification of the existing combination of retaining walls and block pavers provides adequate stability, and maximizes the opportunity for establishment of a vegetated Buffer. The County's Conservation Manual Plan provides specific standards and planting criteria for planting within the Critical Area and we recommend that the applicant work closely with County staff to develop a planting plan. Additionally, the applicant should provide mitigation plantings for the total area of disturbance to the Buffer. The applicant should locate as many of these plantings as is feasible in the 100-foot Buffer, and may count the plantings that are provided in the modified plan for the Buffer toward meeting this mitigation requirement.

Thank you for the opportunity to provide comments regarding this revised variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition,

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

Roxana Whitt
Variance 07-3448 Oestringer
August 27, 2007
Page 2

please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3482.

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 319-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serèy
Executive Director

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August 27, 2007

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

Re: Variance 07-3461, Holland, Harvey

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting after-the-fact variances to the 100-foot Buffer and steep slope requirements for continuation of retaining walls, stone along the existing bulkhead, walkways, and a deck. The property is designated a Limited Development Area (LDA) and is currently developed with a dwelling, driveway, and deck, in addition to the above mentioned structures at issue in this case.

It is this office's position that the requested variances should not be granted, to the extent that the applicant's disturbance of the Buffer and slopes greater than 15% was not consistent with what the County approved under building permits numbers 30433 and 30434, which were issued for the purpose of construction of a retaining wall and grading for erosion prevention and shore control measures. The applicant must remove and provide mitigation for these unpermitted disturbances. This office's specific position on each of the structures within the Buffer and slopes greater than 15% on the applicant's property is discussed below.

According to the plans submitted by the applicant, the waterfront boundary of the property is covered with a 10-foot to 18-foot wide strip of stone. It appears that this is consistent with what was on the land prior to Hurricane Isabel and prior to construction of the house. If the applicant can confirm that the current type of material and extent of its coverage is consistent with what was on the property prior to Hurricane Isabel, this office does not object to the applicant leaving the stone in place.

The applicant states in the submitted materials that a retaining wall was constructed in accordance with the County's building permit #30344. However, according to the applicant's plans, there are several structures that are labeled as retaining walls on the property. One appears to be a one-foot wide stone retaining wall, another appears to be a one-foot wide timber retaining wall, and a third appears to be a seven-foot wide brick walkway and steps leading to the unpermitted decks, which is labeled as a stone retaining wall. With regard to the one-foot wide stone and timber retaining walls, this office defers to

the County in determining whether these constructed retaining walls are the minimum development that is necessary for shoreline stabilization on the property and is consistent with what was allowed under building permit #30344. If the County finds that the requested variances should be granted with respect to the one-foot wide retaining walls, this office recommends that they be granted with the condition that the applicant provide mitigation at a 3:1 rate for the total area of Buffer and slopes greater than 15% that were temporarily and permanently disturbed by construction of these structures.

It seems unrealistic that the seven-foot wide brick walkway that is labeled as a stone retaining wall was within the scope of construction approved under permit #30344 since it is clearly not the minimum structure necessary for shoreline stabilization and erosion control, when compared with the other two retaining walls on the property that are one seventh its width. This office opposes the granting of the requested variances with respect to the seven-foot wide brick walkway that is labeled as a stone retaining wall, unless the County determines that it would have approved of its construction under a separate building permit application in order to replace the hurricane damaged wooden stairs that were constructed under Calvert County building permit #21131, and previously provided the property with reasonable water access. If the County does determine that it would have allowed construction of the walkway as the minimum development necessary for providing the property with water access, and finds that the requested variances should be granted with respect to this structure, this office recommends that they be granted on the condition that the applicant also provide mitigation at a 2:1 rate for the total area of temporary and permanent disturbance to the Buffer and slopes greater than 15% for its construction. Also, it should be noted that this office considers the brick walkway to be an impervious surface, and future calculations of impervious surface area on the property should be adjusted accordingly.

This office strongly opposes the requested variances with respect to the deck that is within the 100-foot Buffer and slopes greater than 15%. The County's issued permits for grading and construction of the retaining wall do not provide a basis for the construction of the deck, as it cannot reasonably be asserted that its purpose is shoreline protection. Any destruction caused on the property by Hurricane Isabel does not provide a basis for construction of the deck, because the deck did not exist prior to Hurricane Isabel. If the applicant had requested a variance to the Buffer and steep slope requirements prior to constructing the deck, the Critical Area Commission would have opposed the variance on the basis that the proposed disturbance to the Buffer and steep slopes of at least 1000 square feet is unnecessary given that the applicant already had a 2nd story deck and a ground level patio.

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. 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.

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 variances to allow a deck within the 100-foot Buffer waterward of the existing dwelling and within slopes greater than 15% is in conflict with Calvert County's Zoning Code provisions regarding new structures in the Buffer and in slopes greater than 15%. 8-1.01.C.4.a provides that only structures that are water dependent facilities may be located in the Buffer, and 8-1.01.C.4.e prohibits any grading or disturbance in the Buffer that is not for erosion control or to enhance the Buffer function. Calvert County's Zoning Code 8-1.04.G.1.e prohibits development on slopes greater than 15% unless "the project is the only effective way to maintain or improve the stability of the slopes." While this office understands it is sometimes necessary to disturb steep slopes in association with proposed development, all disturbance must be necessary to both establish a dwelling and maintain the structural integrity of the dwelling. It is this office's position that the applicant's deck in the Buffer and steep slopes can not remain because it is not a water dependent facility, it is not a structure that enhances the Buffer or provides erosion control, and it does not maintain or improve the stability of the dwelling. Further, the applicant can not meet each one of Calvert County's variance standards, and in particular, the applicant does not meet the standards included and discussed below.

Relevant Variance Standards

11-1.01.B.6.c-the variance is the minimum adjustment necessary to afford relief from the regulations

The requested variances for construction of the deck are not necessary for the applicant to gain relief from the regulations because the applicant already has a deck and patio.

11-1.01.B.6.d-special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship

Denial of the variances necessary for keeping the deck in the Buffer and on slopes greater than 15% will not create an unwarranted hardship for the applicant, because this term has been defined by the General Assembly to mean reasonable and significant use of the entire parcel or lot. The property is already developed with a dwelling, deck, patio and driveway and the applicant's inability to construct a second deck does not interfere with the applicant's reasonable and significant use of the entire parcel or lot.

11-1.01.B.6.e-a literal interpretation of the Critical Area Legislation and the Calvert County 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 County

A literal interpretation of Calvert County's regulation of slopes greater than 15% and development in the Buffer will not deprive the applicant of a right commonly enjoyed by other properties in similar areas, because it does not even deny this property of the right at issue. The property is already developed with a deck, and therefore, the applicant is not being denied the right to have a deck. The applicant has not shown that construction of a second deck is a right commonly enjoyed by properties in their area.

11-1.01B.6.f-the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area

If the variances are 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 similar variance requests to disturb steep slopes and the Buffer where evidence has not been provided to show that it is necessary to locate a dwelling, a water dependent facility, or shore erosion control on the property. 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.

11-1.01B.6.h-the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County'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.

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 existence of the deck prevents establishment of a vegetated Buffer in that area and such vegetation would provide benefits to fish, wildlife, and plant habitat. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. 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.

Because the Commission opposes the requested variances with reference to the unpermitted deck and because the applicant can not meet each one of Calvert County's variance standards, it is this office's position that the unpermitted deck should be removed. We also recommend that the applicant work closely with County staff to develop a planting plan for all of the required mitigation on the property in order to reestablish a vegetated 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 410-260-3482.

Roxana Whitt
Variance 07-3461
August 27, 2007
Page 5

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 456-07

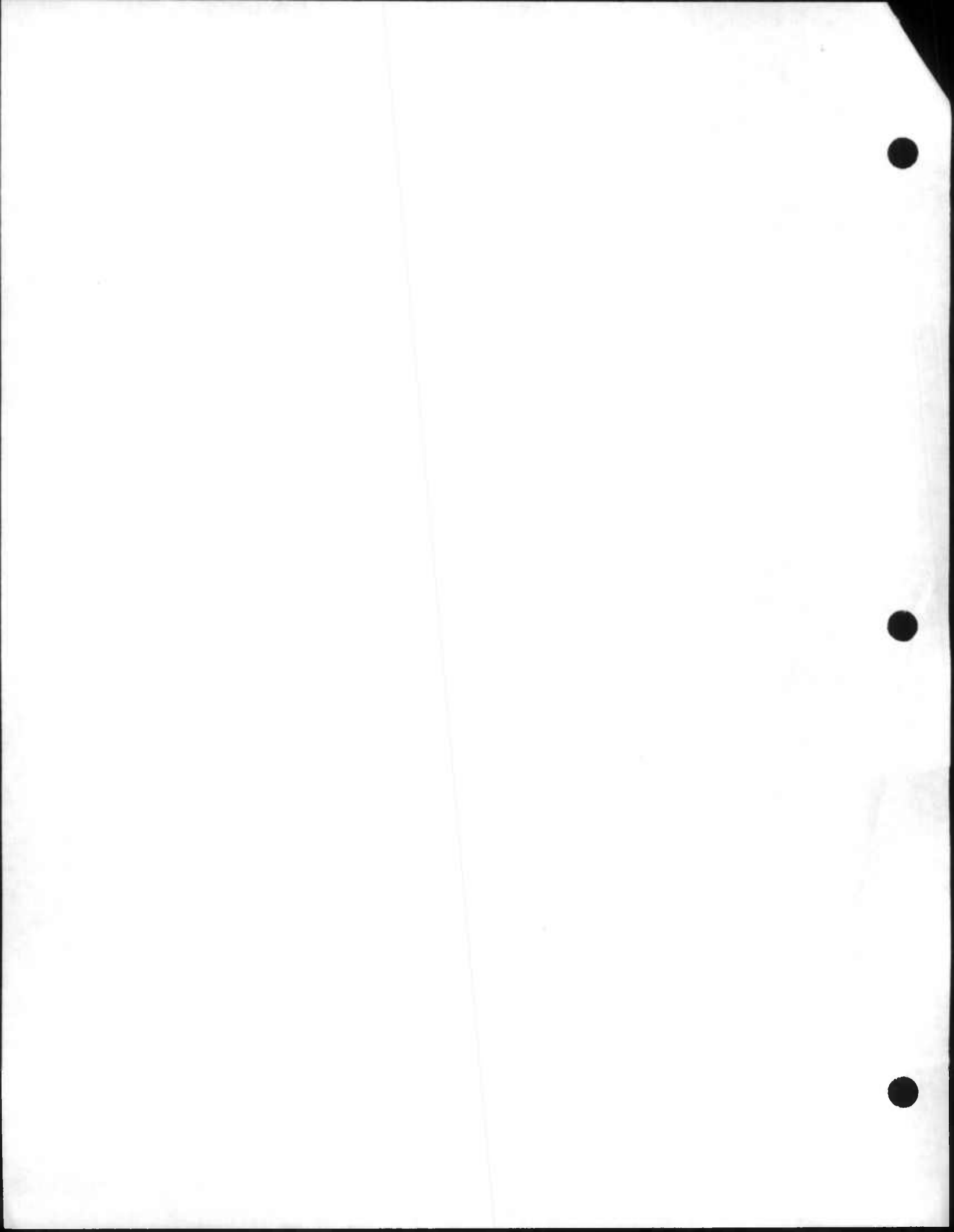


Roxana Whitt
Variance 07-3461
August 27, 2007
Page 5

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 456-07

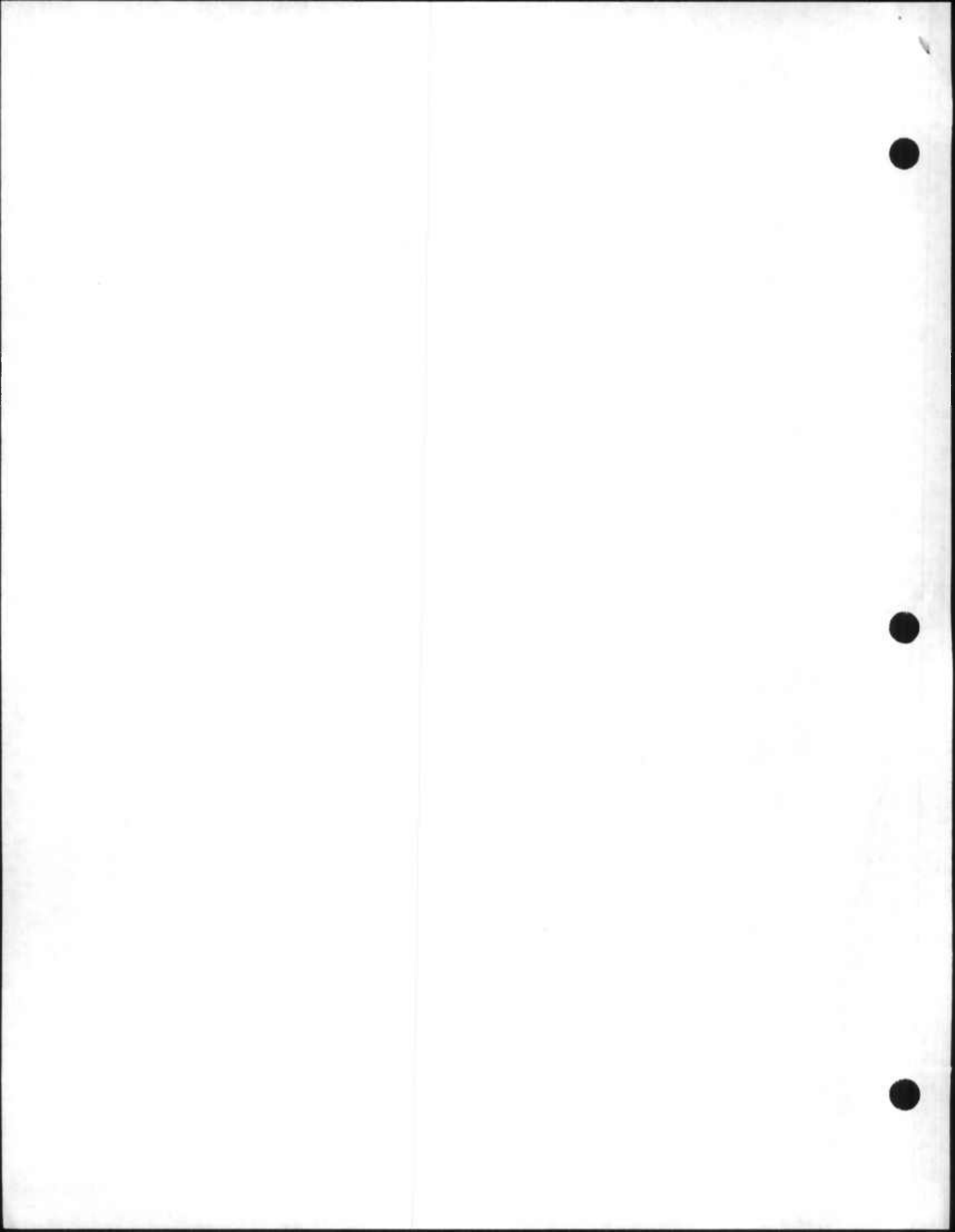


Roxana Whitt
Variance 07-3461
August 27, 2007
Page 5

Sincerely,



Amber Widmayer
Natural Resource Planner
CA 456-07



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 27, 2007

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

Re: Mohr-Baranes- 2007-0222-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow dwelling additions with disturbance to the 100-foot Buffer and slopes greater than 15%. The property is currently developed with a dwelling and is designated as a Limited Development Area (LDA).

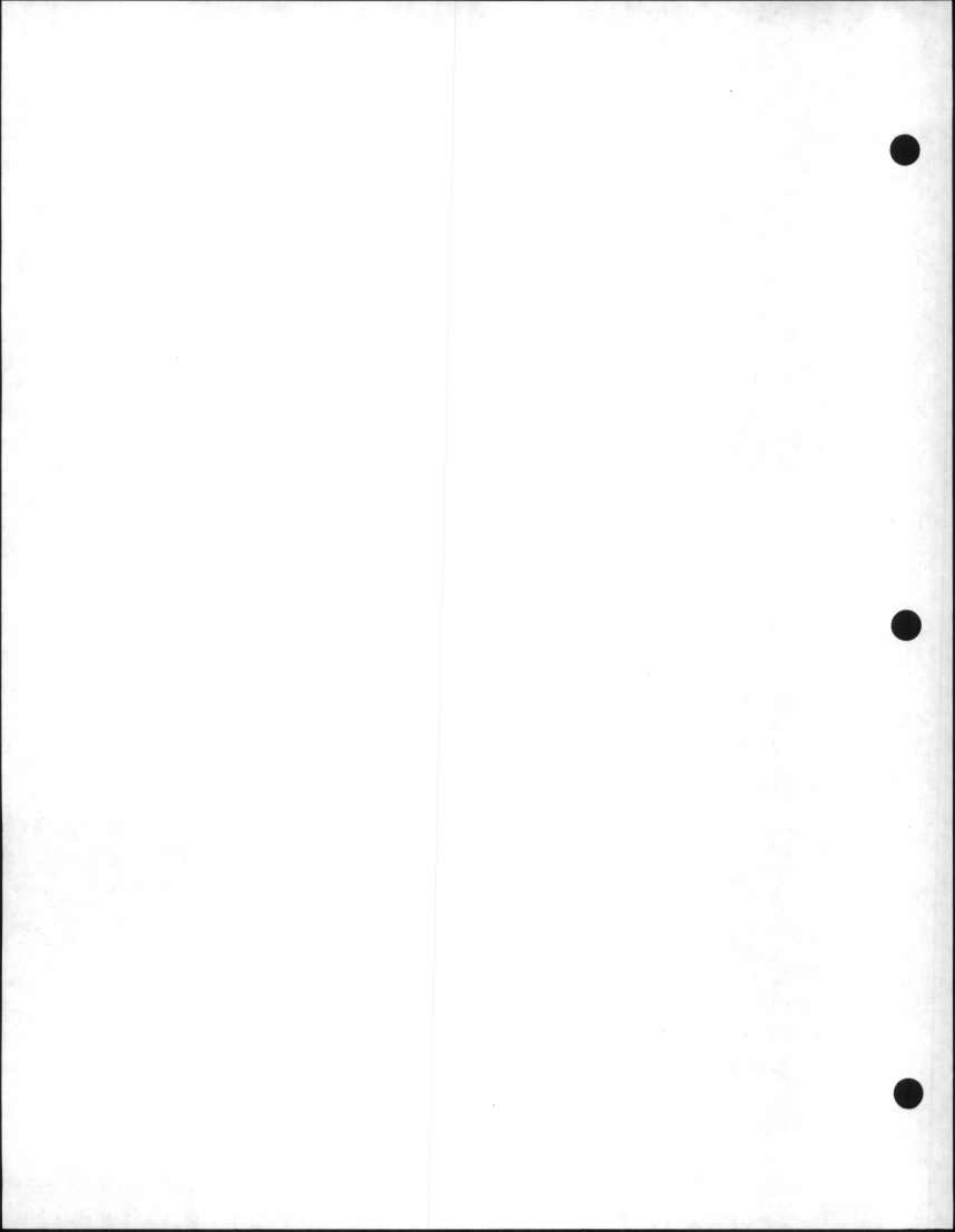
Provided the property is properly grandfathered this office does not oppose the requested variance. We recommend the applicant provide mitigation for the total area of disturbance to the Buffer and slopes greater than 15% at a 3:1 ratio. Disturbance includes grading, clearing and footprint of the proposed structures. These mitigation plantings should be provided on-site in the Buffer to the extent feasible.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner
cc: AA 502-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 27, 2007

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

Re: Mattoon, Timothy- 2007-0209-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow dwelling addition with less setbacks to the 100-foot Buffer than required. The property is currently developed with a dwelling and is designated as a Limited Development Area (LDA).

Provided the property is properly grandfathered and that the applicant provides mitigation for the total area of disturbance (grading, clearing, footprint) to the Buffer at a 3:1 ratio, this office does not oppose the requested variance. These mitigation plantings should be provided on-site in the Buffer to the extent feasible. In addition, this office recommends that if the variance is granted, no further decks, additions or patios on the waterward side of the dwelling will be permitted.

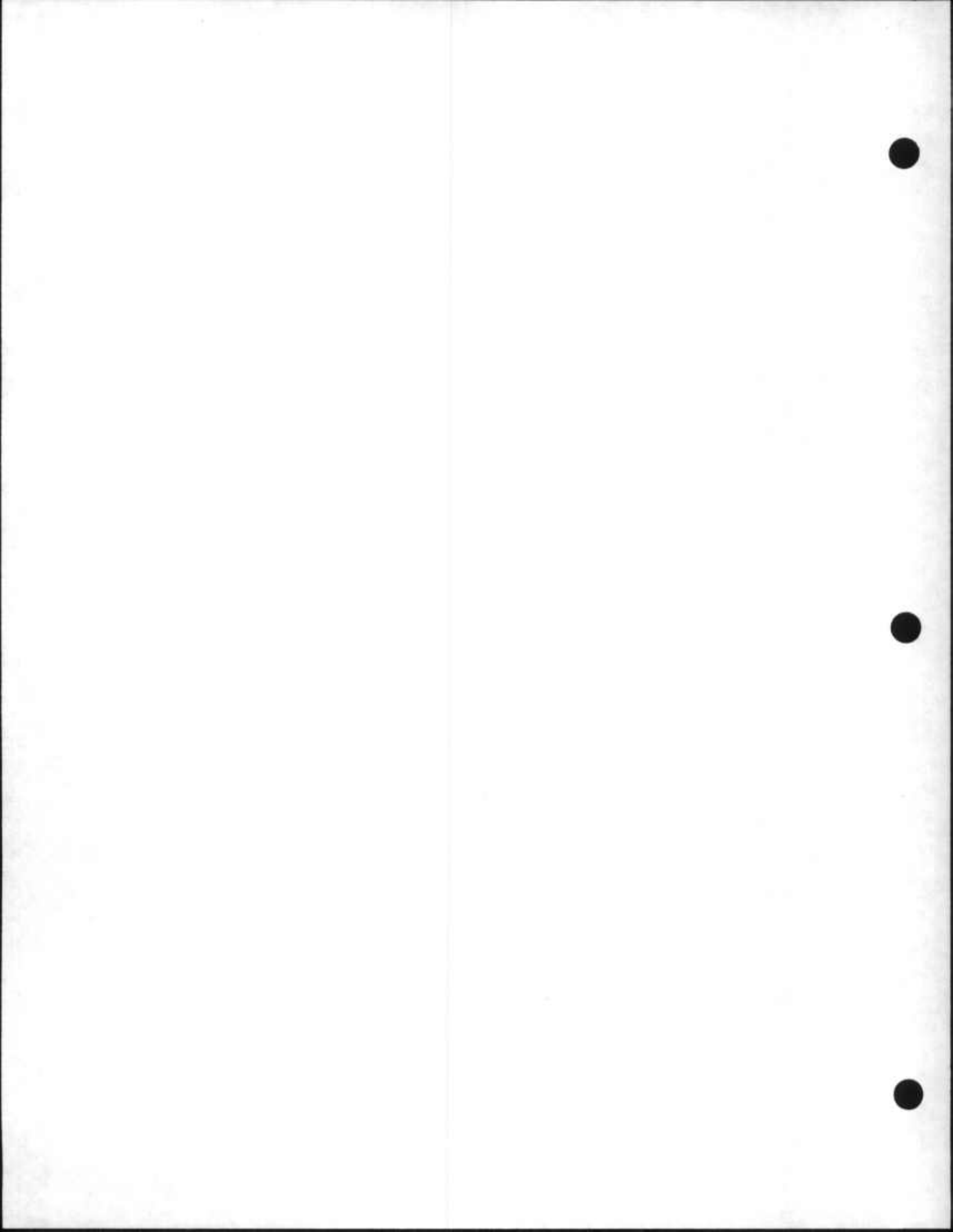
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Widmayer'.

Amber Widmayer
Natural Resources Planner

cc: AA 500-07



Martin O'Malley
Governor



Margaret G. McHale
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Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 27, 2007

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

Re: Nash, Fay- 2007-0220-V

Dear Mr. Konowal:

Thank you for forwarding the above referenced variance request. The applicant has requested a variance to allow construction of a two-story dwelling addition, garage, covered walkway and deck expansion in slopes greater than 15%. The property is designated as Limited Development Area (LDA) and is currently developed with a dwelling, driveway and deck.

Provided the property is properly grandfathered and the applicant provides replacement plantings at a 3:1 ratio for the total area of disturbance from clearing, grading or footprint of new structures, this office does not oppose the requested variance with reference to the proposed garage, since it appears that it will be constructed in a less steep area, in comparison with the rest of the property.

This office has concerns about the rest of the proposed project and recommends that the applicant minimize the proposed impacts to the steep slopes on the property. For example, the property is already developed with a deck and it is unclear why a deck expansion is necessary. Also, the proposed dwelling addition is located on the portion of the property that appears to be most steep, and perhaps the addition could be built on another side of the house. If the proposed garage will create access for the applicant between vehicles and the dwelling, it seems that the proposed porch or covered walkway will create an unnecessary impact to the steep slopes. To the extent that any of the above proposed structures are permitted, we request that the applicant provide mitigation plantings at a 3:1 ratio for the total area of disturbance to the steep slopes.

Mr. Konowal
August 27, 2007
Page Two

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

Sincerely,

A handwritten signature in black ink, appearing to read 'AW', with a long horizontal flourish extending to the right.

Amber Widmayer
Natural Resources Planner

cc: AA 494-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 24, 2007

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

Re: Jones, Edgar- 2007-0213-V

Dear Mr. Fury:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow replacement of an existing dwelling with less setbacks and Buffer than required. The property is designated as an Intensely Developed Area (IDA) and is currently developed with a dwelling.

While there is an existing dwelling on the property that is within the Buffer, it appears there is room outside the Buffer to construct the new dwelling. Therefore, we recommend the applicant locate the proposed construction out of the Buffer. If this is not entirely feasible, then the applicant must demonstrate minimization of impacts to the Buffer. This office would not oppose an amended variance request provided the property is properly grandfathered, and provided the applicant provides mitigation plantings at a 3:1 ratio for the total area of disturbance to the 100-foot Buffer. These plantings should be provided on-site in the Buffer to the extent feasible.

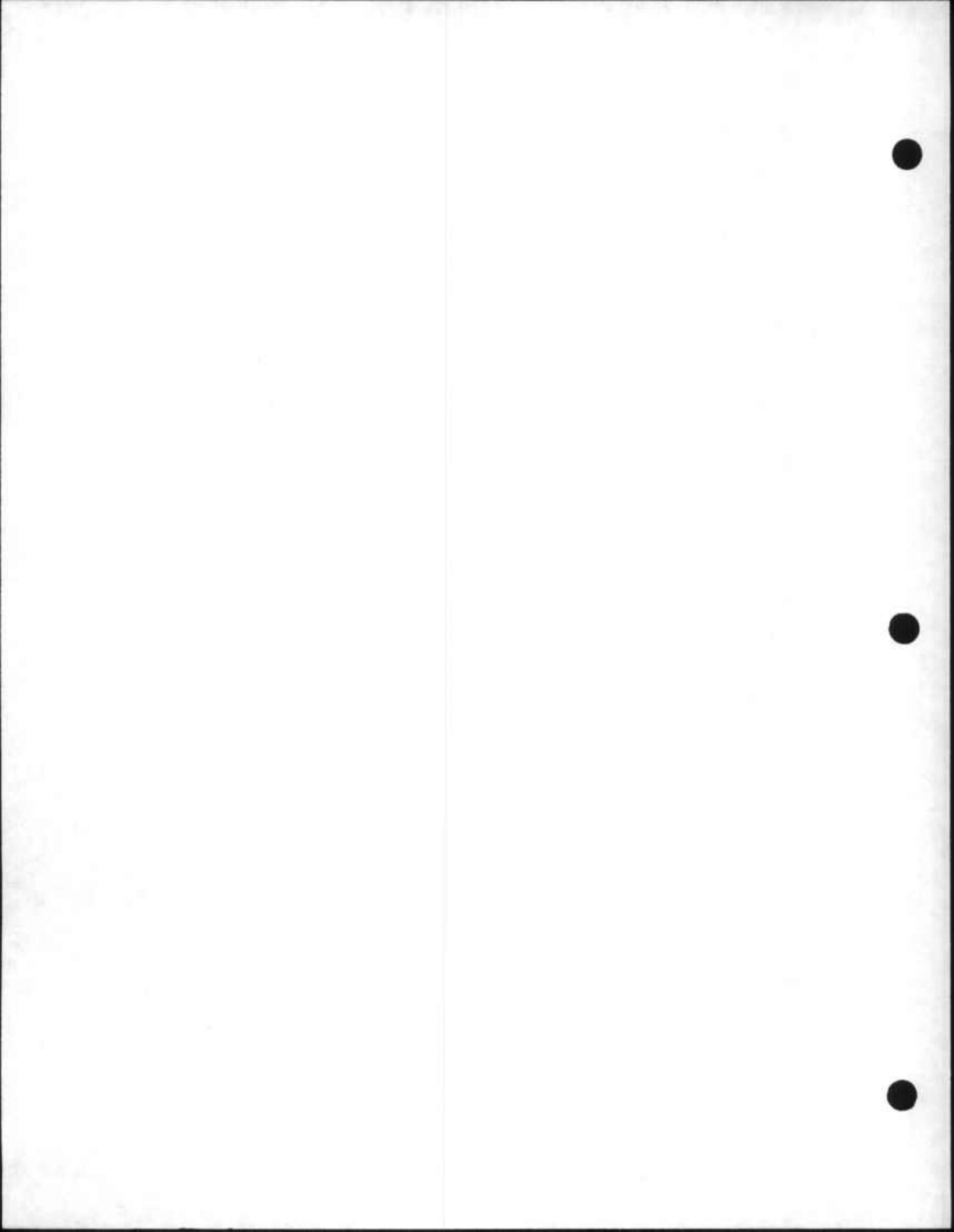
Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 491-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 24, 2007

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

Re: Onal, Mustafa- 2007-0221-V

Dear Ms. Cotter:

Thank you for forwarding the variance request for the above referenced project. The applicant has requested a variance to allow a dwelling, swimming pool and retaining wall with disturbance in the 100-foot Buffer and on slopes greater than 15%. The property is currently undeveloped and is designated as a Limited Development Area (LDA).

While we note that the applicant recently submitted a revised plan that appears to show the footprint of the proposed dwelling and pool outside of the Buffer, it appears that the limit of disturbance for construction of these structures will still be inside the Buffer. Also, the proposed retaining wall is still located within the Buffer. It appears that there is enough room on the property to locate all of the proposed construction outside of the Buffer, including the footprint of the proposed dwelling, the limit of disturbance for construction, and the proposed retaining wall. Therefore, this office recommends that the applicant locate all of the proposed construction outside of the Buffer.

It appears that the applicant could also minimize the extent of the proposed impacts to steep slopes greater than 15%. For instance, it seems that the length of the proposed driveway could be shortened, and the footprint of the proposed house could be reduced. If this is not entirely feasible, then the applicant must demonstrate minimization of impacts to the slopes greater than 15%. This office would not oppose an amended variance request provided the property is properly grandfathered, and provided the applicant provides mitigation for any clearing at a 1:1 ratio outside of the Buffer, and at a 3:1 ratio for the total area of disturbance to the 100-foot Buffer. These plantings should be provided on-site in the Buffer to the extent feasible.

August 24, 2007
Ms. Cotter
Page Two

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

Sincerely,



Amber Widmayer
Natural Resources Planner
cc: AA 501-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 23, 2007

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

Re: Carvel Beach/Bridgewater
S 91-114, P 06-0100

Dear Mr. Torney:

Thank you for forwarding the final submittal for the above referenced subdivision request. It appears that the applicant has addressed this office's comments from my May 15, 2007 letter. I have provided my remaining comment below.

1. While we note that as requested, the applicant has provided notations on the final plat and plan that no more impervious surface will be allowed in the subdivision, because the proposed impervious surface area is already at the 15% limit, this office is still concerned that the creation of new subdivisions at the 15% limit will inevitably require variances in the future. Realistically, the reasonable use of a single family home will require additional impervious area that has not been reserved within the building footprint of the current plans, including such amenities as patios, sheds, and decks. If the current subdivision plans are approved and platted, although the applicant will technically meet the impervious limit, each of the 42 future homeowners that desire to make additional impervious area use of their properties will be faced with applying for a variance to the 15% impervious surface area limit. This office will not support such variances for lots that were created after the County's Critical Area program went into effect. In order to prevent this foreseeable dilemma, the applicant must reserve enough impervious surface area within the subdivision so that 42 future homeowners will not be prohibited from making reasonable use of their newly created homes and property as a result of the applicant's subdivision design.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Amber Widmayer'.

Amber Widmayer
Natural Resources Planner

cc: AA 688-05

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 22, 2007

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

Re: Mullican Variance 07-3448

Dear Ms. Whitt:

Thank you for providing additional information on the above referenced variance. The applicant is requesting a variance to allow disturbance to slopes 15% or greater for construction of a patio and 20' X 20' detached deck. The 5.84 acre property is designated as a Limited Development Area (LDA) and is currently developed with a single family dwelling, deck and driveway.

Based on our receipt and review of the additional materials pertaining to this variance, our office is providing these comments in addition to those in LeeAnne Chandler's July 26, 2007 letter. Originally, this office received only a rough plat sketch of the property without adequate detail to see necessary details of the existing site conditions such as contour lines, and an already existing deck. In response to that information, this office opposed the construction of a detached deck but did not oppose the proposed patio. However, based on the additional information, it appears that even the proposed patio will be difficult to squeeze in behind the house without significant grading and stabilization of the land that sharply drops within what appears to be less than several feet of the back of the house. More importantly, the recently received pictures show that there is already an existing deck on the property off of the 2nd story. This fact is significant because it shows that the applicants will not be able to meet several of the variance standards necessary to overcome the presumption that the proposed activity requiring a variance is not in conformance with the general purpose and intent of the County's Critical Area Program, as required in Calvert County's Zoning Code 11-1.0.B.

Calvert County's Zoning Code 8-1.04.G.1.e prohibits development on slopes greater than 15% unless "the project is the only effective way to maintain or improve the stability of the slopes." While this office understands it is sometimes necessary to disturb steep slopes in association with proposed development, all disturbance must be necessary to both establish a dwelling and maintain the structural integrity of the dwelling. It is our position that the proposed patio and detached deck are not necessary to stabilize the dwelling, and that the applicant has not provided any evidence to the contrary.

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. 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. It is this office's position that the applicant can not meet each one of Calvert County's variance standards, and in particular, the applicant does not meet the standards included and discussed below.

11-1.01.B.6.c-the variance is the minimum adjustment necessary to afford relief from the regulations

The requested variance for construction of a patio and deck is not necessary for the applicant to gain relief from the regulations because the applicant already has a deck.

11-1.01.B.6.d-special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship

Denial of the variance necessary for construction of the proposed patio and deck on slopes greater than 15% will not create an unwarranted hardship for the applicant, because this term has been defined by the General Assembly to mean reasonable and significant use of the entire parcel or lot. The property is already developed with a dwelling, deck and driveway and the applicant's inability to construct a second deck and patio does not interfere with the applicant's reasonable and significant use of the entire parcel or lot. Further, it appears that there are alternative locations on the property on which the applicant could locate an additional deck and patio that are not within slopes greater than 15%.

11-1.01.B.6.e-a literal interpretation of the Critical Area Legislation and the Calvert County 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 County

A literal interpretation of Calvert County's regulation of slopes greater than 15% will not deprive the applicant of a right commonly enjoyed by other properties in similar areas, because it does not even deny this property of the right at issue. The property is already developed with a deck, and therefore, the applicant is not being denied the right to have a deck. The applicant has not shown that construction of a second deck is a right commonly enjoyed by properties in their area.

11-1.01B.6.f-the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area

Ms. Roxana Whitt
August 22, 2007
Page Three

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 similar variance requests to disturb steep slopes where evidence has not been provided to show that it is necessary to locate a dwelling on the property. 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.

11-1.01B.6.h-the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County'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.

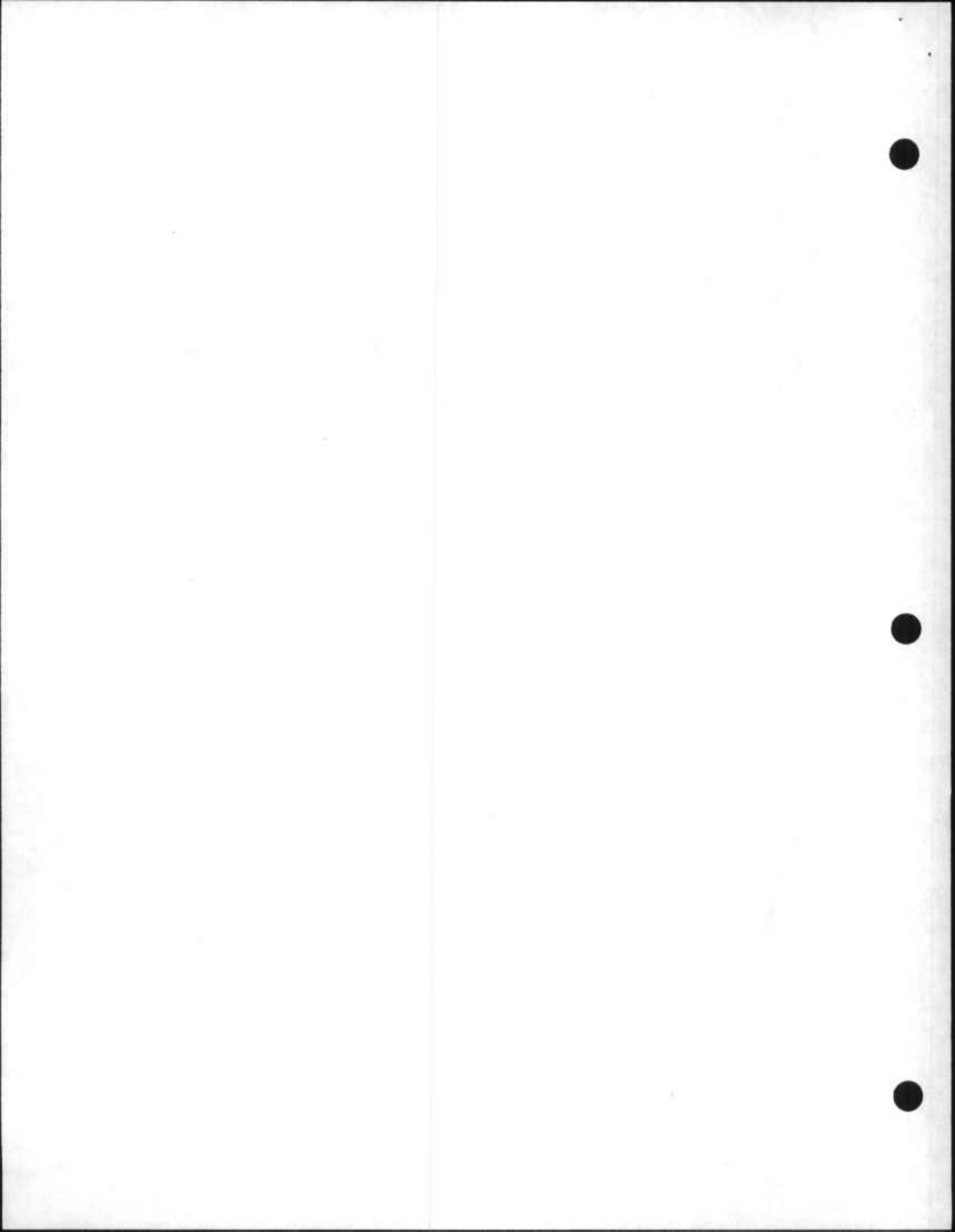
In contrast with the above standard, granting the requested variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. The proposal would require permanent impacts to slopes greater than 15% which will create erosion of the soils on the slope and runoff of sediments into the water. The applicant has not demonstrated that this proposal will not adversely affect water quality or adversely impact, fish, wildlife, and plant habitat.

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

Sincerely,



Amber Widmayer
Natural Resource Planner
cc: CA 0421-07



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/

August 20, 2007

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

Re: Spruill Farm Subdivision
S 07-047, P 07-0130

Dear Ms. Krinetz:

Thank you for forwarding the above-referenced subdivision for review and comment. The applicant proposes to divide one lot into two with retention of the existing structures. The portion of the existing lot that is in the Critical Area is designated a Resource Conservation Area (RCA) and is currently undeveloped, while the portion of the lot outside of the Critical Area is developed with a dwelling and barns. I have outlined my comments below.

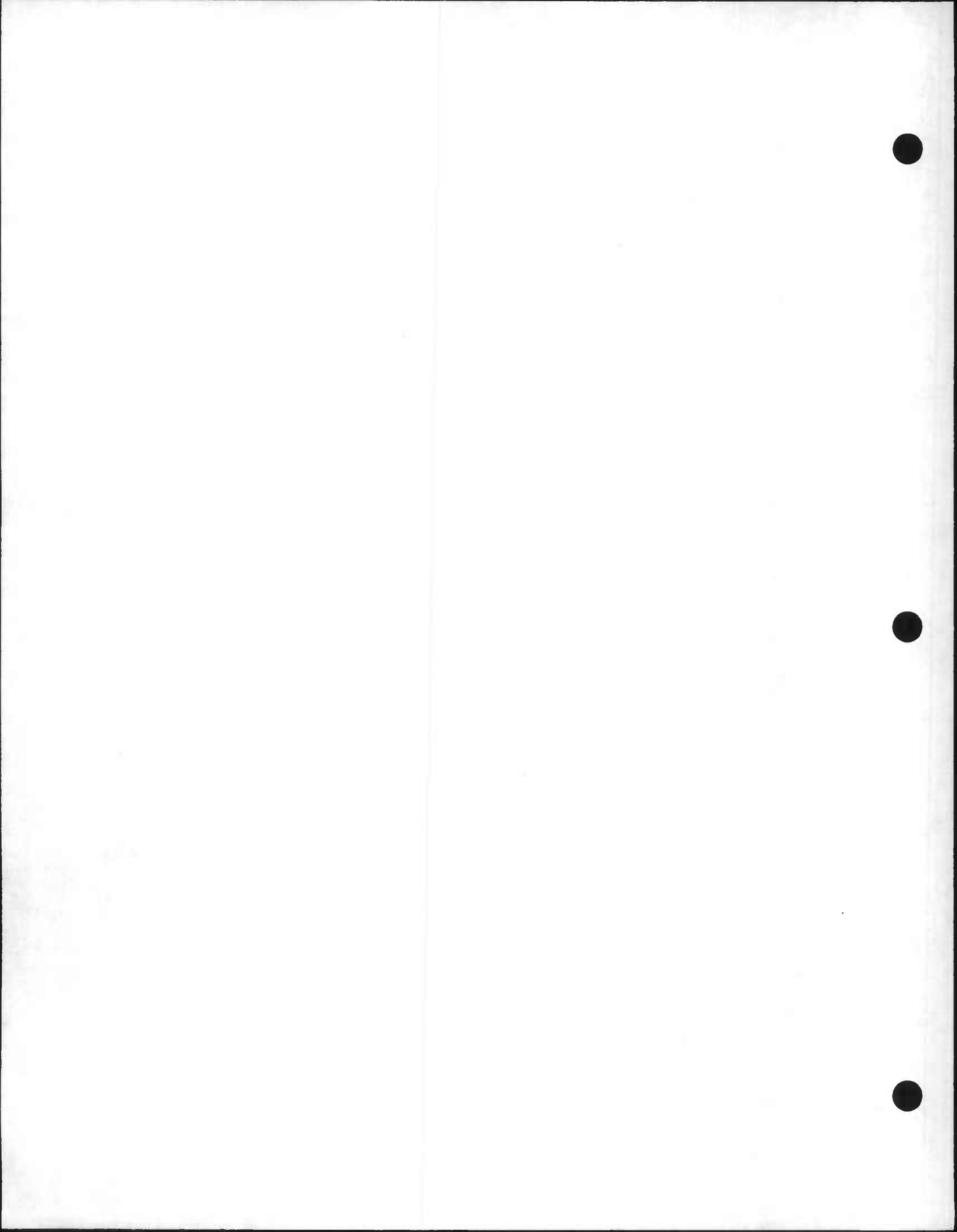
1. The existing lot contains 30.9 acres of RCA. If the lot is subdivided as proposed, it appears that neither lot will contain the requisite 20 acres of RCA for development of a dwelling unit. This office does not support the creation of such non-conforming lots in the RCA, and we would only be able to support the proposed subdivision if the applicant were to place the RCA portion of the proposed lots in an easement that would prevent construction of future dwellings or non-agricultural uses or structures in the RCA. Also, the easement should provide that the existing forested area of the RCA will not be disturbed in the future.
2. The information provided states that there will be 2.831 acres of disturbance on the site, and it does not appear that any of this disturbance is proposed within the RCA. Please have the applicant confirm that no clearing or development activities are proposed in the RCA.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner
cc: AA 454-07



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 20, 2007

Mr. Elder Ghigiarelli
Water Management Administration
Wetlands and Waterway Program
Maryland Department of the Environment
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230-1708

Re: Bishop Stadium, USNA
Anne Arundel County

Dear Mr. Ghigiarelli:

This office has received updated information in reference to the above-referenced project for review and comment. The project includes replacement of an existing grassed field with artificial turf, replacement of bleachers, new bathrooms and a batting cage. Critical Area requirements include the 10% pollutant reduction requirement and conservation of Habitat Protection Areas.

Based on our review of the updated information, it appears that the changes to the proposed project do not affect the applicant's proposal for meeting the 10% pollutant reduction requirement and do not create additional impacts to the Critical Area on the proposed project site. Therefore, the proposed project remains generally consistent with the Critical Area Law and Criteria. Unless the project changes, no further review by this office is necessary.

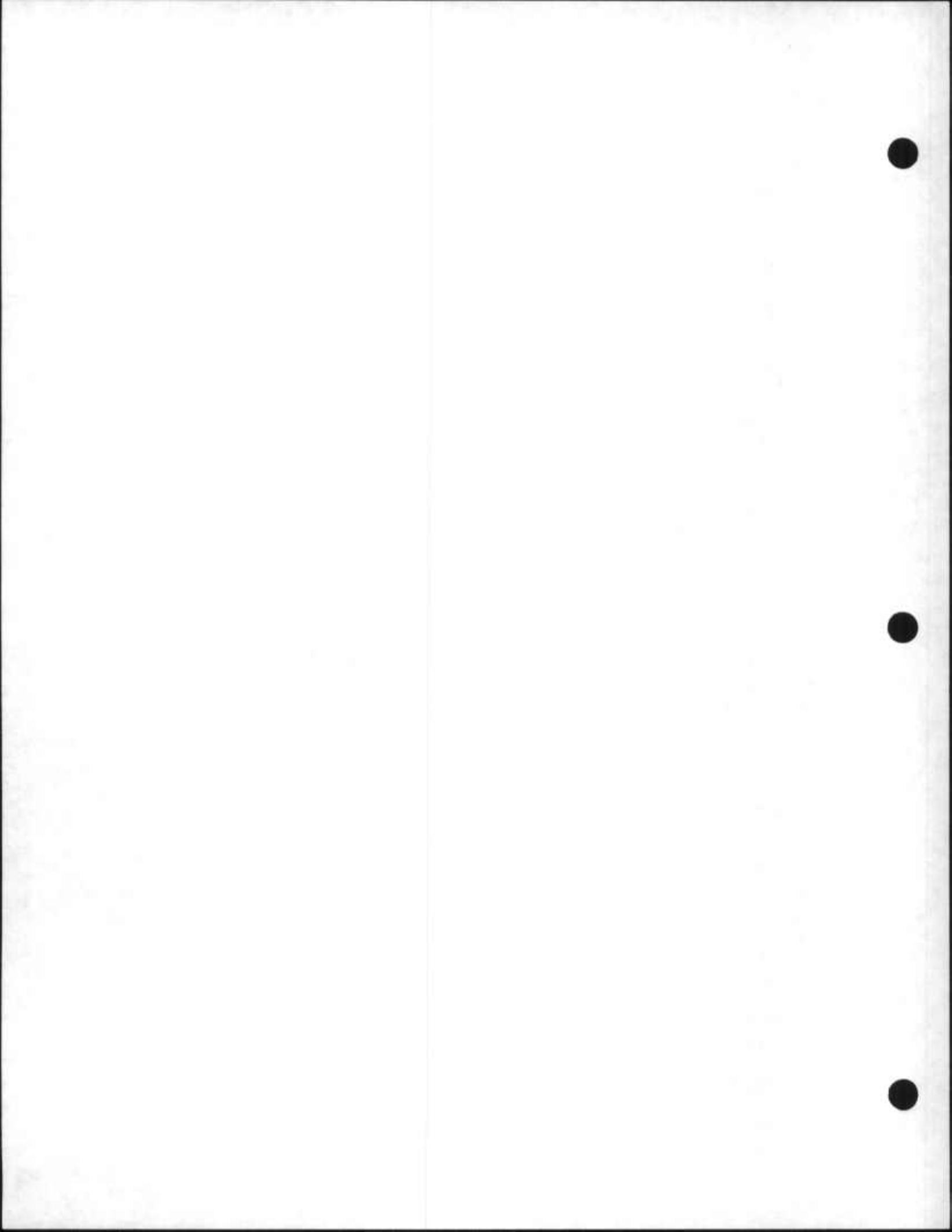
Thank you for the opportunity to comment. Please do not hesitate to telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: 47-05 FED
Robert Cole, USNA
Jeffrey Morris, USNA



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 20, 2007

Mr. Elder Ghigiarelli
Water Management Administration
Wetlands and Waterway Program
Maryland Department of the Environment
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230-1708

Re: Bishop Stadium, USNA
Anne Arundel County

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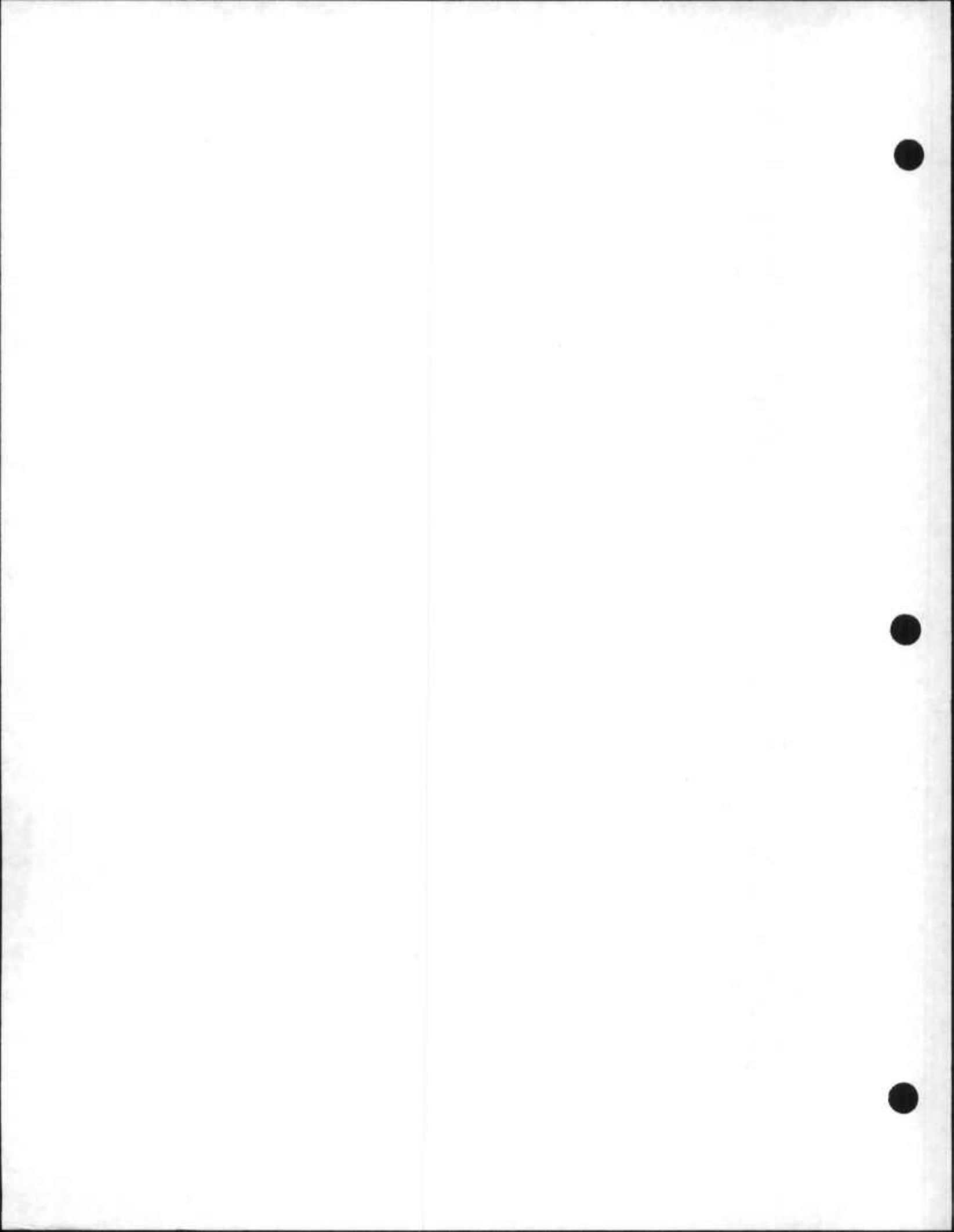
Thank you for the opportunity to comment. Please do not hesitate to telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: 47-05 FED
Robert Cole, USNA
Jeffrey Morris, USNA



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
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August 20, 2007

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

Re: Deep Creek Village Subdivision
S 96-039, P 06-6010

Dear Ms. Krinetz:

Thank you for forwarding the final development plans for the above-referenced subdivision request. The applicant has addressed the comments of Kerrie Gallo's last letter dated April 27, 2007. I have outlined my remaining comment below.

- It appears that the applicant has provided the required stormwater treatment facilities outside of the RCA. If so, then the proposed series of step pools and cascades which comprise an environmentally sensitive outfall alternative may be located as proposed within the RCA. The applicant will need to provide mitigation for this outfall alternative for the area of disturbance it creates within the Buffer.

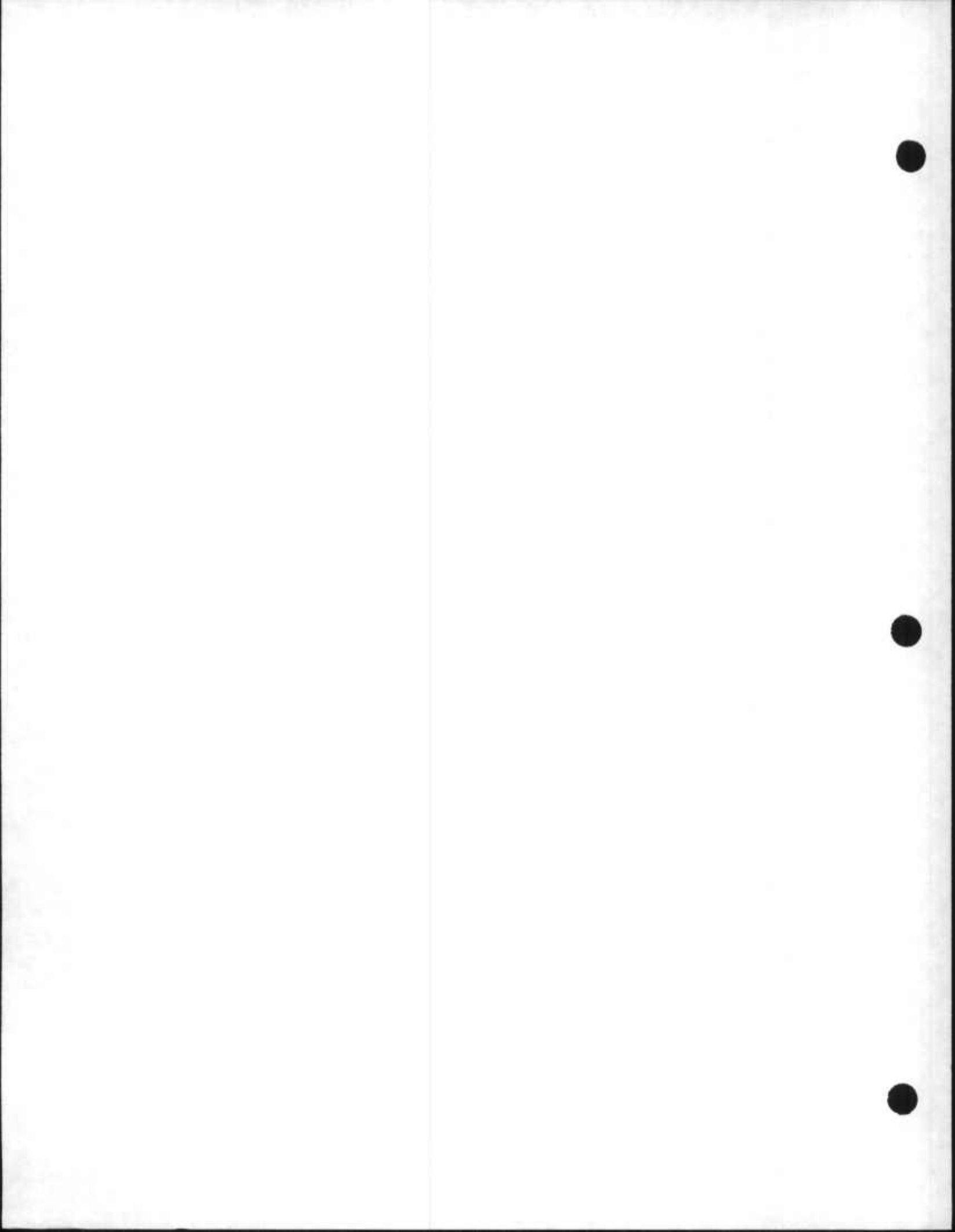
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 422-02



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 17, 2007

Ms. Sally Nash
City of Annapolis
Department of Planning and Zoning
145 Gorman Street, 3rd Floor
Annapolis, Maryland 21401

Re: Greentree Property Variance

Dear Ms. Nash:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to remove an existing house and build a new house in the Buffer. The property is designated as a Limited Development Area (LDA). Provided that the applicant addresses the following comments and that the property is properly grandfathered, this office does not oppose the requested variance. I have outlined my comments below:

- The applicant should provide mitigation at a rate of 3:1 for the total area that is graded, cleared, or developed with structures. This area should include both the area of disturbance on the site, as well as the area that will be disturbed on the neighboring property. To the extent that it is feasible, this mitigation should be planted within the Buffer on the site.
- We note that the proposed house is located further away from the water than the existing house. However, it appears that the proposed house could be located even further away from the water. For instance, this could be accomplished by replacing the proposed 14-foot wide deck with a 10-foot wide deck. Please have the applicant make any feasible plan alterations that will maximize the distance between the water and proposed structures.
- The applicant has included a reduction in proposed impervious surface area due to the use of pervious pavers. Although this office encourages the use of environmentally sensitive building materials, it does not recognize a reduction in proposed impervious surface area for the use of pervious pavers. Therefore, please have the applicant recalculate the proposed impervious surface area using calculations for the entire area of proposed driveway and walkway. The proposed deck may be considered pervious if it is constructed with spaces between the boards, gravel or mulch is placed underneath the deck, and vegetation is planted along the edge of the area surrounding the deck.

Ms. Sally Nash
August 20, 2007
Page 2

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

Sincerely,



Amber Widmayer
Natural Resource Planner
AN 468-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 14, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-WL-0534; Edward Van Hise,
316 S. Riverside Dr., Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The applicant proposes to armor an existing 44-foot long timber bulkhead with stone to a maximum 6-foot width channelward of the mean high water line, and to armor an existing 36-foot long timber groin with stone. I have outlined my comments below:

1. This office recommends that non-structural shore erosion control measures be considered if feasible on this site.
2. We note that the proposed construction will be accessed by barge. This is ideal since it appears that there is a well established vegetated Buffer on the site and accessing the site by water will minimize the impacts to the Buffer. If there are any other temporary impacts to the Buffer, the applicant will need to provide mitigation at a 2:1 ratio for the extent of those impacts.
3. The applicant must provide mitigation at a 1:1 ratio for permanent impacts to the Buffer resulting from the proposed placement of fill and stone above the mean high water line. The applicant should contact the Anne Arundel County forester in order to complete a Vegetated Management plan for the required mitigation.

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



Mr. Cuthbertson
August 14, 2007
Page Two

Sincerely,

A handwritten signature in black ink, appearing to read 'AW', with a decorative flourish extending to the right.

Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester

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. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-WL-1369; Riverbea Corp.,
8475 Meadow Lane, Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The applicant proposes to construct a 115-foot long access bridge, remove three existing stone groins, a breakwater and a boat ramp, reconstruct a 275-foot stone revetment, construct a 540-foot stone breakwater, dredge a 235-foot long channel, place the dredged material along the 540-foot shoreline, and armor two existing 130-foot and 150-foot timber groins with stone. Based on the information provided I have the following comments:

1. The applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning for any impacts to land that is above mean high water. Also, the applicant will need to provide mitigation at a 2:1 ratio for temporary impacts to the Buffer if clearing of vegetation is necessary for construction access, and mitigation at a 1:1 ratio for permanent impacts to the Buffer resulting from proposed grading, and the placement of dredged materials, fill and stone in the Buffer, above the mean high water line. The applicant should contact the Anne Arundel County forester, in order to complete a Vegetated Management plan for the required mitigation.
2. Because it does not appear that the proposed bridge is necessary for shoreline stabilization and it is development in the Buffer, the applicant will need to seek and obtain a variance from Anne Arundel County in order to construct this proposed structure. If the variance is approved by the County, this office will require that the applicant provide mitigation at a rate of 3:1 for the resulting disturbance to the Buffer due to the area of the structure, and any clearing and grading that will be done in the Buffer during bridge construction.

Mr. Cuthbertson
August 14, 2007
Page Two

3. We note that the plans show breaks in the proposed 540-foot stone breakwater that will allow aquatic species necessary access between the land and water. This office recommends that these breaks be utilized and maximized along all of the shoreline on the site to the extent feasible.

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

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester

Martin O'Malley
Governor



Margaret G. McHale
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August 9, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-GL-1824; Edith Wilkie Edwards,
4249 Holly Point Rd., Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project includes replenishment of existing shoreline stabilization on the site, including 505 feet of stone armor along the site's shoreline within 16 feet channelward of an existing bulkhead and mean high water line. Based on the information provided I have the following comments:

1. The applicant will need to obtain approval and permits from the Anne Arundel County Office of Planning and Zoning for any impacts to land that is above mean high water. Also, the applicant will need to provide mitigation at a rate of 1:1 for permanent impacts to the Buffer resulting from proposed grading, and the placement of fill and stone. The applicant should contact the Anne Arundel County forester, in order to complete a Vegetated Management plan for the required mitigation.

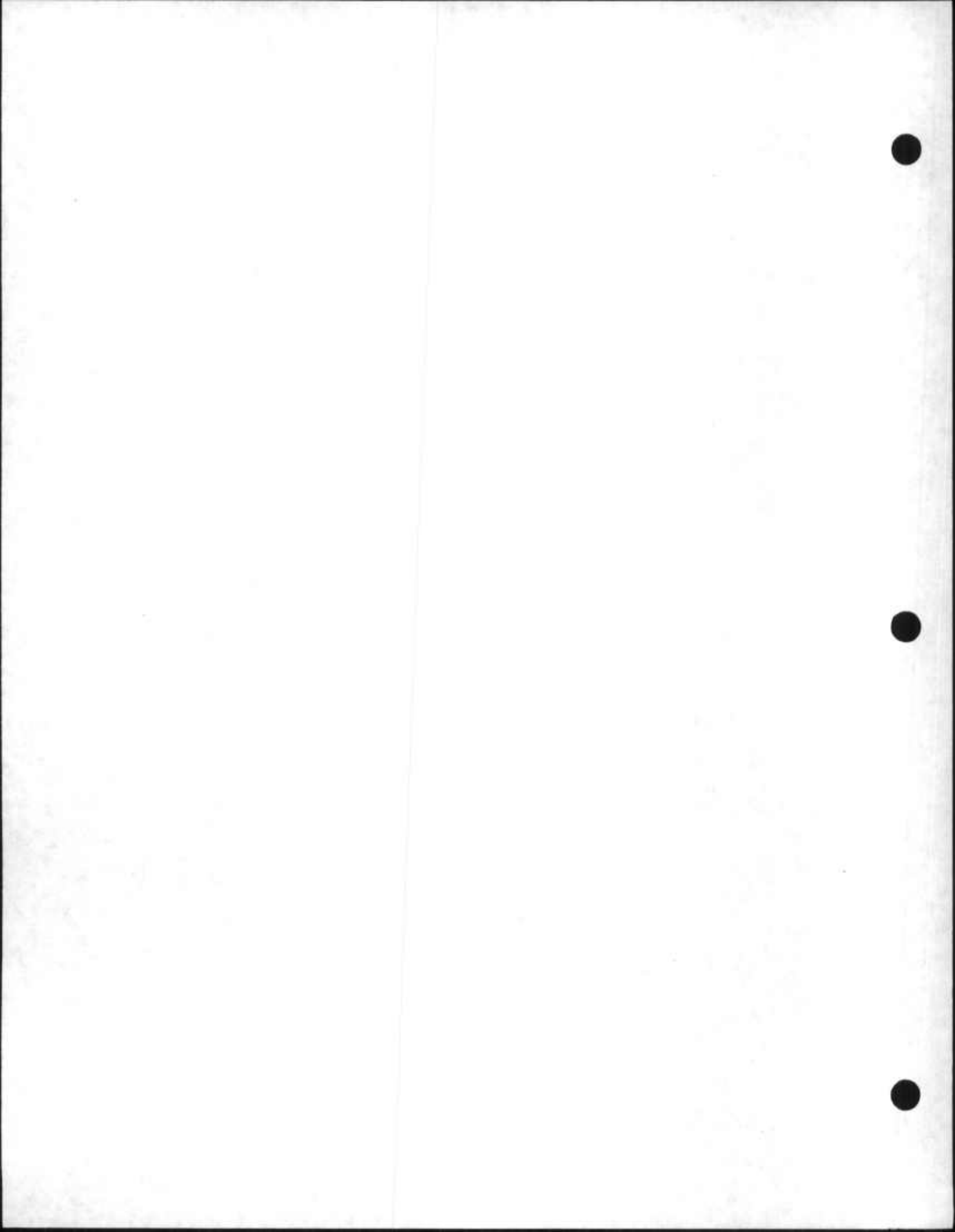
Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3482.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 9, 2007

Mr. Rick Curry
B & R Design Group, Inc.
300 West Patrick Street
Frederick, Maryland 21701

Re: Richfield Station

Dear Mr. Curry:

Thank you for forwarding your revisions to the approved 10% Stormwater Management design plans for the above referenced project. This office finds that the proposed changes to the plans are acceptable. However, I was not able to find any notation on the plan that the forestation areas will be put into a conservation easement as requested in Mary Owens' April 28, 2006 letter. Please confirm that such a conservation easement is in place on the property.

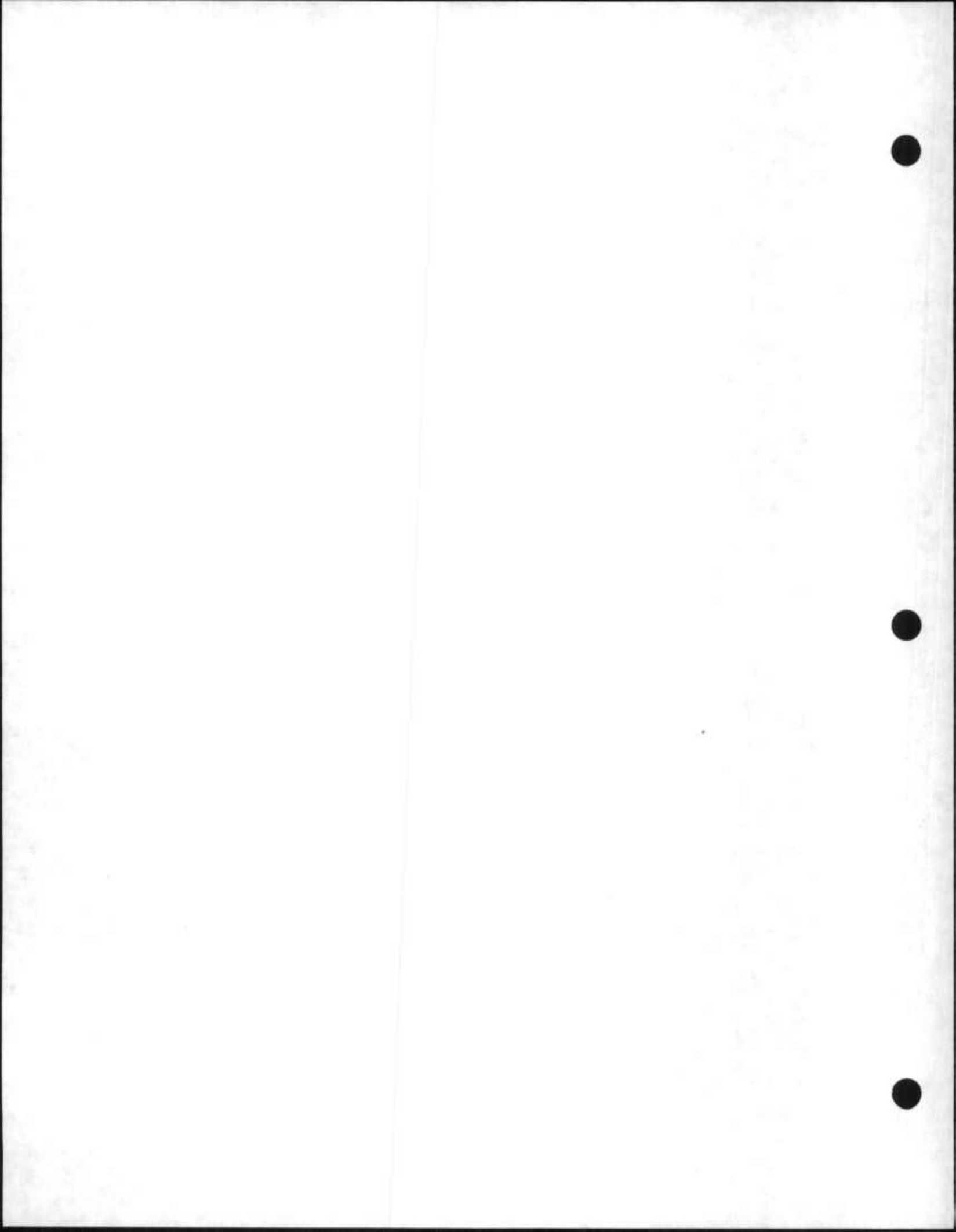
Thank you for the opportunity to comment. Please feel free to call me at (410) 260-3482 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: CB 138-04



Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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August 9, 2007

Mr. Robert Cuthbertson
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Re: Tidal Wetlands Application 07-GL-1640; Scott & Beverly Burge,
490 Sara Dr., Anne Arundel County

Dear Mr. Cuthbertson:

This letter is in response to the above referenced application for shoreline stabilization. The proposed project includes a 300-foot long stone revetment within 24 feet channelward of the mean high water line. If this site is a candidate for non-structural shore erosion control measures, then we recommend that this option be explored. Based on the information provided I have the following comments:

1. This office recommends that the project site's shoreline be accessed by water rather than by land for construction of the proposed project, since it appears that there is a well established vegetated Buffer on the site, and accessing the site by water will minimize the impacts to the Buffer. If this is not feasible, the applicant will need to provide mitigation at a rate of 2:1 for the area in the Buffer that is disturbed for construction access and for any other temporary impacts to the Buffer.
2. We note that it appears that no grading of the existing shoreline is proposed. However, the applicant will still need to provide mitigation through Anne Arundel County at a rate of 1:1 for permanent impacts to the Buffer, above the mean high water line, for the proposed placement of fill and stone. The applicant should contact the Anne Arundel County forester in order to complete a Vegetated Management plan for the required mitigation.

Mr. Cuthbertson
August 9, 2007
Page Two

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Amber Widmayer'.

Amber Widmayer
Natural Resources Planner

cc: Doug Musser, Anne Arundel County Forester

Martin O'Malley
Governor



Margaret G. McHale
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August 8, 2007

Mr. Dirk Geratz
City of Annapolis
Department of Planning and Zoning
145 Gorman Street
Annapolis, Maryland 21401

Re: Annapolis Recreation Center

Dear Mr. Geratz:

Thank you for forwarding the above-referenced project proposal for the construction of a new recreation center in Truxtun Park. Currently the LDA portion of the property is 28% impervious, and the resulting total impervious surface area in the LDA portion of the property will be 42%. Because the proposed development will exceed the 15% impervious surface area maximum, the proposed project will need to be presented to the Critical Area Commission for conditional approval.

The City may seek a conditional approval from the Critical Area Commission for approval of a project on City lands under Code of Maryland Regulations 27.02.06 'Conditional Approval of State or Local Agency Programs in the Critical Area'. Under this section, if development proposed by a State or local agency located in the Critical Area is prohibited from occurring then the agency proposing the development may seek conditional approval for the project.

In order for the Critical Area Commission to process this request as a conditional approval, the applicant must submit information demonstrating how the proposed project meets the following criteria, which I understand Lisa Hoerger has emailed to you.

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

Mr. Geratz
August 8, 2007
Page Two

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

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

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

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

C.(1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State of local agency program or project;

C.(2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

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

In addition to providing the information above, a complete application will include any necessary State or local agency permits, a letter from Maryland Department of Natural Resources, Wildlife and Heritage Service stating that the proposed project will not impact rare, threatened or endangered species, and a letter from the Maryland Historical Trust that the proposed project will not impact any historic resources.

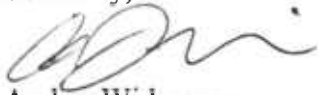
We recommend that the City consider reducing the proposed impervious area in the design. Also, please be aware that the Commission closely reviews such requests. Therefore, special attention should be paid to the proposed mitigation and how the project provides substantial public benefits to the Chesapeake Bay Critical Area Program.

As soon as we receive your complete application, we will be able to schedule the presentation of your proposed project on the agenda for a Critical Area Commission meeting. Projects must be received at least one month prior to the next scheduled Commission meeting in order to be included on that meeting agenda. The Commission meets on the first Wednesday of each month, and the schedule is posted at <http://www.dnr.state.md.us/criticalarea/aboutthecommission>.

Mr. Geratz
August 8, 2007
Page Three

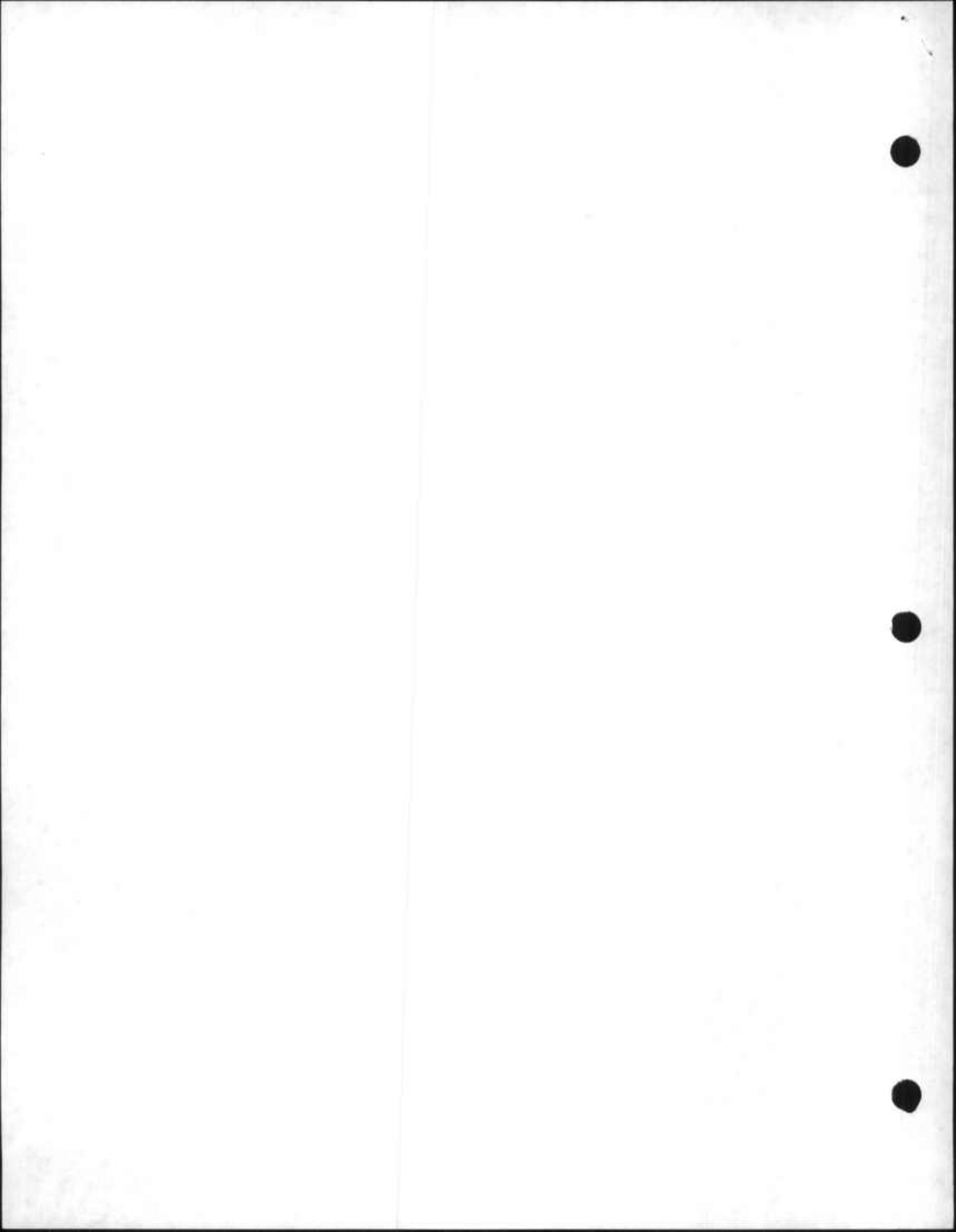
Please feel free to contact me at 410-260-3482 if you have any questions.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AN 437-07



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/

July 16, 2007

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

Re: Brice-Morton
S 06-069, P 06-0150

Dear Mr. Burke:

I have received a resubmittal for the above-referenced subdivision request. The proposal is for the removal of five houses, construction of one new house, and adjustment of the lot line between two existing lots. The applicant has addressed some of this office's comments from my January 5, 2007 letter. I have outlined my remaining comments below.

1. We note that the applicant has included the values for the area of the proposed lots that are within the Critical Area in the Permitted Clearing and Impervious Area chart. These values are the correct measures of area to be used for calculating existing and proposed impervious areas and forested areas. Please have the applicant revise the impervious area and forested area calculations in the Proposed Conditions and Existing Conditions chart accordingly.
2. Please have the applicant indicate where the required 1,440 s.f. of replanting will be done. If possible, the replanting should be located in the Buffer.
3. Two of the houses that are to be removed are partially within the 100-foot Buffer. We recommend installing markers on the site to show the limits of the Buffer to encourage minimal disturbance to the Buffer during the removal of the houses.

Mr. Tom Burke
July 13, 2007
Page Two

4. Please confirm that the existing gravel road in proposed lot 208R is included in the impervious area calculations even though it is outside of the limit of disturbance line.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3467.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 792-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 13, 2007

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

Re: Dubbert, Patricia Property
S 06-011, P 06-0047

Dear Mr. Murray:

I have received a resubmittal for the above referenced subdivision request. It appears that the applicant has addressed this office's comments from my April 20, 2007 letter. I have no remaining comments at this time.

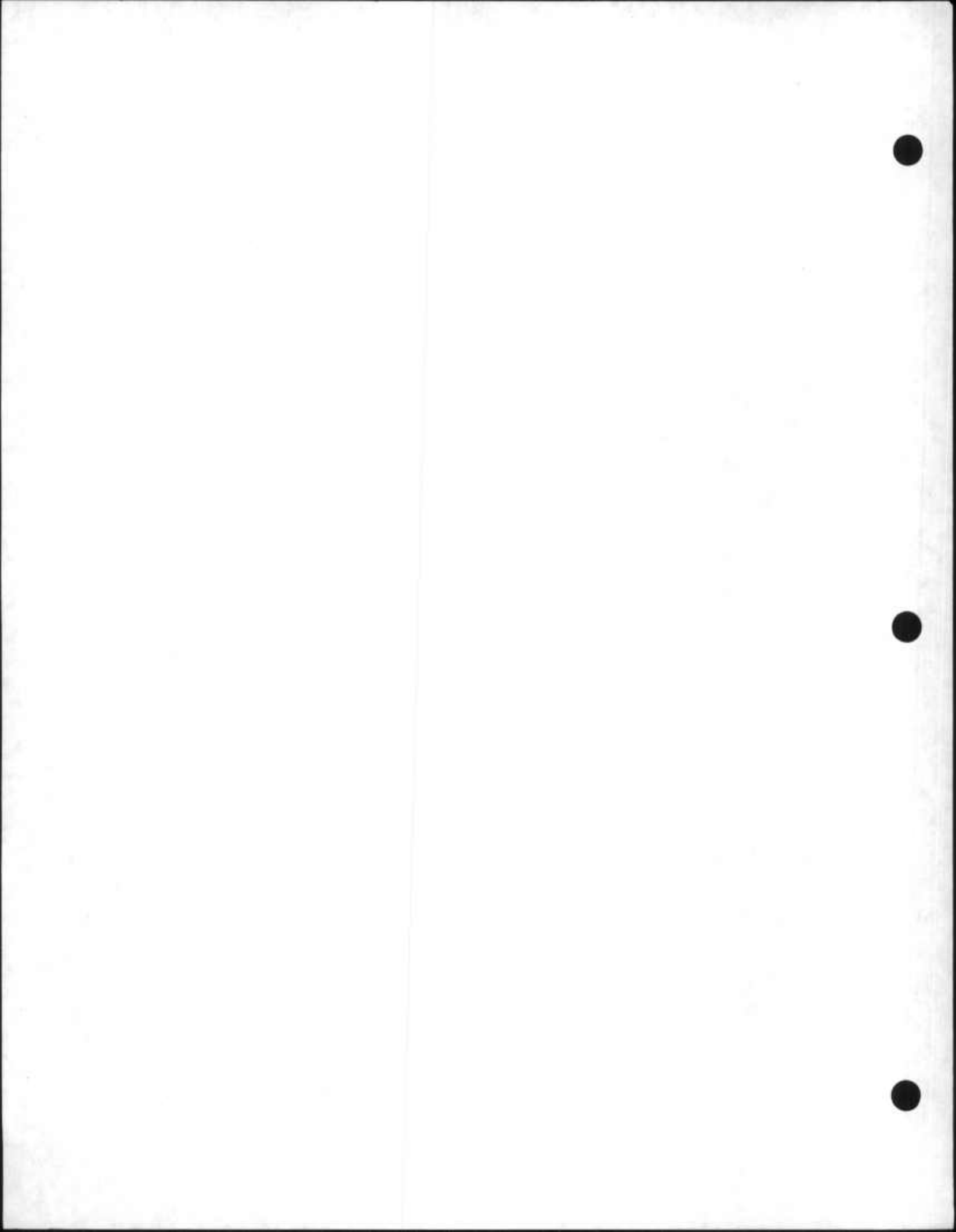
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3467.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 210-06



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

Re: Goudy, H. Chester Jr. Subdivision
MS 06-064

Dear Ms. Krinetz:

I have received a resubmittal for the above-referenced subdivision for review and comment. The applicant proposes to divide one lot into two with retention of the existing house on proposed lot AR-1, construction of a new house on proposed lot AR-2, and a ten-foot widening dedication. The applicant has addressed my previous comments in my March 14, 2007 letter, and I have no further comments at this time.

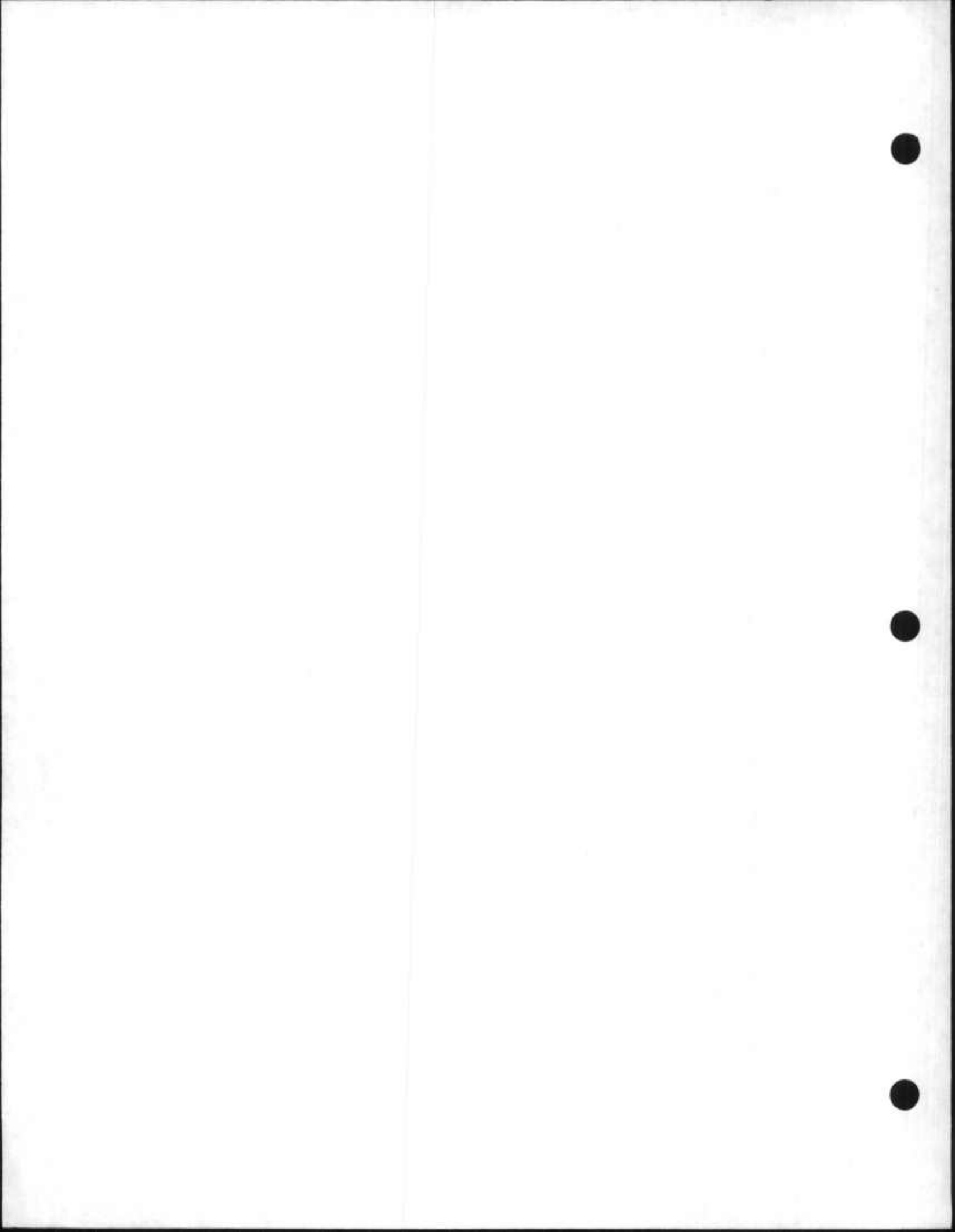
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3481.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 752-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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Ren Serey
Executive Director

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July 6, 2007

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

Re: Tebbston on the Magothy
S 02-065, P 07-0022

Dear Mr. Burke:

I have received a resubmittal for the above referenced subdivision application, which is a proposal to create eight lots from one parcel, reconstruct four single family dwellings, construct four new single family dwellings, and remove the remaining existing structures. The applicant has addressed most of this office's comments from my February 28, 2007 letter. I have outlined my remaining comments below.

1. We note that the applicant has provided corrected impervious calculations as requested. However, because the total impervious area for the proposed subdivision equals the maximum 15%, owners of the proposed lots will not be allowed to add further impervious areas to their properties for structures such as sheds and patios. Therefore, the plan should show a reasonable amount of remaining impervious area per lot in order to accommodate these potential, future amenities. Anne Arundel County has already experienced problems with allowing subdivisions to be platted at the 15% limit and then having to spend large amounts of staff time addressing subsequent violations and variance requests. Therefore, this office requests that the applicant adjust the proposed impervious area.
2. We also note that the applicant has moved the proposed dwelling reconstruction out of the Buffer. However, it does not appear that the applicant has left any room for the property owners to construct amenities such as decks, without having to do so in the Buffer. If a property owner wishes to construct a deck, they will have to seek a variance for disturbance to the Buffer, which is not allowed on newly created lots. Accordingly, please have the applicant leave a reasonable amount of room between the footprint of the proposed dwelling and the Buffer for potential improvements that property owners may wish to construct.

Mr. Burke
July 6, 2007
Page Two

3. The applicant has noted that the 15% afforestation requirements will be met with plantings on the site. Anne Arundel County Code §17-8-602(f) provides that such afforestation "shall be established first within the 100-foot Buffer, if feasible." Therefore, the afforestation plantings should be shown in the Buffer to the extent feasible, and if this is not feasible, please have the applicant provide an explanation for why this is not feasible.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3464.

Sincerely,



Amber Widmayer
Natural Resources Planner

cc: AA 60-07

Martin O'Malley
Governor



Margaret G. McHale
Chair

Anthony G. Brown
Lt. Governor

Ren Serey
Executive Director

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July 6, 2007

Mr. Jeff Torney
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

Re: Muziks Mooring
MS 06-025

Dear Mr. Torney:

Thank you for forwarding the above referenced subdivision application. The application is for the subdivision of one residential lot with an existing house into three residential lots with construction of two new houses. It appears that the applicant has addressed most of this office's previous comments from my March 28, 2007 letter. I have provided my remaining comment below.

1. We note that the applicant will be providing the required 14,142 square feet of plantings on site and that these reforested areas will be put in a conservation easement. However, it is unclear why more of the plantings can not be located in the Buffer. Under Anne Arundel County Code §17-8-602(f), reforestation and afforestation plantings shall be established first within the 100-foot Buffer, if feasible. Please have the applicant show more of the required replanting in the Buffer, or provide an explanation for why this is not feasible.

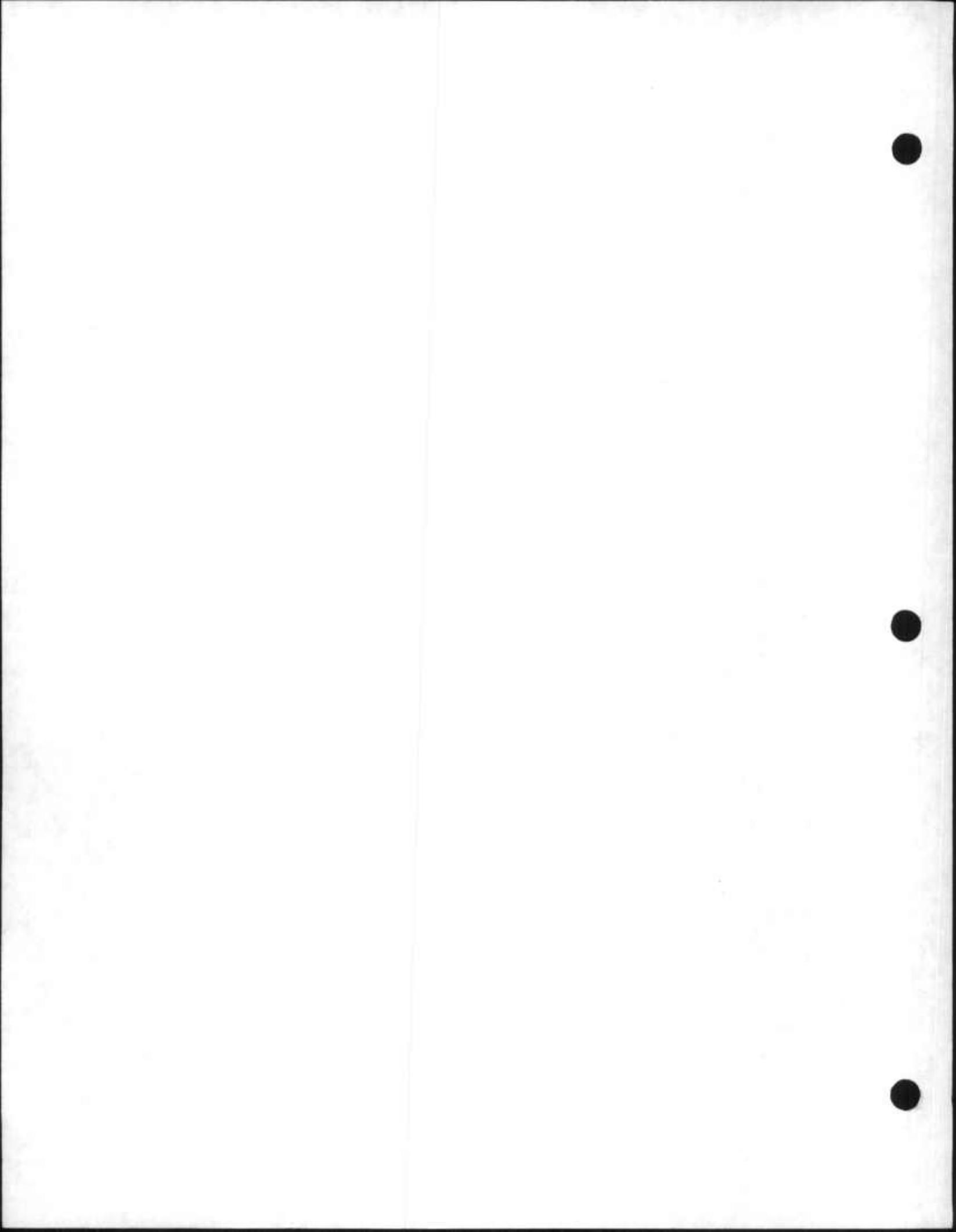
Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3464.

Sincerely,

A handwritten signature in dark ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner

cc: AA 366-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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July 2, 2007

Mr. Tom Burke
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

Re: Helms Property-Shoreland Plat A Lot 149
S 86-055, P 06-0153

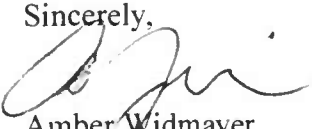
Dear Mr. Burke:

I have received a resubmittal for the above mentioned subdivision application. The project proposes the subdivision of one lot with an existing house into two lots and construction of a new house on the second lot. It appears that the applicant has addressed most of this office's comments from my March 28, 2007 letter. My remaining comments are below.

- 1) If it is not feasible to reduce the proposed total impervious area, the applicant should include a notation on the plat, plan and deeds that no further impervious area will be approved on either lot in the future so that any future property owners will have notice of this fact. As we have mentioned before, it is this office's position that future disturbance to newly created lots should not require variances to the County's Critical Area Program.
- 2) We note that the applicant has explained that the area of the existing shed on timber ties was not included in the impervious area calculations because it is elevated and water can drain underneath the structure; however, any structure with a roof is considered impervious surface area and must be included in the impervious surface calculations. Similarly, if the proposed porch on lot B is a structure with a roof, this area needs to be included in the impervious surface calculations as well. Please have the applicant adjust the impervious surface area calculations as necessary.

Thank you for the opportunity to comment. Please telephone me if you have any questions at (410) 260-3464.

Sincerely,


Amber Widmayer
Natural Resources Planner

cc: AA 801-06

